

1                   **INITIATIVE AND REFERENDUM IMPACT DISCLOSURE**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Bradley G. Last**

5                                   Senate Sponsor: J. Stuart Adams

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7 **LONG TITLE**

8 **General Description:**

9           This bill changes the requirements for a financial impact disclosure.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ amends definitions;
- 13           ▶ for a local initiative, requires an initial fiscal impact estimate to contain information
- 14 regarding the legal impact of the initiative;
- 15           ▶ for a local referendum:
  - 16           • establishes requirements for a fiscal impact estimate; and
  - 17           • requires a fiscal impact estimate to contain information regarding the legal
  - 18 impact of the referendum; and
- 19           ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           None

24 **Utah Code Sections Affected:**

25 AMENDS:

26           **20A-7-101**, as last amended by Laws of Utah 2012, Chapters 17 and 72

27           **20A-7-502.5**, as last amended by Laws of Utah 2011, Chapter 17

28           **20A-7-513**, as enacted by Laws of Utah 2005, Chapter 236

29 ENACTS:

30 [20A-7-602.5](#), Utah Code Annotated 1953

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

33 Section 1. Section **20A-7-101** is amended to read:

34 **20A-7-101. Definitions.**

35 As used in this chapter:

36 (1) "Budget officer" means:

37 (a) (i) for a county of the first class, the person designated as budget officer in Section

38 [17-19a-203](#); or

39 (ii) for a county not described in Subsection (1)(a)(i), a person designated as budget

40 officer in Section [17-19-19](#);

41 (b) for a city, the person designated as budget officer in Subsection [10-6-106\(5\)](#); or

42 (c) for a town, the town council.

43 (2) "Certified" means that the county clerk has acknowledged a signature as being the

44 signature of a registered voter.

45 (3) "Circulation" means the process of submitting an initiative or referendum petition

46 to legal voters for their signature.

47 (4) "Final fiscal impact statement" means a financial statement prepared after voters

48 approve an initiative that contains the information required by Subsection [20A-7-202.5\(2\)](#) or

49 [20A-7-502.5\(2\)](#).

50 (5) "Initial fiscal impact estimate" means:

51 (a) a financial statement prepared [~~according to the terms of~~] under Section

52 [20A-7-202.5](#) [~~or 20A-7-502.5~~] after the filing of an application for an initiative petition[-]; or

53 (b) a financial and legal statement prepared under Section [20A-7-502.5](#) or [20A-7-602.5](#)

54 for an initiative or referendum petition.

55 (6) "Initiative" means a new law proposed for adoption by the public as provided in

56 this chapter.

57 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed

58 law, and the signature sheets, all of which have been bound together as a unit.

59 (8) "Legal signatures" means the number of signatures of legal voters that:

60 (a) meet the numerical requirements of this chapter; and

61 (b) have been certified and verified as provided in this chapter.

62 (9) "Legal voter" means a person who:

63 (a) is registered to vote; or

64 (b) becomes registered to vote before the county clerk certifies the signatures on an  
65 initiative or referendum petition.

66 (10) "Local attorney" means the county attorney, city attorney, or town attorney in  
67 whose jurisdiction a local initiative or referendum petition is circulated.

68 (11) "Local clerk" means the county clerk, city recorder, or town clerk in whose  
69 jurisdiction a local initiative or referendum petition is circulated.

70 (12) (a) "Local law" includes an ordinance, resolution, master plan, and any  
71 comprehensive zoning regulation adopted by ordinance or resolution.

72 (b) "Local law" does not include an individual property zoning decision.

73 (13) "Local legislative body" means the legislative body of a county, city, or town.

74 (14) "Local obligation law" means a local law passed by the local legislative body  
75 regarding a bond that was approved by a majority of qualified voters in an election.

76 (15) "Measure" means a proposed constitutional amendment, an initiative, or  
77 referendum.

78 (16) "Referendum" means a process by which a law passed by the Legislature or by a  
79 local legislative body is submitted or referred to the voters for their approval or rejection.

80 (17) "Referendum packet" means a copy of the referendum petition, a copy of the law  
81 being submitted or referred to the voters for their approval or rejection, and the signature  
82 sheets, all of which have been bound together as a unit.

83 (18) (a) "Signature" means a holographic signature.

84 (b) "Signature" does not mean an electronic signature.

85 (19) "Signature sheets" means sheets in the form required by this chapter that are used

86 to collect signatures in support of an initiative or referendum.

87 (20) "Sponsors" means the legal voters who support the initiative or referendum and  
88 who sign the application for petition copies.

89 (21) "Sufficient" means that the signatures submitted in support of an initiative or  
90 referendum petition have been certified and verified as required by this chapter.

91 (22) "Verified" means acknowledged by the person circulating the petition as required  
92 in Sections 20A-7-205 and 20A-7-305.

93 Section 2. Section 20A-7-502.5 is amended to read:

94 **20A-7-502.5. Initial fiscal and legal impact estimate -- Preparation of estimate --**  
95 **Challenge to estimate.**

96 (1) Within three working days of receipt of an application for an initiative petition, the  
97 local clerk shall submit a copy of the application to the county, city, or town's budget officer.

98 (2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good  
99 faith estimate of the fiscal and legal impact of the law proposed by the initiative that contains:

100 (i) a dollar amount representing the total estimated fiscal impact of the proposed law;

101 (ii) if the proposed law would increase or decrease taxes, a dollar amount representing  
102 the total estimated increase or decrease for each type of tax affected under the proposed law  
103 and a dollar amount representing the total estimated increase or decrease in taxes under the  
104 proposed law;

105 (iii) if the proposed law would result in the issuance or a change in the status of bonds,  
106 notes, or other debt instruments, a dollar amount representing the total estimated increase or  
107 decrease in public debt under the proposed law;

108 (iv) a listing of all sources of funding for the estimated costs associated with the  
109 proposed law showing each source of funding and the percentage of total funding provided  
110 from each source;

111 (v) a dollar amount representing the estimated costs or savings, if any, to state and  
112 local government entities under the proposed law; [~~and~~]

113 (vi) the proposed law's legal impact, including:

- 114            (A) any significant effects on a person's vested property rights;
- 115            (B) any significant effects on other laws or ordinances;
- 116            (C) any significant legal liability the city, county, or town may incur; and
- 117            (D) any other significant legal impact as determined by the budget officer and the legal
- 118 counsel; and

119            [~~(vi)~~] (vii) a concise explanation, not exceeding 100 words, of the above information  
120 and of the estimated fiscal impact, if any, under the proposed law.

121            (b) (i) If the proposed law is estimated to have no fiscal impact, the local budget officer  
122 shall include a summary statement in the initial fiscal impact statement in substantially the  
123 following form:

124            "The (title of the local budget officer) estimates that the law proposed by this initiative  
125 would have no significant fiscal impact and would not result in either an increase or decrease in  
126 taxes or debt."

127            (ii) If the proposed law is estimated to have a fiscal impact, the local budget officer  
128 shall include a summary statement in the initial fiscal impact estimate in substantially the  
129 following form:

130            "The (title of the local budget officer) estimates that the law proposed by this initiative  
131 would result in a total fiscal expense/savings of \$\_\_\_\_\_, which includes a (type of tax or  
132 taxes) tax increase/decrease of \$\_\_\_\_\_ and a \$\_\_\_\_\_ increase/decrease in public debt."

133            (iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise  
134 difficult to reasonably express in a summary statement, the local budget officer may include in  
135 the summary statement a brief explanation that identifies those factors affecting the variability  
136 or difficulty of the estimate.

137            (3) The budget officer shall prepare an unbiased, good faith estimate of the cost of  
138 printing and distributing information related to the initiative petition in the voter information  
139 pamphlet as required by Section [20A-7-402](#).

140            (4) Within 25 calendar days from the date that the local clerk delivers a copy of the  
141 application, the budget officer shall:

142 (a) deliver a copy of the initial fiscal impact estimate, including the legal impact  
143 estimate, to the local clerk's office; and

144 (b) mail a copy of the initial fiscal impact estimate, including the legal impact estimate,  
145 to the first five sponsors named in the application.

146 (5) (a) Three or more of the sponsors of the petition may, within 20 calendar days of  
147 the date of delivery of the initial fiscal impact estimate to the local clerk's office, file a petition  
148 with the Supreme Court, alleging that the initial fiscal impact estimate, including the legal  
149 impact estimate, taken as a whole, is an inaccurate estimate of the fiscal or legal impact of the  
150 initiative.

151 (b) (i) There is a presumption that the initial fiscal impact estimate, including the legal  
152 impact estimate, prepared by the budget officer and legal counsel is based upon reasonable  
153 assumptions, uses reasonable data, and applies accepted analytical methods to present the  
154 estimated fiscal and legal impact of the initiative.

155 (ii) The Supreme Court may not revise the contents of, or direct the revision of, the  
156 initial fiscal impact estimate, including the legal impact estimate, unless the plaintiffs rebut the  
157 presumption by clear and convincing evidence that establishes that the fiscal estimate,  
158 including the legal impact estimate, taken as a whole, is an inaccurate statement of the  
159 estimated fiscal or legal impact of the initiative.

160 (iii) The Supreme Court may refer an issue related to the initial fiscal impact estimate,  
161 including the legal impact estimate, to a master to examine the issue and make a report in  
162 accordance with Utah Rules of Civil Procedure, Rule 53.

163 (c) The Supreme Court shall certify to the local clerk an initial fiscal impact estimate,  
164 including the legal impact estimate, for the measure that meets the requirements of this section.

165 Section 3. Section **20A-7-513** is amended to read:

166 **20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.**

167 (1) No later than 60 days after the date of an election in which the voters approve an  
168 initiative petition, the budget officer shall:

169 (a) for each initiative approved by the voters, prepare a final fiscal impact statement,

170 using current financial information and containing the information required by Subsection  
171 20A-7-502.5(2), except for the information required by Subsection 20A-7-502.5(2)(a)(vi); and

172 (b) deliver a copy of the final fiscal impact statement to:

173 (i) the local legislative body of the jurisdiction where the initiative was circulated;

174 (ii) the local clerk; and

175 (iii) the first five sponsors listed on the initiative application.

176 (2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25%  
177 or more, the local legislative body shall review the final fiscal impact statement and may, by a  
178 majority vote:

179 (a) repeal the law established by passage of the initiative;

180 (b) amend the law established by the passage of the initiative; or

181 (c) pass a resolution informing the voters that they may file an initiative petition to  
182 repeal the law enacted by the passage of the initiative.

183 Section 4. Section **20A-7-602.5** is enacted to read:

184 **20A-7-602.5. Initial fiscal and legal impact estimate -- Preparation of estimate --**  
185 **Challenge to estimate.**

186 (1) Within three working days after the day on which the local clerk receives an  
187 application for a referendum petition, the local clerk shall submit a copy of the application to  
188 the county, city, or town's budget officer.

189 (2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good  
190 faith estimate of the fiscal and legal impact of repealing the law the referendum proposes to  
191 repeal that contains:

192 (i) a dollar amount representing the total estimated fiscal impact of repealing the law;

193 (ii) if repealing the law would increase or decrease taxes, a dollar amount representing  
194 the total estimated increase or decrease for each type of tax that would be impacted by the law's  
195 repeal and a dollar amount representing the total estimated increase or decrease in taxes that  
196 would result from the law's repeal;

197 (iii) if repealing the law would result in the issuance or a change in the status of bonds,

198 notes, or other debt instruments, a dollar amount representing the total estimated increase or  
199 decrease in public debt that would result;

200 (iv) a listing of all sources of funding for the estimated costs that would be associated  
201 with the law's repeal, showing each source of funding and the percentage of total funding that  
202 would be provided from each source;

203 (v) a dollar amount representing the estimated costs or savings, if any, to state and  
204 local government entities if the law were repealed;

205 (vi) the legal impacts that would result from repealing the law, including:

206 (A) any significant effects on a person's vested property rights;

207 (B) any significant effects on other laws or ordinances;

208 (C) any significant legal liability the city, county, or town may incur; and

209 (D) any other significant legal impact as determined by the budget officer and the legal  
210 counsel; and

211 (vii) a concise explanation, not exceeding 100 words, of the above information and of  
212 the estimated fiscal impact, if any, if the law were repealed.

213 (b) (i) If repealing the law would have no fiscal impact, the local budget officer shall  
214 include a summary statement in the initial fiscal impact statement in substantially the following  
215 form:

216 "The (title of the local budget officer) estimates that repealing the law this referendum  
217 proposes to repeal would have no significant fiscal impact and would not result in either an  
218 increase or decrease in taxes or debt."

219 (ii) If repealing the law is estimated to have a fiscal impact, the local budget officer  
220 shall include a summary statement describing the fiscal impact.

221 (iii) If the estimated fiscal impact of repealing the law is highly variable or is otherwise  
222 difficult to reasonably express in a summary statement, the local budget officer may include in  
223 the summary statement a brief explanation that identifies those factors impacting the variability  
224 or difficulty of the estimate.

225 (3) Within 25 calendar days after the day on which the local clerk submits a copy of the



226 application under Subsection (1), the budget officer shall:

227 (a) deliver a copy of the initial fiscal impact estimate, including the legal impact  
228 estimate, to the local clerk's office; and

229 (b) mail a copy of the initial fiscal impact estimate, including the legal impact estimate,  
230 to the first five sponsors named in the application.