

1 **INITIATIVES - ONE SUBJECT**

2 **REQUIREMENT**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: J. Morgan Philpot**

6 **This act modifies statutes governing state and local initiatives by allowing the lieutenant**
7 **governor or local clerk to reject an initiative if it contains more than one subject or if it**
8 **fails to clearly express the subject of the proposed law in the initiative's title.**

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

10 AMENDS:

11 **20A-7-202**, as last amended by Chapter 45, Laws of Utah 1999

12 **20A-7-502**, as last amended by Chapter 278, Laws of Utah 1997

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

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

15 **20A-7-202. Statewide initiative process -- Application procedures -- Time to**
16 **gather signatures -- Grounds for rejection.**

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

19 (2) The application shall contain:

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

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

22 (i) is a resident of Utah; and

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

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

25 (d) a copy of the proposed law.

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

27 (4) (a) The sponsors shall qualify the petition for the regular general election ballot no



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.

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.
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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**Initiatives - One Subject Requirement***30-Jan-03***Bill Number HB0082***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