AMENDMENTS TO ELECTIONS

2020 SIXTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

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

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 general election; and
  - conduct a campaign to educate the public on the provisions of this bill and to encourage voting by mail;
- authorizes the lieutenant governor's office to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular general 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 general election;
- modifies multiple provisions relating to the 2020 regular general election, including

that:

- the election will be conducted primarily by mail; and
- a county is required to provide in-person voting, for both early voting and on election day, by traditional voting or outdoor voting;

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

▸ provides for accessible voting options for a voter with a disability for the 2020 regular general election;

▸ modifies ballot harvesting provisions for all elections;

▸ repeals all provisions of this bill, except the ballot harvesting provisions, on January 1, 2021; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-3a-501, as renumbered and amended by Laws of Utah 2020, Chapter 31

63I-2-220, as last amended by Laws of Utah 2020, Chapters 31 and 49

ENACTS:

20A-1-310, Utah Code Annotated 1953

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

Section 1. Section **20A-1-310** is enacted to read:

20A-1-310. Regular general election, 2020 -- COVID-19 measures.

(1) As used in this section, and for the 2020 regular general election:

(a) (i) "Building" means, except as provided in Subsection (1)(a)(ii), a structure that is completely enclosed from the exterior by walls and a roof.

(ii) "Building" does not include a structure approved by the election officer for voters to drive through the structure.

(b) (i) "Outdoor voting" means a voting procedure where the voter does not enter a building at any time during the voting process.

(ii) "Outdoor voting" includes voting by:

(A) walking up to, or driving up to, an exterior window of a building;

(B) walking up to, or driving up to, an outdoor location; or

(C) driving through a structure approved by the election officer for voters to drive through the structure.

(c) "Outdoor voting station" means a location described in Subsection (1)(b)(ii) where outdoor voting occurs.

(d) "Polling place" means:

(i) a building where polling is conducted; or

(ii) an outdoor voting station.

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

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

(4) 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 general 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.

(5) 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 general 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.

(6) The lieutenant governor's office shall conduct a campaign to:

(a) educate the public on the provisions of this section, especially provisions relating to changes in the voter registration, voting methods, and voting process; and

(b) encourage voters to vote by mail rather than at an outdoor voting station.

(7) The lieutenant governor's office may make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular general election to the extent the modifications are necessary to carry out the provisions of this section.

(8) For the 2020 regular general election only:

(a) a county shall:

(i) conduct the election primarily by mail;

(ii) provide in-person voting on election day and during early voting, via one or more of the following in-person voting methods:

(A) traditional in-person voting at a polling location in a building; or

(B) outdoor voting;

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

(c) an election officer shall:

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

(ii) include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (8)(c)(i) may vote;

(d) an individual assisting a voter described in Subsection (8)(c)(i) may vote at the same time and place as the voter;

(e) the notice of election shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular general election only:

• the election will be conducted primarily by mail;

• in-person voting will be available by [indicate the methods of in-person voting that will be available in the county and a web address where an individual may obtain more information about voting in-person];

• drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day; and

• registration by provisional ballot will be available at a polling place.

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.";

(f) subject to Subsection (9), the following are in effect in a county to the extent in-person voting occurs via the methods of in-person voting in effect in the county:

(i) in relation to voter registration:

(A) Subsections 20A-2-102.5(2)(b) and (2)(c); and

(B) the portion of Subsections 20A-2-202(3)(b), 20A-2-204(6)(c)(iii), 20A-2-205(7)(b), and 20A-2-206(9)(b) following the words "pending election";

(ii) in relation to polling places:

(A) Sections 20A-3a-203, 20A-3a-402, 20A-4-101, 20A-4-102, 20A-4-103,

20A-5-403, 20A-5-404, 20A-5-406, 20A-5-407, and 20A-6-203;

(B) Subsections 20A-3a-201(1)(b) and (c), 20A-3a-202(2)(a)(iv), 20A-3a-209(1) and (2), 20A-4-202(2)(a), 20A-5-102(2), 20A-5-205(2), and 20A-5-405(1)(i) and (3)(b)(ii);

(C) Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii);

(D) Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9); and

(E) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the election";

(iii) in relation to an election day voting center, Chapter 3a, Part 7, Election Day Voting Center, Subsection 20A-3a-202(2)(a)(iv) and (v) and (8)(a) and (b), and Subsection 20A-7-801(3)(e);

(iv) relating to early voting, Chapter 3a, Part 6, Early Voting, and Subsection 20A-3a-202(8)(c);

(v) registration by provisional ballot, described in Section 20A-2-207;

(vi) in relation to bond elections:

(A) Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6); and

(B) the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's website";

(vii) in relation to in-person voter registration that occurs on or after the effective date of this bill, Section 20A-2-201, Subsection 20A-2-304(1)(a), and Subsection 20A-2-307(2)(a);

(viii) in relation to a provisional ballot, the portion of Subsection 20A-3a-804(3)(b)(ii) following the words "provisional ballot";

(ix) in relation to voting a provisional ballot in-person, Section 20A-3a-205; and

(x) in relation to a challenge at a polling place, Section 20A-3a-805;

(g) provisional ballots, described in Section 20A-3a-205, may only be cast:

(i) by mail;

(ii) at a polling location for in-person voting, to the extent the in-person voting occurs via a method of in-person voting in effect in the county; or

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

(h) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(1)(m) and (1)(n) shall refer to the following:

(i) polling places, to the extent the in-person voting occurs via a method of in-person voting in effect in the county; and

(ii) ballot drop boxes;

(i) 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, polling locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

(j) notwithstanding Subsection 20A-3a-202(10), the election officer shall mail a manual ballot to each active voter who is eligible to vote in the election, regardless of whether the voter has requested that the election officer not send a ballot by mail to the voter;

(k) 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;

(l) 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;

(m) Subsection 20A-2-102.5(2)(a)(i), relating to voter registration at the office of the county clerk, is in effect only if permitted, and only to the extent permitted, by the election officer;

(n) in relation to a ballot drop box, the words "in line at" in Subsection 20A-3a-204(2)(d) are replaced with the words "waiting in the vicinity of";

(o) in relation to assisting a voter, the words "or otherwise vote" are inserted immediately after the words "enter a polling place" in Subsection 20A-3a-208(1);

(p) Section 20A-3a-301, relating to emergency ballots, is in effect only to the extent that the process can be completed:

(i) by mail;

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

(iii) in-person, if approved by the election officer;

(q) Subsection 20A-3a-804(1)(b), relating to a pre-election challenge to a voter, shall be completed by mail;

(r) 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;

(s) 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;

(t) the posting requirements described in Subsections 20A-5-403.5(3)(b) and 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect;

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

(v) any duty of care owed by a government entity in relation to voting at a polling place is the sole responsibility of the county, not the state, but this section does not impose a duty of care or other legal liability not already owed under the provisions of law;

(w) in Subsection 20A-3a-202(2)(a), the words "send or" are inserted immediately before the word "mail"; and

(x) for a county where there is a significant risk that timely-mailed ballots may be postmarked too late to be counted as valid, the county shall:

(i) work with the local post office to arrange for the post office to separate and date-stamp the ballots in a manner that accurately reflects that the ballots were timely mailed; or

(ii) place additional secure drop boxes in the county, starting at least two days before the election, that will be emptied by poll workers at 8:00 pm on the day of the election.

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

(10) A county that provides outdoor voting:

(a) shall operate one or more outdoor voting stations:

(i) during early voting hours; and

(ii) during normal polling hours on election day;

(b) may not operate an outdoor voting station at any time other than a time described in Subsection (10)(a);

(c) may permit a voter to access an outdoor voting station by walking up to the voting station or driving up to the voting station;

(d) shall establish procedures and requirements to protect the health and welfare of voters and poll workers at an outdoor voting station, including the use of protective gear;

(e) shall operate the outdoor voting station in a manner that permits a voter to vote in one or more of the following manners:

(i) while remaining outside; or

(ii) while remaining in the voter's vehicle; and

(f) shall take measures to ensure that a voter's vote is secret and secure.

(11) An individual in line at an outdoor voting station at 8 p.m. on election day may vote at the outdoor voting station.

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

Section 2. Section **20A-3a-501** is amended to read:

20A-3a-501. Prohibited conduct at polling place -- Other prohibited activities.

(1) As used in this section:

(a) "electioneering" includes any oral, printed, or written attempt to persuade persons to

refrain from voting or to vote for or vote against any candidate or issue; and

(b) "polling place" means the physical place where ballots are cast and includes the physical place where a ballot drop box is located.

(2) (a) An individual may not, within a polling place or in any public area within 150 feet of the building where a polling place is located:

(i) do any electioneering;

(ii) circulate cards or handbills of any kind;

(iii) solicit signatures to any kind of petition; or

(iv) engage in any practice that interferes with the freedom of voters to vote or disrupts the administration of the polling place.

(b) A county, municipality, school district, or local district may not prohibit electioneering that occurs more than 150 feet from the building where a polling place is located, but may regulate the place and manner of that electioneering to protect the public safety.

(3) (a) An individual may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(b) A sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the obstruction of the entrance to a polling place and may arrest an individual creating an obstruction.

(4) An individual may not solicit any voter to show the voter's ballot.

[~~(5) An individual may not receive a voted ballot from any voter or deliver an unused ballot to a voter unless that individual is a poll worker.~~]

(5) (a) An individual may not knowingly possess or control another individual's voted manual ballot, unless:

(i) the individual is an election official or postal worker acting in the capacity of an election official or postal worker;

(ii) the individual possesses or controls the voted ballot in accordance with Section

20A-3a-301, relating to emergency ballots;

(iii) the possession or control is authorized in order to deliver a military-overseas ballot in accordance with Chapter 16, Uniform Military and Overseas Voting Act;

(iv) subject to Section 20A-3a-208, the individual is authorized by a voter to possess or control the voter's voted ballot if the voter needs assistance delivering the ballot due to the voter's age, illness, or disability; or

(v) the individual resides in the same household as the voter.

(b) A violation of Subsection (5)(a) does not invalidate the ballot.

(6) An individual who violates any provision of this section is, in addition to the penalties described in Subsections 20A-1-609(2) and (3), guilty of a class A misdemeanor.

(7) A political subdivision may not prohibit political signs that are located more than 150 feet away from a polling place, but may regulate their placement to protect public safety.

Section 3. Section **63I-2-220** is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

"(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November.".

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b), the language that states "(i) or (ii)" is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

"(b) Unless expressly provided otherwise in this title, for a registered political party

that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.";

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

"(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April.".

(2) Subsection 20A-5-803(8) is repealed July 1, 2023.

(3) Section 20A-5-804 is repealed July 1, 2023.

(4) On January 1, 2026:

(a) In Subsection 20A-1-102(18)(a), the language that states "or [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(c) In Section 20A-1-304, the language that states "Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(d) In Subsection 20A-3a-204(1)(a), (c), or (d), the language that states "except as provided in Subsection (6)," is repealed.

(e) Subsection 20A-3a-204 (5)(b), the language that states "subject to Subsection (6)," is repealed.

(f) Subsection 20A-3a-204(6) is repealed and the remaining subsections in Section 20A-3a-204 are renumbered accordingly.

(g) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in Subsection (2)(f)," is repealed.

(h) Subsection 20A-4-101(2)(f) is repealed.

(i) Subsection 20A-4-101(3) is repealed and replaced with the following:

"(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.".

(j) In Subsection 20A-4-102(1)(b), the language that states "or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(k) Subsection 20A-4-102(1)(c) is repealed and replaced with the following:

"(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.".

(l) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(m) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(n) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3a-204(6), or [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(o) In Subsections 20A-4-105(3), (4), and (11), the language that states "Except as otherwise provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(p) In Subsection 20A-4-106(2), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(q) In Subsection 20A-4-304(1)(a), the language that states "except as provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(r) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

"(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;".

(s) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(t) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(u) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

(v) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete "Except as provided in Subsection (2)(b)(ii):" from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

(w) Section 20A-6-203.5 is repealed.

(x) In Subsections 20A-6-402(1) and (2), the language that states "Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(y) In Subsection 20A-9-203(3)(a)(i), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(z) In Subsection 20A-9-203(3)(c)(i), the language that states "except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(aa) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(bb) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(5) Section 20A-7-407 is repealed January 1, 2021.

(6) Section 20A-1-310 is repealed January 1, 2021.

Section 4. **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.