

REFERENDUM AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred C. Cox

Senate Sponsor: Luz Escamilla

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

- ▶ addresses requirements relating to the referendum process for challenging a state law;
- ▶ provides that the deadline for filing an application to circulate a referendum petition challenging a state law occurs five days after the later of:
 - the last day of the legislative session at which the law passed;
 - the day on which the governor signs the law; or
 - the day on which the law becomes a law because the governor fails to veto or sign the law;
- ▶ extends the effective date, under certain circumstances, of a state law challenged by referendum; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-7-101**, as last amended by Laws of Utah 2014, Chapters 364 and 396

32 **20A-7-301**, as last amended by Laws of Utah 2011, Chapter 17

33 **20A-7-302**, as last amended by Laws of Utah 1995, Chapter 153

34 **20A-7-306**, as last amended by Laws of Utah 2011, Chapter 17

35 **20A-7-307**, as last amended by Laws of Utah 2011, Chapter 17



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) for a county, the person designated as budget officer in Section **17-19a-203**;

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 under Section **20A-7-202.5** after the filing of an
54 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) "Local tax law" means a local law, passed by a political subdivision with an
79 annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

80 (16) "Measure" means a proposed constitutional amendment, an initiative, or
81 referendum.

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

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

87 (19) (a) "Signature" means a holographic signature.

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

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

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

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

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

95 (23) "Trigger date" means, in relation to a state law that is the subject of a referendum
96 petition, the later of:

97 (a) the last day of the legislative session at which the law passed;

98 (b) the day on which the governor signs the law; or

99 (c) the day on which the law becomes a law because the governor fails to veto or sign
100 the law, as provided in Utah Constitution Article VII, Section 8, Subsection (2).

101 [~~(23)~~] (24) "Verified" means acknowledged by the person circulating the petition as
102 required in Sections 20A-7-205 and 20A-7-305.

103 Section 2. Section 20A-7-301 is amended to read:

104 **20A-7-301. Referendum -- Signature requirements -- Submission to voters.**

105 (1) In accordance with Article VI, Section 1, Subsection (2)(a)(i)(B) of the Utah
106 Constitution, a law passed by at least a two-thirds vote of the Legislature is not subject to a
107 referendum.

108 [~~(1)~~](a) (2) A person seeking to have a law passed by the Legislature submitted to a
109 vote of the people shall obtain:

110 [(i)] (a) legal signatures equal to 10% of the cumulative total of all votes cast by voters
111 of this state for all candidates for President of the United States at the last regular general
112 election at which a President of the United States was elected; and

113 [(ii)] (b) from each of at least 15 counties, legal signatures equal to 10% of the total of
114 all votes cast in that county for all candidates for President of the United States at the last
115 regular general election at which a President of the United States was elected.

116 [(b)] (3) When the lieutenant governor declares a referendum petition sufficient under
117 this part, the governor shall issue an executive order that:

118 [(i)] (a) directs that the referendum be submitted to the voters at the next regular
119 general election; or

120 [(ii)] (b) calls a special election according to the requirements of Section 20A-1-203

121 and directs that the referendum be submitted to the voters at that special election.

122 ~~[(2)]~~ (4) When a referendum petition has been declared sufficient, the law that is the
 123 subject of the petition does not take effect unless and until it is approved by a vote of the
 124 people at a regular general election or a statewide special election.

125 ~~[(3)]~~ (5) The lieutenant governor shall provide to any interested person from the
 126 official canvass of the last regular general election at which a President of the United States
 127 was elected:

128 (a) the cumulative total of all votes cast by voters of this state for all candidates for
 129 President of the United States; and

130 (b) for each county, the total of all votes cast in that county for all candidates for
 131 President of the United States.

132 Section 3. Section **20A-7-302** is amended to read:

133 **20A-7-302. Referendum process -- Application procedures.**

134 (1) ~~[Persons wishing]~~ Individuals who desire to circulate a referendum petition in
 135 relation to a law passed by the Legislature shall file an application with the lieutenant governor
 136 within five calendar days after the ~~[end of the legislative session at which the law passed]~~
 137 applicable trigger date.

138 (2) The application shall contain:

139 (a) the name and residence address of at least five sponsors of the referendum petition;

140 (b) a certification indicating that each of the sponsors:

141 (i) is a voter; and

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

143 (c) the signature of each of the sponsors, attested to by a notary public; and

144 (d) ~~[a]~~ an enrolled copy of the law.

145 Section 4. Section **20A-7-306** is amended to read:

146 **20A-7-306. Submitting the referendum petition -- Certification of signatures by**
 147 **the county clerks -- Transfer to lieutenant governor.**

148 (1) (a) ~~[No later than 40 days after the end of the legislative session at which the law~~
 149 ~~passed, the]~~ The sponsors shall deliver each signed and verified referendum packet to the
 150 county clerk of the county in which the packet was circulated no later than 40 days after the
 151 applicable trigger date.

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

154 (2) (a) No later than 55 days after the [~~end of the legislative session at which the law~~
155 ~~passed~~] applicable trigger date, the county clerk shall:

156 (i) check the [~~names of all persons completing~~] name of each individual who
157 completed the verification on the last page of each referendum packet to determine whether [~~or~~
158 ~~not those persons are Utah residents and are~~] the individual is a Utah resident and is at least 18
159 years old; and

160 (ii) submit the name of each [~~of those persons~~] individual described in Subsection
161 (2)(a)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general
162 and county attorney.

163 (b) The county clerk may not certify a signature under Subsection (3) on a referendum
164 packet that is not verified in accordance with Section [20A-7-305](#).

165 (3) No later than 55 days after the [~~end of the legislative session at which the law~~
166 ~~passed~~] applicable trigger date, the county clerk shall:

167 (a) determine whether each signer is a registered voter according to the requirements of
168 Section [20A-7-306.3](#);

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

171 (c) deliver all of the verified referendum packets to the lieutenant governor.

172 (4) Upon receipt of a referendum packet under Subsection (3) and any statement
173 submitted under Subsection [20A-7-305](#)(3), the lieutenant governor shall remove from the
174 referendum petition a voter's signature if the voter has requested the removal in accordance
175 with Subsection [20A-7-305](#)(3).

176 Section 5. Section [20A-7-307](#) is amended to read:

177 **[20A-7-307. Evaluation by the lieutenant governor.](#)**

178 (1) When each referendum packet is received from a county clerk, the lieutenant
179 governor shall check off from the record the number of each referendum packet filed.

180 (2) (a) After all of the referendum packets have been received by the lieutenant
181 governor and the lieutenant governor has removed the signatures as required by Section
182 [20A-7-306](#), the lieutenant governor shall:

183 (i) count the number of the names certified by the county clerks that remain on each
184 verified signature sheet; and

185 (ii) declare the petition to be sufficient or insufficient no later than 60 days after the
186 ~~[end of the legislative session at which the law passed]~~ applicable trigger date.

187 (b) Subject to Subsection 20A-7-301(2), if the law that is the subject of the referendum
188 petition is due to take effect less than 60 days after the applicable trigger date, the effective date
189 of the law is extended to the day on which the lieutenant governor declares the petition to be
190 sufficient or insufficient.

191 ~~[(b)]~~ (c) If the total number of names counted under Subsection (2)(a)(i) equals or
192 exceeds the number of names required by Section 20A-7-301 and the requirements of this part
193 are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

194 ~~[(c)]~~ (d) If the total number of names counted under Subsection (2)(a)(i) does not equal
195 or exceed the number of names required by Section 20A-7-301 or a requirement of this part is
196 not met, the lieutenant governor shall mark upon the front of the petition the word
197 "insufficient."

198 ~~[(d)]~~ (e) The lieutenant governor shall immediately notify any one of the sponsors of
199 the lieutenant governor's finding.

200 (3) (a) If the lieutenant governor refuses to accept and file any referendum petition, any
201 voter may apply to the supreme court for an extraordinary writ to compel the lieutenant
202 governor to do so within 10 days after the refusal.

203 (b) If the supreme court determines that the referendum petition is legally sufficient,
204 the lieutenant governor shall ~~[file it];~~

205 (i) file the referendum petition, with a verified copy of the judgment attached to ~~[it, as~~
206 ~~of] the referendum petition; and~~

207 (ii) designate the filing date of the referendum petition as the date on which [it] the
208 referendum petition was originally offered for filing in the lieutenant governor's office.

209 (c) If the supreme court determines that any petition filed is not legally sufficient, the
210 supreme court may enjoin the lieutenant governor and all other officers from certifying or
211 printing the ballot title and numbers of that measure on the official ballot.

212 (4) A petition determined to be sufficient in accordance with this section is qualified
213 for the ballot.

Legislative Review Note
Office of Legislative Research and General Counsel