

ELECTIONS DURING DECLARED EMERGENCY

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Kraig Powell

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 or 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

30 20A-16-404, as enacted by Laws of Utah 2011, Chapter 327

31 20A-16-408, as enacted by Laws of Utah 2011, Chapter 327

32 67-1a-2, as last amended by Laws of Utah 2012, Chapter 35

33 ENACTS:

34 20A-1-308, Utah Code Annotated 1953



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

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

38 **20A-1-308. Elections during declared emergencies.**

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

40 (a) is declared by:

41 (i) the president of the United States;

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

43 and Recovery Act; or

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

45 63K, Chapter 4, Disaster Response and Recovery Act; and

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

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

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

49 (iii) the canvassing of election returns.

50 (2) During a declared emergency, the lieutenant governor may designate a method or

51 time that is different from what is provided in this title for:

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

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

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

55 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-3-306** is amended to read:

62 **20A-3-306. Voting ballot -- Returning ballot.**

63 (1) (a) [~~F~~] Except as provided by Section 20A-1-308, to vote a mail-in absentee
64 ballot, the absentee voter shall:

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

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

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

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

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

84 (b) in the case of a military-overseas ballot, submitted in accordance with Section
85 20A-16-404.

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

87 **20A-3-306.5. Emergency absentee ballots.**

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

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

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

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

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

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

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

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

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

113 (2) In accordance with this section, and as resources become available, the lieutenant

114 governor, in cooperation with county clerks, shall develop, establish, and maintain a
115 state-provided Internet website designed to help inform the voters of the state of:

- 116 (a) the offices and candidates up for election; and
- 117 (b) the content, effect, operation, fiscal impact, and supporting and opposing arguments
118 of ballot propositions submitted to the voters.

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

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

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

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

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

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

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

- 135 (i) a list of all candidates for each office;
- 136 (ii) if submitted by the candidate to the election official's office at 5 p.m. at least 45
137 days before the primary election and 60 days before the general election:

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

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

141 (I) age;

- 142 (II) occupation;
- 143 (III) city of residence;
- 144 (IV) years of residence in current city; and
- 145 (V) email address; and
- 146 (C) a single web address where voters may access more information about the
- 147 candidate and the candidate's views; and
- 148 (iii) factual information pertaining to all ballot propositions submitted to the voters,
- 149 including:
 - 150 (A) a copy of the number and ballot title of each ballot proposition;
 - 151 (B) the final vote cast for each ballot proposition, if any, by a legislative body if the
 - 152 vote was required to place the ballot proposition on the ballot;
 - 153 (C) a complete copy of the text of each ballot proposition, with all new language
 - 154 underlined and all deleted language placed within brackets; and
 - 155 (D) other factual information determined helpful by the election official.
- 156 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant
- 157 governor no later than one business day after the deadline under Subsection (4)(a) for each
- 158 general election year and each municipal election year.
- 159 (c) The lieutenant governor shall:
 - 160 (i) review the information submitted under this section prior to placing it on the
 - 161 website to determine compliance under this section;
 - 162 (ii) refuse to post information submitted under this section on the website if it is not in
 - 163 compliance with the provisions of this section; and
 - 164 (iii) organize, format, and arrange the information submitted under this section for the
 - 165 website.
- 166 (d) The lieutenant governor may refuse to include information the lieutenant governor
- 167 determines is not in keeping with:
 - 168 (i) Utah voter needs;
 - 169 (ii) public decency; or

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

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

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

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

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

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

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

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

- 189 (i) what offices are up in the current year for which the voter may cast a vote;
- 190 (ii) who is running for what office and who is the incumbent, if any;
- 191 (iii) what address each candidate may be reached at and how the candidate may be
192 contacted;
- 193 (iv) for partisan races only, what, if any, is each candidate's party affiliation;
- 194 (v) what qualifications have been submitted by each candidate;
- 195 (vi) where additional information on each candidate may be obtained;
- 196 (vii) what ballot propositions will be on the ballot; and
- 197 (viii) what judges are up for retention election.

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

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

202 **20A-16-404. Timely casting of ballot.**

203 [~~7~~] Except as provided by Section 20A-1-308, to be valid, a military-overseas ballot
204 shall be:

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

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

210 **20A-16-408. Receipt of voted ballot.**

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

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

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

220 **67-1a-2. Duties enumerated.**

221 (1) The lieutenant governor shall:

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

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

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

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

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

234 (v) as personal advisor to the governor, including advice on policies, programs,
235 administrative and personnel matters, and fiscal or budgetary matters; and

236 (vi) as chairperson or member of any temporary or permanent boards, councils,
237 commissions, committees, task forces, or other group appointed by the governor;

238 (b) serve on all boards and commissions in lieu of the governor, whenever so
239 designated by the governor;

240 (c) serve as the chief election officer of the state as required by Subsection (2);

241 (d) keep custody of the Great Seal of Utah;

242 (e) keep a register of, and attest, the official acts of the governor;

243 (f) affix the Great Seal, with an attestation, to all official documents and instruments to
244 which the official signature of the governor is required; and

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

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

249 (i) exercise general supervisory authority over all elections;

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

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

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

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

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

261 (vi) maintain a current list of registered political parties as defined in Section
262 20A-8-101;

263 (vii) maintain election returns and statistics;

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

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

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

269 (xi) during a declared emergency, designate an alternative method or time regarding an
270 absentee or military-overseas ballot in accordance with Section 20A-1-308; and

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

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

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

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

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

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

282 city's legislative body;

283 (ii) (A) determine the classification under Section 10-2-301 of a consolidated
284 municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part
285 6, Consolidation of Municipalities, using population information from:

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

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

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

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

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

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

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

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

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

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

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

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

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

315 (B) 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.