

**ELECTIONS AND EARLY VOTING DURING A DECLARED
EMERGENCY**

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill authorizes the lieutenant governor to designate a different method, time, or location relating to voting, early voting, or canvassing an election during a declared emergency.

Highlighted Provisions:

This bill:

- ▶ defines the term "declared emergency";
- ▶ authorizes the lieutenant governor to designate a different method, time, or location relating to voting, early voting, or canvassing an election during a declared emergency;
- ▶ requires the lieutenant governor to post the differences in the voting method, time, or location on the voter information website; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **20A-3-601**, as last amended by Laws of Utah 2010, Chapter 337
- 29 **20A-3-602**, as last amended by Laws of Utah 2007, Chapter 256
- 30 **20A-3-603**, as last amended by Laws of Utah 2009, Chapters 88 and 388
- 31 **20A-3-604**, as last amended by Laws of Utah 2009, Chapter 388
- 32 **20A-7-801**, as last amended by Laws of Utah 2012, Chapter 334
- 33 **67-1a-2**, as last amended by Laws of Utah 2012, Chapter 35

34 ENACTS:

35 **20A-1-308**, Utah Code Annotated 1953



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

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

39 **20A-1-308. Elections during declared emergencies.**

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

41 (a) is declared by:

42 (i) the President of the United States;

43 (ii) the governor in an executive order under Title 63K, Chapter 4, Disaster Response
44 and Recovery Act; or

45 (iii) the chief executive officer of a political subdivision in a proclamation under Title
46 63K, Chapter 4, Disaster Response and Recovery Act; and

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

48 (i) voting on an election day;

49 (ii) early voting; or

50 (iii) the canvassing of election returns.

51 (2) During a declared emergency, the lieutenant governor may designate a method,
52 time, or location for, or relating to, an event described in Subsection (1)(b) that is different than
53 the method, time, or location described in this title.

54 (3) The lieutenant governor shall notify a voter or potential voter of a different method,
55 time, or location designated under Subsection (2) by:

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

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

59 (c) notifying a newspaper of general circulation within the state or a local media
 60 correspondent.

61 Section 2. Section **20A-3-601** is amended to read:

62 **20A-3-601. Early voting.**

63 (1) A person who is registered to vote may vote before the election date in accordance
 64 with this section.

65 (2) ~~[(a) The]~~ Except as provided in Section 20A-1-308, the early voting period shall:

66 (a) begin on the date that is 14 days before the date of the election[-]; and

67 (b) [Early voting shall] continue through the Friday before the election if the election
 68 date is a Tuesday.

69 ~~[(c) During]~~ (3) Except as provided in Section 20A-1-308, during the early voting
 70 period, the election officer:

71 ~~[(i)]~~ (a) for a local special election, a municipal primary election, and a municipal
 72 general election:

73 ~~[(A)]~~ (i) shall conduct early voting on a minimum of four days during each week of the
 74 early voting period; and

75 ~~[(B)]~~ (ii) shall conduct early voting on the last day of the early voting period; and

76 ~~[(i)]~~ (b) for all other elections:

77 ~~[(A)]~~ (i) shall conduct early voting on each weekday; and

78 ~~[(B)]~~ (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

79 ~~[(3)]~~ (4) Except as specifically provided in this Part 6, Early Voting, or Section
 80 20A-1-308, early voting shall be administered according to the requirements of this title.

81 Section 3. Section **20A-3-602** is amended to read:

82 **20A-3-602. Hours for early voting.**

83 (1) ~~[The]~~ Except as provided in Section 20A-1-308, the election officer shall determine
 84 the times for opening and closing the polls for each day of early voting provided that:

85 (a) voting is open for a minimum of four hours during each day that polls are open
 86 during the early voting period; and

87 (b) polls shall close at 5 p.m. on the last day of the early voting period.

88 (2) ~~[Every]~~ Except as provided in Section 20A-1-308, each registered voter who
 89 arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

90 Section 4. Section **20A-3-603** is amended to read:

91 **20A-3-603. Early voting polling places.**

92 (1) [~~The~~] Except as provided in Section 20A-1-308, the election officer shall designate
93 one or more polling places for early voting, provided that:

94 (a) at least one polling place is open on each day that polls are open during the early
95 voting period;

96 (b) each polling place meets the requirements for polling places under Chapter 5,
97 Election Administration;

98 (c) for all elections other than local special elections, municipal primary elections, and
99 municipal general elections, at least 10% of the voting devices at a polling place are accessible
100 for individuals with disabilities in accordance with Public Law 107-252, the Help America
101 Vote Act of 2002; and

102 (d) each polling place is located in a government building or office, unless the election
103 officer determines that, in the area designated by the election officer, there is no government
104 building or office available that:

105 (i) can be scheduled for use during early voting hours;

106 (ii) has the physical facilities necessary to accommodate early voting requirements;

107 (iii) has adequate space for voting equipment, poll workers, and voters; and

108 (iv) has adequate security, public accessibility, and parking.

109 (2) (a) [~~In~~] Except as provided in Section 20A-1-308, in the event the election officer
110 determines that the number of early voting polling places is insufficient due to the number of
111 registered voters who are voting, the election officer may designate additional polling places
112 during the early voting period.

113 (b) [~~If~~] Except as provided in Section 20A-1-308, if an additional early voting polling
114 place is designated, the election officer shall, as soon as is reasonably possible, give notice of
115 the dates, times, and location of the additional polling place by:

116 (i) publishing the notice:

117 (A) in one issue of a newspaper of general circulation in the county; and

118 (B) as required in Section 45-1-101; and

119 (ii) posting the notice at the additional polling place.

120 (3) [~~For~~] Except as provided in Section 20A-1-308, for each regular general election

121 and regular primary election, counties of the first class shall ensure that the early voting polling
122 places are approximately proportionately distributed based on population within the county.

123 Section 5. Section **20A-3-604** is amended to read:

124 **20A-3-604. Notice of time and place of early voting.**

125 [~~The~~] Except as provided in Section 20A-1-308, the election officer shall give notice of
126 the dates, times, and locations of early voting by:

127 (1) publishing the notice:

128 (a) in one issue of a newspaper of general circulation in the county at least five
129 calendar days before the date that early voting begins; and

130 (b) in accordance with Section 45-1-101, at least five calendar days before the date that
131 early voting begins; and

132 (2) posting the notice at each early voting polling place at least five calendar days
133 before the date early voting begins.

134 Section 6. Section **20A-7-801** is amended to read:

135 **20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of**
136 **the lieutenant governor -- Content -- Duties of local election officials -- Deadlines --**
137 **Frequently asked voter questions -- Other elections.**

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

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

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

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

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

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

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

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

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

159 (e) any differences in voting method, time, or location designated by the lieutenant
160 governor under Subsection 20A-1-308(2).

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

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

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

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

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

169 (I) age;

170 (II) occupation;

171 (III) city of residence;

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

173 (V) email address; and

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

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

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

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

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

- 183 (D) other factual information determined helpful by the election official.
- 184 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant
185 governor no later than one business day after the deadline under Subsection (4)(a) for each
186 general election year and each municipal election year.
- 187 (c) The lieutenant governor shall:
- 188 (i) review the information submitted under this section, to determine compliance under
189 this section, prior to placing it on the website [~~to determine compliance under this section~~];
- 190 (ii) refuse to post information submitted under this section on the website if it is not in
191 compliance with the provisions of this section; and
- 192 (iii) organize, format, and arrange the information submitted under this section for the
193 website.
- 194 (d) The lieutenant governor may refuse to include information the lieutenant governor
195 determines is not in keeping with:
- 196 (i) Utah voter needs;
- 197 (ii) public decency; or
- 198 (iii) the purposes, organization, or uniformity of the website.
- 199 (e) A refusal under Subsection (4)(d) is subject to appeal in accordance with
200 Subsection (5).
- 201 (5) (a) A person whose information is refused under Subsection (4), and who is
202 aggrieved by the determination, may appeal by submitting a written notice of appeal to the
203 lieutenant governor within 10 business days after the date of the determination. A notice of
204 appeal submitted under this Subsection (5)(a) shall contain:
- 205 (i) a listing of each objection to the lieutenant governor's determination; and
206 (ii) the basis for each objection.
- 207 (b) The lieutenant governor shall review the notice of appeal and shall issue a written
208 response within 10 business days after the notice of appeal is submitted.
- 209 (c) An appeal of the response of the lieutenant governor shall be made to the district
210 court, which shall review the matter de novo.
- 211 (6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently
212 enter the voter's address information on the website to retrieve information on which offices,
213 candidates, and ballot propositions will be on the voter's ballot at the next general election or

214 municipal election.

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

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

218 (ii) who is running for what office and who is the incumbent, if any;

219 (iii) what address each candidate may be reached at and how the candidate may be
220 contacted;

221 (iv) for partisan races only, what, if any, is each candidate's party affiliation;

222 (v) what qualifications have been submitted by each candidate;

223 (vi) where additional information on each candidate may be obtained;

224 (vii) what ballot propositions will be on the ballot; and

225 (viii) what judges are up for retention election.

226 (7) As resources are made available and in cooperation with the county clerks, the
227 lieutenant governor may expand the electronic voter information website program to include
228 the same information as provided under this section for special elections and primary elections.

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

230 **67-1a-2. Duties enumerated.**

231 (1) The lieutenant governor shall:

232 (a) perform duties delegated by the governor, including assignments to serve in any of
233 the following capacities:

234 (i) as the head of any one department, if so qualified, with the consent of the Senate,
235 and, upon appointment at the pleasure of the governor and without additional compensation;

236 (ii) as the chairperson of any cabinet group organized by the governor or authorized by
237 law for the purpose of advising the governor or coordinating intergovernmental or
238 interdepartmental policies or programs;

239 (iii) as liaison between the governor and the state Legislature to coordinate and
240 facilitate the governor's programs and budget requests;

241 (iv) as liaison between the governor and other officials of local, state, federal, and
242 international governments or any other political entities to coordinate, facilitate, and protect the
243 interests of the state;

244 (v) as personal advisor to the governor, including advice on policies, programs,

245 administrative and personnel matters, and fiscal or budgetary matters; and
246 (vi) as chairperson or member of any temporary or permanent boards, councils,
247 commissions, committees, task forces, or other group appointed by the governor;
248 (b) serve on all boards and commissions in lieu of the governor, whenever so
249 designated by the governor;
250 (c) serve as the chief election officer of the state as required by Subsection (2);
251 (d) keep custody of the Great Seal of Utah;
252 (e) keep a register of, and attest, the official acts of the governor;
253 (f) affix the Great Seal, with an attestation, to all official documents and instruments to
254 which the official signature of the governor is required; and
255 (g) furnish a certified copy of all or any part of any law, record, or other instrument
256 filed, deposited, or recorded in the office of the lieutenant governor to any person who requests
257 it and pays the fee.

258 (2) (a) As the chief election officer, the lieutenant governor shall:
259 (i) exercise general supervisory authority over all elections;
260 (ii) exercise direct authority over the conduct of elections for federal, state, and
261 multicounty officers and statewide or multicounty ballot propositions and any recounts
262 involving those races;
263 (iii) assist county clerks in unifying the election ballot;
264 (iv) (A) prepare election information for the public as required by statute and as
265 determined appropriate by the lieutenant governor;
266 (B) make the information under Subsection (2)(a)(iv)(A) available to the public and to
267 news media on the Internet and in other forms as required by statute or as determined
268 appropriate by the lieutenant governor;
269 (v) receive and answer election questions and maintain an election file on opinions
270 received from the attorney general;
271 (vi) maintain a current list of registered political parties as defined in Section
272 20A-8-101;
273 (vii) maintain election returns and statistics;
274 (viii) certify to the governor the names of those persons who have received the highest
275 number of votes for any office;

276 (ix) ensure that all voting equipment purchased by the state complies with the
277 requirements of Subsection 20A-5-302(2) and Sections 20A-5-402.5 and 20A-5-402.7;

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

279 (xi) during a declared emergency, to the extent that the lieutenant governor determines
280 it warranted, designate a different method, time, or location relating to voting, early voting, or
281 canvassing an election in accordance with Section 20A-1-308; and

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

283 (b) As chief election officer, the lieutenant governor may not assume the
284 responsibilities assigned to the county clerks, city recorders, town clerks, or other local election
285 officials by Title 20A, Election Code.

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

287 (i) (A) determine a new city's classification under Section 10-2-301 upon the city's
288 incorporation under Title 10, Chapter 2, Part 1, Incorporation, based on the city's population
289 using the population estimate from the Utah Population Estimates Committee; and

290 (B) (I) prepare a certificate indicating the class in which the new city belongs based on
291 the city's population; and

292 (II) within 10 days after preparing the certificate, deliver a copy of the certificate to the
293 city's legislative body;

294 (ii) (A) determine the classification under Section 10-2-301 of a consolidated
295 municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part
296 6, Consolidation of Municipalities, using population information from:

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

298 or

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

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

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

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

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

307 or

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

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

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

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

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

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

324 (A) prepare a certificate indicating the class in which the municipality belongs based
325 on the decreased population figure; and

326 (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the
327 legislative body of the municipality whose class has changed.

Legislative Review Note
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Office of Legislative Research and General Counsel