

Representative Merrill F. Nelson proposes the following substitute bill:

VOTER REFERENDUM AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses local referenda.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a land use law; and
- ▶ modifies the elections at which a referendum relating to legislative action taken

after April 15 may appear on the ballot.

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 2019, Chapters 136, 203, and 210

20A-7-607, as last amended by Laws of Utah 2020, Chapter 31

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

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

20A-7-101. Definitions.



27 As used in this chapter:

28 (1) "Budget officer" means:

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

30 (b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

31 (c) for a town, the town council; or

32 (d) for a metro township, the person described in Subsection (1)(a) for the county in
33 which the metro township is located.

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

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

38 (4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county,
39 city, or town that is holding an election on a ballot proposition.

40 (5) "Final fiscal impact statement" means a financial statement prepared after voters
41 approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or
42 20A-7-502.5(2).

43 (6) "Initial fiscal impact estimate" means:

44 (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an
45 application for an initiative petition; or

46 (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5
47 for an initiative or referendum petition.

48 (7) "Initiative" means a new law proposed for adoption by the public as provided in this
49 chapter.

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

52 (9) (a) "Land use law" means a law of general applicability, enacted based on the
53 weighing of broad, competing policy considerations, that relates to the use of land, including
54 land use regulation, a general plan, a land use development code, an annexation ordinance, the
55 rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or
56 resolution.

57 (b) "Land use law" does not include a land use decision, as defined in Section
58 10-9a-103 or 17-27a-103.

- 59 (10) "Legal signatures" means the number of signatures of legal voters that:
60 (a) meet the numerical requirements of this chapter; and
61 (b) have been obtained, certified, and verified as provided in this chapter.
- 62 (11) "Legal voter" means a person who:
63 (a) is registered to vote; or
64 (b) becomes registered to vote before the county clerk certifies the signatures on an
65 initiative or referendum petition.
- 66 (12) "Legally referable to voters" means:
67 (a) for a proposed local initiative, that the proposed local initiative is legally referable
68 to voters under Section [20A-7-502.7](#); or
69 (b) for a proposed local referendum, that the proposed local referendum is legally
70 referable to voters under Section [20A-7-602.7](#).
- 71 (13) "Local attorney" means the county attorney, city attorney, or town attorney in whose
72 jurisdiction a local initiative or referendum petition is circulated.
- 73 (14) "Local clerk" means the county clerk, city recorder, or town clerk in whose
74 jurisdiction a local initiative or referendum petition is circulated.
- 75 (15) (a) "Local law" includes:
76 (i) an ordinance;
77 (ii) a resolution;
78 (iii) a land use law; ~~[or]~~
79 (iv) a land use regulation, as defined in Section [10-9a-103](#); or
80 ~~[(iv)]~~ (v) other legislative action of a local legislative body.
- 81 (b) "Local law" does not include ~~[an individual property zoning decision]~~ a land use
82 decision, as defined in Section [10-9a-103](#).
- 83 (16) "Local legislative body" means the legislative body of a county, city, town, or
84 metro township.
- 85 (17) "Local obligation law" means a local law passed by the local legislative body
86 regarding a bond that was approved by a majority of qualified voters in an election.
- 87 (18) "Local tax law" means a law, passed by a political subdivision with an annual or
88 biannual calendar fiscal year, that increases a tax or imposes a new tax.
- 89 (19) "Measure" means a proposed constitutional amendment, an initiative, or
90 referendum.

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

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

96 (22) (a) "Signature" means a holographic signature.

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

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

100 (24) "Special local ballot proposition" means a local ballot proposition that is not a
101 standard local ballot proposition.

102 (25) "Sponsors" means the legal voters who support the initiative or referendum and
103 who sign the application for petition copies.

104 (26) (a) "Standard local ballot proposition" means a local ballot proposition for an
105 initiative or a referendum.

106 (b) "Standard local ballot proposition" does not include a property tax referendum
107 described in Section [20A-7-613](#).

108 (27) "Tax percentage difference" means the difference between the tax rate proposed by
109 an initiative or an initiative petition and the current tax rate.

110 (28) "Tax percentage increase" means a number calculated by dividing the tax
111 percentage difference by the current tax rate and rounding the result to the nearest thousandth.

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

114 Section 2. Section **20A-7-607** is amended to read:

115 **20A-7-607. Evaluation by the local clerk -- Determination of election for vote on**
116 **referendum.**

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

119 (2) Within two days after the day on which the local clerk receives each referendum
120 packet from a county clerk, the local clerk shall:

121 (a) count the number of the names certified by the county clerks that appear on each
122 verified signature sheet;

123 (b) if the total number of certified names from each verified signature sheet equals or
124 exceeds the number of names required by Section 20A-7-601 and the requirements of this part
125 are met, mark upon the front of the petition the word "sufficient";

126 (c) if the total number of certified names from each verified signature sheet does not
127 equal or exceed the number of names required by Section 20A-7-601 or a requirement of this
128 part is not met, mark upon the front of the petition the word "insufficient"; and

129 (d) notify any one of the sponsors of the local clerk's finding.

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

133 (4) (a) If the local clerk refuses to accept and file any referendum petition, any voter
134 may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days
135 after the refusal.

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

139 (c) If a court determines that any petition filed is not legally sufficient, the court may
140 enjoin the local clerk and all other officers from:

141 (i) certifying or printing the ballot title and numbers of that measure on the official ballot
142 for the next election; or

143 (ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing,
144 or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

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

147 (6) (a) [H] Except as provided in Subsection (6)(b) or (c), if a referendum relates to
148 legislative action taken after April 15, the election officer may not place the referendum on an
149 election ballot until a primary election, a general election, or a special election the following
150 year.

151 (b) The election officer may place a referendum described in Subsection (6)(a) on the
152 ballot for special, primary, or general election held during the year that the legislative action
153 was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

154 (i) the local clerk;

155 (ii) the county clerk; and
156 (iii) the attorney for the county or municipality that took the legislative action.
157 ~~[(b)]~~ (c) For a referendum on a land use law, if, before August 30, the local clerk or a
158 court determines that the total number of certified names equals or exceeds the number of
159 signatures required in Section [20A-7-601](#), the election officer shall place the referendum on the
160 election ballot for:
161 (i) the next general election[-]; or
162 (ii) another election, if the following agree, in writing, on a timeline to place the
163 referendum on that ballot:
164 (A) the affected owners, as defined in Subsection [10-9a-103](#) or [17-27a-103](#), as
165 applicable;
166 (B) the local clerk;
167 (C) the county clerk; and
168 (D) the attorney for the county or municipality that took the legislative action.