

## HB0422S01 compared with HB0422

~~{deleted text}~~ shows text that was in HB0422 but was deleted in HB0422S01.

inserted text shows text that was not in HB0422 but was inserted into HB0422S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Bradley G. Last proposes the following substitute bill:

### INITIATIVE AND REFERENDUM IMPACT DISCLOSURE

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill changes the requirements for a financial impact disclosure.

##### Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ for a local initiative, requires an initial fiscal impact estimate to contain information regarding the legal impact of the initiative;
- ▶ for a local referendum:
  - establishes requirements for a fiscal impact estimate; and
  - requires a fiscal impact estimate to contain information regarding the legal impact of the referendum; ~~{~~

~~• establishes language for a fiscal impact estimate summary statement; and~~

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~~establishes a process for challenging the validity of a fiscal impact estimate;}~~

and

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

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

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

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

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

As used in this chapter:

(1) "Budget officer" means:

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

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

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

(c) for a town, the town council.

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

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

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

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approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means:

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

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

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

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

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

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

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

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

(a) is registered to vote; or

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

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

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

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

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

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

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

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

(16) "Referendum" means a process by which a law passed by the Legislature or by a

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local legislative body is submitted or referred to the voters for their approval or rejection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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from each source;

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Within 25 calendar days from the date that the local clerk delivers a copy of the

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application, the budget officer shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the local clerk; and

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

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

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

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

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

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

**20A-7-602.5. Initial fiscal and legal impact estimate -- Preparation of estimate --**

**Challenge to estimate.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

~~— (b) (i) There is a presumption that the initial fiscal impact estimate, including the legal impact estimate, prepared by the budget officer and legal counsel is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal and legal impact of repealing the law the referendum proposes to repeal.~~

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

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

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

### Legislative Review Note

~~— as of 2-25-14 6:21 PM~~

~~— Office of Legislative Research and General Counsel }~~