**Enrolled Copy** **H.B. 3006**

# ELECTION AMENDMENTS

2020 THIRD SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Wayne A. Harper

**LONG TITLE**

**General Description:**

This bill makes temporary changes to the Election Code and related provisions, as they relate to the 2020 regular primary election only, to conduct the election in a manner that protects the public health and safety in relation to the COVID-19 pandemic.

**Highlighted Provisions:**

This bill:

- preempts conflicts between this bill and other provisions of the Utah Code, emergency declarations, and other restrictions;
- requires the lieutenant governor's office to:
  - issue protocols to protect the health and safety of voters and government employees, including poll workers, in the conduct of the 2020 regular primary election; and
  - conduct a campaign to educate the public on the provisions of this bill;
- authorizes the lieutenant governor's office to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent the modifications are necessary to carry out the provisions of this bill;
- modifies election notice provisions to inform voters of changes applicable to the 2020 regular primary election;
- modifies multiple provisions relating to the 2020 regular primary election, including that:
  - except for a mobile voting county, the election will be conducted entirely by mail;

- except for a mobile voting county, there will be no polling places on election day;
- there will be no in person early voting;
- there will be no in person voter registration;
- there will be no voter registration by provisional ballot;
- the voter registration deadline is 11 days before the day of the election; and
- the postmark deadline for mailing a ballot is extended to the day of the election;

▸ lists several code provisions that are not in effect, or that are otherwise modified, for the 2020 regular primary election;

▸ establishes a process for a county to qualify as a mobile voting county that provides limited drive-up voting on election day; and

▸ provides for accessible voting options for a voter with a disability.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a repeal date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

ENACTS:

**20A-1-309**, Utah Code Annotated 1953

**Utah Code Sections Affected by Revisor Instructions:**

**20A-1-309**, Utah Code Annotated 1953

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

Section 1. Section **20A-1-309** is enacted to read:

**20A-1-309. Regular primary election, 2020 -- COVID-19 measures.**

(1) (a) As used in this section, "mobile voting county" means a county that opts in to

drive-up voting on election day in accordance with Subsection (9).

(b) In relation to conducting the 2020 regular primary election, the Legislature takes the action described in this section to protect the public health and safety in relation to the COVID-19 pandemic.

(c) If any provision of the Utah Code conflicts with a provision of this section, this section prevails.

(2) Notwithstanding any emergency declaration issued under the authority of this state, or any other restriction imposed by the governor, the Department of Health, a local government, a local health department, or any other government entity of the state, and consistent with the requirements of this section, the conduct of the 2020 regular primary election:

(a) subject to the provisions of this section, is an essential service, including voting, voter registration, the mailing of ballots, the return of completed ballots, the processing of ballots, the counting and tallying of votes, and the release of election results; and

(b) except as expressly provided in this section, is not prohibited or affected by the emergency declaration or restriction.

(3) The lieutenant governor's office shall, in consultation with the county clerks and consistent with the provisions of this section and other applicable requirements of law, issue protocols to protect the health and safety of voters and government employees in the conduct of the 2020 regular primary election, including:

(a) requiring poll workers to use protective gear and to wash hands regularly;

(b) prohibiting ill poll workers from working; and

(c) promoting, to the extent practicable, social distancing between poll workers.

(4) The lieutenant governor's office shall conduct a campaign to educate the public on the provisions of this section, especially provisions relating to changes in the voter registration, voting methods, and voting process.

(5) The lieutenant governor's office may make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent

the modifications are necessary to carry out the provisions of this section.

(6) For the 2020 regular primary election only:

(a) the entire election will be conducted by mail, except that:

(i) a mobile voting county may provide drive-up voting, on election day only, in accordance with the requirements of this section;

(ii) a covered voter, as defined in Section 20A-16-102, may vote in any manner approved by the election officer;

(iii) an election officer shall:

(A) provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(B) include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (6)(a)(iii)(A) may vote;

(iv) a caretaker for a voter described in Subsection (6)(a)(iii) may vote at the same time and place as the voter;

(b) except as provided in Subsection (6)(c), the notice of election shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

- the election will be conducted entirely by mail;
- drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- there will be no polling places on election day;
- there will be no in person voting, including no in person early voting;
- there will be no in person voter registration;
- there will be no voter registration by provisional ballot; and
- the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.";

(c) the notice of election for a mobile voting county shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

- the election will be conducted primarily by mail;
- drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- there will be no regular polling places on election day, but there will be limited drive-up voting on election day, unless the county clerk cancels drive-up voting based on public health concerns;
- if drive-up voting is cancelled based on public health concerns, voters will be required to vote by mail;
- except for drive-up voting on election day only, there will be no in person voting and no in person early voting;
- there will be no in person voter registration;
- there will be no voter registration by provisional ballot; and
- the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.";

(d) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-403 is not in effect;

(e) the election officer shall mail to each active voter who is eligible to vote in the primary, regardless of whether the voter has requested that the election officer not send a ballot by mail to the voter:

(i) a manual ballot, if the voter is affiliated with a political party for which there is a primary election;

(ii) a notice to each unaffiliated active voter stating that the voter may request a primary election ballot; and

(iii) a manual ballot to each unaffiliated active voter who requests a primary election ballot;

(f) early voting will not take place;

(g) registration by provisional ballot will not take place and Section 20A-2-207 is not in effect;

(h) provisional ballots may only be cast:

(i) by mail;

(ii) for an individual with a disability, as otherwise authorized by the election officer; or

(iii) for a mobile voting county, at a drive-up voting station;

(i) the provisions of Section 20A-3a-205 will only be in effect to the extent they can be completed in accordance with Subsection (6)(h);

(j) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6) are not in effect;

(k) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's website" is not in effect;

(l) except for a registration completed before the effective date of this bill, in person voter registration is not in effect, including registration described in Section 20A-2-201 or Subsection 20A-2-304(1)(a);

(m) Subsection 20A-2-307(2)(a) is not in effect;

(n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-4-101, 20A-4-102, and 20A-4-103 are not in effect;

(o) Subsection 20A-4-202(2)(a) is not in effect;

(p) the deadline for the canvas to be completed is 21 days after the election;

(q) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii) are not in effect;

(r) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(2)(m) and (2)(n) shall, instead of referring to polling places, refer to:

(i) ballot drop boxes; and

(ii) for a mobile voting county, drive-up voting stations;

(s) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-7-702(3)(c) following the words "upon request" are not in effect;

(t) Subsection 20A-7-801(3)(c) is not in effect;

(u) (i) except as provided in Subsection (6)(u)(ii), the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

(ii) for a mobile voting county, the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, drive-up voting locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

(v) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k):

(i) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the election" are not in effect; and

(ii) Subsection 20A-5-102(2) is not in effect;

(w) the election officer may modify the number of poll workers to an amount that the election officer determines is appropriate and may alter or otherwise designate the duties of poll workers in general, and of each individual poll worker;

(x) the election officer may reduce the number of watchers and alter or otherwise regulate the placement and conduct of watchers as the election officer determines is

appropriate;

(y) in Section 20A-6-203:

(i) the provisions relating to voting booths are not in effect; and

(ii) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the provisions relating to ballot boxes are not in effect; and

(z) an election officer may not release any ballot counts or any other election results or updates to the public before 10 p.m. on election day.

(7) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect before May 12, 2020:

(a) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsection 20A-3-202.3(3)(b)(ii) is not in effect;

(b) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3-302(2)(a)(ii) and (v) and (6)(a), (b), and (c) are not in effect;

(c) Subsection 20A-3-306.5(3)(a) is not in effect;

(d) Chapter 3, Part 6, Early Voting, is not in effect;

(e) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3, Part 7, Election Day Voting Center, is not in effect;

(f) Subsections 20A-5-101(4)(b), (c), and (e) are not in effect;

(g) the portion of Subsection 20A-5-101(4)(d) that follows the words "election officer's website" is not in effect; and

(h) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-5-101(6)(b) that states "polling places, polling place hours, and" is not in effect.

(8) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect beginning on May 12, 2020:

(a) Subsections 20A-2-102.5(2)(a)(i), (2)(b), and (2)(c) are not in effect;

(b) the portion of Subsection 20A-2-202(3)(b) following the words "pending election"

is not in effect;

(c) the portion of Subsection 20A-2-204(6)(c)(iii) following the words "pending election" is not in effect;

(d) the portion of Subsection 20A-2-205(7)(b) following the words "pending election" is not in effect;

(e) Subsection 20A-2-206(9)(b) is not in effect;

(f) Section 20A-3a-105 is not in effect, except:

(i) as it applies to an individual with a disability; or

(ii) as it relates to drive-up voting for a mobile voting county, subject to Subsection (9)(k);

(g) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-201(1)(b) and (c) are not in effect;

(h) (i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-202(2)(a)(iv) and (v), (8)(a), (b), and (c) are not in effect; and

(ii) Subsection 20A-3a-202(10) is not in effect;

(i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-203 is not in effect;

(j) the deadline for a postmark or other mark described in Subsection 20A-3a-204(2)(a)(i) is extended to on or before election day;

(k) the words "in line at" in Subsection 20A-3a-204(2)(d) are replaced with the words "waiting in the vicinity of";

(l) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9) are not in effect;

(m) the words "enter a polling place" in Subsection 20A-3a-208(1) are replaced with the word "vote";

(n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-209(1) and (2) are not in effect;

(o) Section 20A-3a-301 is in effect only to the extent that the process can be completed:

(i) by mail;

(ii) for a mobile voting county, via a drive-up voting center; or

(iii) if approved by the lieutenant governor's office, electronic means;

(p) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-402 is not in effect;

(q) Chapter 3a, Part 6, Early Voting, is not in effect;

(r) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;

(s) Subsection 20A-3a-804(1)(b) shall be completed by mail;

(t) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-3a-804(3)(b)(ii) following the words "provisional ballot" is not in effect;

(u) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead, required to determine whether each challenged individual is eligible to vote before the day on which the canvass is held;

(v) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-805 is not in effect;

(w) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be fulfilled by recording the canvass and making the recording available to the public;

(x) Subsection 20A-5-403.5(3)(b) is not in effect;

(y) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsection 20A-5-205(2) is not in effect;

(z) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-404 is not in effect;

(aa) (i) Subsections 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect; and

(ii) except as it relates to drive-up voting for a mobile voting county, and subject to

Subsection (9)(k), Subsections 20A-5-405(1)(i) and (3)(b)(ii) are not in effect;

(bb) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-5-406 and 20A-5-407 are not in effect; and

(cc) the "in person" requirement in Subsection 20A-7-609.5(3)(a)(i) is not in effect.

(9) (a) A county is a mobile voting county if, before 5 p.m. on May 1, 2020, the county clerk notifies the lieutenant governor's office that the county will be a mobile voting county.

(b) Except as provided in Subsection (9)(j), a mobile voting county shall operate one or more drive-up voting stations during normal polling hours on election day.

(c) Only a mobile voting county may operate a drive-up voting station.

(d) A mobile voting county may not operate a drive-up voting station at any time other than during normal polling hours on election day.

(e) Vehicles in line at a drive-up voting station at 8 p.m. may vote at the drive-up voting station.

(f) A mobile voting county shall:

(i) establish procedures and requirements to protect the health and welfare of voters and poll workers at a drive-up voting station, including the use of protective gear;

(ii) operate the drive-up voting station in a manner that permits a voter to vote while remaining in a vehicle;

(iii) take measures to ensure that a voter's vote is secret and secure; and

(iv) conduct a campaign to encourage voters to vote by mail rather than at a drive-up voting station.

(g) Any duty of care owed by a government entity in relation to a drive-up voting station is the sole responsibility of the mobile voting county, not the state.

(h) This section does not impose a duty of care or other legal liability not already owed under the provisions of law.

(i) A drive-up voting station is a polling place.

(j) (i) The county clerk of a mobile voting county may cancel drive-up voting or close a drive-up voting station if the county clerk determines that cancellation is necessary to protect

the public health and welfare.

(ii) If cancellation or closure occurs under Subsection (9)(j)(i), the county clerk shall give notice of the cancellation or closure as soon as reasonably possible, in the manner that the county clerk determines is best under the circumstances, and a voter must then vote by placing the ballot that the voter received by mail in a ballot box.

(iii) A voter who waits to vote until election day assumes the risk that a drive-up voting station may close at any time to protect the public health and welfare and that the voter may be required to vote by placing the ballot that the voter received by mail in a ballot box.

(k) A county clerk of a mobile voting county may, consistent with the provisions of this section and the other requirements of law that remain in effect for the 2020 regular primary election, alter requirements relating to a polling place to the extent necessary to address the practical differences between drive-up voting and voting in a building.

(10) This section does not supercede a federal court order entered in relation to elections in San Juan County.

Section 2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. **Repeal date.**

This bill is repealed on August 1, 2020.

Section 4. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective date of this bill" with the actual effective date of this bill in Subsection 20A-1-309(6)(l).