

ELECTION LAW CHANGES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the Election Code to establish procedures for submitting a nonbinding opinion question to the voters of Utah.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for submitting a nonbinding opinion question to the voters of Utah;
- ▶ describes the duties of the lieutenant governor and county clerks in submitting the opinion question to the voters;
- ▶ establishes procedures for the ballot form, voter information pamphlet, public notice, manner of voting, and canvass of returns in relation to the nonbinding opinion question; and
- ▶ provides a repealer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-6-107, as enacted by Laws of Utah 2008, Chapter 315

63I-2-220, as last amended by Laws of Utah 2017, Chapters 32 and 452

30 **63I-2-236**, as last amended by Laws of Utah 2017, Chapter 90

31 ENACTS:

32 **36-16b-101**, Utah Code Annotated 1953

33 **36-16b-102**, Utah Code Annotated 1953

34 **36-16b-103**, Utah Code Annotated 1953

35 **36-16b-201**, Utah Code Annotated 1953

36 **36-16b-202**, Utah Code Annotated 1953

37 **36-16b-203**, Utah Code Annotated 1953

38 **36-16b-204**, Utah Code Annotated 1953

39 **36-16b-301**, Utah Code Annotated 1953

40 **36-16b-302**, Utah Code Annotated 1953

41 **36-16b-303**, Utah Code Annotated 1953

42 **36-16b-304**, Utah Code Annotated 1953

43

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

45 Section 1. Section **20A-6-107** is amended to read:

46 **20A-6-107. Numbering of ballot propositions, bond propositions, and nonbinding**
47 **opinion questions -- Duties of election officer and lieutenant governor.**

48 (1) (a) Except as provided in Subsections (1)(b) and (1)(c), each ballot proposition
49 shall be listed on the ballot under the heading "Proposition # ___", with the number of the ballot
50 proposition placed in the blank.

51 (b) Each proposed amendment to the Utah Constitution shall be listed on the ballot
52 under the heading "Constitutional Amendment ___", with a letter placed in the blank.

53 (c) Each bond proposition that has qualified for the ballot shall be listed on the ballot
54 under the title assigned to each bond proposition under Section **11-14-206**.

55 (2) Each nonbinding opinion question submitted to a vote of the people under Title 36,
56 Chapter 16b, Nonbinding Statewide Public Opinion Questions, shall be listed on the ballot
57 under the heading "Nonbinding Opinion Question # ___," with the number of the nonbinding

58 opinion question placed in the blank.

59 [~~2~~] (3) (a) When an election officer or other person given authority to prepare or
60 number ballot propositions receives a ballot proposition that is eligible for inclusion on the
61 ballot, they shall ask the lieutenant governor to assign a number to the ballot proposition.

62 (b) (i) Upon request from an election officer or other person given authority to prepare
63 or number ballot propositions, the lieutenant governor shall assign each ballot proposition a
64 unique number, except as provided under Subsection [~~2~~] (3)(b)(iii).

65 (ii) Ballot proposition numbers shall be assigned sequentially, in the order requests for
66 ballot proposition numbers are received.

67 (iii) The same ballot proposition number may be assigned to multiple ballot
68 propositions if:

69 (A) the sponsors of each ballot proposition agree, in writing, to share the number; and

70 (B) the ballot propositions sharing the same number are identical in their terms,
71 purpose, and effect, with jurisdiction being the only significant difference between the ballot
72 propositions.

73 (4) When the lieutenant governor receives a joint resolution for a nonbinding opinion
74 question under Section 36-16b-202, the lieutenant governor shall:

75 (a) assign a number to the nonbinding opinion question that is unique to the
76 nonbinding opinion question; and

77 (b) assign numbers to each nonbinding opinion question sequentially, in the order in
78 which the lieutenant governor receives the joint resolutions.

79 Section 2. Section **36-16b-101** is enacted to read:

80 **CHAPTER 16b. NONBINDING STATEWIDE PUBLIC OPINION QUESTIONS**

81 **Part 1. General Provisions**

82 **36-16b-101. Title.**

83 (1) This chapter is known as "Nonbinding Statewide Public Opinion Questions."

84 (2) This part is known as "General Provisions."

85 Section 3. Section **36-16b-102** is enacted to read:

86 **36-16b-102. Definitions.**

87 As used in this chapter:

88 (1) "Opinion question" means a nonbinding question that is submitted to all legal
89 voters of the state in accordance with this chapter.

90 (2) "Originating house" means:

91 (a) the Utah House of Representatives if the resolution is a House joint resolution; or

92 (b) the Utah State Senate if the resolution is a Senate joint resolution.

93 (3) "Regular general election" means the same as that term is defined in Section
94 20A-1-102.

95 Section 4. Section **36-16b-103** is enacted to read:

96 **36-16b-103. Exemption.**

97 Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to an opinion
98 question.

99 Section 5. Section **36-16b-201** is enacted to read:

100 **Part 2. Submission of Nonbinding Opinion Questions to Voters**

101 **36-16b-201. Title.**

102 This part is known as "Submission of Nonbinding Opinion Questions to Voters."

103 Section 6. Section **36-16b-202** is enacted to read:

104 **36-16b-202. Resolution to submit nonbinding opinion questions to voters.**

105 (1) The Legislature may submit an opinion question to the legal voters of the state by
106 passing a joint resolution in accordance with the requirements of this section.

107 (2) The joint resolution described in Subsection (1) shall include:

108 (a) the language of the opinion question as it will appear on the ballot;

109 (b) a statement directing that the lieutenant governor submit the language of the
110 opinion question to the legal voters of the state for their approval or rejection; and

111 (c) language designating the date of the regular general election in which the opinion
112 question shall be submitted to the voters.

113 (3) After passage by both houses of the Legislature, the originating house shall submit

114 the joint resolution to the lieutenant governor with instructions that the opinion question
115 specified in the joint resolution be submitted to the legal voters on the regular general election
116 date specified in the resolution.

117 Section 7. Section **36-16b-203** is enacted to read:

118 **36-16b-203. Lieutenant governor's duties.**

119 (1) After receipt of a joint resolution described in Section [36-16b-202](#), the lieutenant
120 governor shall:

121 (a) submit the opinion question to the legal voters of Utah as required by the
122 resolution;

123 (b) comply with Section [36-16b-302](#); and

124 (c) except as provided in Section [36-16b-103](#), comply with all relevant provisions of
125 Title 20A, Election Code, relating to the conduct of elections.

126 (2) The lieutenant governor may establish additional requirements for county clerks to
127 facilitate the conduct of the election.

128 Section 8. Section **36-16b-204** is enacted to read:

129 **36-16b-204. Duties of county clerks.**

130 Each county clerk shall, with respect to an opinion question described in this chapter,
131 comply with:

132 (1) the requirements of Title 20A, Election Code, relating to regular general elections;

133 (2) the requirements of Section [36-16b-302](#); and

134 (3) any other requirement imposed by the lieutenant governor.

135 Section 9. Section **36-16b-301** is enacted to read:

136 **Part 3. Voting and Canvassing**

137 **36-16b-301. Title.**

138 This part is known as "Voting and Canvassing."

139 Section 10. Section **36-16b-302** is enacted to read:

140 **36-16b-302. Procedures -- Ballot title -- Publication of nonbinding opinion**
141 **question.**

142 (1) The lieutenant governor, the Office of Legislative Research and General Counsel,
143 and each county clerk shall comply with the procedures described in this section whenever the
144 Legislature authorizes an opinion question under Section 36-16b-202.

145 (2) If the Legislature passes a resolution described in Section 36-16b-202, the Office of
146 Legislative Research and General Counsel shall, on or before July 20:

147 (a) draft a ballot title that summarizes the subject matter of the opinion question; and

148 (b) deliver the ballot title to the lieutenant governor.

149 (3) On or before August 31, the lieutenant governor shall certify the number and ballot
150 title of the opinion question to each county clerk in accordance with Section 20A-6-107.

151 (4) No more than 60 days nor less than 14 days before the date of the regular general
152 election, the lieutenant governor shall cause the full text of the opinion question to be
153 published in at least one newspaper in every county of the state where a newspaper is
154 published.

155 (5) Each county clerk shall cause both the number and title of the opinion question to
156 be:

157 (a) printed on the ballot to be used on election day;

158 (b) printed on the sample ballot; and

159 (c) otherwise published as required by law.

160 Section 11. Section **36-16b-303** is enacted to read:

161 **36-16b-303. Ballot form -- Manner of voting.**

162 The lieutenant governor shall ensure that a ballot containing an opinion question
163 includes:

164 (1) a number and ballot title;

165 (2) the text of the opinion question; and

166 (3) (a) the words "FOR" and "AGAINST," each word presented with an adjacent
167 square in which the voter may indicate the voter's vote; or

168 (b) all possible responses to the opinion question, each response presented with an
169 adjacent square in which the voter may indicate the voter's vote.

170 Section 12. Section **36-16b-304** is enacted to read:

171 **36-16b-304. Canvass of returns.**

172 (1) The county legislative body shall conduct a public canvass of the returns from the
173 opinion question election no later than 14 days after the day on which the regular general
174 election is held.

175 (2) Each county clerk shall:

176 (a) make a certified abstract of the record of the canvassers detailing the votes cast on
177 the opinion question; and

178 (b) seal the transcript, endorse on the transcript, "Election Returns," and transmit the
179 transcript to the lieutenant governor's office so that the lieutenant governor receives the
180 transcript on or before the fifth day before the day designated for the meeting of the state board
181 of canvassers.

182 (3) The state board of canvassers established under Section [20A-4-306](#) shall meet to
183 compute and determine the vote on the opinion question.

184 (4) The lieutenant governor may, in accordance with the requirements of Title 20A,
185 Election Code, establish additional requirements for county clerks to facilitate the conduct of
186 an election on an opinion question described in this chapter.

187 Section 13. Section **63I-2-220** is amended to read:

188 **63I-2-220. Repeal dates, Title 20A.**

189 (1) Subsection [20A-5-803](#)(8) is repealed July 1, 2023.

190 (2) Section [20A-5-804](#) is repealed July 1, 2023.

191 (3) On July 1, 2018, in Subsection [20A-11-101](#)(21), the language that states "
192 [10-2a-302](#)," is repealed.

193 (4) On January 1, 2019, Subsections [20A-6-107](#)(2) and (4) are repealed and the
194 remaining subsections, and references to those subsections, are renumbered accordingly.

195 Section 14. Section **63I-2-236** is amended to read:

196 **63I-2-236. Repeal dates -- Title 36.**

197 [~~Section [36-29-102](#) is repealed July 1, 2016.~~]

198 Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, is repealed on
199 January 1, 2019.