

HB0075S01 compared with HB0075

~~text~~ shows text that was in HB0075 but was deleted in HB0075S01.

inserted text shows text that was not in HB0075 but was inserted into HB0075S01.

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Representative Norman K. Thurston proposes the following substitute bill:

INITIATIVES AND REFERENDA AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to ~~initiative~~initiatives and ~~referendum petitions~~referenda.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding the publication of certain information related to an individual who signs an initiative or referendum petition~~;~~

~~;~~

- ▶ modifies deadlines relating to the statewide referendum process;
- ▶ modifies appeal provisions;
- ▶ provides for a temporary stay, under certain circumstances, of a proposed law to which a referendum petition applies;

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- ▶ addresses the effective date of a proposed law approved by the voters;
- ▶ provides that a referendum petition is void if the Legislature repeals the proposed law; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-206, as last amended by Laws of Utah 2019, Chapters 210, 217, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 210, and 217

20A-7-302, as last amended by Laws of Utah 2019, Chapter 255

20A-7-305, as last amended by Laws of Utah 2019, Chapters 210, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 210

20A-7-306, as last amended by Laws of Utah 2019, Chapters 210, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 210

20A-7-307, as last amended by Laws of Utah 2019, Chapter 210

20A-7-310, as last amended by Laws of Utah 2010, Chapter 367

20A-7-311, as enacted by Laws of Utah 1994, Chapter 1

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

Section 1. Section **20A-7-206** is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

- (i) 30 days after the day on which the first individual signs the initiative packet;
- (ii) 316 days after the day on which the application for the initiative petition is filed; or
- (iii) the February 15 immediately before the next regular general election immediately

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after the application is filed under Section 20A-7-202.

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

(2) For an initiative packet received by the county clerk before December 1, the county clerk shall, within 30 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

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

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 90 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(3) For an initiative packet received by the county clerk on or after December 1, the county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

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

(c) post the name and [~~precinct~~] voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:

(a) remove the voter's [~~signature~~] name and voter identification number from the posting described in Subsection (2)(c) or (3)(c); and

(b) (i) remove the voter's signature from the signature packet totals; and

(ii) inform the lieutenant governor of the removal.

(5) The county clerk may not certify a signature under Subsection (2) or (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

(6) In order to qualify an initiative petition for submission to the Legislature, the

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sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(7) The county clerk may not certify a signature under Subsection (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

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

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

(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

Section 2. Section 20A-7-302 is amended to read:

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

(1) Persons wishing to circulate a referendum petition shall file an application with the lieutenant governor before 5 p.m. within five calendar days after the ~~[end of]~~ day on which the legislative session at which the law passed ends.

(2) The application shall contain:

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

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

(i) is a voter; and

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

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

(d) a copy of the law.

Section 3. Section 20A-7-305 is amended to read:

20A-7-305. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign a referendum petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

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(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;†

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) A person may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(3) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 14 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-306(3)(c).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-306(3)(c).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-206.3.

Section ~~22~~4. Section **20A-7-306** is amended to read:

20A-7-306. Submitting the referendum petition -- Certification of signatures by

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the county clerks -- Transfer to lieutenant governor.

(1) (a) The sponsors shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 14 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the ~~[end of]~~ day on which the legislative session at which the law passed ends.

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

(2) (a) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

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

(ii) submit the name of each individual 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):

(i) on a referendum packet that is not verified in accordance with Section 20A-7-305;

or

(ii) that does not have a date of signature next to the signature.

(3) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

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

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

(c) post the name and voter identification number of each registered voter certified under Subsection (3)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified referendum packet to the lieutenant governor.

~~[(4) Within two business days after timely receipt of a statement described in Subsection 20A-7-305(3), the county clerk shall:]~~

~~[(a) remove the voter's {} signature {} name and voter identification number] from the~~

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~~posting described in Subsection (3)(c); and]~~

~~[(b) inform the lieutenant governor of the removal.]~~

~~(4) The county clerk shall, after timely receipt of a statement requesting signature removal under Subsection 20A-7-305(3), remove the voter's name and voter identification number from the posting described in Subsection (3)(c), and notify the lieutenant governor's office of the removal, the earlier of:~~

~~(a) within two business days after the day on which the the county clerk timely receives the statement; or~~

~~(b) 99 days after the day on which the legislative session at which the law passed ends.~~

(5) The sponsor or a sponsor's representative may not retrieve a referendum packet from a county clerk after the referendum packet is submitted to the county clerk.

Section 5. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

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

(2) (a) The lieutenant governor shall, within [14] seven days after the day on which the lieutenant governor receives a referendum packet from a county clerk:

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

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(b) The lieutenant governor shall[: (i) within one business day after the day on which the lieutenant governor provides the notification described in Subsection 20A-7-306(4)(b);] subtract the number of signatures removed from the number of signatures certified and update the number on the lieutenant governor's website accordingly[: and] no later than the earlier of:

(i) one business day after the day on which the county clerk provides the notification described in Subsection 20A-7-306(4); or

(ii) 54 days after the day on which the legislative session at which the law passed ends.

[(ii)] (c) The lieutenant governor:

(i) shall, except as provided in Subsection (2)(c)(ii), declare the petition to be sufficient or insufficient [95] 99 days after the end of the legislative session at which the law passed[:]; or

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(ii) may declare the petition to be insufficient before the day described in Subsection (2)(c)(i) if, after the county clerks have finished certifying all valid signatures on the timely and lawfully submitted signature packets, the lieutenant governor makes the determination described in Subsection (2)(e).

~~[(e)]~~ (d) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

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

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

~~[(f)]~~ (g) After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the lieutenant governor refuses to accept and file a referendum petition, any voter may, not later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the referendum petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the referendum petition was originally offered for filing in the lieutenant governor's office.

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

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

Section 6. Section 20A-7-310 is amended to read:

20A-7-310. Return and canvass -- Conflicting measures.

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(1) The votes on the law proposed by the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes its canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the referendum petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by a referendum petition; and

(ii) declares those laws proposed by a referendum petition that were approved by majority vote to be in full force and effect as the law of Utah on the effective date described in Section 20A-7-311.

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, [he] the governor shall proclaim that measure to be law that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(4) (a) Within 10 days after the governor's proclamation, any qualified voter who signed the referendum petition proposing the law that is declared by the governor to be superseded by another measure approved at the same election may apply to the [Supreme Court] appropriate court to review the governor's decision.

(b) The [Supreme Court] court shall:

(i) consider the matter and decide whether [or not] the proposed laws are in conflict; and

(ii) [certify its decision to the governor] enter an order consistent with the court's decision.

(5) Within 10 days after the [Supreme Court certifies its decision] day on which the court enters an order described in Subsection (4)(b)(ii), the governor shall:

(a) proclaim all those measures approved by the people as law that the [Supreme Court has determined] court determines are not in conflict; and

(b) of all those measures approved by the people as law that the [Supreme Court has determined] court determines to be in conflict, proclaim as law the one that [received] receives the greatest number of affirmative votes, regardless of difference in majorities.

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Section 7. Section 20A-7-311 is amended to read:

20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.

(1) If, at the time during the counting period described in Subsection 20A-7-307(2), the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(2) The temporary stay described in Subsection (1) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the lieutenant governor declares the petition insufficient, five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) if the lieutenant governor declares the petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

~~[(1)(a) Any]~~ (3) A proposed law submitted to the people by referendum petition that is approved by the voters at ~~[any]~~ an election ~~[does not take effect until at least]~~ takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the governor~~[-];~~ or

(b) the effective date specified in the proposed law.

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

~~[(c) If the referendum 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.]~~

(4) If, after the lieutenant governor issues a temporary stay order under Subsection (1)(a), the lieutenant governor declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) the effective date specified in the proposed law.

~~[(2)]~~ (5) (a) The governor may not veto a law adopted by the people.

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(b) The Legislature may amend any laws approved by the people at any legislative session after the [law has taken effect] people approve the law.

(6) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.