

28 **20A-7-204.1**, Utah Code Annotated 1953

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

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

31 **20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the**
32 **Legislature or to a vote of the people.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 **20A-7-202. Statewide initiative process -- Application procedures -- Time to**
 74 **gather signatures -- Grounds for rejection.**

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

77 (2) The application shall contain:

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

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

80 (i) is a resident of Utah; and

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

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

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

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

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

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

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

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

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

- 95 (a) the law proposed by the initiative is patently unconstitutional;
- 96 (b) the law proposed by the initiative is nonsensical; [~~or~~]
- 97 (c) the proposed law could not become law if passed[-]; or
- 98 (d) the law proposed by the initiative is identical or substantially similar to a law
 99 proposed by an initiative for which an application was filed within four years preceding the
 100 date on which the application for this initiative was filed.

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

102 **20A-7-203. Form of initiative petition and signature sheets.**

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

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

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

109 Each signer says:

110 I have personally signed this petition;

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

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

114 NOTICE TO SIGNERS:

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

117 (ii) If the petition application indicates that petition signature gatherers are being paid
 118 to collect signatures, the "NOTICE TO SIGNERS" shall also include the following statement
 119 on a separate line in not less than ten-point single leaded type:

120 "The person seeking your signature on this petition is being paid to persuade you to sign

121 it."

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

124 (2) Each signature sheet shall:

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

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

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

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

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

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

138 (f) ~~[contain horizontally ruled lines, 3/8 inch apart]~~ if the petition application discloses
139 that persons collecting signatures are being paid to do so, contain the word "NOTICE" printed
140 or typed under the "Warning" statement required by this section; ~~[and]~~

141 (g) if the petition application discloses that persons collecting signatures are being paid
142 to do so, contain, to the right of the word "NOTICE," the following statement printed or typed
143 in not less than ten-point single leaded type:

144 "The person seeking your signature on this petition is being paid to persuade you to sign
145 it.";

146 (h) contain horizontally ruled lines, 3/8 inch apart under:

147 (i) the "Notice" statement if one is present; or

148 (ii) the "Warning" statement required by this section if a "Notice" statement is not
149 present; and

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

151 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be

152 headed with "For Office Use Only," and be subdivided with a light vertical line down the
153 middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

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

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

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

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

162 "Verification
163 State of Utah, County of ____

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

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

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

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

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

173 _____
174 (Name) (Residence Address) (Date)"

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

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

179 **20A-7-204.1. Public hearings to be held before initiative petitions are circulated.**

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

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

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

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

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

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

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

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

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

194 (2) At least 14 calendar days before the date of the public hearing, the sponsors shall:

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

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

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

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

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

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

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

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

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

211 **20A-7-207. Evaluation by the lieutenant governor.**

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

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

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

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

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

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

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

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

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

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

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

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

238 (b) The supreme court shall:

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

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

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

244 (d) If the supreme court determines that any petition filed is not legally sufficient, the

245 supreme court may enjoin the lieutenant governor and all other officers from certifying or
 246 printing the ballot title and numbers of that measure on the official ballot for the next election.

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

248 **20A-7-213. Misconduct of electors and officers -- Penalty.**

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

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

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

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

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

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

255 that:

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

257 (b) he has not witnessed the signatures of those persons whose names appear in the

258 initiative packet; or

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

260 (i) not registered to vote in Utah; or

261 (ii) does not intend to become registered to vote in Utah.

262 (3) It is unlawful for any person to:

263 (a) pay a person to sign an initiative petition;

264 (b) pay a person to remove the person's signature from an initiative petition;

265 (c) accept payment to sign an initiative petition; or

266 (d) accept payment to have the person's name removed from an initiative petition.

267 [~~3~~] (4) Any person violating this section is guilty of a class A misdemeanor.

268 [~~4~~] (5) The attorney general or the county attorney shall prosecute any violation of

269 this section.

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

271 **20A-11-702. Campaign financial reporting of political issues expenditures by**
 272 **corporations -- Financial reporting.**

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

274 proposed ballot issues that total at least \$750 during a calendar year shall file a verified

275 financial statement with the lieutenant governor's office on:

276 (i) January 5, reporting expenditures as of December 31 of the previous year;
277 (ii) March 1;
278 (iii) June 1;
279 [~~(iv)~~] (iv) September 15; and
280 [~~(v)~~] (v) seven days before the regular general election.

281 (b) The corporation shall report:

282 (i) a detailed listing of all expenditures made since the last statement; and
283 (ii) for financial statements filed on September 15 and before the primary and general
284 elections, expenditures as of three days before the required filing date of the financial
285 statement.

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

288 (2) That statement shall include:

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

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

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

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

296 **20A-11-802. Political issues committees -- Financial reporting.**

297 (1) (a) Each registered political issues committee that has received political issues
298 contributions totaling at least \$750, or disbursed political issues expenditures totaling at least
299 \$50 during a calendar year on current or proposed statewide ballot propositions, to influence an
300 incorporation petition or an incorporation election, or on initiative petitions to be submitted to
301 the Legislature, shall file a verified financial statement with the lieutenant governor's office:

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

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

306 (iii) at least 14 days before the first public hearing held as required by Section

307 20A-7-204.1;

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

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

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

312 (b) The political issues committee shall report:

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

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

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

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

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

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

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

330 (iv) the name and address of each reporting entity that makes a political issues
331 contribution to the reporting political issues committee, and the amount of the political issues
332 contribution;

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

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

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

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

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

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

344 (A) beginning balance;

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

346 (C) total contributions to date;

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

348 (E) total expenditures to date.

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

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

355 Section 9. **Severability clause.**

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

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

361 (a) Subsection 20A-7-201(1)(a)(ii) is not severable from Subsection
362 20A-7-201(1)(a)(i); and

363 (b) Subsection 20A-7-201(2)(a)(ii) is not severable from Subsection
364 20A-7-201(2)(a)(i).

Legislative Review Note
as of 12-9-02 1:19 PM

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 established several additional requirements on persons seeking qualification and passage of an initiative. There is no certainty as to whether or not a court would hold that some or all of these requirements are unduly burdensome or that the state lacks a compelling interest that justifies them. Therefore, some or all of this legislation could be declared unconstitutional, depending upon the opinion of a majority of justices about whether or not each provision "unduly burdens" the fundamental right of initiative or whether or not the interest the state asserts in support of the provision is "compelling."

Office of Legislative Research and General Counsel

Interim Committee Note
as of 01-06-03 6:50 AM

The Government Operations Interim Committee recommended this bill.

AMENDED NOTE

State Impact

It is estimated that implementing provisions of this bill will require \$10,000 in ongoing General Funds for the Elections Office beginning FY 2004. There may be additional legal costs if the provisions of this bill are challenged in court.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$10,000	\$10,000	\$0	\$0
TOTAL	\$10,000	\$10,000	\$0	\$0

Individual and Business Impact

It is estimated that sponsors of an initiative petition will incur newspaper publishing costs of \$3,600 to provide written notice, and other costs associated with arranging, holding and documenting the proceedings of the required public hearings throughout the State.

Office of the Legislative Fiscal Analyst