

**Representative R. Curt Webb** proposes the following substitute bill:

**LOCAL ELECTIONS AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: R. Curt Webb

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Election Code relating to elections on local referenda.

**Highlighted Provisions:**

This bill:

- ▶ defines the term "local tax law";
  - ▶ modifies the deadline for delivering a signed and verified referendum packet in relation to a local tax law;
  - ▶ modifies dates for:
    - the certification of referendum petition signatures by a county clerk; and
    - evaluation of the sufficiency of a referendum petition by a local clerk;
  - ▶ provides that an election on a referendum challenging a local tax law may be conducted entirely by absentee ballot;
  - ▶ describes requirements relating to an election described in the preceding paragraph;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-7-101**, as last amended by Laws of Utah 2012, Chapters 17 and 72

31 **20A-7-606**, as last amended by Laws of Utah 2012, Chapter 72

32 **20A-7-607**, as last amended by Laws of Utah 2011, Chapter 17

33 **20A-7-609**, as last amended by Laws of Utah 2011, Chapter 17

34 ENACTS:

35 **20A-7-609.5**, Utah Code Annotated 1953



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

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

39 **20A-7-101. Definitions.**

40 As used in this chapter:

41 (1) "Budget officer" means:

42 (a) (i) for a county of the first class, the person designated as budget officer in Section  
43 **17-19a-203**; or

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

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

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

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

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

52 (4) "Final fiscal impact statement" means a financial statement prepared after voters  
53 approve an initiative that contains the information required by Subsection **20A-7-202.5(2)** or  
54 **20A-7-502.5(2)**.

55 (5) "Initial fiscal impact estimate" means a financial statement prepared according to  
56 the terms of Section **20A-7-202.5** or **20A-7-502.5** after the filing of an application for an

57 initiative petition.

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

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

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

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

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

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

66 (a) is registered to vote; or

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

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

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

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

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

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

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

79 (15) "Local tax law" means a local law, passed by a political subdivision with an  
80 annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

81 [~~(15)~~] (16) "Measure" means a proposed constitutional amendment, an initiative, or  
82 referendum.

83 [~~(16)~~] (17) "Referendum" means a process by which a law passed by the Legislature or  
84 by a local legislative body is submitted or referred to the voters for their approval or rejection.

85 [~~(17)~~] (18) "Referendum packet" means a copy of the referendum petition, a copy of  
86 the law being submitted or referred to the voters for their approval or rejection, and the  
87 signature sheets, all of which have been bound together as a unit.

88 [18] (19) (a) "Signature" means a holographic signature.

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

90 [19] (20) "Signature sheets" means sheets in the form required by this chapter that are  
91 used to collect signatures in support of an initiative or referendum.

92 [20] (21) "Sponsors" means the legal voters who support the initiative or referendum  
93 and who sign the application for petition copies.

94 [21] (22) "Sufficient" means that the signatures submitted in support of an initiative  
95 or referendum petition have been certified and verified as required by this chapter.

96 [22] (23) "Verified" means acknowledged by the person circulating the petition as  
97 required in Sections 20A-7-205 and 20A-7-305.

98 Section 2. Section 20A-7-606 is amended to read:

99 **20A-7-606. Submitting the referendum petition -- Certification of signatures by**  
100 **the county clerks -- Transfer to local clerk.**

101 (1) (a) The sponsors shall deliver each signed and verified referendum packet to the  
102 county clerk of the county in which the packet was circulated[;] no later than 45 days after the  
103 day on which the local law is passed.

104 [~~(i) for county referenda, no later than 45 days after the passage of the local law;~~]

105 [~~(ii) for municipal referenda, no later than 45 days after the passage of the local law;~~

106 ~~or]~~

107 [~~(iii) for referenda held in relation to the adoption of an ordinance imposing a county~~  
108 ~~option sales and use tax under Section 59-12-1102, no later than 100 days before the election~~  
109 ~~that the referendum qualifies for under Subsection 20A-7-609(2)(c).]~~

110 (b) A sponsor may not submit a referendum packet after the deadline established in this  
111 Subsection (1).

112 (2) (a) No later than [~~60 days after the local law passes~~] 15 days after the day on which  
113 a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

114 (i) check the names of all persons completing the verification on the last page of each  
115 referendum packet to determine whether those persons are Utah residents and are at least 18  
116 years old; and

117 (ii) submit the name of each of those persons who is not a Utah resident or who is not  
118 at least 18 years old to the attorney general and county attorney.

119 (b) The county clerk may not certify a signature under Subsection (3) on a referendum  
120 packet that is not verified in accordance with Section 20A-7-605.

121 (3) No later than ~~[75]~~ 30 days after the ~~[local law passes]~~ day on which a county clerk  
122 receives a referendum packet under Subsection (1)(a), the county clerk shall:

123 (a) determine whether each signer is a registered voter according to the requirements of  
124 Section 20A-7-606.3;

125 (b) certify on the referendum petition whether each name is that of a registered voter;  
126 and

127 (c) deliver all of the verified referendum packets to the local clerk.

128 Section 3. Section 20A-7-607 is amended to read:

129 **20A-7-607. Evaluation by the local clerk.**

130 (1) When each referendum packet is received from a county clerk, the local clerk shall  
131 check off from the local clerk's record the number of each referendum packet filed.

132 (2) ~~[(a) After all of the referendum packets have been received by]~~ Within 15 days after  
133 the day on which the local clerk receives each referendum packet from a county clerk, the local  
134 clerk shall:

135 (a) count the number of the names certified by the county clerks that appear on each  
136 verified signature sheet[-];

137 (b) ~~[If]~~ if the total number of certified names from each verified signature sheet equals  
138 or exceeds the number of names required by Section 20A-7-601 and the requirements of this  
139 part are met, ~~[the local clerk shall]~~ mark upon the front of the petition the word "sufficient[-]";

140 (c) ~~[If]~~ if the total number of certified names from each verified signature sheet does  
141 not equal or exceed the number of names required by Section 20A-7-601 or a requirement of  
142 this part is not met, ~~[the local clerk shall]~~ mark upon the front of the petition the word  
143 "insufficient[-]"; and

144 (d) ~~[The local clerk shall immediately]~~ notify any one of the sponsors of the local  
145 clerk's finding.

146 (3) If the local clerk finds the total number of certified signatures from each verified  
147 signature sheet to be insufficient, any sponsor may file a written demand with the local clerk  
148 for a recount of the signatures appearing on the referendum petition in the presence of any  
149 sponsor.

150 (4) (a) If the local clerk refuses to accept and file any referendum petition, any voter  
151 may apply to the Supreme Court for an extraordinary writ to compel the local clerk to do so  
152 within 10 days after the refusal.

153 (b) If the Supreme Court determines that the referendum petition is legally sufficient,  
154 the local clerk shall file it, with a verified copy of the judgment attached to it, as of the date on  
155 which it was originally offered for filing in the local clerk's office.

156 (c) If the Supreme Court determines that any petition filed is not legally sufficient, the  
157 Supreme Court may enjoin the local clerk and all other officers from:

158 (i) certifying or printing the ballot title and numbers of that measure on the official  
159 ballot for the next election~~[-];~~ or

160 (ii) as it relates to a local tax law that is conducted entirely by absentee ballot,  
161 certifying, printing, or mailing the ballot title and numbers of that measure under Section  
162 [20A-7-609.5](#).

163 (5) A petition determined to be sufficient in accordance with this section is qualified  
164 for the ballot.

165 Section 4. Section **20A-7-609** is amended to read:

166 **20A-7-609. Form of ballot -- Manner of voting.**

167 (1) The local clerk shall ensure that the number and ballot title are presented upon the  
168 official ballot with, immediately adjacent to them, the words "For" and "Against," each word  
169 presented with an adjacent square in which the elector may indicate the elector's vote.

170 (2) (a) Except as provided in Subsection (2)(c)(i) ~~[or (d)(i)]~~ or Section [20A-7-609.5](#),  
171 and unless the county legislative body calls a special election, the county clerk shall ensure that  
172 county referenda that have qualified for the ballot appear on the next regular general election  
173 ballot.

174 (b) Except as provided in Subsection (2)~~(d)~~(c)(ii) or Section [20A-7-609.5](#), and unless  
175 the municipal legislative body calls a special election, the municipal recorder or clerk shall  
176 ensure that municipal referenda that have qualified for the ballot appear on the next regular  
177 municipal election ballot.

178 ~~[(c) For referenda held in relation to the adoption of an ordinance imposing a county~~  
179 ~~option sales and use tax under Section [59-12-1102](#), the county clerk shall ensure that referenda~~  
180 ~~that have qualified for the ballot appear on the ballot at the earlier of:]~~

181 ~~[(i) the next regular general election that is more than 155 days after the date of the~~  
182 ~~adoption of the ordinance; or]~~

183 ~~[(ii) the next municipal general election that is more than 155 days after the date of the~~  
184 ~~adoption of the ordinance.]~~

185 ~~[(d)]~~ (c) (i) [Hf] Except as provided in Section 20A-7-609.5, if a local law passes after  
186 January 30 of the year in which there is a regular general election, the county clerk shall ensure  
187 that a county referendum that has qualified for the ballot appears on the ballot at the second  
188 regular general election immediately following the passage of the local law unless the county  
189 legislative body calls a special election.

190 (ii) [Hf] Except as provided in Section 20A-7-609.5, if a local law passes after January  
191 30 of the year in which there is a municipal general election, the municipal recorder or clerk  
192 shall ensure that a municipal referendum that has qualified for the ballot appears on the ballot  
193 at the second municipal general election immediately following the passage of the local law  
194 unless the municipal legislative body calls a special election.

195 (3) (a) (i) A voter desiring to vote in favor of the law that is the subject of the  
196 referendum shall mark the square adjacent to the word "For."

197 (ii) The law that is the subject of the referendum is effective if a majority of voters  
198 mark "For."

199 (b) (i) A voter desiring to vote against the law that is the subject of the referendum  
200 petition shall mark the square following the word "Against."

201 (ii) The law that is the subject of the referendum is not effective if a majority of voters  
202 mark "Against."

203 Section 5. Section **20A-7-609.5** is enacted to read:

204 **20A-7-609.5. Election on referendum challenging local tax law conducted entirely**  
205 **by absentee ballot.**

206 (1) An election officer may administer an election on a referendum challenging a local  
207 tax law entirely by absentee ballot.

208 (2) For purposes of an election conducted under this section, the election officer shall:

209 (a) designate as the election day the day that is 30 days after the day on which the  
210 election officer complies with Subsection (2)(b); and

211 (b) within 30 days after the day on which the referendum described in Subsection (1)

212 qualifies for the ballot, mail to each registered voter within the voting precincts to which the  
213 local tax law applies:

214 (i) an absentee ballot;

215 (ii) a statement that there will be no polling place in the voting precinct for the  
216 election;

217 (iii) a statement specifying the election day described in Subsection (2)(a);

218 (iv) a business reply mail envelope;

219 (v) instructions for returning the ballot that include an express notice about any  
220 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

221 (vi) a warning, on a separate page of colored paper in boldface print, indicating that if  
222 the voter fails to follow the instructions included with the absentee ballot, the voter will be  
223 unable to vote in that election because there will be no polling place in the voting precinct on  
224 the day of the election.

225 (3) A voter who votes by absentee ballot under this section is not required to apply for  
226 an absentee ballot as required by this part.

227 (4) An election officer who administers an election under this section shall:

228 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before  
229 the election; or

230 (ii) obtain the signature of each voter within the voting precinct from the county clerk;  
231 and

232 (b) maintain the signatures on file in the election officer's office.

233 (5) (a) Upon receiving the returned absentee ballots under this section, the election  
234 officer shall compare the signature on each absentee ballot with the voter's signature that is  
235 maintained on file and verify that the signatures are the same.

236 (b) If the election officer questions the authenticity of the signature on the absentee  
237 ballot, the election officer shall immediately contact the voter to verify the signature.

238 (c) If the election officer determines that the signature on the absentee ballot does not  
239 match the voter's signature that is maintained on file, the election officer shall:

240 (i) unless the absentee ballot application deadline described in Section [20A-3-304](#) has  
241 passed, immediately send another absentee ballot and other voting materials as required by this  
242 section to the voter; and

243

(ii) disqualify the initial absentee ballot.