

ELECTION LAW REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to an absentee ballot.

Highlighted Provisions:

This bill:

- requires a county that conducts an election entirely by mail to provide ballot drop boxes;
- establishes requirements for a ballot drop box;
- replaces the absentee ballot postmark deadline with a requirement that an absentee ballot be received by the election officer on or before election day in order to be counted;
- requires an election officer to post on a website the name of each voter whose ballot is rejected; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3-302, as last amended by Laws of Utah 2015, Chapter 173



28 **20A-3-306**, as last amended by Laws of Utah 2015, Chapter 124

29 **20A-3-308**, as last amended by Laws of Utah 2012, Chapter 309

30

Be it enacted by the Legislature of the state of Utah:

31 Section 1. Section **20A-3-302** is amended to read:

32 **20A-3-302. Conducting entire election by absentee ballot.**

33 (1) Notwithstanding Section **17B-1-306**, an election officer may administer an election
34 entirely by absentee ballot.

35 (2) If the election officer decides to administer an election entirely by absentee ballot,
36 the election officer shall mail to each registered voter within that voting precinct:

37 (a) an absentee ballot;

38 (b) for an election administered by a county clerk, information regarding the location
39 and hours of operation of any election day voting center at which the voter may vote;

40 (c) a courtesy reply mail envelope;

41 (d) instructions for returning the ballot that include an express notice about any
42 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

43 (e) for an election administered by an election officer other than a county clerk, if the
44 election officer does not operate a polling location or an election day voting center, a warning,
45 on a separate page of colored paper in bold face print, indicating that if the voter fails to follow
46 the instructions included with the absentee ballot, the voter will be unable to vote in that
47 election because there will be no polling place in the voting precinct on the day of the election.

48 (3) A voter who votes by absentee ballot under this section is not required to apply for
49 an absentee ballot as required by this part.

50 (4) An election officer who administers an election entirely by absentee ballot shall:

51 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before
52 the election; or

53 (ii) obtain the signature of each voter within the voting precinct from the county clerk;
54 and

55 (b) maintain the signatures on file in the election officer's office.

56 (5) (a) Upon receiving the returned absentee ballots, the election officer shall compare
57 the signature on each absentee ballot with the voter's signature that is maintained on file and
58

verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

(c) If the election ~~[official]~~ officer determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:

(i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and

(ii) disqualify the initial absentee ballot.

(6) A county that administers an election entirely by absentee ballot:

(a) shall provide at least one election day voting center in accordance with Title 20A, Chapter 3, Part 7, Election Day Voting Center;

(b) shall ensure that an election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities; and

(c) is not required to pay return postage for an absentee ballot.

(7) (a) A county that conducts an election under this section shall provide ballot drop boxes in a number that is at least equal to the greater of:

(i) one for every 30,000 individuals to whom a ballot is sent for the election; or

(ii) three.

(b) A county shall ensure that a ballot drop box described in Subsection (7)(a) is publicly accessible for a voter to deposit a ballot:

(i) 24 hours a day before election day; and

(ii) until 8:00 p.m. on election day.

(c) Notwithstanding Subsection (7)(a), a county may provide less than three ballot drop boxes if:

(i) the county submits a written request to the lieutenant governor that:

(A) requests approval to provide fewer than three ballot drop boxes; and

(B) provides justification for the request; and

(ii) the lieutenant governor approves the request.

(d) A county clerk that provides a ballot drop box shall ensure that:

- 90 (i) the ballot drop box is secured with a lock;
91 (ii) an individual does not deposit a ballot in the ballot drop box after 8:00 p.m. on the
92 day of the election; and
93 (iii) at least two election officials are present any time a ballot deposited in a ballot
94 drop box is:
95 (A) removed from the ballot drop box; or
96 (B) transported to a polling location or counting center.
97 (e) Notwithstanding the requirements described in Subsection (7)(d)(ii), a county clerk
98 shall allow an individual to deposit a ballot in a ballot drop box if the individual is in line to
99 deposit the ballot in the ballot drop box at 8:00 p.m. on the day of an election.

100 Section 2. Section **20A-3-306** is amended to read:

101 **20A-3-306. Voting ballot -- Returning ballot.**

102 (1) (a) Except as provided by Section **20A-1-308**, to vote a mail-in absentee ballot, the
103 absentee voter shall:

- 104 (i) complete and sign the affidavit on the envelope;
105 (ii) mark the votes on the absentee ballot;
106 (iii) place the voted absentee ballot in the envelope;
107 (iv) securely seal the envelope; and
108 (v) attach postage, unless voting [~~in accordance with Section **20A-3-302**~~] in a county
109 that provides the voter a business reply mail envelope, and deposit the envelope in the mail or
110 deliver it in person to the election officer from whom the ballot was obtained.

111 (b) Except as provided by Section **20A-1-308**, to vote an absentee ballot in person at
112 the office of the election officer, the absent voter shall:

- 113 (i) complete and sign the affidavit on the envelope;
114 (ii) mark the votes on the absent-voter ballot;
115 (iii) place the voted absent-voter ballot in the envelope;
116 (iv) securely seal the envelope; and
117 (v) give the ballot and envelope to the election officer.

118 (2) Except as provided by Section **20A-1-308**, an absentee ballot is not valid unless the
119 ballot is:

- 120 ~~[(a) in the case of an absentee ballot that is voted in person, the ballot is:]~~

121 ~~[(i)]~~ (a) applied for and cast in person at the office of the appropriate election officer no
122 later than the Thursday before election day; ~~[or]~~

123 ~~[(ii) submitted on election day at a polling location in the political subdivision where~~
124 ~~the absentee voter resides;]~~

125 ~~[(b) in the case of an absentee ballot that is submitted by mail, the ballot is:]~~

126 ~~[(i) clearly postmarked before election day, or otherwise clearly marked by the post~~
127 ~~office as received by the post office before election day; and]~~

128 ~~[(ii) received in the office of the election officer before noon on the day of the official~~
129 ~~canvass following the election; or]~~

130 (b) received by the election officer on or before election day; or

131 (c) in the case of a military-overseas ballot, ~~[the ballot is]~~ submitted in accordance with
132 Section 20A-16-404.

133 (3) An absentee voter may submit a completed absentee ballot at a polling location in a
134 political subdivision holding the election, if the absentee voter resides in the political
135 subdivision.

136 (4) An absentee voter may submit an incomplete absentee ballot at a polling location
137 for the voting precinct where the voter resides, request that the ballot be declared spoiled, and
138 vote in person.

139 Section 3. Section 20A-3-308 is amended to read:

140 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --**
141 **Notice.**

142 (1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots
143 that are in their custody on election day at the polling places during the time the polls are open
144 as provided in this Subsection (1).

145 (b) The poll workers shall:

146 (i) first, open the outer envelope only; and

147 (ii) compare the signature of the voter on the application with the signature on the
148 affidavit.

149 (2) (a) The poll workers shall carefully open and remove the absentee voter envelope
150 so as not to destroy the affidavit on the envelope if they find that:

151 (i) the affidavit is sufficient;

(ii) the signatures correspond; and
(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:

(i) record, in the official register, whether:
(A) the voter included valid voter identification; or
(B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;
(ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;
(iii) record the provisional ballot number on the official register; and
(iv) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.

(c) If the absentee ballot is not a provisional ballot, the poll workers shall:
(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;
(ii) initial the stub in the same manner as for other ballots;
(iii) remove the stub from the ballot;
(iv) deposit the ballot in the ballot box; and
(v) mark the official register and pollbook to show that the voter has voted.

(3) If the poll workers determine that the affidavit is insufficient, ~~[or]~~ that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, ~~[they shall]~~ the poll worker:

(a) ~~[disallow]~~ may not count the vote; and
(b) shall, without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or
(ii) "Rejected as not a registered voter."
(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent

vote is rejected, in the ballot box containing the ballots.

~~[(5) (a) An election officer shall notify a voter if a poll worker rejects the voter's ballot]~~

(5) If a poll worker rejects an absentee ballot under Subsection (3) the election officer shall:

(a) notify the voter to whom the ballot was sent and specify the reason for the rejection[-];

(b) [An election officer shall] give the notice described in Subsection (5)(a) to [a] the voter no later than seven days after:

(i) election day if the election officer receives the ballot before or on election day; and

(ii) the canvass if the election officer receives the ballot after election day and before the end of the canvass[-];

(c) publish to the election officer's political subdivision's website the name of each individual whose ballot is rejected; and

(d) if the reason for the rejection is resolved, remove the information described in Subsection (5)(c) from the website described in Subsection (5)(c).

(6) The election officer shall publish the information described in Subsection (5)(c) on the day on which the election officer rejects the absentee ballot.

~~[(6)]~~ (7) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Legislative Review Note
Office of Legislative Research and General Counsel