

**Senate File 531 - Reprinted**

SENATE FILE 531  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SSB 1204)

(As Amended and Passed by the Senate March 9, 2021)

**A BILL FOR**

1 An Act relating to the conduct of elections during emergencies.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 47.1, subsection 2, Code 2021, is amended  
2 to read as follows:

3 2. *a.* The state commissioner of elections may exercise  
4 emergency powers over any election being held in a district in  
5 which either a natural or other disaster or extremely inclement  
6 weather has occurred within fifteen days of the election.  
7 ~~The state commissioner's decision to alter any conduct for~~  
8 ~~an election using emergency powers must be approved by the~~  
9 ~~legislative council. If the legislative council does not~~  
10 ~~approve the secretary of state's use of emergency powers to~~  
11 ~~conduct an election, the legislative council may choose to~~  
12 ~~present and approve its own election procedures or choose to~~  
13 ~~take no further action. The state commissioner of elections~~  
14 ~~may also exercise emergency powers during an armed conflict~~  
15 ~~involving United States armed forces, or mobilization of those~~  
16 ~~forces, or if an election contest court finds that there were~~  
17 ~~errors in the conduct of an election making it impossible to~~  
18 ~~determine the result. The state commissioner of elections~~  
19 shall exercise emergency powers as provided in section 47.12.

20 *b.* ~~If an emergency exists in all precincts of a county,~~  
21 ~~the number of polling places shall not be reduced by more~~  
22 ~~than thirty-five percent. The polling places allowed to open~~  
23 ~~shall be equitably distributed in the county based on the~~  
24 ~~ratio of regular polling places located in unincorporated~~  
25 ~~areas in the county to regular polling places in incorporated~~  
26 ~~areas in the county. The general assembly may, by concurrent~~  
27 resolution, rescind an emergency declaratory order. If the  
28 general assembly is not in session, the legislative council  
29 may, by a majority vote, rescind the emergency declaratory  
30 order. Rescission shall be effective upon filing of the  
31 concurrent resolution or vote of the legislative council with  
32 the secretary of state.

33 Sec. 2. Section 47.1, subsection 4, Code 2021, is amended by  
34 striking the subsection.

35 Sec. 3. NEW SECTION. 47.12 Emergency election procedures.

1 1. For purposes of this section:

2 a. "*Election contest court*" means any of the courts  
3 specified in sections 57.1, 58.4, 61.1, 62.1A, and 376.10.

4 b. "*Extremely inclement weather*" means a natural occurrence,  
5 such as a rainstorm, windstorm, ice storm, blizzard, tornado,  
6 or other weather conditions, that makes travel extremely  
7 dangerous, that threatens the public health and safety, or that  
8 damages and destroys public and private property.

9 c. "*Natural disaster*" means a natural occurrence, such  
10 as a fire, flood, blizzard, earthquake, tornado, windstorm,  
11 ice storm, or other events, that threatens the public health  
12 and safety or that damages and destroys public and private  
13 property.

14 d. "*Other disaster*" means an occurrence caused by machines  
15 or people, such as fire, hazardous substance, or nuclear power  
16 plant accident or incident, that threatens the public health  
17 and safety or that damages and destroys public and private  
18 property.

19 2. The county commissioner of elections, or the county  
20 commissioner's designee, may notify the state commissioner  
21 that due to a natural or other disaster or extremely inclement  
22 weather an election cannot safely be conducted in the time  
23 or place for which the election is scheduled to be held. If  
24 the county commissioner or the county commissioner's designee  
25 is unable to transmit notice of the hazardous conditions,  
26 the notice may be given by any elected county official.  
27 Verification of the county commissioner's agreement with the  
28 severity of the conditions and the danger to the election  
29 process shall be transmitted to the state commissioner as soon  
30 as possible. Notice may be given by telephone or electronic  
31 mail, but a signed notice shall also be delivered to the state  
32 commissioner.

33 3. After receiving notice of hazardous conditions, the  
34 state commissioner, or the state commissioner's designee, may  
35 declare that an emergency exists in the affected precinct or

1 precincts. A copy of the declaration of the emergency shall  
2 be provided to the county commissioner and posted on the  
3 internet site for both the state commissioner and the county  
4 commissioner.

5 4. a. When the state commissioner has declared that an  
6 emergency exists due to a natural or other disaster or to  
7 extremely inclement weather, the county commissioner, or the  
8 county commissioner's designee, shall consult with the state  
9 commissioner to develop a plan to conduct the election under  
10 the emergency conditions.

11 b. Modifications may be made to the method for conducting  
12 the election including relocation of polling places,  
13 postponement of the hour of opening the polls, postponement of  
14 the date of the election if no candidates for federal offices  
15 are on the ballot, reduction in the number of precinct election  
16 officials in nonpartisan elections, or other reasonable and  
17 prudent modifications that will permit the election to be  
18 conducted, but no modifications shall be made to requirements  
19 for voter identification and absentee ballot request  
20 and delivery. All modifications to the usual method for  
21 conducting elections shall be approved in advance by the state  
22 commissioner unless prior approval is impossible to obtain.

23 c. Notwithstanding paragraph "b", no modification made to  
24 the method for conducting elections shall be made to allow an  
25 election to be conducted solely by mail.

26 5. If an emergency exists in all precincts of a county,  
27 the number of polling places shall not be reduced by more than  
28 thirty-five percent. The polling places allowed to open shall  
29 be equitably distributed in the county based on the ratio of  
30 regular polling places located in unincorporated areas in the  
31 county to regular polling places in incorporated areas in the  
32 county.

33 6. a. A substitute polling place shall be as close as  
34 possible to the originally designated polling place and shall  
35 be within the same precinct if possible. Preference shall

1 be given to buildings that are accessible to the elderly and  
2 disabled. Public buildings shall be made available without  
3 charge by the authorities responsible for their administration.  
4 If necessary, more than one precinct may be located in the same  
5 room.

6 *b.* A notice of the location of the substitute polling place  
7 shall comply with the requirements of section 49.23. If it  
8 is unsafe or impossible to post the sign on the door of the  
9 former polling place, the notice shall be posted in some other  
10 visible place at or near the site of the former polling place.  
11 The county commissioner shall inform all broadcast media and  
12 print news organizations serving the jurisdiction of the  
13 modifications and publish a notice on the county commissioner's  
14 internet site.

15 7. An election, other than an election at which a federal  
16 office appears on the ballot, may be postponed until the  
17 following Tuesday. If the election involves more than one  
18 precinct, the postponement must include all precincts within  
19 the political subdivision. If the election is postponed,  
20 ballots shall not be reprinted to reflect the modification in  
21 the election date. The date of the close of voter registration  
22 by mail for the election shall not be extended. Precinct  
23 election registers prepared for the original election date may  
24 be used or reprinted at the commissioner's discretion. Except  
25 as provided in this section, a postponed election shall be  
26 conducted in the same manner as an election taking place on the  
27 regularly scheduled election day.

28 8. *a.* Absentee ballots shall be delivered to voters  
29 pursuant to section 53.22 until the date the election is  
30 actually held. Absentee ballots shall be accepted at the  
31 commissioner's office until the hour the polls close on the  
32 date the election is held. Absentee ballots that bear a  
33 barcode traceable to a date of entry into the federal mail  
34 system no later than the day before the election is actually  
35 held shall be accepted if received no later than the length of

1 time prescribed for the usual conduct of the election. The  
2 time shall be calculated from the date on which the election  
3 is held, not the date for which the election was originally  
4 scheduled.

5     *b.* If absentee ballots have been tabulated before the  
6 election is postponed, the absentee ballots shall be sealed in  
7 an envelope by the absentee and special voters precinct board  
8 and stored securely until the date the election is actually  
9 held. The sealed envelopes shall be opened by the absentee  
10 and special voters precinct board on the date the election is  
11 actually held, counters on the tabulating equipment, if any,  
12 shall be reset to zero, and all absentee ballots tabulated on  
13 the original election date shall be retabulated.

14     9. The absentee and special voters precinct board shall  
15 meet to consider provisional ballots at the times specified in  
16 sections 50.22 and 52.23, calculated from the date the election  
17 is held. No absentee ballots shall be counted until the date  
18 the election is held.

19     10. The canvass of votes shall be rescheduled for one week  
20 after the originally scheduled canvass date.

21     11. *a.* If the emergency is declared while the polls are  
22 open and the decision is made to postpone the election, each  
23 precinct polling place in the political subdivision shall be  
24 notified to close its doors and to halt all voting immediately.  
25 People present in the polling place who are waiting to vote  
26 shall not be given ballots. People who have received and  
27 marked their ballots shall deposit them in the ballot box.  
28 Unmarked ballots shall be returned to the precinct election  
29 officials.

30     *b.* The precinct election officials shall seal all ballots  
31 that were cast before the declaration of the emergency in  
32 secure containers. The containers shall be clearly marked as  
33 ballots from the postponed election. If it is safe to do so,  
34 the ballot containers, election register, and other election  
35 supplies shall be transported to the county commissioner's

1 office. The ballots shall be stored in a secure place. If  
2 it is unsafe to travel to the county commissioner's office,  
3 the chairperson of the precinct election board shall securely  
4 store the ballots and the election register until it is safe  
5 to return the ballots and election register to the county  
6 commissioner. If no contest is pending six months after the  
7 canvass for the election is completed, the unopened, sealed  
8 ballot containers shall be destroyed.

9 *c.* If automatic tabulating equipment is used, the automatic  
10 tabulating equipment shall be closed and sealed without  
11 printing the results. Before the date the election is held,  
12 the automatic tabulating equipment shall be reset to zero.  
13 Documents showing the progress of the count, if any, shall be  
14 sealed in an envelope and stored. No person shall reveal the  
15 progress of the count. After six months, the sealed envelope  
16 containing the vote totals shall be destroyed if no contest is  
17 pending.

18 12. The state commissioner shall maintain records of each  
19 emergency declaration. The records of emergency declarations  
20 for federal elections shall be kept for twenty-two months  
21 and records for all other elections shall be kept for six  
22 months following the election. The records shall include the  
23 following information:

24 *a.* The county in which the emergency occurred.

25 *b.* The date and time the emergency declaration was  
26 requested.

27 *c.* The name and title of the person making the request.

28 *d.* The name and date of the election affected.

29 *e.* The jurisdiction for which the election is to be  
30 conducted.

31 *f.* The number of precincts in the jurisdiction.

32 *g.* The number of precincts affected by the emergency.

33 *h.* The nature of the emergency.

34 *i.* The date or dates of the occurrence of the natural or  
35 other disaster or extremely inclement weather.

- 1     *j.* The conditions affecting the conduct of the election.  
2     *k.* Whether the polling places may safely be opened on time.  
3     *l.* Any action taken such as but not limited to moving the  
4 polling place, changing the voting system, or postponing the  
5 election until the following Tuesday.  
6     *m.* The method to be used to inform the public of changes  
7 made in the election procedure.  
8     *n.* The signature of the state commissioner or the state  
9 commissioner's designee who was responsible for declaring the  
10 emergency.

11     13. *a.* (1) If an emergency occurs that will adversely  
12 affect the conduct of an election at which candidates for  
13 federal office will appear on the ballot, the election shall  
14 not be postponed or delayed. Emergency measures shall be  
15 limited to relocation of polling places, modification of  
16 the method of voting not including requirements for voter  
17 identification and absentee ballot request and delivery,  
18 reduction of the number of precinct election officials at  
19 a precinct, and other modifications of prescribed election  
20 procedures that will enable the election to be conducted on the  
21 date and during the hours required by law.

22     (2) The primary election held in June of even-numbered years  
23 and the general election held in November of even-numbered  
24 years shall not be postponed. Special elections called by  
25 the governor pursuant to section 69.14 shall not be postponed  
26 unless no federal office appears on the ballot.

27     *b.* If a federal or state court order extends the time  
28 established for closing the polls pursuant to section 49.73,  
29 any person who votes after the statutory hour for closing the  
30 polls shall vote only by casting a provisional ballot pursuant  
31 to section 49.81. Provisional ballots cast after the statutory  
32 hour for closing the polls shall be sealed in a separate  
33 envelope from provisional ballots cast during the statutory  
34 polling hours. The absentee and special voters precinct board  
35 shall tabulate and report the results of the two sets of



1 provisional ballots separately.

2 14. A voter who is entitled to vote by absentee ballot under  
3 the federal Uniformed and Overseas Citizens Absentee Voting  
4 Act, 42 U.S.C. §1973ff et seq., and the provisions set forth  
5 in chapter 53, subchapter II, may return an absentee ballot  
6 via electronic transmission only if the voter is located in  
7 an area designated by the federal department of defense to  
8 be an imminent danger pay area or if the voter is an active  
9 member of the army, navy, marine corps, merchant marine, coast  
10 guard, air force, space force, or Iowa national guard and is  
11 located outside the United States or any of its territories.  
12 Procedures for the return of absentee ballots by electronic  
13 transmission shall be determined by the state commissioner by  
14 rule.

15 15. *a.* If an election contest court finds that there were  
16 errors in the conduct of an election that make it impossible  
17 to determine the result of the election, the contest court  
18 shall notify the state commissioner of its finding. The state  
19 commissioner shall order a repeat election to be held. The  
20 repeat election date shall be set by the state commissioner.  
21 The repeat election shall be conducted under the state  
22 commissioner's supervision.

23 *b.* The repeat election shall be held at the earliest  
24 possible time, but it shall not be held earlier than fourteen  
25 days after the date the election was set aside. Voter  
26 registration, publication, equipment testing, and other  
27 applicable deadlines shall be calculated from the date of the  
28 repeat election.

29 *c.* The repeat election shall be conducted under the same  
30 procedures required for the election that was set aside,  
31 except that all known errors in preparation and procedure  
32 shall be corrected. The nominations from the initial election  
33 shall be used in the repeat election unless the contest court  
34 specifically rejects the initial nomination process in its  
35 findings. Precinct election officials for the repeat election

1 may be replaced at the discretion of the auditor.

2 *d.* The following materials prepared for the original  
3 election shall be used or reconstructed for the repeat  
4 election:

5 (1) Ballots showing the date of repeat election, which may  
6 be stamped on ballots printed for the original election.

7 (2) Notice of election showing the date of repeat election.