

INITIATIVE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: David G. Butterfield

LONG TITLE

General Description:

This bill amends provisions in Title 20A, Chapter 7, Issues Submitted to the Voters, related to statewide and local initiatives.

Highlighted Provisions:

This bill:

- ▶ requires an initiative to contain no more than one subject to the same extent a bill may not pass with more than one subject under the Utah Constitution;
- ▶ authorizes initiative petition sponsors to change the text of a proposed law following public hearings; and
- ▶ requires the Governor's Office of Planning and Budget to update an initial fiscal impact estimate if the text of a proposed law is changed.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 165, Election Law Amendments, by merging technical and substantive amendments.

Utah Code Sections Affected:

AMENDS:

20A-7-202, as last amended by Laws of Utah 2008, Chapter 237

20A-7-203, as last amended by Laws of Utah 2007, Chapter 78

20A-7-204, as last amended by Laws of Utah 1995, Chapter 153

20A-7-204.1, as last amended by Laws of Utah 2010, Chapter 90

30 20A-7-209, as last amended by Laws of Utah 2010, Chapter 367

31 20A-7-502, as last amended by Laws of Utah 2008, Chapter 237

32 **Utah Code Sections Affected by Coordination Clause:**

33 20A-7-203, as last amended by Laws of Utah 2007, Chapter 78



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

36 Section 1. Section 20A-7-202 is amended to read:

37 **20A-7-202. Statewide initiative process -- Application procedures -- Time to**
38 **gather signatures -- Grounds for rejection.**

39 (1) Persons wishing to circulate an initiative petition shall file an application with the
40 lieutenant governor.

41 (2) The application shall contain:

42 (a) the name and residence address of at least five sponsors of the initiative petition;

43 (b) a statement indicating that each of the sponsors:

44 (i) is a resident of Utah; and

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

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

47 (d) a copy of the proposed law that includes:

48 (i) the title of the proposed law, which clearly expresses the subject of the law; and

49 (ii) the text of the proposed law; and

50 (e) a statement indicating whether or not persons gathering signatures for the petition
51 may be paid for doing so.

52 (3) The application and its contents are public when filed with the lieutenant governor.

53 (4) (a) The sponsors shall qualify the petition for the regular general election ballot no
54 later than one year after the application is filed.

55 (b) If the sponsors fail to qualify the petition for that ballot, the sponsors must:

56 (i) submit a new application;

57 (ii) obtain new signature sheets; and

58 (iii) collect signatures again.

59 (5) The lieutenant governor shall reject the application or application addendum filed
60 under Subsection 20A-7-204.1(4) and not issue circulation sheets if:

61 (a) the law proposed by the initiative is patently unconstitutional;

62 (b) the law proposed by the initiative is nonsensical;

63 (c) the proposed law could not become law if passed;

64 (d) the proposed law contains more than one subject as evaluated in accordance with
65 Subsection (6);

66 (e) the subject of the proposed law is not clearly expressed in the law's title; or

67 (f) the law proposed by the initiative is identical or substantially similar to a law
68 proposed by an initiative that was submitted to the county clerks and lieutenant governor for
69 certification and evaluation within two years preceding the date on which the application for
70 this initiative was filed.

71 (6) To evaluate whether the proposed law contains more than one subject under
72 Subsection (5)(d), the lieutenant governor shall apply the same standard provided in Utah
73 Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more
74 than one subject.

75 Section 2. Section **20A-7-203** is amended to read:

76 **20A-7-203. Form of initiative petition and signature sheets.**

77 (1) (a) Each proposed initiative petition shall be printed in substantially the following
78 form:

79 "INITIATIVE PETITION To the Honorable _____, Lieutenant Governor:

80 We, the undersigned citizens of Utah, respectfully demand that the following proposed
81 law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the
82 regular general election/session to be held/ beginning on _____(month\day\year);

83 Each signer says:

84 I have personally signed this petition;

85 I am registered to vote in Utah or intend to become registered to vote in Utah before the

86 certification of the petition names by the county clerk; and

87 My residence and post office address are written correctly after my name.

88 NOTICE TO SIGNERS:

89 Public hearings to discuss this petition were held at: (list dates and locations of public
90 hearings.)"

91 (b) The sponsors of an initiative shall attach a copy of the proposed law to each
92 initiative petition.

93 (2) Each signature sheet shall:

94 (a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

95 (b) be ruled with a horizontal line [~~3/4~~] three-fourths inch from the top, with the space
96 above that line blank for the purpose of binding;

97 (c) contain the title of the initiative printed below the horizontal line;

98 (d) contain the initial fiscal impact estimate's summary statement issued by the
99 Governor's Office of Planning and Budget according to Subsection 20A-7-202.5(2)(b),
100 including any update according to Subsection 20A-7-204.1(4), printed or typed in not less than
101 12 point, bold type, at the top of each signature sheet under the title of the initiative;

102 (e) contain the word "Warning" printed or typed at the top of each signature sheet
103 under the initial fiscal impact estimate's summary statement;

104 (f) contain, to the right of the word "Warning," the following statement printed or
105 typed in not less than eight point, single leaded type:

106 "It is a class A misdemeanor for anyone to sign any initiative petition with any other
107 name than his own, or knowingly to sign his name more than once for the same measure, or to
108 sign an initiative petition when he knows he is not a registered voter and knows that he does
109 not intend to become registered to vote before the certification of the petition names by the
110 county clerk."; and

111 (g) be vertically divided into columns as follows:

112 (i) the first column shall appear at the extreme left of the sheet, be [~~5/8~~] five-eighths
113 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line

114 down the middle with the left subdivision entitled "Registered" and the right subdivision left
115 untitled;

116 (ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed
117 Name (must be legible to be counted)";

118 (iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered
119 Voter";

120 (iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

121 (v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip
122 Code"; and

123 (vi) at the bottom of the sheet, contain the following statement: "Birth date or age
124 information is not required, but it may be used to verify your identity with voter registration
125 records. If you choose not to provide it, your signature may not be verified as a valid signature
126 if you change your address before petition signatures are verified or if the information you
127 provide does not match your voter registration records."

128 (3) The final page of each initiative packet shall contain the following printed or typed
129 statement:

130 "Verification
131 State of Utah, County of ____

132 I, _____, of _____, hereby state that:

133 I am a resident of Utah and am at least 18 years old;

134 All the names that appear in this packet were signed by persons who professed to be the
135 persons whose names appear in it, and each of them signed his name on it in my presence;

136 I believe that each has printed and signed his name and written his post office address
137 and residence correctly, and that each signer is registered to vote in Utah or intends to become
138 registered to vote before the certification of the petition names by the county clerk.

139 I have not paid or given anything of value to any person who signed this petition to
140 encourage that person to sign it.

141 _____

142 (Name) (Residence Address) (Date)"

143 (4) The forms prescribed in this section are not mandatory, and, if substantially
144 followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical
145 errors.

146 Section 3. Section **20A-7-204** is amended to read:

147 **20A-7-204. Circulation requirements -- Lieutenant governor to provide sponsors**
148 **with materials.**

149 (1) In order to obtain the necessary number of signatures required by this part, the
150 sponsors shall circulate initiative packets that meet the form requirements of this part.

151 (2) The lieutenant governor shall furnish to the sponsors:

152 (a) a copy of the initiative petition, with any change submitted under Subsection
153 20A-7-204.1(4); and

154 (b) one signature sheet.

155 (3) The sponsors of the petition shall:

156 (a) arrange and pay for the printing of all additional copies of the petition and signature
157 sheets; and

158 (b) ensure that the copies of the petition and signature sheets meet the form
159 requirements of this section.

160 (4) (a) The sponsors may prepare the initiative for circulation by creating multiple
161 initiative packets.

162 (b) The sponsors shall create those packets by binding a copy of the initiative petition,
163 a copy of the proposed law, and no more than 50 signature sheets together at the top in such a
164 way that the packets may be conveniently opened for signing.

165 (c) The sponsors need not attach a uniform number of signature sheets to each
166 initiative packet.

167 (5) (a) After the sponsors have prepared sufficient initiative packets, they shall return
168 them to the lieutenant governor.

169 (b) The lieutenant governor shall:

170 (i) number each of the initiative packets and return them to the sponsors within five
171 working days; and

172 (ii) keep a record of the numbers assigned to each packet.

173 Section 4. Section **20A-7-204.1** is amended to read:

174 **20A-7-204.1. Public hearings to be held before initiative petitions are circulated --**
175 **Changes to an initiative and initial fiscal impact estimate.**

176 (1) (a) After issuance of the initial fiscal impact estimate by the Governor's Office of
177 Planning and Budget and before circulating initiative petitions for signature statewide, sponsors
178 of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

179 (i) one in the Bear River region -- Box Elder, Cache, or Rich County;

180 (ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington
181 County;

182 (iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

183 (iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne
184 County;

185 (v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

186 (vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

187 (vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber
188 County.

189 (b) Of the seven meetings, at least two of the meetings must be held in a first or second
190 class county, but not in the same county.

191 (2) At least three calendar days before the date of the public hearing, the sponsors
192 shall:

193 (a) provide written notice of the public hearing to:

194 (i) the lieutenant governor for posting on the state's website; and

195 (ii) each state senator, state representative, and county commission or county council
196 member who is elected in whole or in part from the region where the public hearing will be
197 held; and

198 (b) publish written notice of the public hearing detailing its time, date, and location:

199 (i) in at least one newspaper of general circulation in each county in the region where
200 the public hearing will be held; and

201 (ii) on the Utah Public Notice Website created in Section 63F-1-701.

202 (3) (a) During the public hearing, the sponsors shall either:

203 (i) video tape or audio tape the public hearing and, when the hearing is complete,
204 deposit the complete audio or video tape of the meeting with the lieutenant governor; or

205 (ii) take comprehensive minutes of the public hearing, detailing the names and titles of
206 each speaker and summarizing each speaker's comments.

207 (b) The lieutenant governor shall make copies of the tapes or minutes available to the
208 public.

209 (4) (a) Within 14 days after conducting the seventh public hearing required by
210 Subsection (1)(a) and before circulating an initiative petition for signatures, the sponsors of the
211 initiative petition may change the text of the proposed law if:

212 (i) a change to the text is:

213 (A) germane to the text of the proposed law filed with the lieutenant governor under
214 Section 20A-7-202; and

215 (B) consistent with the requirements of Subsection 20A-7-202(5); and

216 (ii) each sponsor signs, attested to by a notary public, an application addendum to
217 change the text of the proposed law.

218 (b) (i) Within three working days of receipt of an application addendum to change the
219 text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of
220 the application addendum to the Governor's Office of Planning and Budget.

221 (ii) The Governor's Office of Planning and Budget shall update the initial fiscal impact
222 estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a
223 change to the text of the proposed law.

224 Section 5. Section **20A-7-209** is amended to read:

225 **20A-7-209. Ballot title -- Duties of lieutenant governor and Office of Legislative**

226 **Research and General Counsel.**

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

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

231 (i) entitle each state initiative that has qualified for the ballot " Proposition Number ___ "
232 and give it a number as assigned under Section 20A-6-107;

233 (ii) prepare an impartial ballot title for each initiative summarizing the contents of the
234 measure; and

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

236 (b) The ballot title may be distinct from the title of the proposed law attached to the
237 initiative petition, and shall be not more than 100 words.

238 (c) For each state initiative, the official ballot shall show:

239 (i) the number of the initiative as determined by the Office of Legislative Research and
240 General Counsel;

241 (ii) the ballot title as determined by the Office of Legislative Research and General
242 Counsel; and

243 (iii) the initial fiscal impact estimate prepared under Section 20A-7-202.5 or updated
244 under Section 20A-7-204.1.

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

247 (4) (a) (i) At least three of the sponsors of the petition may, by July 30, challenge the
248 wording of the ballot title prepared by the Office of Legislative Research and General Counsel
249 to the Supreme Court.

250 (ii) After receipt of the appeal, the Supreme Court shall direct the lieutenant governor
251 to send notice of the appeal to:

252 (A) any person or group that has filed an argument for or against the measure that is the
253 subject of the challenge; or

254 (B) any political issues committee established under Section 20A-11-801 that has filed
255 written or electronic notice with the lieutenant governor that identifies the name, mailing or
256 email address, and telephone number of the person designated to receive notice about any
257 issues relating to the initiative.

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

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

263 (c) The Supreme Court shall:

264 (i) examine the ballot title;

265 (ii) hear arguments; and

266 (iii) certify to the lieutenant governor a ballot title for the measure that meets the
267 requirements of this section.

268 (d) The lieutenant governor shall certify the title verified by the Supreme Court to the
269 county clerks to be printed on the official ballot.

270 Section 6. Section **20A-7-502** is amended to read:

271 **20A-7-502. Local initiative process -- Application procedures.**

272 (1) Persons wishing to circulate an initiative petition shall file an application with the
273 local clerk.

274 (2) The application shall contain:

275 (a) the name and residence address of at least five sponsors of the initiative petition;

276 (b) a statement indicating that each of the sponsors:

277 (i) is a registered voter; and

278 (ii) (A) if the initiative seeks to enact a county ordinance, has voted in a regular general
279 election in Utah within the last three years; or

280 (B) if the initiative seeks to enact a municipal ordinance, has voted in a regular
281 municipal election in Utah:

282 (I) except as provided in Subsection (2)(b)(ii)(B)(II), within the last three years; or
283 (II) within the last five years, if the sponsor's failure to vote within the last three years
284 is due to the sponsor's residing in a municipal district that participates in a municipal election
285 every four years;

286 (c) the signature of each of the sponsors, attested to by a notary public; and
287 (d) a copy of the proposed law that includes:
288 (i) the title of the proposed law, which clearly expresses the subject of the law; and
289 (ii) the text of the proposed law.

290 (3) A proposed law submitted under this section may not contain more than one subject
291 to the same extent a bill may not pass containing more than one subject as provided in Utah
292 Constitution, Article VI, Section 22.

293 **Section 7. Coordinating S.B. 72 with S.B. 165 -- Merging technical and**
294 **substantive amendments.**

295 If this S.B. 72 and S.B. 165, Election Law Amendments, both pass, it is the intent of the
296 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
297 Code database for publication merge the changes from both bills to modify Subsection
298 20A-7-203(2)(d) to read:

299 "(d) contain the initial fiscal impact estimate's summary statement issued by the
300 Governor's Office of Planning and Budget according to Subsection 20A-7-202.5(2)(b),
301 including any update according to Subsection 20A-7-204.1(4), and the cost estimate for
302 printing and distributing information related to the initiative petition according to Subsection
303 20A-7-202.5(3), printed or typed in not less than 12-point, bold type, at the top of each
304 signature sheet under the title of the initiative;".