

## HB0410S01 compared with HB0410

~~text~~ shows text that was in HB0410 but was deleted in HB0410S01.

text shows text that was not in HB0410 but was inserted into HB0410S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

### UTAH PRESIDENTIAL PRIMARY ELECTRONIC VOTING

#### PILOT PROJECT

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon Cox**

Senate Sponsor: ~~\_\_\_\_\_~~ Curtis S. Bramble

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#### LONG TITLE

##### General Description:

This bill amends provisions of the Election Code relating to the Western States Presidential Primary.

##### Highlighted Provisions:

This bill:

- ▶ provides that, if the Legislature funds a Western States Presidential Primary election, the Legislature may, via the Utah Presidential Primary Pilot Project, declare by resolution that the primary will be held electronically;
- ▶ provides that unless at least two states, in addition to Utah, hold a Western States Presidential Primary, an electronic election described in the preceding paragraph

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shall be held before any other caucus, primary, or other event for selecting a nominee in the nation;

- ▶ provides that the Western States Presidential Primary shall be held on a date designated by the lieutenant governor if at least two states, in addition to Utah, hold a Western States Presidential Primary;
- ▶ grants rulemaking authority to the director of elections within the lieutenant governor's office;
- ▶ grants authority to the lieutenant governor to adjust dates and deadlines in order to conduct an electronic election described in this bill; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**20A-9-802**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2

**20A-9-803**, as last amended by Laws of Utah 2013, Chapter 317

**20A-9-805**, as enacted by Laws of Utah 1999, Chapter 22

**20A-9-806**, as last amended by Laws of Utah 2006, Chapter 326

ENACTS:

**20A-9-802.5**, Utah Code Annotated 1953

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

Section 1. Section **20A-9-802** is amended to read:

**20A-9-802. Western States Presidential Primary established -- Other ballot items prohibited.**

~~[(1)(a)(i) Contingent]~~

(1) (a) Except as provided in ~~{Subsection}~~ Subsections (1)(b) and (c)(i), and contingent upon legislative appropriation, there is established a Western States Presidential Primary election to be held on the first Tuesday in February in the year in which a presidential election

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will be held.

~~(b) (ff)~~ Except as provided in Subsection (1)(c)(ii), if the Legislature funds a Western States Presidential Primary election and declares, by resolution, that the Western States Presidential Primary election will be held electronically under Section 20A-9-802, the Western States Presidential Primary election shall be held on a date designated by the lieutenant governor that is earlier than the scheduled date for any meeting, caucus, primary, vote, or other method used in any other state or territory of the United States that constitutes the first determining stage of selecting a presidential nominee.

(c) If at least two states, in addition to Utah, hold a Western States Presidential Primary:

(i) the Western States Presidential Primary shall be held on a date designated by the lieutenant governor; and

(ii) the requirement, described in Subsection (1)(b), that the Western States Presidential Primary be held earlier than the date of any other meeting, caucus, primary, vote, or other method of selecting a presidential nominee, does not apply.

~~(ii)~~ (2) A political party may participate in a regular primary election for the office of President of the United States only if there is no Western States Presidential Primary election in that year.

~~(b)~~ (3) Except as otherwise specifically provided in this chapter, county clerks shall administer the Western States Presidential Primary according to the provisions of Title 20A, Election Code, including:

~~(i)~~ (a) Title 20A, Chapter 1, General Provisions;

~~(ii)~~ (b) Title 20A, Chapter 2, Voter Registration;

~~(iii)~~ (c) Title 20A, Chapter 3, Voting;

~~(iv)~~ (d) Title 20A, Chapter 4, Election Returns and Election Contests;

~~(v)~~ (e) Title 20A, Chapter 5, Election Administration; and

~~(vi)~~ (f) Title 20A, Chapter 6, Ballot Form.

~~(c)~~ (i) (4) (a) The county clerks shall ensure that the ballot voted by the voters at the Western States Presidential Primary contains only the names of candidates for President of the United States who have qualified as provided in this part.

~~(ii)~~ (b) The county clerks may not present any other items to the voters to be voted

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upon at this election.

~~[(2)]~~ (5) Registered political parties, and candidates for President of the United States who are affiliated with a registered political party, may participate in the Western States Presidential Primary established by this part.

~~[(3)]~~ (6) As a condition for using the state's election system, each registered political party wishing to participate in Utah's Western States Presidential Primary shall:

(a) declare their intent to participate in the Western States Presidential Primary;

(b) identify one or more registered political parties whose members may vote for the registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(c) except as provided in Subsection (7), certify that information to the lieutenant governor no later than 5 p.m. on the June 30 of the year before the year in which the presidential primary will be held.

(7) If the Legislature makes the declaration described in Subsection (1)(b), the lieutenant governor shall change the deadline described in Subsection (6)(c), as necessary, in order to comply with the requirements of Subsection (1)(b).

Section 2. Section **20A-9-802.5** is enacted to read:

### **20A-9-802.5. Utah Presidential Primary Electronic Voting Pilot Project.**

(1) Notwithstanding any other provision of this title, if the Legislature makes the declaration described in Subsection 20A-9-802(1)(b), the lieutenant governor shall:

(a) ensure that adequate measures are in place to conduct the election in an accurate and secure manner;

(b) ensure the confidentiality of all votes; and

(c) make changes to deadlines and other requirements of this title to the extent necessary to fulfill the requirements of this section.

(2) The director of elections, within the lieutenant governor's office, may make rules to ensure that a Western States Presidential Primary election that is held electronically is conducted in accordance with the provisions of this section and the other provisions of this chapter.

Section 3. Section **20A-9-803** is amended to read:

### **20A-9-803. Declaration of candidacy -- Filing fee -- Form.**

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(1) Candidates for president of the United States who are affiliated with a registered political party in Utah that has elected to participate in Utah's Western States Presidential Primary and who wish to participate in the primary shall:

(a) except as provided in Subsection (4), file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor between July 1 of the year before the primary election will be held and 5 p.m. on October 15 of the year before the primary election will be held;

(b) identify the registered political party whose nomination the candidate is seeking;

(c) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(d) pay the filing fee of \$500.

(2) The lieutenant governor shall develop a declaration of candidacy form for presidential candidates participating in the primary.

(3) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (2).

(4) If the Legislature makes the declaration described in Subsection 20A-9-802(1)(b), the lieutenant governor shall change the dates and times described in Subsection (1)(a), as necessary, in order to comply with the requirements of Subsection 20A-9-802(1)(b).

Section 4. Section **20A-9-805** is amended to read:

**20A-9-805. Closed primary -- Determining party affiliation -- Changing party affiliation.**

(1) If a registered political party has restricted voting for its presidential candidates as authorized by Subsection 20A-9-802[~~(3)~~](6)(b), the lieutenant governor shall direct the county clerks and other election officials to allow only those voters meeting the registered political party's criteria to vote for that party's presidential candidates.

(2) (a) For each person who registers to vote on or after May 3, 1999, the county clerk shall:

(i) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(ii) if no political party affiliation is designated by the voter on the voter registration form, record the voter's party affiliation as "unaffiliated."

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(b) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of Section 20A-2-107 or Section 20A-9-808.

Section 5. Section **20A-9-806** is amended to read:

### **20A-9-806. Ballots.**

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall except to the extent that the following action is not necessary due to the Legislature making the declaration described in Subsection 20A-9-802(1)(b):

(a) develop paper ballots, ballot labels, ballot sheets, electronic ballots, and provisional ballot envelopes to be used in Utah's Western States Presidential Primary;

(b) ensure that the paper ballots, ballot labels, ballot sheets, electronic ballots, and provisional ballot envelopes comply generally with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All Ballots; and

(c) provide voting booths, election records and supplies, and ballot boxes for each voting precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and Section 20A-5-403, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the paper ballots, ballot labels, ballot sheets, electronic ballots, provisional ballot envelopes, and voting booths, election records and supplies, and ballot boxes:

(i) facilitate the distribution, voting, and tallying of ballots in a closed primary;

(ii) simplify the task of poll workers, particularly in determining a voter's party affiliation;

(iii) minimize the possibility of spoiled ballots due to voter confusion; and

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark, prepunch, or otherwise identify ballot sheets as being for a particular

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registered political party; and

(ii) instruct persons counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

(c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties may:

(i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different colored ballot sheets for each registered political party;

(ii) place ballot labels or ballots for each registered political party in different voting booths and direct voters to the particular voting booth for the political party whose ballot they are voting; or

(iii) consider other means of accomplishing the objectives outlined in Subsection (2)(a).

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**Legislative Review Note**

~~as of 2-25-14 11:55 AM~~

~~Office of Legislative Research and General Counsel~~