

28 later than the second regular general election after the application is filed.

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

30 (i) submit a new application;

31 (ii) obtain new signature sheets; and

32 (iii) collect signatures again.

33 (5) The lieutenant governor shall reject the application and not issue circulation sheets

34 if:

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

36 (b) the law proposed by the initiative is nonsensical; [or]

37 (c) the [proposed] law proposed by the initiative could not become law if passed[-];

38 (d) the law proposed by the initiative contains more than one subject; or

39 (e) the title of the law proposed by the initiative does not clearly express the subject of

40 the proposed law.

40a **§ (6) IN ACCORDANCE WITH THE PROVISIONS OF SECTION 20A-1-401, COURTS, THE LIEUTENANT**

40b **GOVERNOR, AND ELECTION OFFICERS SHALL CONSTRUE THE PROVISIONS OF THIS SECTION**

40c **LIBERALLY TO CARRY OUT THE INTENT OF THIS SECTION. §**

41 Section 2. Section **20A-7-502** is amended to read:

42 **20A-7-502. Local initiative process -- Application procedures.**

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

45 (2) The application shall contain:

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

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

48 (i) is a registered voter; and

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

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

53 (I) except as provided in Subsection (2)(b)(ii)(B)(II), within the last three years; or

54 (II) within the last five years, if the sponsor's failure to vote within the last three years
55 is due to the sponsor's residing in a municipal district that participates in a municipal election
56 every four years;

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

58 (d) a copy of the proposed law.

59 (3) The local clerk shall reject the application and not issue circulation sheets if:
 60 (a) the law proposed by the initiative contains more than one subject; or
 61 (b) the title of the law proposed by the initiative does not clearly express the subject of
 62 the proposed law.

62a **§ (4) IN ACCORDANCE WITH THE PROVISIONS OF SECTION 20A-1-401, COURTS AND ELECTION**
 62b **OFFICERS SHALL CONSTRUE THE PROVISIONS OF THIS SECTION LIBERALLY TO CARRY OUT THE**
 62c **INTENT OF THIS SECTION. §**

Legislative Review Note
as of 12-31-02 7:15 AM

In *Gallivan v. Walker*, the Utah Supreme Court declared that the statewide initiative is a fundamental right. In analyzing any restrictions placed upon a fundamental right by the Legislature, the court must find that there is a compelling state interest that justifies restrictions on the right. The court also declared that, because the statewide initiative is a fundamental right, the Legislature may not place an "undue burden" on the initiative right. The court's opinion also suggested that it was the Legislature's duty to "facilitate" the initiative right.

This legislation establishes an additional requirement on persons seeking to circulate an initiative. There is no certainty as to whether or not a court would hold that this requirement is unduly burdensome or that the state lacks a compelling interest that justifies it. Therefore, this legislation could be declared unconstitutional, depending upon the opinion of a majority of justices about whether or not the new requirement "unduly burdens" the fundamental right of initiative or whether or not the interest the state asserts in support of the requirement is "compelling."

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0082

Initiatives - One Subject Requirement

30-Jan-03

12:13 PM

AMENDED NOTE

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.
There may be additional legal costs if the provisions of this bill are challenged in court.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst