LOCAL LAND USE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies provisions regarding referenda.

Highlighted Provisions:

This bill:

- disallows referral of a referendum to voters for municipal land use laws that passed by a unanimous vote of the local legislative body.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-602.8, as last amended by Laws of Utah 2022, Chapters 325, 406

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

Section 1. Section **20A-7-602.8** is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a:

(i) municipal land use law, as defined in Section 20A-7-101, if the land use law was passed by a unanimous vote of the local legislative body; or

(ii) transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision

to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.