

1 **ELECTION PROCESS FOR NONBINDING**
2 **STATEWIDE OPINION QUESTION**

3 2003 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Sheryl L. Allen**

6 **This act establishes statutory election procedures for submitting a nonbinding opinion**
7 **question to the voters of Utah. This act has an immediate effective date. The sections in**
8 **this act are repealed on January 1, 2005.**

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

10 ENACTS:

11 **36-16a-101**, Utah Code Annotated 1953

12 **36-16a-102**, Utah Code Annotated 1953

13 **36-16a-103**, Utah Code Annotated 1953

14 **36-16a-104**, Utah Code Annotated 1953

15 **36-16a-105**, Utah Code Annotated 1953

16 **36-16a-106**, Utah Code Annotated 1953

17 **36-16a-107**, Utah Code Annotated 1953

18 **36-16a-108**, Utah Code Annotated 1953

19 **63-55b-136**, Utah Code Annotated 1953

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

21 Section 1. Section **36-16a-101** is enacted to read:

22 **CHAPTER 16a. ELECTION PROCESS FOR STATEWIDE PUBLIC OPINION**

23 **36-16a-101. Definitions.**

24 As used in this chapter:

25 (1) "Election official" means the county clerk or municipal clerk.

26 (2) "Opinion question" means a nonbinding question submitted to the voters of Utah
27 according to the procedures established by this chapter.



28 (3) "Originating house" means the Utah House of Representatives if the resolution is a
29 House Concurrent Resolution or the Utah Senate if the resolution is a Senate Concurrent
30 Resolution.

31 (4) "Regular general election" means the election held throughout the state on the first
32 Tuesday after the first Monday in November of each even-numbered year.

33 Section 2. Section **36-16a-102** is enacted to read:

34 **36-16a-102. Submission of opinion questions to Utah voters.**

35 (1) The Legislature, with the concurrence of the governor, may submit opinion
36 questions to legal voters by complying with the procedures contained in this section.

37 (2) Any legislator may file a concurrent resolution proposing that an opinion question
38 be submitted to the legal voters of Utah.

39 (3) The resolution shall include:

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

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

43 (c) language designating the regular general election date for the election or language
44 calling a special election and setting the date for that special election.

45 (4) After passage by both houses of the Legislature and concurrence by the governor,
46 the originating house shall submit the resolution to the lieutenant governor with instructions
47 that the opinion question specified in the resolution be submitted to the legal voters on the
48 election date specified in the resolution.

49 Section 3. Section **36-16a-103** is enacted to read:

50 **36-16a-103. Lieutenant governor's duties.**

51 (1) After receipt of an opinion question resolution the lieutenant governor shall:

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

54 (b) comply with the procedures of Section 36-16a-106;

55 (c) if the election is not held as part of a regular general election, reimburse each
56 election official for the expenses of conducting the election according to a formula determined
57 by the lieutenant governor; and

58 (d) comply with all relevant provisions of Title 20A, Election Code, relating to the

59 conduct of general and municipal elections.

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

62 Section 4. Section **36-16a-104** is enacted to read:

63 **36-16a-104. Election official duties.**

64 Each election official shall comply with the requirements of Title 20A, Election Code,
65 relating to general and municipal elections, the requirements of Section 36-16a-106, and any
66 other requirements imposed by the lieutenant governor.

67 Section 5. Section **36-16a-105** is enacted to read:

68 **36-16a-105. Exemption.**

69 Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to opinion
70 questions submitted to the legal voters under the authority of this chapter.

71 Section 6. Section **36-16a-106** is enacted to read:

72 **36-16a-106. Procedures for submission of opinion questions to popular vote.**

73 (1) The lieutenant governor, the Office of Legislative Research and General Counsel,
74 and each election official shall comply with the procedures contained in this section whenever
75 the Legislature submits an opinion question to the voters.

76 (2) Not later than 30 days before the date of the election, the lieutenant governor shall
77 cause the full text of the opinion question to be published in at least one newspaper in every
78 county of the state where a newspaper is published.

79 (3) The Office of Legislative Research and General Counsel shall:

80 (a) designate the opinion questions by number and order of presentation on the ballot;

81 (b) draft and designate a ballot title that summarizes the subject matter of the
82 amendment or question; and

83 (c) deliver them to the lieutenant governor.

84 (4) Not later than 35 days before the election, the lieutenant governor shall certify the
85 number and ballot title of each opinion question to each election official.

86 (5) Each election official shall cause both the number and title of the opinion question
87 to be printed on the ballot to be used on election day, and on the sample ballots, and publish
88 them as provided by law.

89 Section 7. Section **36-16a-107** is enacted to read:

90 **36-16a-107. Ballot form -- Manner of voting.**

91 (1) The lieutenant governor shall ensure that the ballots containing opinion questions
92 submitted to the people include:

93 (a) a printed number and ballot title;

94 (b) the printed text of the opinion question; and

95 (c) the words "YES" and "NO", each followed by a square in which the voter may
96 place a mark to indicate his vote.

97 (2) Voters desiring to vote "yes" on the opinion question shall mark in the appropriate
98 square with a mark opposite the word "YES", and voters desiring to vote "no" shall mark in the
99 appropriate square with a mark opposite the word "NO".

100 Section 8. Section **36-16a-108** is enacted to read:

101 **36-16a-108. Canvass of returns.**

102 (1) The county legislative body shall conduct a public canvass of the returns from the
103 opinion question election no later than 14 days after the election.

104 (2) Each election official shall:

105 (a) make a certified abstract of the record of the canvassers detailing the votes given for
106 and against the opinion question; and

107 (b) seal the transcript, endorse it "Election Returns," and transmit it to the lieutenant
108 governor's office so that the lieutenant governor receives it by the fifth day before the day
109 designated for the meeting of the state board of canvassers.

110 (3) The state board of canvassers established by Section 20A-4-306 shall meet to
111 compute and determine the vote on the opinion question.

112 (4) After consulting existing statutes governing other general and municipal elections,
113 the lieutenant governor may determine any issues relating to the canvassing process that are not
114 governed by this section.

115 Section 9. Section **63-55b-136** is enacted to read:

116 **63-55b-136. Repeal dates -- Title 36.**

117 Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2005.

118 Section 10. **Effective date.**

119 If approved by two-thirds of all the members elected to each house, this act takes effect
120 upon approval by the governor, or the day following the constitutional time limit of Utah

121 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
122 the date of veto override.

Legislative Review Note
as of 1-14-03 2:48 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Election Process for Nonbinding Statewide Opinion Question***23-Jan-03***Bill Number HB0195***10:11 AM*

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst