

# HB0082S01 compared with HB0082

~~text~~ shows text that was in HB0082 but was deleted in HB0082S01.

text shows text that was not in HB0082 but was inserted into HB0082S01.

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Senator Peter C. Knudson proposes the following substitute bill:

## ELECTIONS AND EARLY VOTING DURING A DECLARED EMERGENCY

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Rebecca ~~Chavez-Houck~~ Chavez-Houck

Senate Sponsor: ~~\_\_\_\_\_~~ Peter C. Knudson

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### LONG TITLE

#### General Description:

This bill authorizes the lieutenant governor to designate a different method, time, or

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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 }~~ [This bill coordinates with S.B. 25, Elections During Declared Emergency, by providing substantive amendments.](#)

### Utah Code Sections Affected:

AMENDS:

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

ENACTS:

20A-1-308, Utah Code Annotated 1953

### Utah Code Sections Affected by Coordination Clause:

[20A-1-308, Utah Code Annotated 1953](#)

[20A-7-801, as last amended by Laws of Utah 2012, Chapter 334](#)

[67-1a-2, as last amended by Laws of Utah 2012, Chapter 35](#)

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

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

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

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

(a) is declared by:

(i) the President of the United States;

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

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

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

(i) voting on an election day;

(ii) early voting; or

(iii) the canvassing of election returns.

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

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

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

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

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

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

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

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

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

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

(b) ~~[Early voting shall]~~ continue through the Friday before the election if the election

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date is a Tuesday.

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

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

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

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

~~[(ii)]~~ (b) for all other elections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) for all elections other than local special elections, municipal primary elections, and

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municipal general elections, at least 10% of the voting devices at a polling place are accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002; and

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

- (i) can be scheduled for use during early voting hours;
- (ii) has the physical facilities necessary to accommodate early voting requirements;
- (iii) has adequate space for voting equipment, poll workers, and voters; and
- (iv) has adequate security, public accessibility, and parking.

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

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

- (i) publishing the notice:
  - (A) in one issue of a newspaper of general circulation in the county; and
  - (B) as required in Section 45-1-101; and
- (ii) posting the notice at the additional polling place.

(3) [~~For~~] Except as provided in Section 20A-1-308, for each regular general election and regular primary election, counties of the first class shall ensure that the early voting polling places are approximately proportionately distributed based on population within the county.

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

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

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

- (1) publishing the notice:
  - (a) in one issue of a newspaper of general circulation in the county at least five calendar days before the date that early voting begins; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

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

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

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

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

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

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

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

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website [~~to determine compliance under this section~~];

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

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

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

- (i) Utah voter needs;
- (ii) public decency; or
- (iii) the purposes, organization, or uniformity of the website.

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

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

- (i) a listing of each objection to the lieutenant governor's determination; and
- (ii) the basis for each objection.

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

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

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

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

- (i) what offices are up in the current year for which the voter may cast a vote;
- (ii) who is running for what office and who is the incumbent, if any;
- (iii) what address each candidate may be reached at and how the candidate may be contacted;
- (iv) for partisan races only, what, if any, is each candidate's party affiliation;
- (v) what qualifications have been submitted by each candidate;

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- (vi) where additional information on each candidate may be obtained;
- (vii) what ballot propositions will be on the ballot; and
- (viii) what judges are up for retention election.

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

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

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

- (1) The lieutenant governor shall:
  - (a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:
    - (i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;
    - (ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;
    - (iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;
    - (iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;
    - (v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and
    - (vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;
  - (b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;
  - (c) serve as the chief election officer of the state as required by Subsection (2);
  - (d) keep custody of the Great Seal of Utah;
  - (e) keep a register of, and attest, the official acts of the governor;
  - (f) affix the Great Seal, with an attestation, to all official documents and instruments to

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which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

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

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor;

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

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

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

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

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

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election

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officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

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

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

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

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

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

or

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

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

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

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

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

or

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

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

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

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

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legislative body of the municipality whose class has changed.

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

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

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

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

†

### Legislative Review Note

as of 1-10-13 2:42 PM

Section 8. Coordinating H.B. 82 with S.B. 25 -- Substantive changes..

If this H.B. 82 and S.B. 25, Elections During Declared Emergency, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication do the following:

(1) modify Section 20A-1-308 to read as follows:

"20A-1-308. Elections during declared emergencies.

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

(a) is declared by:

(i) the president of the United States;

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

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

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

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

(i) voting on election day;

(ii) early voting;

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

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

(v) the canvassing of election returns.

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

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

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

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

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

(2) the amendments to Section 20A-7-801 in H.B. 82 supersede the amendments to Section 20A-7-801 in S.B. 25; and

(3) modify Subsection 67-1a-2(2)(a)(xi) in H.B. 82 and S.B. 25 to read as follows:

"(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

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

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

(E) the canvassing of election returns; and"