

ELECTIONS DURING DECLARED EMERGENCY

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill authorizes the lieutenant governor to take certain actions when a declared emergency affects an election.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the lieutenant governor, during a declared emergency, to designate alternative methods and times for voting or counting an absentee ballot or military-overseas ballot;
- ▶ requires the lieutenant governor to notify a voter of alternatives to vote an absentee or military-overseas ballot, including posting the alternatives on the voter information website; and
- ▶ makes conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 20A-3-306**, as last amended by Laws of Utah 2012, Chapter 309
- 20A-3-306.5**, as last amended by Laws of Utah 1999, Chapter 45
- 20A-7-801**, as last amended by Laws of Utah 2012, Chapter 334
- 20A-16-404**, as enacted by Laws of Utah 2011, Chapter 327
- 20A-16-408**, as enacted by Laws of Utah 2011, Chapter 327
- 67-1a-2**, as last amended by Laws of Utah 2012, Chapter 35

ENACTS:

- 20A-1-308**, Utah Code Annotated 1953

33

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

35 Section 1. Section **20A-1-308** is enacted to read:

36 **20A-1-308. Elections during declared emergencies.**

37 (1) As used in this section, "declared emergency" means a state of emergency that:

38 (a) is declared by:

39 (i) the President of the United States;

40 (ii) the governor in an executive order under Title 63K, Chapter 4, Disaster Response

41 and Recovery Act; or

42 (iii) the chief executive officer of a political subdivision in a proclamation under Title

43 63K, Chapter 4, Disaster Response and Recovery Act; and

44 (b) affects an election in the state, including:

45 (i) the transmittal or voting of an absentee ballot or military-overseas ballot;

46 (ii) the counting of an absentee ballot or military-overseas ballot; or

47 (iii) the canvassing of election returns.

48 (2) During a declared emergency, the lieutenant governor may designate a method and
49 time that is different from what is provided in this title for:

50 (a) voting an absentee ballot or military-overseas ballot; and

51 (b) counting an absentee ballot or military-overseas ballot.

52 (3) The lieutenant governor shall notify a voter of a different method or time

53 designated under Subsection (2) by:

54 (a) posting a notice on the Statewide Electronic Voter Information Website established
55 under Section 20A-7-801;

56 (b) notifying an election officer affected by the designation; and

57 (c) notifying a newspaper of general circulation within the state or a local media

58 correspondent.

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

60 **20A-3-306. Voting ballot -- Returning ballot.**

61 (1) (a) [Fø] Except as provided by Section 20A-1-308, to vote a mail-in absentee
62 ballot, the absentee voter shall:

63 (i) complete and sign the affidavit on the envelope;

64 (ii) mark the votes on the absentee ballot;
65 (iii) place the voted absentee ballot in the envelope;
66 (iv) securely seal the envelope; and
67 (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit
68 the envelope in the mail or deliver it in person to the election officer from whom the ballot was
69 obtained.

70 (b) ~~[Fø]~~ Except as provided by Section 20A-1-308, to vote an absentee ballot in person
71 at the office of the election officer, the absent voter shall:

72 (i) complete and sign the affidavit on the envelope;
73 (ii) mark the votes on the absent-voter ballot;
74 (iii) place the voted absent-voter ballot in the envelope;
75 (iv) securely seal the envelope; and
76 (v) give the ballot and envelope to the election officer.

77 (2) ~~[Am]~~ Except as provided by Section 20A-1-308, an absentee ballot is not valid
78 unless:

79 (a) in the case of an absentee ballot that is voted in person, it is applied for and cast in
80 person at the office of the appropriate election officer no later than the Friday before election
81 day; or

82 (b) in the case of a military-overseas ballot, submitted in accordance with Section
83 20A-16-404.

84 Section 3. Section **20A-3-306.5** is amended to read:

85 **20A-3-306.5. Emergency absentee ballots.**

86 (1) As used in this section, "hospitalized voter" means a registered voter who is
87 hospitalized or otherwise confined to a medical or long-term care institution after the deadline
88 for filing an application for an absentee ballot established in Section 20A-3-304.

89 (2) Notwithstanding any other provision of this part, a hospitalized voter may obtain an
90 absentee ballot and vote on election day by following the procedures and requirements of this
91 section.

92 (3) (a) Any person may obtain an absentee ballot application, an absentee ballot, and an
93 absentee ballot envelope from the election officer on behalf of a hospitalized voter by
94 requesting a ballot and application in person at the election officer's office.

95 (b) The election officer shall require the person to sign a statement identifying himself
96 and the hospitalized voter.

97 (4) To vote, the hospitalized voter shall complete the absentee ballot application,
98 complete and sign the application on the absentee ballot envelope, mark his votes on the
99 absentee ballot, place the absentee ballot into the envelope, and seal the envelope unless a
100 different method is authorized under Section 20A-1-308.

101 (5) To be counted, the absentee voter application and the sealed absentee ballot
102 envelope must be returned to the election officer's office before the polls close on election day
103 unless a different time is authorized under Section 20A-1-308.

104 Section 4. Section **20A-7-801** is amended to read:

105 **20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of**
106 **the lieutenant governor -- Content -- Duties of local election officials -- Deadlines --**
107 **Frequently asked voter questions -- Other elections.**

108 (1) There is established the Statewide Electronic Voter Information Website Program
109 administered by the lieutenant governor in cooperation with the county clerks for general
110 elections and municipal authorities for municipal elections.

111 (2) In accordance with this section, and as resources become available, the lieutenant
112 governor, in cooperation with county clerks, shall develop, establish, and maintain a
113 state-provided Internet website designed to help inform the voters of the state of:

114 (a) the offices and candidates up for election; and

115 (b) the content, effect, operation, fiscal impact, and supporting and opposing arguments
116 of ballot propositions submitted to the voters.

117 (3) Except as provided under Subsection (6), the website shall include:

118 (a) all information currently provided in the Utah voter information pamphlet under
119 Title 20A, Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared,
120 analyzed, and submitted by the Judicial Council describing the judicial selection and retention
121 process;

122 (b) all information submitted by election officers under Subsection (4) on local office
123 races, local office candidates, and local ballot propositions;

124 (c) a list that contains the name of a political subdivision that operates an election day
125 voting center under Section 20A-3-703 and the location of the election day voting center; [~~and~~]

126 (d) other information determined appropriate by the lieutenant governor that is
127 currently being provided by law, rule, or ordinance in relation to candidates and ballot
128 questions[-]; and

129 (e) an alternative method or time designated under Section 20A-1-308 for voting or
130 counting an absentee or military-overseas ballot.

131 (4) (a) An election official shall submit the following information for each ballot label
132 under the election official's direct responsibility under this title:

133 (i) a list of all candidates for each office;

134 (ii) if submitted by the candidate to the election official's office at 5 p.m. at least 45
135 days before the primary election and 60 days before the general election:

136 (A) a statement of qualifications, not exceeding 200 words in length, for each
137 candidate;

138 (B) the following biographical information if desired by the candidate, current:

139 (I) age;

140 (II) occupation;

141 (III) city of residence;

142 (IV) years of residence in current city; and

143 (V) email address; and

144 (C) a single web address where voters may access more information about the
145 candidate and the candidate's views; and

146 (iii) factual information pertaining to all ballot propositions submitted to the voters,
147 including:

148 (A) a copy of the number and ballot title of each ballot proposition;

149 (B) the final vote cast for each ballot proposition, if any, by a legislative body if the
150 vote was required to place the ballot proposition on the ballot;

151 (C) a complete copy of the text of each ballot proposition, with all new language
152 underlined and all deleted language placed within brackets; and

153 (D) other factual information determined helpful by the election official.

154 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant
155 governor no later than one business day after the deadline under Subsection (4)(a) for each
156 general election year and each municipal election year.

157 (c) The lieutenant governor shall:

158 (i) review the information submitted under this section prior to placing it on the
159 website to determine compliance under this section;

160 (ii) refuse to post information submitted under this section on the website if it is not in
161 compliance with the provisions of this section; and

162 (iii) organize, format, and arrange the information submitted under this section for the
163 website.

164 (d) The lieutenant governor may refuse to include information the lieutenant governor
165 determines is not in keeping with:

166 (i) Utah voter needs;

167 (ii) public decency; or

168 (iii) the purposes, organization, or uniformity of the website.

169 (e) A refusal under Subsection (4)(d) is subject to appeal in accordance with
170 Subsection (5).

171 (5) (a) A person whose information is refused under Subsection (4), and who is
172 aggrieved by the determination, may appeal by submitting a written notice of appeal to the
173 lieutenant governor within 10 business days after the date of the determination. A notice of
174 appeal submitted under this Subsection (5)(a) shall contain:

175 (i) a listing of each objection to the lieutenant governor's determination; and

176 (ii) the basis for each objection.

177 (b) The lieutenant governor shall review the notice of appeal and shall issue a written
178 response within 10 business days after the notice of appeal is submitted.

179 (c) An appeal of the response of the lieutenant governor shall be made to the district
180 court, which shall review the matter de novo.

181 (6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently
182 enter the voter's address information on the website to retrieve information on which offices,
183 candidates, and ballot propositions will be on the voter's ballot at the next general election or
184 municipal election.

185 (b) The information on the website will anticipate and answer frequent voter questions
186 including the following:

187 (i) what offices are up in the current year for which the voter may cast a vote;

- 188 (ii) who is running for what office and who is the incumbent, if any;
- 189 (iii) what address each candidate may be reached at and how the candidate may be
190 contacted;
- 191 (iv) for partisan races only, what, if any, is each candidate's party affiliation;
- 192 (v) what qualifications have been submitted by each candidate;
- 193 (vi) where additional information on each candidate may be obtained;
- 194 (vii) what ballot propositions will be on the ballot; and
- 195 (viii) what judges are up for retention election.
- 196 (7) As resources are made available and in cooperation with the county clerks, the
197 lieutenant governor may expand the electronic voter information website program to include
198 the same information as provided under this section for special elections and primary elections.

199 Section 5. Section **20A-16-404** is amended to read:

200 **20A-16-404. Timely casting of ballot.**

201 [~~F~~] Except as provided by Section 20A-1-308, to be valid, a military-overseas ballot
202 shall be:

- 203 (1) received by the appropriate election officer not later than the close of the polls; or
- 204 (2) submitted for mailing, electronic transmission, or other authorized means of
205 delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date
206 of the election.

207 Section 6. Section **20A-16-408** is amended to read:

208 **20A-16-408. Receipt of voted ballot.**

209 (1) [~~A~~] Except as provided by Section 20A-1-308, a valid military-overseas ballot cast
210 in accordance with Section 20A-16-404 shall be counted if the military-overseas ballot is
211 delivered by the end of business on the business day before the latest deadline for completing
212 the canvass to the address that the appropriate state or local election office has specified.

213 (2) If, at the time of completing a military-overseas ballot and balloting materials, the
214 voter has declared under penalty of perjury as provided in Title 76, Chapter 8, Part 5,
215 Falsification in Official Matters, that the ballot was timely submitted, the ballot may not be
216 rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

217 Section 7. Section **67-1a-2** is amended to read:

218 **67-1a-2. Duties enumerated.**

- 219 (1) The lieutenant governor shall:
- 220 (a) perform duties delegated by the governor, including assignments to serve in any of
- 221 the following capacities:
- 222 (i) as the head of any one department, if so qualified, with the consent of the Senate,
- 223 and, upon appointment at the pleasure of the governor and without additional compensation;
- 224 (ii) as the chairperson of any cabinet group organized by the governor or authorized by
- 225 law for the purpose of advising the governor or coordinating intergovernmental or
- 226 interdepartmental policies or programs;
- 227 (iii) as liaison between the governor and the state Legislature to coordinate and
- 228 facilitate the governor's programs and budget requests;
- 229 (iv) as liaison between the governor and other officials of local, state, federal, and
- 230 international governments or any other political entities to coordinate, facilitate, and protect the
- 231 interests of the state;
- 232 (v) as personal advisor to the governor, including advice on policies, programs,
- 233 administrative and personnel matters, and fiscal or budgetary matters; and
- 234 (vi) as chairperson or member of any temporary or permanent boards, councils,
- 235 commissions, committees, task forces, or other group appointed by the governor;
- 236 (b) serve on all boards and commissions in lieu of the governor, whenever so
- 237 designated by the governor;
- 238 (c) serve as the chief election officer of the state as required by Subsection (2);
- 239 (d) keep custody of the Great Seal of Utah;
- 240 (e) keep a register of, and attest, the official acts of the governor;
- 241 (f) affix the Great Seal, with an attestation, to all official documents and instruments to
- 242 which the official signature of the governor is required; and
- 243 (g) furnish a certified copy of all or any part of any law, record, or other instrument
- 244 filed, deposited, or recorded in the office of the lieutenant governor to any person who requests
- 245 it and pays the fee.
- 246 (2) (a) As the chief election officer, the lieutenant governor shall:
- 247 (i) exercise general supervisory authority over all elections;
- 248 (ii) exercise direct authority over the conduct of elections for federal, state, and
- 249 multicounty officers and statewide or multicounty ballot propositions and any recounts

250 involving those races;

251 (iii) assist county clerks in unifying the election ballot;

252 (iv) (A) prepare election information for the public as required by statute and as

253 determined appropriate by the lieutenant governor;

254 (B) make the information under Subsection (2)(a)(iv)(A) available to the public and to

255 news media on the Internet and in other forms as required by statute or as determined

256 appropriate by the lieutenant governor;

257 (v) receive and answer election questions and maintain an election file on opinions

258 received from the attorney general;

259 (vi) maintain a current list of registered political parties as defined in Section

260 20A-8-101;

261 (vii) maintain election returns and statistics;

262 (viii) certify to the governor the names of those persons who have received the highest

263 number of votes for any office;

264 (ix) ensure that all voting equipment purchased by the state complies with the

265 requirements of Subsection 20A-5-302(2) and Sections 20A-5-402.5 and 20A-5-402.7;

266 (x) conduct the study described in Section 67-1a-14; ~~and~~

267 (xi) during a declared emergency, designate an alternative method and time regarding an

268 absentee or military-overseas ballot in accordance with Section 20A-1-308; and

269 ~~(xi)~~ (xii) perform other election duties as provided in Title 20A, Election Code.

270 (b) As chief election officer, the lieutenant governor may not assume the

271 responsibilities assigned to the county clerks, city recorders, town clerks, or other local election

272 officials by Title 20A, Election Code.

273 (3) (a) The lieutenant governor shall:

274 (i) (A) determine a new city's classification under Section 10-2-301 upon the city's

275 incorporation under Title 10, Chapter 2, Part 1, Incorporation, based on the city's population

276 using the population estimate from the Utah Population Estimates Committee; and

277 (B) (I) prepare a certificate indicating the class in which the new city belongs based on

278 the city's population; and

279 (II) within 10 days after preparing the certificate, deliver a copy of the certificate to the

280 city's legislative body;

281 (ii) (A) determine the classification under Section 10-2-301 of a consolidated
282 municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part
283 6, Consolidation of Municipalities, using population information from:

284 (I) each official census or census estimate of the United States Bureau of the Census;
285 or

286 (II) the population estimate from the Utah Population Estimates Committee, if the
287 population of a municipality is not available from the United States Bureau of the Census; and

288 (B) (I) prepare a certificate indicating the class in which the consolidated municipality
289 belongs based on the municipality's population; and

290 (II) within 10 days after preparing the certificate, deliver a copy of the certificate to the
291 consolidated municipality's legislative body; and

292 (iii) monitor the population of each municipality using population information from:

293 (A) each official census or census estimate of the United States Bureau of the Census;
294 or

295 (B) the population estimate from the Utah Population Estimates Committee, if the
296 population of a municipality is not available from the United States Bureau of the Census.

297 (b) If the applicable population figure under Subsection (3)(a)(ii) or (iii) indicates that
298 a municipality's population has increased beyond the population for its current class, the
299 lieutenant governor shall:

300 (i) prepare a certificate indicating the class in which the municipality belongs based on
301 the increased population figure; and

302 (ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the
303 legislative body of the municipality whose class has changed.

304 (c) (i) If the applicable population figure under Subsection (3)(a)(ii) or (iii) indicates
305 that a municipality's population has decreased below the population for its current class, the
306 lieutenant governor shall send written notification of that fact to the municipality's legislative
307 body.

308 (ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose
309 population has decreased below the population for its current class, the lieutenant governor
310 shall:

311 (A) prepare a certificate indicating the class in which the municipality belongs based

312 on the decreased population figure; and

313 (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the

314 legislative body of the municipality whose class has changed.