

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:

20A-7-204.1, Utah Code Annotated 1953

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

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

20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the

Legislature or to a vote of the people.

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

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

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

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

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

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

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

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

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

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

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

(ii) from each of at least [~~20 counties~~] 26 Utah State Senate districts, legal signatures

equal to 10% of the total of all votes cast in that [county] district for all candidates for governor at the last regular general election at which a governor was elected.

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

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

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

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

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

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

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

(2) The application shall contain:

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

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

(i) is a resident of Utah; and

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

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

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

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

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

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

later than [~~the second regular general election~~] one year after the application is filed.

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

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

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

- (a) the law proposed by the initiative is patently unconstitutional;
- (b) the law proposed by the initiative is nonsensical; [~~or~~]
- (c) the proposed law could not become law if passed[-]; or

(d) the law proposed by the initiative is identical or substantially similar to a law proposed by an initiative that was submitted to the county clerks and lieutenant governor for certification and evaluation within two years preceding the date on which the application for this initiative was filed.

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

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

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

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

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

Each signer says:

I have personally signed this petition;

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

My residence and post office address are written correctly after my name.[^u]

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public

hearings.)"

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

(2) Each signature sheet shall:

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

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

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

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

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

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

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

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

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

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

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

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

Code".

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

"Verification

State of Utah, County of ____

I, _____, of _____, hereby state that:

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

All the names that appear in this packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

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

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

(Name)

(Residence Address)

(Date)"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) ~~[(a)]~~ Once a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the pending regular general election.

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

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

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

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

(b) The supreme court shall:

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

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

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

(d) If the supreme court determines that any petition filed is not legally sufficient, the supreme court may enjoin the lieutenant governor and all other officers from certifying or

printing the ballot title and numbers of that measure on the official ballot for the next election.

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

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

(1) It is unlawful for any person to:

- (a) sign any name other than his own to any initiative petition;
- (b) knowingly sign his name more than once for the same measure at one election;
- (c) sign an initiative knowing he is not a legal voter; or
- (d) knowingly and willfully violate any provision of this part.

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

that:

- (a) he does not meet the residency requirements of Section 20A-2-105;
- (b) he has not witnessed the signatures of those persons whose names appear in the

initiative packet; or

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

- (i) not registered to vote in Utah; or
- (ii) does not intend to become registered to vote in Utah.

(3) It is unlawful for any person to:

- (a) pay a person to sign an initiative petition;
- (b) pay a person to remove the person's signature from an initiative petition;
- (c) accept payment to sign an initiative petition; or
- (d) accept payment to have the person's name removed from an initiative petition.

~~[(3)]~~ (4) Any person violating this section is guilty of a class A misdemeanor.

~~[(4)]~~ (5) The attorney general or the county attorney shall prosecute any violation of this section.

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

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

(1) (a) Each corporation that has made political issues expenditures on current or

proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office on:

(i) January 5, reporting expenditures as of December 31 of the previous year;

(ii) March 1;

(iii) June 1;

~~[(ii)]~~ (iv) September 15; and

~~[(iii)]~~ (v) seven days before the regular general election.

(b) The corporation shall report:

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

(ii) for financial statements filed on September 15 and before the primary and general elections, expenditures as of three days before the required filing date of the financial statement.

(c) The corporation need not file a statement under this section if it made no expenditures during the reporting period.

(2) That statement shall include:

(a) the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the corporation, and the amount of each political issues expenditure;

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

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

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

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

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

(i) on January 5, reporting contributions and expenditures as of December 31 of the

previous year;

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

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

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

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

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

(b) The political issues committee shall report:

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

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

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

(2) (a) That statement shall include:

(i) the name, address, and occupation of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

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

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

(iv) the name and address of each reporting entity that makes a political issues

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

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

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

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

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

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

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

(A) beginning balance;

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

(C) total contributions to date;

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

(E) total expenditures to date.

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

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

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

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

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

Section 9. Severability clause.

(1) Except as provided in Subsection (2), it is the intent of the Legislature that if any provision of this act, or the application of any provision of this act to any person or circumstance, is held invalid, the remainder of this act shall be given effect without the invalid provision or application.

(2) It is the intent of the Legislature that:

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

(b) Subsection 20A-7-201(2)(a)(ii) is not severable from Subsection 20A-7-201(2)(a)(i).