

VOTER ACCESSIBILITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill makes changes to the Election Code relating to voting accessibility.

Highlighted Provisions:

This bill:

- ▶ requires an election officer to provide an accessible voting option for a voter with a disability;
- ▶ requires the director of elections to make rules regarding identity verification for individuals who are unable to sign their name consistently due to a disability;
- ▶ requires that election notices include instructions on how a voter with a disability may obtain information on voting in an accessible manner; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-3a-202, as last amended by Laws of Utah 2022, Chapters 18, 121 and 156

20A-3a-401, as last amended by Laws of Utah 2022, Chapter 392

20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

Utah Code Sections Affected by Coordination Clause:

29 **20A-3a-401**, as last amended by Laws of Utah 2022, Chapter 392



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

32 Section 1. Section **20A-3a-202** is amended to read:

33 **20A-3a-202. Conducting election by mail.**

34 (1) (a) Except as otherwise provided for an election conducted entirely by mail under
35 Section **20A-7-609.5**, an election officer shall administer an election primarily by mail, in
36 accordance with this section.

37 (b) An individual who did not provide valid voter identification at the time the voter
38 registered to vote shall provide valid voter identification before voting.

39 (2) An election officer who administers an election:

40 (a) shall in accordance with Subsection (3), no sooner than 21 days before election day
41 and no later than seven days before election day, mail to each active voter within a voting
42 precinct:

43 (i) a manual ballot;

44 (ii) a return envelope;

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

47 (iv) for an election administered by a county clerk, information regarding the location
48 and hours of operation of any election day voting center at which the voter may vote or a
49 website address where the voter may view this information;

50 (v) for an election administered by an election officer other than a county clerk, if the
51 election officer does not operate a polling place or an election day voting center, a warning, on
52 a separate page of colored paper in bold face print, indicating that if the voter fails to follow the
53 instructions included with the ballot, the voter will be unable to vote in that election because
54 there will be no polling place for the voting precinct on the day of the election; and

55 (vi) [~~after May 1, 2022,~~] instructions on how a voter may sign up to receive electronic

56 ballot status notifications via the ballot tracking system described in Section [20A-3a-401.5](#);

57 (b) may not mail a ballot under this section to:

58 (i) an inactive voter, unless the inactive voter requests a manual ballot; or

59 (ii) a voter whom the election officer is prohibited from sending a ballot under

60 Subsection (10)(c)(ii); ~~and~~

61 (c) shall, on the outside of the envelope in which the election officer mails the ballot,
62 include instructions for returning the ballot if the individual to whom the election officer mails
63 the ballot does not live at the address to which the ballot is sent[-];

64 (d) shall provide a method of accessible voting to a voter with a disability who is not
65 able to vote by mail; and

66 (e) shall include, on the election officer's website and with each ballot mailed,
67 instructions regarding how a voter described in Subsection (2)(d) may vote.

68 (3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail
69 the manual ballot to the address:

70 (i) provided at the time of registration; or

71 (ii) if, at or after the time of registration, the voter files an alternate address request
72 form described in Subsection (3)(b), the alternate address indicated on the form.

73 (b) The lieutenant governor shall make available to voters an alternate address request
74 form that permits a voter to request that the election officer mail the voter's ballot to a location
75 other than the voter's residence.

76 (c) A voter shall provide the completed alternate address request form to the election
77 officer no later than 11 days before the day of the election.

78 (4) The return envelope shall include:

79 (a) the name, official title, and post office address of the election officer on the front of
80 the envelope;

81 (b) a space where a voter may write an email address and phone number by which the
82 election officer may contact the voter if the voter's ballot is rejected;

83 (c) a printed affidavit in substantially the following form:

84 "County of ____ State of ____

85 I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct
86 in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon
87 currently incarcerated for commission of a felony.

88 _____

89 Signature of Voter"; and

90 (d) a warning that the affidavit must be signed by the individual to whom the ballot
91 was sent and that the ballot will not be counted if the signature on the affidavit does not match
92 the signature on file with the election officer of the individual to whom the ballot was sent.

93 (5) If the election officer determines that the voter is required to show valid voter
94 identification, the election officer may:

95 (a) mail a ballot to the voter;

96 (b) instruct the voter to include a copy of the voter's valid voter identification with the
97 return ballot; and

98 (c) provide instructions to the voter on how the voter may sign up to receive electronic
99 ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

100 (6) An election officer who administers an election shall:

101 (a) (i) before the election, obtain the signatures of each voter qualified to vote in the
102 election; or

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

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

106 (7) Upon receipt of a returned ballot, the election officer shall review and process the
107 ballot under Section 20A-3a-401.

108 (8) A county that administers an election:

109 (a) shall provide at least one election day voting center in accordance with [Chapter 3a,

110 ~~Part 7, Election Day Voting Center]~~ Part 7, Election Day Voting Center, and at least one
111 additional election day voting center for every 5,000 active voters in the county who have
112 requested to not receive a ballot by mail;

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

116 (c) may reduce the early voting period described in Section 20A-3a-601, if:

117 (i) the county clerk conducts early voting on at least four days;

118 (ii) the early voting days are within the period beginning on the date that is 14 days
119 before the date of the election and ending on the day before the election; and

120 (iii) the county clerk provides notice of the reduced early voting period in accordance
121 with Section 20A-3a-604;

122 (d) is not required to pay return postage for a ballot; and

123 (e) is subject to an audit conducted under Subsection (9).

124 (9) (a) The lieutenant governor shall:

125 (i) develop procedures for conducting an audit of affidavit signatures on ballots cast in
126 an election conducted under this section; and

127 (ii) after each primary, general, or special election conducted under this section, select
128 a number of ballots, in varying jurisdictions, to audit in accordance with the procedures
129 developed under Subsection (9)(a)(i).

130 (b) The lieutenant governor shall post the results of an audit conducted under this
131 Subsection (9) on the lieutenant governor's website.

132 (10) (a) An individual may request that the election officer not send the individual a
133 ballot by mail in the next and subsequent elections by submitting a written request to the
134 election officer.

135 (b) An individual shall submit the request described in Subsection (10)(a) to the
136 election officer before 5 p.m. no later than 60 days before an election if the individual does not

137 wish to receive a ballot by mail in that election.

138 (c) An election officer who receives a request from an individual under Subsection
139 (10)(a):

140 (i) shall remove the individual's name from the list of voters who will receive a ballot
141 by mail; and

142 (ii) may not send the individual a ballot by mail for:

143 (A) the next election, if the individual submits the request described in Subsection
144 (10)(a) before the deadline described in Subsection (10)(b); or

145 (B) an election after the election described in Subsection (10)(c)(ii)(A).

146 (d) An individual who submits a request under Subsection (10)(a) may resume the
147 individual's receipt of a ballot by mail by submitting a written request to the election officer.

148 Section 2. Section **20A-3a-401** is amended to read:

149 **20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box --**
150 **Disposition -- Notice.**

151 (1) This section governs ballots returned by mail or via a ballot drop box.

152 (2) (a) Poll workers shall open return envelopes containing manual ballots that are in
153 the custody of the poll workers in accordance with [~~Subsection (2)(b)~~] this section.

154 (b) The poll workers shall, first, compare the signature of the voter on the affidavit of
155 the return envelope to the signature of the voter in the voter registration records.

156 (3) After complying with Subsection (2), the poll workers shall determine whether:

157 (a) the signatures correspond;

158 (b) the affidavit is sufficient;

159 (c) the voter is registered to vote in the correct precinct;

160 (d) the voter's right to vote the ballot has been challenged;

161 (e) the voter has already voted in the election;

162 (f) the voter is required to provide valid voter identification; and

163 (g) if the voter is required to provide valid voter identification, whether the voter has

164 provided valid voter identification.

165 (4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll
166 workers determine that:

167 (i) (A) the signatures correspond; or

168 (B) if the signatures do not correspond and the voter qualifies for application of the
169 alternative identification verification rules described in Subsection (10), the voter's identity is
170 verified in accordance with the rules described in Subsection (10);

171 (ii) the affidavit is sufficient;

172 (iii) the voter is registered to vote in the correct precinct;

173 (iv) the voter's right to vote the ballot has not been challenged;

174 (v) the voter has not already voted in the election; and

175 (vi) for a voter required to provide valid voter identification, that the voter has
176 provided valid voter identification.

177 (b) If the poll workers make all of the findings described in Subsection (4)(a), the poll
178 workers shall:

179 (i) remove the manual ballot from the return envelope in a manner that does not
180 destroy the affidavit on the return envelope;

181 (ii) ensure that the ballot does not unfold and is not otherwise examined in connection
182 with the return envelope; and

183 (iii) place the ballot with the other ballots to be counted.

184 (c) If the poll workers do not make all of the findings described in Subsection (4)(a),
185 the poll workers shall:

186 (i) disallow the vote;

187 (ii) without opening the return envelope, mark across the face of the return envelope:

188 (A) "Rejected as defective"; or

189 (B) "Rejected as not a registered voter"; and

190 (iii) place the return envelope, unopened, with the other rejected return envelopes.

191 (5) (a) If the poll workers reject an individual's ballot because the poll workers
192 determine that the signature on the return envelope does not match the individual's signature in
193 the voter registration records, the election officer shall contact the individual in accordance
194 with Subsection (7) by mail, email, text message, or phone, and inform the individual:

- 195 (i) that the individual's signature is in question;
- 196 (ii) how the individual may resolve the issue; and
- 197 (iii) that, in order for the ballot to be counted, the individual is required to deliver to
198 the election officer a correctly completed affidavit, provided by the county clerk, that meets the
199 requirements described in Subsection (5)(b).

200 (b) An affidavit described in Subsection (5)(a)(iii) shall include:

- 201 (i) an attestation that the individual voted the ballot;
- 202 (ii) a space for the individual to enter the individual's name, date of birth, and driver
203 license number or the last four digits of the individual's social security number;
- 204 (iii) a space for the individual to sign the affidavit; [~~and~~]
- 205 (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant
206 governor's and county clerk's use of the individual's signature on the affidavit for voter
207 identification purposes[-]; and

208 (v) a check box accompanied by language in substantially the following form:

209 "I am a voter with a qualifying disability under the Americans with Disabilities Act that
210 impacts my ability to sign my name consistently. I can provide appropriate documentation upon
211 request. To discuss accommodations, I can be contacted at _____".

212 (c) In order for an individual described in Subsection (5)(a) to have the individual's
213 ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the
214 election officer.

215 (d) An election officer who receives a signed affidavit under Subsection (5)(c) shall
216 immediately:

- 217 (i) scan the signature on the affidavit electronically and keep the signature on file in the

218 statewide voter registration database developed under Section 20A-2-109; ~~and~~

219 (ii) if the election officer receives the affidavit no later than 5 p.m. three days before
220 the day on which the canvass begins, count the individual's ballot~~[-]; and~~

221 (iii) if the check box described in Subsection (5)(b)(v) is checked, comply with the
222 rules described in Subsection (10).

223 (6) If the poll workers reject an individual's ballot for any reason, other than the reason
224 described in Subsection (5)(a), the election officer shall notify the individual of the rejection in
225 accordance with Subsection (7) by mail, email, text message, or phone and specify the reason
226 for the rejection.

227 (7) An election officer who is required to give notice under Subsection (5) or (6) shall
228 give the notice no later than:

229 (a) if the election officer rejects the ballot before election day:

230 (i) one business day after the day on which the election officer rejects the ballot, if the
231 election officer gives the notice by email or text message; or

232 (ii) two business days after the day on which the election officer rejects the ballot, if
233 the election officer gives the notice by postal mail or phone;

234 (b) seven days after election day if the election officer rejects the ballot on election day;
235 or

236 (c) seven days after the canvass if the election officer rejects the ballot after election
237 day and before the end of the canvass.

238 (8) An election officer may not count the ballot of an individual whom the election
239 officer contacts under Subsection (5) or (6) unless:

240 (a) the election officer receives a signed affidavit from the individual under Subsection
241 (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's
242 identity; and

243 (b) the affidavit described in Subsection (8)(a) is received, or the confirmation
244 described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which

245 the canvass begins.

246 (9) The election officer shall retain and preserve the return envelopes in the manner
247 provided by law for the retention and preservation of ballots voted at that election.

248 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
249 and in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec.
250 12131 through 12165, the director of elections, within the Office of the Lieutenant Governor,
251 shall make rules that provide for alternative means of verifying the identity of an individual
252 who checks the box described in Subsection (5)(b)(v).

253 Section 3. Section **20A-5-101** is amended to read:

254 **20A-5-101. Notice of election.**

255 (1) On or before November 15 in the year before each regular general election year, the
256 lieutenant governor shall prepare and transmit a written notice to each county clerk that:

257 (a) designates the offices to be filled at the next year's regular general election;

258 (b) identifies the dates for filing a declaration of candidacy, and for submitting and
259 certifying nomination petition signatures, as applicable, under Sections [20A-9-403](#), [20A-9-407](#),
260 and [20A-9-408](#) for those offices; and

261 (c) contains a description of any ballot propositions to be decided by the voters that
262 have qualified for the ballot as of that date.

263 (2) (a) No later than seven business days after the day on which the lieutenant governor
264 transmits the written notice described in Subsection (1), each county clerk shall provide notice,
265 in accordance with Subsection (3):

266 (i) by posting notice in a conspicuous place most likely to give notice of the election to
267 the voters in each voting precinct within the county;

268 (ii) (A) by publishing notice in a newspaper of general circulation in the county;

269 (B) by posting one notice, and at least one additional notice per 2,000 population of the
270 county, in places within the county that are most likely to give notice of the election to the
271 voters in the county, subject to a maximum of 10 notices; or

- 272 (C) by mailing notice to each registered voter in the county;
- 273 (iii) by posting notice on the Utah Public Notice Website, created in Section
- 274 63A-16-601, for seven days before the day of the election; and
- 275 (iv) by posting notice on the county's website for seven days before the day of the
- 276 election.
- 277 (b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i),
- 278 showing a copy of the notice and the places where the notice was posted.
- 279 (3) The notice described in Subsection (2) shall:
- 280 (a) designate the offices to be voted on in that election; and
- 281 (b) identify the dates for filing a declaration of candidacy for those offices.
- 282 (4) Except as provided in Subsection (6), before each election, the election officer shall
- 283 give printed notice of the following information:
- 284 (a) the date of election;
- 285 (b) the hours during which the polls will be open;
- 286 (c) the polling places for each voting precinct, early voting polling place, and election
- 287 day voting center;
- 288 (d) the address of the Statewide Electronic Voter Information Website and, if available,
- 289 the address of the election officer's website, with a statement indicating that the election officer
- 290 will post on the website any changes to the location of a polling place and the location of any
- 291 additional polling place;
- 292 (e) a phone number that a voter may call to obtain information regarding the location of
- 293 a polling place; ~~and~~
- 294 (f) the qualifications for persons to vote in the election[-]; and
- 295 (g) instructions regarding how an individual with a disability, who is not able to vote a
- 296 manual ballot by mail, may obtain information on voting in an accessible manner.
- 297 (5) The election officer shall provide the notice described in Subsection (4):
- 298 (a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction

- 299 to which the election pertains, at least two days before the day of the election;
- 300 (ii) at least two days before the day of the election, by posting one notice, and at least
- 301 one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction
- 302 that are most likely to give notice of the election to the voters in the jurisdiction, subject to a
- 303 maximum of 10 notices; or
- 304 (iii) by mailing the notice to each registered voter who resides in the jurisdiction to
- 305 which the election pertains at least five days before the day of the election;
- 306 (b) by posting notice on the Utah Public Notice Website, created in Section
- 307 [63A-16-601](#), for two days before the day of the election; and
- 308 (c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for
- 309 two days before the day of the election.
- 310 (6) Instead of including the information described in Subsection (4) in the notice, the
- 311 election officer may give printed notice that:
- 312 (a) is entitled "Notice of Election";
- 313 (b) includes the following: "A [indicate election type] will be held in [indicate the
- 314 jurisdiction] on [indicate date of election]. Information relating to the election, including
- 315 polling places, polling place hours, and qualifications of voters may be obtained from the
- 316 following sources:"; and
- 317 (c) specifies the following sources where an individual may view or obtain the
- 318 information described in Subsection (4):
- 319 (i) if the jurisdiction has a website, the jurisdiction's website;
- 320 (ii) the physical address of the jurisdiction offices; and
- 321 (iii) a mailing address and telephone number.

322 **Section 4. Coordinating H.B. 162 with H.B. 37 and H.B. 448 -- Substantive and**

323 **technical amendments.**

324 If this H.B. 162 and H.B. 448, Election Changes, both pass and become law, and H.B.

325 37, Voter Signature Verification Amendments, does not pass, it is the intent of the Legislature

326 that the Office of Legislative Research and General Counsel shall prepare the Utah Code
327 database for publication, as follows:

328 (1) the changes to Subsection 20A-3a-401(4)(a) in H.B. 448 supersede the changes to
329 Subsection 20A-3a-401(4)(a) in H.B. 162;

330 (2) the changes to Subsection 20A-3a-401(5)(d)(iii) in H.B. 448 supersede the changes
331 to Subsection 20A-3a-401(5)(d)(iii) in H.B. 162; and

332 (3) enacted Subsection 20A-3a-401(10) in H.B. 162 does not take effect.