

1                   **AMENDMENTS TO MUNICIPAL ALTERNATE VOTING**  
2                                   **METHODS PILOT PROJECT**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Marc K. Roberts**

6                                   Senate Sponsor: \_\_\_\_\_

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends provisions of the Municipal Alternate Voting Methods Pilot Project.

11                   **Highlighted Provisions:**

12                   This bill:

13                   ▶ changes the date by which a municipality may opt in to participate in the Municipal  
14 Alternate Voting Methods Pilot Project (pilot project);

15                   ▶ establishes a procedure for a municipality to withdraw the municipality's decision to  
16 participate in the pilot project;

17                   ▶ establishes a delayed candidate filing period for a race conducted under the  
18 provisions of the pilot project;

19                   ▶ provides that a local political subdivision may agree with any other local political  
20 subdivision in the state to conduct an election on behalf of the local political  
21 subdivision; and

22                   ▶ makes technical and conforming changes.

23                   **Money Appropriated in this Bill:**

24                   None

25                   **Other Special Clauses:**

26                   None

27                   **Utah Code Sections Affected:**



28 AMENDS:

29 **10-3-301**, as last amended by Laws of Utah 2017, Chapters 91 and 137

30 **20A-4-602**, as enacted by Laws of Utah 2018, Chapter 187

31 **20A-5-400.1**, as enacted by Laws of Utah 2011, Chapter 310

32 **20A-9-203**, as last amended by Laws of Utah 2018, Chapters 11 and 365

33 **63I-2-220**, as last amended by Laws of Utah 2018, Chapters 187 and 458

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

36 Section 1. Section **10-3-301** is amended to read:

37 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**  
38 **office -- Mayor and recorder limitations.**

39 (1) As used in this section:

40 (a) "Absent" means that an elected municipal officer fails to perform official duties,  
41 including the officer's failure to attend each regularly scheduled meeting that the officer is  
42 required to attend.

43 (b) "Principal place of residence" means the same as that term is defined in Section  
44 **20A-2-105**.

45 (c) "Secondary residence" means a place where an individual resides other than the  
46 individual's principal place of residence.

47 (2) (a) On or before May 1 in a year in which there is a municipal general election, the  
48 municipal clerk shall publish a notice that identifies:

49 (i) the municipal offices to be voted on in the municipal general election; and  
50 (ii) the dates for filing a declaration of candidacy for the offices identified under

51 Subsection (2)(a)(i).

52 (b) The municipal clerk shall publish the notice described in Subsection (2)(a):

53 (i) on the Utah Public Notice Website established by Section **63F-1-701**; and

54 (ii) in at least one of the following ways:

55 (A) at the principal office of the municipality;

56 (B) in a newspaper of general circulation within the municipality at least once a week  
57 for two successive weeks in accordance with Section **45-1-101**;

58 (C) in a newsletter produced by the municipality;

59 (D) on a website operated by the municipality; or

60 (E) with a utility enterprise fund customer's bill.

61 (3) (a) An individual who files a declaration of candidacy for a municipal office shall  
62 comply with the requirements described in Section 20A-9-203.

63 (b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of  
64 each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in  
65 Subsections 20A-9-203(3)(a)(i) and ~~(b)~~ (c)(i) unless the date occurs on a:

66 (A) Saturday or Sunday; or

67 (B) state holiday as listed in Section 63G-1-301.

68 (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that  
69 is less than 40 hours per week, the city recorder or town clerk may comply with Subsection  
70 (3)(b)(i) without maintaining office hours by:

71 (A) posting the recorder's or clerk's contact information, including a phone number and  
72 email address, on the recorder's or clerk's office door, the main door to the municipal offices,  
73 and, if available, on the municipal website; and

74 (B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i),  
75 via the contact information described in Subsection (2)(b)(ii)(A).

76 (4) An individual elected to municipal office shall be a registered voter in the  
77 municipality in which the individual is elected.

78 (5) (a) Each elected officer of a municipality shall maintain a principal place of  
79 residence within the municipality during the officer's term of office.

80 (b) Except as provided in Subsection (6), an elected municipal office is automatically  
81 vacant if the officer elected to the municipal office, during the officer's term of office:

82 (i) establishes a principal place of residence outside the municipality;

83 (ii) resides at a secondary residence outside the municipality for a continuous period of  
84 more than 60 days while still maintaining a principal place of residence within the  
85 municipality;

86 (iii) is absent from the municipality for a continuous period of more than 60 days; or

87 (iv) fails to respond to a request, within 30 days after the day on which the elected  
88 officer receives the request, from the county clerk or the lieutenant governor seeking  
89 information to determine the officer's residency.

90 (6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the  
91 consent of the municipal legislative body in accordance with Subsection (6)(b) before the  
92 expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

93 (i) reside at a secondary residence outside the municipality while still maintaining a  
94 principal place of residence within the municipality for a continuous period of up to one year  
95 during the officer's term of office; or

96 (ii) be absent from the municipality for a continuous period of up to one year during  
97 the officer's term of office.

98 (b) At a public meeting, the municipal legislative body may give the consent described  
99 in Subsection (6)(a) by majority vote after taking public comment regarding:

100 (i) whether the legislative body should give the consent; and

101 (ii) the length of time to which the legislative body should consent.

102 (7) (a) The mayor of a municipality may not also serve as the municipal recorder or  
103 treasurer.

104 (b) The recorder of a municipality may not also serve as the municipal treasurer.

105 Section 2. Section **20A-4-602** is amended to read:

106 **20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation --**  
107 **Participation.**

108 (1) There is created the Municipal Alternate Voting Methods Pilot Project.

109 (2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

110 (3) (a) A municipality may participate in the pilot project, in accordance with the  
111 requirements of this section and all other applicable provisions of law, during any  
112 odd-numbered year that the pilot project is in effect, if, before ~~January 1~~ April 15 of the  
113 odd-numbered year, the municipality provides written notice to the lieutenant governor:

114 ~~(a)~~ (i) stating that the municipality intends to participate in the pilot project for the  
115 year specified in the notice; and

116 ~~(b)~~ (ii) that includes a document, signed by the election officer of the municipality,  
117 stating that the municipality has the resources and capability necessary to participate in the  
118 pilot project.

119 (b) A municipality that provides the notice of intent described in Subsection (3)(a) may  
120 withdraw the notice of intent, and not participate in the pilot project, if the municipality

121 provides written notice of withdrawal to the lieutenant governor before April 15.

122 (4) The lieutenant governor shall maintain, in a prominent place on the lieutenant  
123 governor's website, a current list of the municipalities that are participating in the pilot project.

124 (5) (a) An election officer of a participating municipality shall, in accordance with the  
125 provisions of this part, conduct a multi-candidate race during the municipal general election  
126 using instant runoff voting.

127 (b) An election officer of a participating municipality that will conduct a  
128 multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election  
129 relating to that race.

130 (c) A municipality that has in effect an ordinance described in Subsection  
131 [20A-9-404](#)(3) or (4) may not participate in the pilot project.

132 (6) An individual who files a declaration of candidacy or a nomination petition, for a  
133 candidate who will run in an election described in this part, shall file the declaration of  
134 candidacy or nomination petition during the office hours described in Section [10-3-301](#) and not  
135 later than the close of those office hours, no sooner than the second Tuesday in August and no  
136 later than the third Tuesday in August of an odd-numbered year.

137 Section 3. Section [20A-5-400.1](#) is amended to read:

138 **[20A-5-400.1. Contracting with an election officer to conduct elections -- Fees --](#)**  
139 **[Contracts and interlocal agreements -- Private providers.](#)**

140 (1) (a) In accordance with this section, a local political subdivision may enter into a  
141 contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation  
142 Act, with a provider election officer to conduct an election.

143 (b) If the boundaries of a local political subdivision holding the election extend beyond  
144 a single local political subdivision, the local political subdivision may have more than one  
145 provider election officer conduct an election.

146 (c) Notwithstanding Subsection (1)(b), a municipality may enter into a contract or  
147 agreement under Subsection (1)(a) with any local political subdivision in the state, regardless  
148 of whether the municipality is located in, next to, or near, the local political subdivision, for an  
149 election during which the municipality is participating in the Municipal Alternate Voting  
150 Methods Pilot Project.

151 (2) A provider election officer shall conduct an election:

- 152 (a) under the direction of the contracting election officer; and
- 153 (b) in accordance with a contract or interlocal agreement.
- 154 (3) A provider election officer shall establish fees for conducting an election for a
- 155 contracting election officer that:
  - 156 (a) are consistent with the contract or interlocal agreement; and
  - 157 (b) do not exceed the actual costs incurred by the provider election officer.
- 158 (4) The contract or interlocal agreement under this section may specify that a
- 159 contracting election officer request, within a specified number of days before the election, that
- 160 the provider election officer conduct the election to allow adequate preparations by the
- 161 provider election officer.
- 162 (5) An election officer conducting an election may appoint or employ an agent or
- 163 professional service to assist in conducting the election.

164 Section 4. Section **20A-9-203** is amended to read:

165 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

- 166 (1) An individual may become a candidate for any municipal office if:
  - 167 (a) the individual is a registered voter; and
  - 168 (b) (i) the individual has resided within the municipality in which the individual seeks
  - 169 to hold elective office for the 12 consecutive months immediately before the date of the
  - 170 election; or
  - 171 (ii) the territory in which the individual resides was annexed into the municipality, the
  - 172 individual has resided within the annexed territory or the municipality the 12 consecutive
  - 173 months immediately before the date of the election.
- 174 (2) (a) For purposes of determining whether an individual meets the residency
- 175 requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months
- 176 before the election, the municipality is considered to have been incorporated 12 months before
- 177 the date of the election.
- 178 (b) In addition to the requirements of Subsection (1), each candidate for a municipal
- 179 council position shall, if elected from a district, be a resident of the council district from which
- 180 the candidate is elected.
- 181 (c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent
- 182 individual, an individual convicted of a felony, or an individual convicted of treason or a crime

183 against the elective franchise may not hold office in this state until the right to hold elective  
184 office is restored under Section 20A-2-101.3 or 20A-2-101.5.

185 (3) (a) An individual seeking to become a candidate for a municipal office shall,  
186 regardless of the nomination method by which the individual is seeking to become a candidate:

187 (i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal  
188 Alternate Voting Methods Pilot Project, file a declaration of candidacy, in person with the city  
189 recorder or town clerk, during the office hours described in Section 10-3-301 and not later than  
190 the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

191 (ii) pay the filing fee, if one is required by municipal ordinance.

192 (b) Subject to Subsection (5)(b), an individual may designate an agent to file a  
193 declaration of candidacy with the city recorder or town clerk if:

194 (i) the individual is located outside of the state during the entire filing period;

195 (ii) the designated agent appears in person before the city recorder or town clerk;

196 (iii) the individual communicates with the city recorder or town clerk using an  
197 electronic device that allows the individual and city recorder or town clerk to see and hear each  
198 other; and

199 (iv) the individual provides the city recorder or town clerk with an email address to  
200 which the city recorder or town clerk may send the individual the copies described in  
201 Subsection (4).

202 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

203 (i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting  
204 Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during  
205 the office hours described in Section 10-3-301 and not later than the close of those office  
206 hours, between June 1 and June 7 of any odd-numbered year; and

207 (ii) paying the filing fee, if one is required by municipal ordinance.

208 (4) (a) Before the filing officer may accept any declaration of candidacy or nomination  
209 petition, the filing officer shall:

210 (i) read to the prospective candidate or individual filing the petition the constitutional  
211 and statutory qualification requirements for the office that the candidate is seeking; and

212 (ii) require the candidate or individual filing the petition to state whether the candidate  
213 meets those requirements.

214 (b) If the prospective candidate does not meet the qualification requirements for the  
215 office, the filing officer may not accept the declaration of candidacy or nomination petition.

216 (c) If it appears that the prospective candidate meets the requirements of candidacy, the  
217 filing officer shall:

218 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
219 written on the declaration of candidacy;

220 (ii) provide the candidate with a copy of the current campaign financial disclosure laws  
221 for the office the candidate is seeking and inform the candidate that failure to comply will  
222 result in disqualification as a candidate and removal of the candidate's name from the ballot;

223 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
224 Electronic Voter Information Website Program and inform the candidate of the submission  
225 deadline under Subsection 20A-7-801(4)(a);

226 (iv) provide the candidate with a copy of the pledge of fair campaign practices  
227 described under Section 20A-9-206 and inform the candidate that:

228 (A) signing the pledge is voluntary; and

229 (B) signed pledges shall be filed with the filing officer; and

230 (v) accept the declaration of candidacy or nomination petition.

231 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing  
232 officer shall:

233 (i) accept the candidate's pledge; and

234 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
235 candidate's pledge to the chair of the county or state political party of which the candidate is a  
236 member.

237 (5) (a) The declaration of candidacy shall be in substantially the following form:

238 "I, (print name) \_\_\_\_, being first sworn, say that I reside at \_\_\_\_ Street, City of \_\_\_\_,  
239 County of \_\_\_\_, state of Utah, Zip Code \_\_\_\_, Telephone Number (if any) \_\_\_\_; that I am a  
240 registered voter; and that I am a candidate for the office of \_\_\_\_ (stating the term). I will meet  
241 the legal qualifications required of candidates for this office. If filing via a designated agent, I  
242 attest that I will be out of the state of Utah during the entire candidate filing period. I will file  
243 all campaign financial disclosure reports as required by law and I understand that failure to do  
244 so will result in my disqualification as a candidate for this office and removal of my name from



245 the ballot. I request that my name be printed upon the applicable official ballots. (Signed)

246 \_\_\_\_\_

247 Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this

248 \_\_\_\_\_(month\day\year).

249 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)".

250 (b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may  
251 not sign the form described in Subsection (5)(a).

252 (6) If the declaration of candidacy or nomination petition fails to state whether the  
253 nomination is for the two-year or four-year term, the clerk shall consider the nomination to be  
254 for the four-year term.

255 (7) (a) The clerk shall verify with the county clerk that all candidates are registered  
256 voters.

257 (b) Any candidate who is not registered to vote is disqualified and the clerk may not  
258 print the candidate's name on the ballot.

259 (8) Immediately after expiration of the period for filing a declaration of candidacy, the  
260 clerk shall:

261 (a) cause the names of the candidates as they will appear on the ballot to be published:

262 (i) in at least two successive publications of a newspaper with general circulation in the  
263 municipality; and

264 (ii) as required in Section 45-1-101; and

265 (b) notify the lieutenant governor of the names of the candidates as they will appear on  
266 the ballot.

267 (9) Except as provided in Subsection (10)(c), an individual may not amend a  
268 declaration of candidacy or nomination petition filed under this section after the candidate  
269 filing period ends.

270 (10) (a) A declaration of candidacy or nomination petition that an individual files under  
271 this section is valid unless a person files a written objection with the clerk within five days  
272 after the last day for filing.

273 (b) If a person files an objection, the clerk shall:

274 (i) mail or personally deliver notice of the objection to the affected candidate  
275 immediately; and

276 (ii) decide any objection within 48 hours after the objection is filed.

277 (c) If the clerk sustains the objection, the candidate may, within three days after the day  
278 on which the clerk sustains the objection, correct the problem for which the objection is  
279 sustained by amending the candidate's declaration of candidacy or nomination petition, or by  
280 filing a new declaration of candidacy.

281 (d) (i) The clerk's decision upon objections to form is final.

282 (ii) The clerk's decision upon substantive matters is reviewable by a district court if  
283 prompt application is made to the district court.

284 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
285 of its discretion, agrees to review the lower court decision.

286 (11) A candidate who qualifies for the ballot under this section may withdraw as a  
287 candidate by filing a written affidavit with the municipal clerk.

288 Section 5. Section **63I-2-220** is amended to read:

289 **63I-2-220. Repeal dates -- Title 20A.**

290 (1) Subsection [20A-5-803](#)(8) is repealed July 1, 2023.

291 (2) Section [20A-5-804](#) is repealed July 1, 2023.

292 [~~(3) On January 1, 2019, Subsections [20A-6-107](#)(2) and (4) are repealed and the  
293 remaining subsections, and references to those subsections, are renumbered accordingly.]~~

294 [~~(4) On July 1, 2018, in Subsection [20A-11-101](#)(21), the language that states "  
295 [10-2a-302](#)," is repealed.]~~

296 [~~(5)~~] (3) On January 1, 2026:

297 (a) In Subsection [20A-1-102](#)(23)(a), the language that states "or Title 20A, Chapter 4,  
298 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

299 (b) In Subsections [20A-1-303](#)(1)(a) and (b), the language that states "Except as  
300 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is  
301 repealed.

302 (c) In Section [20A-1-304](#), the language that states "Except for a race conducted by  
303 instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods  
304 Pilot Project," is repealed.

305 (d) In Subsection [20A-3-105](#)(1)(a), the language that states "Except as provided in  
306 Subsection (5)," is repealed.

307 (e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states "Except  
308 as provided in Subsections (5) and (6)," is repealed.

309 (f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states  
310 "Subject to Subsection (5)," is repealed.

311 (g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section  
312 20A-3-105 are renumbered accordingly.

313 (h) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in  
314 Subsection (2)(f)," is repealed.

315 (i) Subsection 20A-4-101(2)(f) is repealed.

316 (j) Subsection 20A-4-101(4) is repealed and replaced with the following:

317 "(4) To resolve questions that arise during the counting of ballots, a counting judge  
318 shall apply the standards and requirements of Section 20A-4-105."

319 (k) In Subsection 20A-4-102(1)(a), the language that states "or a rule made under  
320 Subsection 20A-4-101(2)(f)(i)" is repealed.

321 (l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

322 "(b) To resolve questions that arise during the counting of ballots, a counting judge  
323 shall apply the standards and requirements of Section 20A-4-105."

324 (m) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in  
325 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made  
326 under Subsection 20A-4-101(2)(f)(i)" is repealed.

327 (n) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise  
328 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is  
329 repealed.

330 (o) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3-105(5), or  
331 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

332 (p) In Subsections 20A-4-105(3), (5), and (12), the language that states "Except as  
333 otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot  
334 Project," is repealed.

335 (q) In Subsection 20A-4-106(1)(a)(ii), the language that states "or Title 20A, Chapter  
336 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

337 (r) In Subsection 20A-4-304(1)(a), the language that states "except as provided in Title

338 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

339 (s) Subsection [20A-4-304\(2\)\(a\)\(v\)](#) is repealed and replaced with the following:

340 "(v) from each voting precinct:

341 (A) the number of votes for each candidate; and

342 (B) the number of votes for and against each ballot proposition;".

343 (t) Subsection [20A-4-401\(1\)\(a\)](#) is repealed, the remaining subsections in Subsection (1)  
344 are renumbered accordingly, and the cross-references to those subsections are renumbered  
345 accordingly.

346 (u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is  
347 repealed.

348 (v) Subsection [20A-5-400.1\(1\)\(c\)](#), relating to contracting with a local political  
349 subdivision to conduct an election, is repealed.

350 [~~(v)~~] (w) Subsection [20A-5-404\(3\)\(b\)](#) is repealed and the remaining subsections in  
351 Subsection (3) are renumbered accordingly.

352 [~~(w)~~] (x) Subsection [20A-5-404\(4\)\(b\)](#) is repealed and the remaining subsections in  
353 Subsection (4) are renumbered accordingly.

354 [~~(x)~~] (y) Section [20A-6-203.5](#) is repealed.

355 [~~(y)~~] (z) In Subsections [20A-6-402\(1\)](#), (2), (3), and (4), the language that states "Except  
356 as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4,  
357 Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

358 (aa) In Subsection [20A-9-203\(3\)\(a\)\(i\)](#), the language that states "or Title 20A, Chapter  
359 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

360 (bb) In Subsection [20A-9-203\(3\)\(c\)\(i\)](#), the language that states "except as provided in  
361 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

362 [~~(z)~~] (cc) In Subsection [20A-9-404\(1\)\(a\)](#), the language that states "or Title 20A,  
363 Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

364 [~~(aa)~~] (dd) In Subsection [20A-9-404\(2\)](#), the language that states "Except as otherwise  
365 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is  
366 repealed.