

ELECTIONS AND EARLY VOTING DURING A DECLARED
EMERGENCY
2013 GENERAL SESSION
STATE OF UTAH

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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.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill coordinates with S.B. 25, Elections During Declared Emergency, by providing
33 substantive amendments.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **20A-3-601**, as last amended by Laws of Utah 2010, Chapter 337

37 **20A-3-602**, as last amended by Laws of Utah 2007, Chapter 256

38 **20A-3-603**, as last amended by Laws of Utah 2009, Chapters 88 and 388

39 **20A-3-604**, as last amended by Laws of Utah 2009, Chapter 388

40 **20A-7-801**, as last amended by Laws of Utah 2012, Chapter 334

41 **67-1a-2**, as last amended by Laws of Utah 2012, Chapter 35

42 ENACTS:

43 **20A-1-308**, Utah Code Annotated 1953

44 **Utah Code Sections Affected by Coordination Clause:**

45 **20A-1-308**, Utah Code Annotated 1953

46 **20A-7-801**, as last amended by Laws of Utah 2012, Chapter 334

47 **67-1a-2**, as last amended by Laws of Utah 2012, Chapter 35



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

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

51 **20A-1-308. Elections during declared emergencies.**

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

53 (a) is declared by:

54 (i) the president of the United States;

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

56 and Recovery Act; or

57 (iii) the chief executive officer of a political subdivision in a proclamation under Title
58 63K, Chapter 4, Disaster Response and Recovery Act; and

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

60 (i) voting on an election day;

61 (ii) early voting; or

62 (iii) the canvassing of election returns.

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

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

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

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

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

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

74 **20A-3-601. Early voting.**

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

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

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

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

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

83 ~~(i)~~ (a) for a local special election, a municipal primary election, and a municipal
84 general election:

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

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

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

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

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

91 ~~[(3)]~~ (4) Except as specifically provided in this Part 6, Early Voting, or Section
92 20A-1-308, early voting shall be administered according to the requirements of this title.

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

94 **20A-3-602. Hours for early voting.**

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

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

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

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

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

103 **20A-3-603. Early voting polling places.**

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

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

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

110 (c) for all elections other than local special elections, municipal primary elections, and
111 municipal general elections, at least 10% of the voting devices at a polling place are accessible
112 for individuals with disabilities in accordance with Public Law 107-252, the Help America

113 Vote Act of 2002; and

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

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

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

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

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

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

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

136 **20A-3-604. Notice of time and place of early voting.**

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

- 139 (1) publishing the notice:
 - 140 (a) in one issue of a newspaper of general circulation in the county at least five

141 calendar days before the date that early voting begins; and

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

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

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

147 **20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of**
148 **the lieutenant governor -- Content -- Duties of local election officials -- Deadlines --**
149 **Frequently asked voter questions -- Other elections.**

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

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

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

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

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

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

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

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

168 (d) other information determined appropriate by the lieutenant governor that is

169 currently being provided by law, rule, or ordinance in relation to candidates and ballot
170 questions[-]; and

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

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

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

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

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

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

181 (I) age;

182 (II) occupation;

183 (III) city of residence;

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

185 (V) email address; and

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

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

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

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

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

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

196 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant

197 governor no later than one business day after the deadline under Subsection (4)(a) for each
198 general election year and each municipal election year.

199 (c) The lieutenant governor shall:

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

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

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

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

208 (i) Utah voter needs;

209 (ii) public decency; or

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

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

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

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

218 (ii) the basis for each objection.

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

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

223 (6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently
224 enter the voter's address information on the website to retrieve information on which offices,

225 candidates, and ballot propositions will be on the voter's ballot at the next general election or
226 municipal election.

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

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

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

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

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

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

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

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

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

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

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

242 **67-1a-2. Duties enumerated.**

243 (1) The lieutenant governor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

283 (vi) maintain a current list of registered political parties as defined in Section
284 20A-8-101;

285 (vii) maintain election returns and statistics;

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

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

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

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

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

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

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

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

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

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

306 (ii) (A) determine the classification under Section 10-2-301 of a consolidated
307 municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part
308 6, Consolidation of Municipalities, using population information from:

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

310 or

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

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

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

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

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

319 or

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

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

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

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

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

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

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

337 on the decreased population figure; and

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

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

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

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

345 **"20A-1-308. Elections during declared emergencies.**

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

347 (a) is declared by:

348 (i) the president of the United States;

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

351 (iii) the chief executive officer of a political subdivision in a proclamation under Title
352 63K, Chapter 4, Disaster Response and Recovery Act; and

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

354 (i) voting on election day;

355 (ii) early voting;

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

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

358 (v) the canvassing of election returns.

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

360 time, or location for, or relating to, an event described in Subsection (1)(b) that is different than
361 the method, time, or location described in this title.

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

364 (a) posting a notice on the Statewide Electronic Voter Information Website established

365 under Section 20A-7-801;

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

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

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

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

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

375 (A) voting on election day;

376 (B) early voting;

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

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

379 (E) the canvassing of election returns; and".