BALLOT PROPOSITION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends provisions related to ballot propositions.

Highlighted Provisions:

This bill:

- addresses requirements relating to preparing and publishing arguments for or against a ballot proposition;
- describes the duties of an election officer in relation to a ballot proposition and arguments for or against a ballot proposition;
- modifies deadlines relating to ballot propositions, arguments, and public meeting requirements; and
- makes technical 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 2014, Chapters 364 and 396
- 20A-7-402, as last amended by Laws of Utah 2012, Chapters 334 and 369
- 59-1-1604, as enacted by Laws of Utah 2014, Chapter 356
Be it enacted by the Legislature of the state of Utah:

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


As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;
(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) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

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

[(5)] (6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 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)] (7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

[(7)] (8) "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)] (9) "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.
"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.

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

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

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

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

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

"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.

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

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

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

"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.

"Signature" means a holographic signature.

"Signature" does not mean an electronic signature.

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

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

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

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

Section 2. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations --

Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that meets the requirements of this part.

(2) (a) The arguments for [and] or against a ballot proposition shall conform to the requirements of this section.

[(i) (b) To prepare [arguments] an argument for or against a ballot proposition, [a person] an eligible voter shall file a request with the [local legislative body] election officer at least 65 days before the election at which the ballot proposition is to be voted [upon] on.

[(ii) (c) If more than one [person] eligible voter requests the opportunity to prepare [arguments] an argument for or against a ballot proposition, the [governing body] election officer shall make the final designation according to the following criteria:

[(A) (i) sponsors have priority in preparing an argument regarding a ballot proposition; and

[(B) (ii) members of the local legislative body have priority over others.

[(iii) (A) (d) (i) Except as provided [by] in Subsection (2)[(a)(iv)][(e), a sponsor of a ballot proposition may prepare an argument in favor of the ballot proposition.

[(B) (ii) Except as provided [by] in Subsection (2)[(a)(iv)][(e), [a person] and subject to Subsection (2)(c), an eligible voter opposed to the ballot proposition who submits a request under Subsection (2)[(a)(i)][(b) may prepare an argument against the ballot proposition.

[(iv) (A) (e) (i) For a referendum, [a person] subject to Subsection (2)(c), an eligible voter who is in favor of a law that is referred to the voters and who submits a request under Subsection (2)[(a)(i)][(b) may prepare an argument for adoption of the law.

[(B) (ii) The sponsors of a referendum may prepare an argument against the adoption of a law that is referred to the voters.

[(v) The arguments may not:]

(f) An eligible voter who submits an argument under this section shall:
[\text{(A)}] (i) ensure that the argument does not exceed 500 words in length; [\text{or}]

[\text{(B)}] (ii) ensure that the argument does not list more than five names as sponsors[.]

(iii) submit the argument to the election officer no later than 60 days before the
election day on which the ballot proposition will be submitted to the voters; and

(iv) include with the argument the eligible voter's name, residential address, postal
address, email address, and phone number.

(vi) The arguments supporting and opposing any county or municipal ballot

proposition shall be filed with the local clerk not less than 50 days before the election at which
they are to be voted upon.]

(g) An election officer shall refuse to accept and publish an argument that is submitted
after the deadline described in Subsection (2)(f)(iii).

(3) (a) An election officer who timely receives the arguments in favor of and against a
ballot proposition shall, within one business day after the day on which the election office
receives both arguments, send, via mail or email:

(i) a copy of the argument in favor of the ballot proposition to the eligible voter who
submitted the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the eligible voter who
submitted the argument in favor of the ballot proposition.

(b) The eligible voter who submitted a timely argument in favor of the ballot

proposition:

(i) may submit to the election officer a rebuttal argument of the argument against the
ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the rebuttal argument no later than 45 days before the election day on
which the ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely argument against the ballot proposition:

(i) may submit to the election officer a rebuttal argument of the argument in favor of
the ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the rebuttal argument no later than 45 days before the election day on
which the ballot proposition will be submitted to the voters.
(d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b):
   (i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument to the election officer; and
   (ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify an argument or rebuttal argument.

(b) The election officer, and the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or rebuttal argument in order to:
   (i) correct factual, grammatical, or spelling errors; and
   (ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (4)(b).

(5) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

[(b)] (6) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate prepared for each initiative under Section 20A-7-502.5.

[(3)] (7) (a) In preparing the local voter information pamphlet, the election officer shall:
   (i) ensure that the arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;
   (ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed arguments:
   "The arguments for or against a ballot proposition are the opinions of the authors."
   (iii) pay for the printing and binding of the local voter information pamphlet; and
   (iv) [ensure that the local clerk distributes] distribute either the pamphlets or the notice...
described in Subsection [(3)](7)(c) either by mail or carrier not less than 15 days before, but not more than 45 days before, the election at which the ballot propositions are to be voted upon.

(b) (i) If the proposed measure exceeds 500 words in length, the [local legislative body may direct the local clerk to] election officer may summarize the measure in 500 words or less. (ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The [local legislative body] election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail. (ii) The notice described in Subsection [(3)](7)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

Section 3. Section 59-1-1604 is amended to read:

59-1-1604. Arguments for and against a ballot proposition -- Rebuttal arguments

-- Posting arguments.

(1) The arguments for or against a ballot proposition shall conform to the requirements of this section.

[(†)[2] (a) (i) The governing body of a taxing entity shall submit to the election officer an argument in favor of a ballot proposition. (ii) To prepare an argument for or against a ballot proposition, an eligible voter shall file a request with the election officer at least 65 days before the election at which the ballot proposition is to be voted on.]

(b) [(i) Any eligible voter may submit to the election officer an argument against the ballot proposition. (ii)] If two or more eligible voters wish to submit an argument [under Subsection (1)(b)(i)] for, or an argument against, a ballot proposition, the election officer shall designate one of the eligible voters to submit the argument [described in Subsection (1)(b)(i)].

(c) (i) [Subject to Subsection (1)(c)(ii), the election officer shall ensure that each argument submitted under this Subsection (1):] An eligible voter who submits an argument
under this section shall:

(A) ensure that the argument does not exceed 500 words in length; [and]

(B) [is submitted not] submit the argument to the election officer no less than 60 days before the determination date[; and]

(C) include with the argument the eligible voter's name, residential address, postal address, email address, and phone number.

[(ii) The election officer shall ensure that each argument submitted under Subsection (1)(b)(ii) is submitted not less than 50 days before the determination date.]

(ii) An election officer shall refuse to accept and publish an argument that is submitted after the deadline described in Subsection (2)(c)(i)(B).

[(2) (a) When the election officer has received] An election officer who timely receives the arguments in favor of and against a ballot proposition[, the election officer shall immediately] shall, within one business day after the day on which the election officer receives both arguments, send, via email or mail:

(i) a copy of the argument in favor of the ballot proposition to the [author of] eligible voter who submitted the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the [author of] eligible voter who submitted the argument in favor of the ballot proposition.

[(b)(i) The author of the argument in favor of the ballot proposition may submit to the election officer a rebuttal argument directed to the argument against the ballot proposition.]

[(ii) The author of the argument against the ballot proposition may submit to the election officer a rebuttal argument directed to the argument in favor of the ballot proposition.]

[(c) The election officer shall ensure that each rebuttal argument submitted under Subsection (2)(b):]

[(i) does not exceed 250 words in length; and]

[(ii) is submitted not less than 40 days before the determination date.]

[(d)(i) An author of an argument described in Subsection (1) may designate a person to submit a rebuttal argument described in this Subsection (2):]

[(ii) A person designated in Subsection (2)(d)(i) shall be an eligible voter.]

[(3) A person submitting an argument under this section shall provide the election officer with:]

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[(a) the person's name and address; and]
[(b) an email address by which the person may be contacted:]

(b) The eligible voter who submitted a timely argument in favor of the ballot proposition:
   (i) may submit to the election officer a rebuttal argument of the argument against the ballot proposition;
   (ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and
   (iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely argument against the ballot proposition:
   (i) may submit to the election officer a rebuttal argument of the argument in favor of the ballot proposition;
   (ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and
   (iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection [(4)(c), an author may not amend or change]

(4)(b):  
   (i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument [is submitted] to the election officer[;] and
   [(b) Except as provided in Subsection (4)(c), the election officer may not alter an argument or rebuttal argument in any way:]
   (ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify an argument or rebuttal argument.

[(c)] (b) The election officer, and [an author of an argument] the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or a rebuttal argument [after the argument or rebuttal argument is submitted if the election officer and the author jointly agree that changes to the argument or rebuttal argument must be made to correct spelling, factual, or grammatical errors:] in order to:
   (i) correct factual, grammatical, and spelling errors; and
(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (4)(b).

(5) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) The election officer of a taxing entity shall:

(a) post the arguments and rebuttal arguments on the Statewide Electronic Voter Information Website as described in Section 20A-7-801 for 30 consecutive days before the determination date;

(b) if a taxing entity has a public website, post all arguments and rebuttal arguments in a prominent place on the taxing entity's public website for 30 consecutive days before the determination date; and

(c) if the taxing entity publishes a newsletter or other periodical, post all arguments and rebuttal arguments in the next scheduled newsletter or other periodical published before the determination date.

(7) When posting an argument and rebuttal argument under Subsection [(5), the governing body] (6), the election officer of a taxing entity shall ensure that:

(a) a rebuttal argument is posted in the same manner as a direct argument;

(b) each rebuttal argument follows immediately after the direct argument that it seeks to rebut; and

(c) information regarding the public meeting required by Section 59-1-1605 follows immediately after the posted arguments, including the date, time, and place of the public meeting.

Section 4. Section 59-1-1605 is amended to read:

59-1-1605. Public meeting requirements.
(1) The governing body of a taxing entity shall conduct a public meeting in accordance with this section no more than [14] 45, but at least four, days before the determination date.

(2) The governing body of the taxing entity shall allow equal time, within a reasonable limit, for a presentation of the arguments:

   (a) in favor of the ballot proposition; and

   (b) against the ballot proposition.

(3) (a) A governing body of a taxing entity conducting a public meeting described in Subsection (1) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

   (b) A taxing entity shall hold a public meeting described in this section beginning at or after 6 p.m.

(4) (a) A taxing entity shall provide a digital audio recording of a public meeting described in Subsection (1) no later than three days after the date of the public meeting.

   (b) For purposes of providing the digital audio recording described in Subsection (4)(a), a governing body of a taxing entity shall:

      (i) if a taxing entity has a public website, provide access to the digital audio recording described in Subsection (4)(a) on the taxing entity's public website; or

      (ii) provide a digital copy of the recording described in Subsection (4)(a) to members of the public at the taxing entity's primary government office building.

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Legislative Review Note
Office of Legislative Research and General Counsel