HB0471S01 compared with HB0471

{deleted text} shows text that was in HB0471 but was deleted in HB0471S01.

Inserted text shows text that was not in HB0471 but was inserted into HB0471S01.

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.

{INITIATIVE}Senator Curtis S. Bramble proposes the following substitute bill:

PETITION AMENDMENTS
2018 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Brad M. Daw
Senate Sponsor: {_____}Curtis S. Bramble

LONG TITLE

General Description:

> This bill {changes the effective date of certain laws enacted by a statewide initiative petition}addresses provisions related to certain petitions in the Election Code.

Highlighted Provisions:

> This bill:

- ▸ changes the effective date of certain laws enacted by a statewide initiative petition;
- ▸ amends deadlines related to the certification of signatures on certain petitions;
- ▸ allows the lieutenant governor to intervene in the signature certification process for certain petitions if:
  - • the person responsible for certifying the signatures does not comply with certain deadlines;
  - • requested by the person submitting the petition; or

- requested by the person responsible for certifying the signatures; and
▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-212, as last amended by Laws of Utah 2001, Chapter 20

20A-7-506, as last amended by Laws of Utah 2012, Chapter 72

20A-7-606, as last amended by Laws of Utah 2016, Chapter 365

20A-9-403, as last amended by Laws of Utah 2017, Chapter 91

20A-9-408, as last amended by Laws of Utah 2017, Chapter 91

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

Section 1. Section **20A-7-212** is amended to read:

20A-7-212.   Effective date.

(1) A proposed law submitted to the Legislature by initiative petition and [enacted by them] passed by the Legislature takes effect 60 days after the [final adjournment of the session of the Legislature that passed it] adjournment sine die of the session of the Legislature in which the law was passed, unless a different effective date is included in the proposed law and the proposed law passes the Legislature by a two-thirds vote of the members elected to each house of the Legislature.

(2) [(a) Any] A proposed law submitted to the people by initiative petition that is approved by the voters at [any election does not take effect until at least five days after the date of the official proclamation of the vote by the governor.] an election takes effect:

(a) on the day that is 60 days after the adjournment sine die of the annual general session of the Legislature next following the election;

(b) if the law effectuates a tax increase, on January 1 of the year following the annual general session of the Legislature next following the election;

(c) if the law effectuates a tax decrease, five days after the day on which the governor

issues the proclamation described in Section 20A-7-211; or

(d) if the law specifies a special effective date that is after the applicable effective date described in Subsection (2)(a), (b), or (c), the date specified in the law.

[(b) Any act or law submitted to the people by initiative that is approved by the voters at any election takes effect on the date specified in the initiative petition.]

[(c) If the initiative petition does not specify an effective date, a law approved by the voters at any election takes effect five days after the date of the official proclamation of the vote by the governor.]

(3) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any initiative approved by the people at any legislative session.

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Legislative Review Note Office of Legislative Research and General Counsel}

Section 2. Section **20A-7-506** is amended to read:

20A-7-506.   Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated on or before the sooner of:

(i) for county initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(ii) for municipal initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

(2) (a) No later than the earlier of 15 days after the day on which the county clerk receives an initiative packet or May 1, the county clerk shall:

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

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

(b) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.

(3) No later than the earlier of 30 days after the day on which the county clerk receives an initiative packet or May 15, the county clerk shall:

(a) determine, in accordance with Section 20A-7-506.3, whether [or not] each signer is a registered voter [according to the requirements of Section 20A-7-506.3];

(b) certify on the petition whether [or not] each name is that of a voter; and

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

(4) The lieutenant governor may intervene to perform a responsibility described in Subsection (2) or (3) related to an initiative packet if:

(a) the county clerk does not timely comply with the deadline described in Subsection (2) or (3);

(b) requested by each of the first five sponsors described in Subsection 20A-7-502(2)(a) of the initiative petition; or

(c) requested by the county clerk.

Section 3. Section **20A-7-606** is amended to read:

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

(1) (a) The sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(2) from the local clerk.

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

(2) (a) No later than 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

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

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

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

(3) No later than 30 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine, in accordance with Section 20A-7-606.3, whether each signer is a registered voter [according to the requirements of Section 20A-7-606.3];

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

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

(4) The lieutenant governor may intervene to perform a responsibility described in Subsection (2) or (3) related to a referendum packet if:

(a) the county clerk does not timely comply with the deadline described in Subsection (2) or (3);

(b) requested by each of the first five sponsors described in Subsection 20A-7-602(2)(a) of the referendum petition; or

(c) requested by the county clerk.

Section 4. Section **20A-9-403** is amended to read:

20A-9-403.   Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered

political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)[(e)](f), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures [on] in a nomination [petitions] petition signature packet:

(A) in a transparent and orderly manner; and

(B) before the earlier of 30 days after the day on which the filing officer receives the signature packet or the deadline described in Subsection (3)(d)(ii);

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)[(f)](g).

(e) The lieutenant governor may intervene to perform a responsibility described in Subsection (3)(d) related to a candidate nomination signature packet if:

(i) the filing officer does not timely comply with the deadline described in Subsection (3)(d)(i)(B);

(ii) requested by the candidate to whom the signature packet relates; or

(iii) requested by the filing officer.

[(e)] (f) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

[(f)] (g) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, shall make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

[(g)] (h) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with

instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June _____,

_____(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct _____ is ____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 5. Section **20A-9-408** is amended to read:

20A-9-408.   Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next

general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the

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second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are

residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of [the signatures] a signature packet containing a signature described in Subsections (8) and (9)(a), the election officer shall, no later than the earlier of 30

days after the day on which the election officer receives the signature packet or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) The lieutenant governor may intervene to perform a responsibility described in Subsection (9)(d) related to a candidate nomination signature packet if:

(i) the election officer does not timely comply with the deadline described in Subsection (9)(d);

(ii) requested by the candidate to whom the signature packet relates; or

(iii) requested by the election officer.

[(e)] (f) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.