

1 **INITIATIVE AND REFERENDUM IMPACT DISCLOSURE**

2 2014 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: _____

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;
- 17 • requires a fiscal impact estimate to contain information regarding the legal
- 18 impact of the referendum;
- 19 • establishes language for a fiscal impact estimate summary statement; and
- 20 • establishes a process for challenging the validity of a fiscal impact estimate; and
- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 20A-7-101, as last amended by Laws of Utah 2012, Chapters 17 and 72

29 20A-7-502.5, as last amended by Laws of Utah 2011, Chapter 17

30 20A-7-513, as enacted by Laws of Utah 2005, Chapter 236

31 ENACTS:

32 20A-7-602.5, Utah Code Annotated 1953



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

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

36 **20A-7-101. Definitions.**

37 As used in this chapter:

38 (1) "Budget officer" means:

39 (a) (i) for a county of the first class, the person designated as budget officer in Section
40 17-19a-203; or

41 (ii) for a county not described in Subsection (1)(a)(i), a person designated as budget
42 officer in Section 17-19-19;

43 (b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

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

45 (2) "Certified" means that the county clerk has acknowledged a signature as being the
46 signature of a registered voter.

47 (3) "Circulation" means the process of submitting an initiative or referendum petition
48 to legal voters for their signature.

49 (4) "Final fiscal impact statement" means a financial statement prepared after voters
50 approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or
51 20A-7-502.5(2).

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

53 (a) a financial statement prepared [~~according to the terms of~~] under Section
54 20A-7-202.5 [~~or 20A-7-502.5~~] after the filing of an application for an initiative petition[-]; or

55 (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5
56 for an initiative or referendum petition.

57 (6) "Initiative" means a new law proposed for adoption by the public as provided in
58 this chapter.

59 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed
60 law, and the signature sheets, all of which have been bound together as a unit.

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

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

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

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

65 (a) is registered to vote; or

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

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

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

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

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

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

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

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

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

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

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

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

87 (19) "Signature sheets" means sheets in the form required by this chapter that are used
88 to collect signatures in support of an initiative or referendum.

89 (20) "Sponsors" means the legal voters who support the initiative or referendum and

90 who sign the application for petition copies.

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

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

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

96 **20A-7-502.5. Initial fiscal and legal impact estimate -- Preparation of estimate --**
97 **Challenge to estimate.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

152 initiative.

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

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

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

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

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

168 **20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.**

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

171 (a) for each initiative approved by the voters, prepare a final fiscal impact statement,
172 using current financial information and containing the information required by Subsection
173 [20A-7-502.5\(2\)](#), except for the information required by Subsection [20A-7-502.5\(2\)\(a\)\(vi\)](#); and

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

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

176 (ii) the local clerk; and

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

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

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

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

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

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

186 **20A-7-602.5. Initial fiscal and legal impact estimate -- Preparation of estimate --**
187 **Challenge to estimate.**

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

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

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

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

199 (iii) if repealing the law would result in the issuance or a change in the status of bonds,
200 notes, or other debt instruments, a dollar amount representing the total estimated increase or
201 decrease in public debt that would result;

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

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

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

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

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

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

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

213 (vii) a concise explanation, not exceeding 100 words, of the above information and of

214 the estimated fiscal impact, if any, if the law were repealed.

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

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

221 (ii) If repealing the law is estimated to have a fiscal impact, the local budget officer
222 shall include a summary statement in the initial fiscal impact estimate in substantially the
223 following form:

224 "The (title of the local budget officer) estimates that repealing the law this referendum
225 proposes to repeal would result in a total fiscal expense/savings of \$ _____, which includes a
226 (type of tax or taxes) tax increase/decrease of \$ _____ and a \$ _____ increase/decrease in
227 public debt."

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

232 (3) Within 25 calendar days after the day on which the local clerk submits a copy of the
233 application under Subsection (1), the budget officer shall:

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

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

238 (4) (a) Three or more of the sponsors of the petition may, within 20 calendar days after
239 the day on which the budget officer complies with Subsection (3)(b), file a petition with the
240 Supreme Court, alleging that the initial fiscal impact estimate, including the legal impact
241 estimate, taken as a whole, is an inaccurate estimate of the fiscal or legal impact of repealing
242 the law the referendum proposes to repeal.

243 (b) (i) There is a presumption that the initial fiscal impact estimate, including the legal
244 impact estimate, prepared by the budget officer and legal counsel is based upon reasonable

245 assumptions, uses reasonable data, and applies accepted analytical methods to present the
246 estimated fiscal and legal impact of repealing the law the referendum proposes to repeal.

247 (ii) The Supreme Court may not revise the contents of, or direct the revision of, the
248 initial fiscal impact estimate, including the legal impact estimate, unless the plaintiffs rebut the
249 presumption by clear and convincing evidence that establishes that the fiscal estimate,
250 including the legal impact estimate, taken as a whole, is an inaccurate statement of the
251 estimated fiscal or legal impact of repealing the law the referendum proposes to repeal.

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

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

Legislative Review Note

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Office of Legislative Research and General Counsel