

REFERENDUM AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to referenda.

Highlighted Provisions:

This bill:

- ▶ addresses requirements relating to the referendum process for challenging a state law;
- ▶ provides that the deadline for filing an application to circulate a referendum petition challenging a state law occurs five days after the later of:
 - the last day of the legislative session at which the law passed;
 - the day on which the governor signs the law; or
 - the day on which the law becomes a law because the governor fails to veto or sign the law;
- ▶ extends the effective date, under certain circumstances, of a state law challenged by referendum; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 20A-7-101**, as last amended by Laws of Utah 2014, Chapters 364 and 396
- 20A-7-301**, as last amended by Laws of Utah 2011, Chapter 17
- 20A-7-302**, as last amended by Laws of Utah 1995, Chapter 153
- 20A-7-306**, as last amended by Laws of Utah 2011, Chapter 17
- 20A-7-307**, as last amended by Laws of Utah 2011, Chapter 17

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

34 Section 1. Section **20A-7-101** is amended to read:

35 **20A-7-101. Definitions.**

36 As used in this chapter:

37 (1) "Budget officer" means:

38 (a) for a county, the person designated as budget officer in Section 17-19a-203;

39 (b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

40 (c) for a town, the town council.

41 (2) "Certified" means that the county clerk has acknowledged a signature as being the
42 signature of a registered voter.

43 (3) "Circulation" means the process of submitting an initiative or referendum petition
44 to legal voters for their signature.

45 (4) "Final fiscal impact statement" means a financial statement prepared after voters
46 approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or
47 20A-7-502.5(2).

48 (5) "Initial fiscal impact estimate" means:

49 (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an
50 application for an initiative petition; or

51 (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5
52 for an initiative or referendum petition.

53 (6) "Initiative" means a new law proposed for adoption by the public as provided in
54 this chapter.

55 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed
56 law, and the signature sheets, all of which have been bound together as a unit.

57 (8) "Legal signatures" means the number of signatures of legal voters that:

58 (a) meet the numerical requirements of this chapter; and

59 (b) have been certified and verified as provided in this chapter.

60 (9) "Legal voter" means a person who:

61 (a) is registered to vote; or

62 (b) becomes registered to vote before the county clerk certifies the signatures on an
63 initiative or referendum petition.

64 (10) "Local attorney" means the county attorney, city attorney, or town attorney in
65 whose jurisdiction a local initiative or referendum petition is circulated.

66 (11) "Local clerk" means the county clerk, city recorder, or town clerk in whose
67 jurisdiction a local initiative or referendum petition is circulated.

68 (12) (a) "Local law" includes an ordinance, resolution, master plan, and any
69 comprehensive zoning regulation adopted by ordinance or resolution.

70 (b) "Local law" does not include an individual property zoning decision.

71 (13) "Local legislative body" means the legislative body of a county, city, or town.

72 (14) "Local obligation law" means a local law passed by the local legislative body
73 regarding a bond that was approved by a majority of qualified voters in an election.

74 (15) "Local tax law" means a local law, passed by a political subdivision with an
75 annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

76 (16) "Measure" means a proposed constitutional amendment, an initiative, or
77 referendum.

78 (17) "Referendum" means a process by which a law passed by the Legislature or by a
79 local legislative body is submitted or referred to the voters for their approval or rejection.

80 (18) "Referendum packet" means a copy of the referendum petition, a copy of the law
81 being submitted or referred to the voters for their approval or rejection, and the signature
82 sheets, all of which have been bound together as a unit.

83 (19) (a) "Signature" means a holographic signature.

84 (b) "Signature" does not mean an electronic signature.

85 (20) "Signature sheets" means sheets in the form required by this chapter that are used
86 to collect signatures in support of an initiative or referendum.

87 (21) "Sponsors" means the legal voters who support the initiative or referendum and
88 who sign the application for petition copies.

89 (22) "Sufficient" means that the signatures submitted in support of an initiative or
90 referendum petition have been certified and verified as required by this chapter.

91 (23) "Trigger date" means, in relation to a state law that is the subject of a referendum
92 petition, the later of:

93 (a) the last day of the legislative session at which the law passed;

94 (b) the day on which the governor signs the law; or

95 (c) the day on which the law becomes a law because the governor fails to veto or sign
 96 the law, as provided in Utah Constitution Article VII, Section 8, Subsection (2).

97 ~~[(23)]~~ (24) "Verified" means acknowledged by the person circulating the petition as
 98 required in Sections 20A-7-205 and 20A-7-305.

99 Section 2. Section **20A-7-301** is amended to read:

100 **20A-7-301. Referendum -- Signature requirements -- Submission to voters.**

101 (1) In accordance with Article VI, Section 1, Subsection (2)(a)(i)(B) of the Utah
 102 Constitution, a law passed by at least a two-thirds vote of the Legislature is not subject to a
 103 referendum.

104 ~~[(1)(a)]~~ (2) A person seeking to have a law passed by the Legislature submitted to a
 105 vote of the people shall obtain:

106 ~~[(i)]~~ (a) legal signatures equal to 10% of the cumulative total of all votes cast by voters
 107 of this state for all candidates for President of the United States at the last regular general
 108 election at which a President of the United States was elected; and

109 ~~[(ii)]~~ (b) from each of at least 15 counties, legal signatures equal to 10% of the total of
 110 all votes cast in that county for all candidates for President of the United States at the last
 111 regular general election at which a President of the United States was elected.

112 ~~[(b)]~~ (3) When the lieutenant governor declares a referendum petition sufficient under
 113 this part, the governor shall issue an executive order that:

114 ~~[(i)]~~ (a) directs that the referendum be submitted to the voters at the next regular
 115 general election; or

116 ~~[(ii)]~~ (b) calls a special election according to the requirements of Section 20A-1-203
 117 and directs that the referendum be submitted to the voters at that special election.

118 ~~[(2)]~~ (4) When a referendum petition has been declared sufficient, the law that is the
 119 subject of the petition does not take effect unless and until it is approved by a vote of the
 120 people at a regular general election or a statewide special election.

121 ~~[(3)]~~ (5) The lieutenant governor shall provide to any interested person from the
 122 official canvass of the last regular general election at which a President of the United States
 123 was elected:

124 (a) the cumulative total of all votes cast by voters of this state for all candidates for
 125 President of the United States; and

126 (b) for each county, the total of all votes cast in that county for all candidates for
127 President of the United States.

128 Section 3. Section **20A-7-302** is amended to read:

129 **20A-7-302. Referendum process -- Application procedures.**

130 (1) ~~[Persons wishing]~~ Individuals who desire to circulate a referendum petition in
131 relation to a law passed by the Legislature shall file an application with the lieutenant governor
132 within five calendar days after the ~~[end of the legislative session at which the law passed]~~
133 applicable trigger date.

134 (2) The application shall contain:

135 (a) the name and residence address of at least five sponsors of the referendum petition;

136 (b) a certification indicating that each of the sponsors:

137 (i) is a voter; and

138 (ii) has voted in a regular general election in Utah within the last three years;

139 (c) the signature of each of the sponsors, attested to by a notary public; and

140 (d) ~~[a]~~ an enrolled copy of the law.

141 Section 4. Section **20A-7-306** is amended to read:

142 **20A-7-306. Submitting the referendum petition -- Certification of signatures by**
143 **the county clerks -- Transfer to lieutenant governor.**

144 (1) (a) ~~[No later than 40 days after the end of the legislative session at which the law~~
145 ~~passed, the]~~ The sponsors shall deliver each signed and verified referendum packet to the
146 county clerk of the county in which the packet was circulated no later than 40 days after the
147 applicable trigger date.

148 (b) A sponsor may not submit a referendum packet after the deadline established in this
149 Subsection (1).

150 (2) (a) No later than 55 days after the ~~[end of the legislative session at which the law~~
151 ~~passed]~~ applicable trigger date, the county clerk shall:

152 (i) check the ~~[names of all persons completing]~~ name of each individual who
153 completed the verification on the last page of each referendum packet to determine whether ~~[or~~
154 ~~not those persons are Utah residents and are]~~ the individual is a Utah resident and is at least 18
155 years old; and

156 (ii) submit the name of each ~~[of those persons]~~ individual described in Subsection

157 (2)(a)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general
158 and county attorney.

159 (b) The county clerk may not certify a signature under Subsection (3) on a referendum
160 packet that is not verified in accordance with Section 20A-7-305.

161 (3) No later than 55 days after the [~~end of the legislative session at which the law~~
162 ~~passed~~] applicable trigger date, the county clerk shall:

163 (a) determine whether each signer is a registered voter according to the requirements of
164 Section 20A-7-306.3;

165 (b) certify on the referendum petition whether each name is that of a registered voter;
166 and

167 (c) deliver all of the verified referendum packets to the lieutenant governor.

168 (4) Upon receipt of a referendum packet under Subsection (3) and any statement
169 submitted under Subsection 20A-7-305(3), the lieutenant governor shall remove from the
170 referendum petition a voter's signature if the voter has requested the removal in accordance
171 with Subsection 20A-7-305(3).

172 Section 5. Section **20A-7-307** is amended to read:

173 **20A-7-307. Evaluation by the lieutenant governor.**

174 (1) When each referendum packet is received from a county clerk, the lieutenant
175 governor shall check off from the record the number of each referendum packet filed.

176 (2) (a) After all of the referendum packets have been received by the lieutenant
177 governor and the lieutenant governor has removed the signatures as required by Section
178 20A-7-306, the lieutenant governor shall:

179 (i) count the number of the names certified by the county clerks that remain on each
180 verified signature sheet; and

181 (ii) declare the petition to be sufficient or insufficient no later than 60 days after the
182 [~~end of the legislative session at which the law passed~~] applicable trigger date.

183 (b) Subject to Subsection 20A-7-301(2), if the law that is the subject of the referendum
184 petition is due to take effect less than 60 days after the applicable trigger date, the effective date
185 of the law is extended to the day on which the lieutenant governor declares the petition to be
186 sufficient or insufficient.

187 [~~(b)~~] (c) If the total number of names counted under Subsection (2)(a)(i) equals or

188 exceeds the number of names required by Section 20A-7-301 and the requirements of this part
189 are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

190 ~~[(e)]~~ (d) If the total number of names counted under Subsection (2)(a)(i) does not equal
191 or exceed the number of names required by Section 20A-7-301 or a requirement of this part is
192 not met, the lieutenant governor shall mark upon the front of the petition the word
193 "insufficient."

194 ~~[(d)]~~ (e) The lieutenant governor shall immediately notify any one of the sponsors of
195 the lieutenant governor's finding.

196 (3) (a) If the lieutenant governor refuses to accept and file any referendum petition, any
197 voter may apply to the supreme court for an extraordinary writ to compel the lieutenant
198 governor to do so within 10 days after the refusal.

199 (b) If the supreme court determines that the referendum petition is legally sufficient,
200 the lieutenant governor shall ~~[file it,];~~

201 (i) file the referendum petition, with a verified copy of the judgment attached to ~~[it, as~~
202 ~~of] the referendum petition; and~~

203 (ii) designate the filing date of the referendum petition as the date on which ~~[it] the~~
204 referendum petition was originally offered for filing in the lieutenant governor's office.

205 (c) If the supreme court determines that any petition filed is not legally sufficient, the
206 supreme court may enjoin the lieutenant governor and all other officers from certifying or
207 printing the ballot title and numbers of that measure on the official ballot.

208 (4) A petition determined to be sufficient in accordance with this section is qualified
209 for the ballot.

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Office of Legislative Research and General Counsel