

Senator John W. Hickman proposes the following substitute bill:

INITIATIVE AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

This act modifies the Election Code provisions relating to statewide initiatives. This act modifies signature requirements, modifies certain disclosure requirements, and modifies the time period during which sponsors may gather signatures. This act establishes a moratorium before an initiative that failed may be recirculated. This act requires that the petition sponsors hold public hearings on the petition in geographically diverse areas of Utah and establishes notice and procedural requirements for those public hearings. This act modifies political issues committee and corporation financial disclosure requirements. This act makes it a crime for persons to pay someone to sign or remove their signature from an initiative petition and makes it a crime for persons to accept payment for signing or removing their name from an initiative petition. This act includes a severability clause. This act makes technical changes.

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

AMENDS:

20A-7-201, as last amended by Chapter 115, Laws of Utah 1999

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

20A-7-203, as last amended by Chapters 3 and 75, Laws of Utah 2000

20A-7-207, as last amended by Chapters 153 and 165, Laws of Utah 1995

20A-7-213, as last amended by Chapter 45, Laws of Utah 1999

20A-11-702, as last amended by Chapter 355, Laws of Utah 1997

20A-11-802, as last amended by Chapters 45 and 109, Laws of Utah 1999

ENACTS:



26 **20A-7-204.1**, Utah Code Annotated 1953

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

28 Section 1. Section **20A-7-201** is amended to read:

29 **20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the**
30 **Legislature or to a vote of the people.**

31 (1) (a) A person seeking to have an initiative submitted to the Legislature for approval
32 or rejection shall obtain:

33 (i) legal signatures equal to 5% of the cumulative total of all votes cast for all
34 candidates for governor at the last regular general election at which a governor was elected; and

35 (ii) from each of at least [~~20 counties~~] **§ [29] 26 § Utah State Senate districts**, legal signatures
36 equal to 5% of the total of all votes cast in that [~~county~~] **district** for all candidates for governor
37 at the last regular general election at which a governor was elected.

38 (b) If, at any time not less than ten days before the beginning of an annual general
39 session of the Legislature, the lieutenant governor declares sufficient any initiative petition that
40 is signed by enough voters to meet the requirements of this Subsection (1), the lieutenant
41 governor shall deliver a copy of the petition and the cover sheet required by Subsection (1)(c)
42 to the president of the Senate, the speaker of the House, and the director of the Office of
43 Legislative Research and General Counsel.

44 (c) In delivering a copy of the petition, the lieutenant governor shall include a cover
45 sheet that contains:

46 (i) the cumulative total of all votes cast for all candidates for governor at the last
47 regular general election at which a governor was elected;

48 (ii) the total of all votes cast in each [~~county~~] **Utah State Senate district** for all
49 candidates for governor at the last regular general election at which a governor was elected;

50 (iii) the total number of certified signatures received for the submitted initiative; and

51 (iv) the total number of certified signatures received from each [~~county~~] **Utah State**
52 **Senate district** for the submitted initiative.

53 (2) (a) A person seeking to have an initiative submitted to a vote of the people for
54 approval or rejection shall obtain:

55 (i) legal signatures equal to 10% of the cumulative total of all votes cast for all
56 candidates for governor at the last regular general election at which a governor was elected; and

57 (ii) from each of at least [~~20 counties~~] § ~~[29] 26~~ § Utah State Senate districts, legal signatures
 58 equal to 10% of the total of all votes cast in that [~~county~~] district for all candidates for governor
 59 at the last regular general election at which a governor was elected.

60 (b) If, at any time not less than four months before any regular general election, the
 61 lieutenant governor declares sufficient any initiative petition that is signed by enough legal
 62 voters to meet the requirements of this subsection, the lieutenant governor shall submit the
 63 proposed law to a vote of the people at the next regular general election.

64 (3) The lieutenant governor shall provide the following information from the official
 65 canvass of the last regular general election at which a governor was elected to any interested
 66 person:

67 (a) the cumulative total of all votes cast for all candidates for governor; and

68 (b) for each [~~county~~] Utah State Senate district, the total of all votes cast in that
 69 [~~county~~] district for all candidates for governor.

70 Section 2. Section ~~20A-7-202~~ is amended to read:

71 **20A-7-202. Statewide initiative process -- Application procedures -- Time to**
 72 **gather signatures -- Grounds for rejection.**

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

75 (2) The application shall contain:

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

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

78 (i) is a resident of Utah; and

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

80 (c) the signature of each of the sponsors, attested to by a notary public; [~~and~~]

81 (d) a copy of the proposed law[-]; and

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

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

85 (4) (a) The sponsors shall qualify the petition for the regular general election ballot no
 86 later than [~~the second regular general election~~] one year after the application is filed.

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

- 88 (i) submit a new application;
- 89 (ii) obtain new signature sheets; and
- 90 (iii) collect signatures again.

91 (5) The lieutenant governor shall reject the application and not issue circulation sheets
 92 if:

- 93 (a) the law proposed by the initiative is patently unconstitutional;
- 94 (b) the law proposed by the initiative is nonsensical; [or]
- 95 (c) the proposed law could not become law if passed[-]; or
- 96 (d) the law proposed by the initiative is identical or substantially similar to a law
 97 proposed by an initiative § [for which an application was filed] THAT WAS SUBMITTED TO THE
 97a COUNTY CLERKS AND LIEUTENANT GOVERNOR FOR CERTIFICATION AND EVALUATION § within
 97b two years preceding the date
 98 on which the application for this initiative was filed.

99 Section 3. Section 20A-7-203 is amended to read:

100 **20A-7-203. Form of initiative petition and signature sheets.**

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

103 "INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

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

107 Each signer says:

108 I have personally signed this petition;

109 I am registered to vote in Utah or intend to become registered to vote in Utah before the
 110 certification of the petition names by the county clerk; and

111 My residence and post office address are written correctly after my name.["]

112 NOTICE TO SIGNERS:

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

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

117 (2) Each signature sheet shall:

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

119 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line
120 blank for the purpose of binding;

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

122 (d) contain the word "Warning" printed or typed at the top of each signature sheet
123 under the title of the initiative;

124 (e) contain, to the right of the word "Warning," the following statement printed or
125 typed in not less than eight-point, single leaded type:

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

131 [~~(f) contain horizontally ruled lines, 3/8 inch apart under the "Warning" statement~~
132 ~~required by this section; and~~]

133 [~~(g)~~] (f) be vertically divided into columns as follows:

134 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be
135 headed with "For Office Use Only," and be subdivided with a light vertical line down the
136 middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

137 (ii) the next column shall be three inches wide, headed "Registered Voter's Printed
138 Name (must be legible to be counted)";

139 (iii) the next column shall be three inches wide, headed "Signature of Registered
140 Voter"; and

141 (iv) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip
142 Code".

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

145 "Verification

146 State of Utah, County of ____

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

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

149 All the names that appear in this packet were signed by persons who professed to be the

150 persons whose names appear in it, and each of them signed his name on it in my presence;

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

154 I have not paid or given anything of value to any person who signed this petition to
155 encourage them to sign it.

156 _____
157 (Name) (Residence Address) (Date)"

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

161 Section 4. Section **20A-7-204.1** is enacted to read:

162 **20A-7-204.1. Public hearings to be held before initiative petitions are circulated.**

163 (1) (a) Before circulating initiative petitions for signature statewide, sponsors of the
164 initiative petition shall hold at least seven public hearings throughout Utah as follows:

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

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

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

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

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

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

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

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

177 (2) At least 3 calendar days before the date of the public hearing, the sponsors shall:

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

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

180 (ii) each state senator, state representative, and county commission or county council

181 member who is elected in whole or in part from the region where the public hearing will be
182 held; and

183 (b) publish written notice of the public hearing detailing its time, date, and location in
184 at least one newspaper of general circulation in each county in the region where the public
185 hearing will be held.

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

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

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

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

193 Section 5. Section **20A-7-207** is amended to read:

194 **20A-7-207. Evaluation by the lieutenant governor.**

195 (1) When each initiative packet is received from a county clerk, the lieutenant governor
196 shall check off from his record the number of each initiative packet filed.

197 (2) (a) After all of the initiative packets have been received by the lieutenant governor,
198 the lieutenant governor shall:

199 (i) count the number of the names certified by the county clerks that appear on each
200 verified signature sheet; and

201 (ii) declare the petition to be sufficient or insufficient by July 6 before the regular
202 general election.

203 (b) If the total number of certified names from each verified signature sheet equals or
204 exceeds the number of names required by Section 20A-7-201, the lieutenant governor shall
205 mark upon the front of the petition the word "sufficient."

206 (c) If the total number of certified names from each verified signature sheet does not
207 equal or exceed the number of names required by Section 20A-7-201, the lieutenant governor
208 shall mark upon the front of the petition the word "insufficient."

209 (d) The lieutenant governor shall immediately notify any one of the sponsors of his
210 finding.

211 (3) [~~(a)~~] Once a petition is declared insufficient, the sponsors may not submit

212 additional signatures to qualify the petition for the pending regular general election.

213 ~~[(b) The petition sponsors may submit additional signatures to qualify the petition for~~
214 ~~the regular general election following the pending regular general election if:]~~

215 ~~[(i) the petition is declared insufficient; and]~~

216 ~~[(ii) the pending general election is the first regular general election after the~~
217 ~~application was filed.]~~

218 (4) (a) If the lieutenant governor refuses to accept and file any initiative petition that a
219 sponsor believes is legally sufficient, any voter may, by July 20, apply to the supreme court for
220 an extraordinary writ to compel the lieutenant governor to do so.

221 (b) The supreme court shall:

222 (i) determine whether or not the initiative petition is legally sufficient; and

223 (ii) certify its findings to the lieutenant governor by July 30.

224 (c) If the supreme court certifies that the initiative petition is legally sufficient, the
225 lieutenant governor shall file it, with a verified copy of the judgment attached to it, as of the
226 date on which it was originally offered for filing in his office.

227 (d) If the supreme court determines that any petition filed is not legally sufficient, the
228 supreme court may enjoin the lieutenant governor and all other officers from certifying or
229 printing the ballot title and numbers of that measure on the official ballot for the next election.

230 Section 6. Section **20A-7-213** is amended to read:

231 **20A-7-213. Misconduct of electors and officers -- Penalty.**

232 (1) It is unlawful for any person to:

233 (a) sign any name other than his own to any initiative petition;

234 (b) knowingly sign his name more than once for the same measure at one election;

235 (c) sign an initiative knowing he is not a legal voter; or

236 (d) knowingly and willfully violate any provision of this part.

237 (2) It is unlawful for any person to sign the verification for an initiative packet knowing
238 that:

239 (a) he does not meet the residency requirements of Section 20A-2-105;

240 (b) he has not witnessed the signatures of those persons whose names appear in the
241 initiative packet; or

242 (c) one or more persons whose signatures appear in the initiative packet is either:

- 243 (i) not registered to vote in Utah; or
 244 (ii) does not intend to become registered to vote in Utah.
 245 (3) It is unlawful for any person to:
 246 (a) pay a person to sign an initiative petition;
 247 (b) pay a person to remove the person's signature from an initiative petition;
 248 (c) accept payment to sign an initiative petition; or
 249 (d) accept payment to have the person's name removed from an initiative petition.
 250 [~~3~~] (4) Any person violating this section is guilty of a class A misdemeanor.
 251 [~~4~~] (5) The attorney general or the county attorney shall prosecute any violation of
 252 this section.

253 Section 7. Section **20A-11-702** is amended to read:

254 **20A-11-702. Campaign financial reporting of political issues expenditures by**
 255 **corporations -- Financial reporting.**

- 256 (1) (a) Each corporation that has made political issues expenditures on current or
 257 proposed ballot issues that total at least \$750 during a calendar year shall file a verified
 258 financial statement with the lieutenant governor's office on:
 259 (i) January 5, reporting expenditures as of December 31 of the previous year;
 260 (ii) March 1;
 261 (iii) June 1;
 262 [~~ii~~] (iv) September 15; and
 263 [~~iii~~] (v) seven days before the regular general election.
 264 (b) The corporation shall report:
 265 (i) a detailed listing of all expenditures made since the last statement; and
 266 (ii) for financial statements filed on September 15 and before the primary and general
 267 elections, expenditures as of three days before the required filing date of the financial
 268 statement.
 269 (c) The corporation need not file a statement under this section if it made no
 270 expenditures during the reporting period.
 271 (2) That statement shall include:
 272 (a) the name and address of each individual, entity, or group of individuals or entities
 273 that received a political issues expenditure of more than \$50 from the corporation, and the

274 amount of each political issues expenditure;

275 (b) the total amount of political issues expenditures disbursed by the corporation; and

276 (c) a paragraph signed by the corporation's treasurer or chief financial officer verifying
277 the accuracy of the verified financial statement.

278 Section 8. Section **20A-11-802** is amended to read:

279 **20A-11-802. Political issues committees -- Financial reporting.**

280 (1) (a) Each registered political issues committee that has received political issues
281 contributions totaling at least \$750, or disbursed political issues expenditures totaling at least
282 \$50 during a calendar year on current or proposed statewide ballot propositions, to influence an
283 incorporation petition or an incorporation election, or on initiative petitions to be submitted to
284 the Legislature, shall file a verified financial statement with the lieutenant governor's office:

285 (i) on January 5, reporting contributions and expenditures as of December 31 of the
286 previous year;

287 (ii) seven days before the date of an incorporation election, if the political issues
288 committee has received donations or made disbursements to affect an incorporation;

289 (iii) at least 3 days before the first public hearing held as required by Section
290 20A-7-204.1;

291 (iv) at the time the sponsors submit the verified and certified initiative packets to the
292 county clerk as required by Section 20A-7-206;

293 [~~(iii)~~] (v) on September 15; and

294 [~~(iv)~~] (vi) seven days before the regular general election.

295 (b) The political issues committee shall report:

296 (i) a detailed listing of all contributions received and expenditures made since the last
297 statement; and

298 (ii) for financial statements filed on September 15 and before the general election, all
299 contributions and expenditures as of three days before the required filing date of the financial
300 statement.

301 (c) The political issues committee need not file a statement under this section if it
302 received no contributions and made no expenditures during the reporting period.

303 (2) (a) That statement shall include:

304 (i) the name, address, and occupation of any individual that makes a political issues

305 contribution to the reporting political issues committee, and the amount of the political issues
306 contribution;

307 (ii) the identification of any publicly identified class of individuals that makes a
308 political issues contribution to the reporting political issues committee, and the amount of the
309 political issues contribution;

310 (iii) the name and address of any political issues committee, group, or entity that makes
311 a political issues contribution to the reporting political issues committee, and the amount of the
312 political issues contribution;

313 (iv) the name and address of each reporting entity that makes a political issues
314 contribution to the reporting political issues committee, and the amount of the political issues
315 contribution;

316 (v) for each nonmonetary contribution, the fair market value of the contribution;

317 (vi) except as provided in Subsection (2)(c), the name and address of each individual,
318 entity, or group of individuals or entities that received a political issues expenditure of more
319 than \$50 from the reporting political issues committee, and the amount of each political issues
320 expenditure;

321 (vii) for each nonmonetary expenditure, the fair market value of the expenditure;

322 (viii) the total amount of political issues contributions received and political issues
323 expenditures disbursed by the reporting political issues committee;

324 (ix) a paragraph signed by the political issues committee's treasurer or chief financial
325 officer verifying that, to the best of the signer's knowledge, the financial statement is accurate;
326 and

327 (x) a summary page in the form required by the lieutenant governor that identifies:

328 (A) beginning balance;

329 (B) total contributions during the period since the last statement;

330 (C) total contributions to date;

331 (D) total expenditures during the period since the last statement; and

332 (E) total expenditures to date.

333 (b) (i) Political issues contributions received by a political issues committee that have a
334 value of \$50 or less need not be reported individually, but shall be listed on the report as an
335 aggregate total.

336 (ii) Two or more political issues contributions from the same source that have an
337 aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported
338 separately.

339 (c) When reporting political issue expenditures made to circulators of initiative
340 petitions, the political issues committee:

341 (i) need only report the amount paid to each initiate petition circulator; and

342 (ii) need not report the name or address of the circulator.

343 Section 9. **Severability clause.**

344 h [(1) Except as provided in Subsection (2), it] IT h is the intent of the Legislature that if any
345 provision of this act, or the application of any provision of this act to any person or
346 circumstance, is held invalid, the remainder of this act shall h NOT h be given effect without the
346a invalid

347 provision or application.

348 h [(2) It is the intent of the Legislature that:

349 — (a) Subsection 20A-7-201(1)(a)(ii) is not severable from Subsection
350 20A-7-201(1)(a)(i); and

351 — (b) Subsection 20A-7-201(2)(a)(ii) is not severable from Subsection
352 20A-7-201(2)(a)(i).] h