

VOTER INFORMATION PAMPHLET AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the Election Code. The act clarifies the standard of review in writing and judicially reviewing ballot titles for initiative and referenda. The act provides a time frame for rebuttals to arguments presented for or against an initiative. The act clarifies the responsibility for ballot marking procedures. The act makes technical corrections.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-7-209, as last amended by Chapter 21, Laws of Utah 1999

20A-7-308, as last amended by Chapters 20 and 153, Laws of Utah 1995

20A-7-702, as last amended by Chapter 221, Laws of Utah 2000

20A-7-704, as last amended by Chapter 116, Laws of Utah 1999

20A-7-706, as last amended by Chapter 116, Laws of Utah 1999

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

Section 1. Section **20A-7-209** is amended to read:

20A-7-209. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) By July 6 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) prepare [a] an impartial ballot title for each initiative summarizing the contents of the measure; and

(ii) return each petition and ballot title to the lieutenant governor by July 20.

(b) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and shall [express, in] be not more than 100 words[~~, the purpose of the measure~~].

(c) The ballot title and the number of the measure as determined by the Office of Legislative Research and General Counsel shall be printed on the official ballot.

~~[(d) In preparing ballot titles, the Office of Legislative Research and General Counsel shall, to the best of its ability, give a true and impartial statement of the purpose of the measure.]~~

~~[(e) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.]~~

(3) By July 21, the lieutenant governor shall mail a copy of the ballot title to any sponsor of the petition.

(4) (a) ~~[If the ballot title furnished by the Office of Legislative Research and General Counsel is unsatisfactory or does not comply with the requirements of this section, at]~~ At least three of the sponsors of the petition may, by July 30, ~~[appeal]~~ challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the Supreme Court.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(ii) The Supreme Court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is patently false or biased.

~~[(b)]~~ (c) The Supreme Court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) by August 10, certify to the lieutenant governor a ballot title for the measure that ~~[fulfills]~~ meets the ~~[intent]~~ requirements of this section.

~~[(c)]~~ (d) By September 1, the lieutenant governor shall certify the title verified ~~[to him]~~ by the Supreme Court to the county clerks to be printed on the official ballot.

Section 2. Section **20A-7-308** is amended to read:

20A-7-308. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the

people, the lieutenant governor shall deliver a copy of the petition and the proposed law to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) prepare [a] an impartial ballot title for the referendum summarizing the contents of the measure; and

(ii) return the petition and the ballot title to the lieutenant governor within 15 days after its receipt.

(b) The ballot title may be distinct from the title of the law that is the subject of the petition, and shall [~~express, in~~] be not more than 100 words[~~, the purpose of the measure~~].

(c) The ballot title and the number of the measure as determined by the Office of Legislative Research and General Counsel shall be printed on the official ballot.

~~[(d) In preparing ballot titles, the Office of Legislative Research and General Counsel shall, to the best of its ability, give a true and impartial statement of the purpose of the measure.]~~

~~[(e) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.]~~

(3) Immediately after the Office of Legislative Research and General Counsel files a copy of the ballot title with the lieutenant governor, the lieutenant governor shall mail a copy of the ballot title to any of the sponsors of the petition.

(4) (a) [~~If the ballot title furnished by the Office of Legislative Research and General Counsel is unsatisfactory or does not comply with the requirements of this section, at~~] At least three of the sponsors of the petition may, within 15 days of the date the lieutenant governor mails the ballot title, [~~appeal~~] challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the Supreme Court.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the referendum.

(ii) The Supreme Court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is patently false or biased.

~~[(b)]~~ (c) The Supreme Court shall:

- (i) examine the ballot title;
- (ii) hear arguments; and
- (iii) within five days of its decision, certify to the lieutenant governor a ballot title for the measure that ~~[fulfills]~~ meets the ~~[intent]~~ requirements of this section.

~~[(c)]~~ (d) The lieutenant governor shall certify the title verified ~~[to him]~~ by the Supreme Court to the county clerks to be printed on the official ballot.

Section 3. Section **20A-7-702** is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

- (a) printed and bound in a single pamphlet;
- (b) printed in clear readable type, no less than ten-point, except that the text of any measure may be set forth in eight-point type; and

- (c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

- (a) a cover title page;
- (b) an introduction to the pamphlet by the lieutenant governor;
- (c) a table of contents;
- (d) a list of all candidates for constitutional offices;
- (e) a list of candidates for each legislative district;
- (f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before July 15 at 5 p.m.;

(g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

- (i) a copy of the number and ballot title of the measure;
- (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the

Legislature or by referendum;

(iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets; and

(vi) for each initiative qualified for the ballot, a copy of the measure as certified by the lieutenant governor;

(h) a description provided by the Judicial Council of the selection and retention process for judges of courts of record, including, in the following order:

(i) a description of the judicial selection process;

(ii) a description of the judicial performance evaluation process;

(iii) a description of the judicial retention election process;

(iv) a list of the criteria and minimum standards of judicial performance evaluation;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) for each standard of performance, a statement identifying whether or not the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(D) a statement identifying the cumulative number of public orders issued by the Utah Supreme Court under Utah Constitution Article VIII, Section 13 during the judge's current term and the immediately preceding term, and a statement of the basis for each order that the judge has received; and

(E) a statement identifying whether or not the judge was certified by the Judicial Council;

(vii) (A) except as provided in Subsection (2)(h)(vii)(B), for each judge, in graphic format,

the favorable response rating for each attorney, jury, and other survey question used by the Judicial Council for certification of judges, displayed in 1% increments and identifying the minimum standards of performance for each question;

(B) notwithstanding Subsection (2)(h)(vii)(A), if the sample size for the survey for a particular judge is too small to provide statistically reliable information in 1% increments, the survey results for that judge shall be reported as being above or below 70% and a statement by the surveyor explaining why the survey is statistically unreliable shall also be included;

(i) an explanation of ballot marking procedures prepared by the ~~[Office of Legislative Research and General Counsel]~~ lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(j) voter registration information, including information on how to obtain an absentee ballot;

(k) a list of all county clerks' offices and phone numbers; and

~~[(l) an index of subjects in alphabetical order; and]~~

~~[(m)]~~ (l) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, _____ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on ____ (date of election), and that this pamphlet is complete and correct according to law. SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)

(signed) _____

Lieutenant Governor"

(3) The lieutenant governor shall:

(a) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state not more than 40 nor less than 15 days before the day fixed by law for the election;

(b) ensure that a sufficient number of printed voter information pamphlets are available for

distribution as required by this section;

(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and

(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.

Section 4. Section **20A-7-704** is amended to read:

20A-7-704. Initiative measures -- Arguments for and against -- Voters' requests for argument -- Ballot arguments.

(1) (a) (i) (A) By August [~~20~~] 10 of the regular general election year, the sponsors of any initiative petition that has been declared sufficient by the lieutenant governor may deliver to the lieutenant governor an argument for the adoption of the measure.

(B) If two or more sponsors wish to submit arguments for the measure, the lieutenant governor shall designate one of them to submit the argument for his side of the measure.

(ii) (A) Any member of the Legislature may request permission to submit an argument against the adoption of the measure.

(B) If two or more legislators wish to submit an argument against the measure, the presiding officers of the Senate and House of Representatives shall jointly designate one of them to submit the argument to the lieutenant governor.

(b) The sponsors and the legislators submitting arguments shall ensure that each argument:

(i) does not exceed 500 words in length; and

(ii) is delivered by August [~~20~~] 10.

(2) (a) (i) If an argument for or against a measure to be submitted to the voters by initiative petition has not been filed within the time required by Subsection (1), any voter may request the lieutenant governor for permission to prepare an argument for the side on which no argument has been prepared.

(ii) If two or more voters request permission to submit arguments on the same side of a measure, the lieutenant governor shall designate one of the voters to write the argument.

(b) Any argument prepared under this subsection shall be submitted to the lieutenant

governor by August [30] 20.

(3) The lieutenant governor may not accept a ballot argument submitted under this section unless it is accompanied by:

(a) the name and address of the person submitting it, if it is submitted by an individual voter;
or

(b) the name and address of the organization and the names and addresses of at least two of its principal officers, if it is submitted on behalf of an organization.

(4) (a) Except as provided in Subsection (4)(c), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(b) Except as provided in Subsection (4)(c), the lieutenant governor may not alter the arguments in any way.

(c) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

Section 5. Section **20A-7-706** is amended to read:

20A-7-706. Copies of arguments to be sent to opposing authors -- Rebuttal arguments.

(1) When the lieutenant governor has received the arguments for and against a measure to be submitted to the voters, the lieutenant governor shall immediately send copies of the arguments in favor of the measure to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor.

(2) The authors may prepare and submit rebuttal arguments not exceeding 250 words.

(3) (a) The rebuttal arguments must be filed with the lieutenant governor:

(i) for constitutional amendments and referendum petitions, not later than June 30[-]; and

(ii) for initiatives, not later than August 30.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the rebuttal arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of a rebuttal argument may jointly modify a rebuttal argument after it is submitted if:

(i) they jointly agree that changes to the rebuttal argument must be made to correct spelling or grammatical errors; and

(ii) the rebuttal argument has not yet been submitted for typesetting.

(4) The lieutenant governor shall ensure that:

(a) rebuttal arguments are printed in the same manner as the direct arguments; and

(b) each rebuttal argument follows immediately after the direct argument which it seeks to rebut.