

HB0367S02 compared with HB0367S01

~~text~~ shows text that was in HB0367S01 but was deleted in HB0367S02.

text shows text that was not in HB0367S01 but was inserted into HB0367S02.

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Representative Karen M. Peterson proposes the following substitute bill:

LOCAL GOVERNMENT FEES MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen M. Peterson

Senate Sponsor: ~~_____~~ Wayne A. Harper

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to municipal fees.~~Ge~~

Highlighted Provisions:

This bill:

- ▶ prohibits a city from imposing a fee on the general public for broadband or public safety service, with exceptions;
- ▶ prohibits a town from imposing a fee on the general public for public safety service, with exceptions;
- ▶ authorizes a city to impose a transportation utility fee if the city complies with certain requirements;
- ▶ establishes a process and requirements for a city to impose a transportation utility fee; and

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- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-406, as enacted by Laws of Utah 2003, Chapter 253

20A-7-101, as last amended by Laws of Utah 2023, Chapters 107, 116

20A-7-607, as last amended by Laws of Utah 2023, Chapters 107, 116

20A-7-609.5, as last amended by Laws of Utah 2020, Chapter 31

20A-7-613, as last amended by Laws of Utah 2023, Chapter 116

ENACTS:

10-5-133, Utah Code Annotated 1953

10-6-134.3, Utah Code Annotated 1953

10-6-134.5, Utah Code Annotated 1953

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

Section 1. Section **10-1-406** is amended to read:

10-1-406. Limitation of other telecommunications taxes or fees.

(1) As used in this section:

(a) "Broadband" means facilities and services used to make high-capacity, high-speed

Internet service available to users.

(b) "General fee" means the same as that term is defined in Section 10-6-134.3.

(2) (a) Except as provided in Subsection (2)(b), a city may not impose a general fee for broadband.

(b) (i) Subject to Subsection (2)(b)(ii), a city that, before May 1, 2024, imposes a general fee for broadband shall repeal the general fee no later than July 1, 2025.

(ii) (A) A city that, before May 1, 2024, issues a bond secured by revenue from a general fee for broadband shall repeal the general fee within 60 days after the bond is paid.

(B) A city that, before May 1, 2024, imposes a general fee to pay for a bond the city

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issued before January 1, 2024 to pay for broadband shall repeal the general fee within 60 days after the bond is paid.

(3) Subject to the other provisions of this section, a municipality may not levy or collect a telecommunications tax or fee on a person except for a telecommunications tax or fee imposed by the municipality:

(a) on a telecommunications provider to recover the management costs of the municipality caused by the activities of the telecommunications provider in the right-of-way of a municipality if the telecommunications tax or fee:

(i) is imposed in accordance with Section 72-7-102; and

(ii) is not related to:

(A) a municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way; or

(B) increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way; or

(b) on a person that:

(i) is not subject to a municipal telecommunications license tax under this part; and

(ii) locates telecommunications facilities, as defined in Section 72-7-108, in the municipality.

~~[(2)]~~ (4) Subsection ~~[(1)(a)]~~ (3)(a) may not be interpreted as exempting a telecommunications provider from complying with any ordinance:

(a) related to excavation, construction, or installation of a telecommunications facility; and

(b) that addresses the safety and quality standards of the municipality for excavation, construction, or installation.

~~[(3)]~~ (5) A telecommunications tax or fee imposed under Subsection ~~[(1)(b)]~~ (3)(b) shall be imposed:

(a) by ordinance; and

(b) on a competitively neutral basis.

Section 2. Section **10-5-133** is enacted to read:

10-5-133. General fee for public safety service prohibited -- Exception.

(1) As used in this section:

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(a) (i) "General fee" means a fee imposed generally on the public at large or on a segment of the public.

(ii) "General fee" does not include:

(A) a fee that a town charges an identifiable user of a town-provided service or a town facility to cover the town's cost of the user's use of the service or facility; or

(B) a registration or similar fee that a town charges a participant in an activity or program sponsored by the town to offset the town's administrative cost of sponsoring the activity or program.

(b) "Public safety service" means law enforcement service, fire protection service, 911 ambulance or paramedic service, or emergency service.

(2) Except as provided in Subsection (3), a town may not impose a general fee for a public safety service.

(3) A town may impose a general fee for a public safety service if:

(a) the fee is to generate revenue to pay for the town's obligation under an agreement with one or more other political subdivisions for public safety service provided to the town; or

(b) the public safety service is volunteer public safety service.

(4) A town that, before May 1, 2024, imposes a general fee for a public safety service that is prohibited under Subsection (2) shall repeal the general fee no later than July 1, 2025.

Section 3. Section **10-6-134.3** is enacted to read:

10-6-134.3. General fee for public safety service prohibited -- Exception.

(1) As used in this section:

(a) (i) "General fee" means a fee imposed generally on the public at large or on a segment of the public.

(ii) "General fee" does not include:

(A) a fee that a city charges an identifiable user of a city-provided service or a city facility to cover the city's cost of the user's use of the service or facility; or

(B) a registration or similar fee that a city charges a participant in an activity or program sponsored by the city to offset the city's administrative cost of sponsoring the activity or program.

(b) "Public safety service" means law enforcement service, fire protection service, 911 ambulance or paramedic service, or emergency service.

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(2) Except as provided in Subsection (3), a city may not impose a general fee for a public safety service.

(3) A city of the third, fourth, or fifth class may impose a general fee for a public safety service if:

(a) the fee is to generate revenue to pay for the city's obligation under an agreement with one or more other political subdivisions for public safety service provided to the city; or

(b) the public safety service is volunteer public safety service.

(4) A city that, before May 1, 2024, imposes a general fee for a public safety service that is prohibited under Subsection (2) shall repeal the general fee no later than July 1, 2025.

Section 4. Section **10-6-134.5** is enacted to read:

10-6-134.5. Transportation utility fee.

(1) As used in this section:

(a) "Transportation facility" means any of the items listed in Subsection 59-12-2212.2(1) as purposes for which revenue from a local option sales and use tax under Section 59-12-2212.2 may be expended.

(b) "Transportation utility fee" means a fee imposed on the public at large or on a user segment to generate revenue to pay for costs associated with developing, constructing, maintaining, operating, repairing, upgrading, or replacing a transportation facility.

(c) "Transportation fund" means a fund described in and established under Subsection (8).

(d) "User segment" means a segment of the city's population based on a classification established under Subsection (7).

(2) (a) A city may impose and collect a transportation utility fee:

(i) if the city establishes a reasonable relationship between:

(A) the amount of the transportation utility fee; and

(B) the direct benefit received by those who pay the transportation utility fee or the impact on or usage of the transportation facility by those who pay the transportation utility fee; and

(ii) only as provided in this section.

(b) A city may impose a transportation utility fee to provide funding for any number of transportation facilities but may not have more than a single transportation utility fee in effect

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at a time.

(3) To impose or increase a transportation utility fee, a municipality shall:

(a) conduct a study as provided in Subsection (4);

(b) follow the process described in Subsection (5); and

(c) adopt an ordinance imposing or increasing a transportation utility fee, as provided in Subsection (6).

(4) (a) A city may not impose or increase a transportation utility fee unless the city first conducts a study as described in this Subsection (4).

(b) A study under Subsection (4)(a) shall:

(i) determine and provide a reasonable estimate of the need for a new transportation facility or for maintaining, operating, repairing, upgrading, or replacing an existing transportation facility;

(ii) identify and provide a reasonable estimate of existing funding sources that could be used to pay for a new transportation facility or for maintaining, operating, repairing, upgrading, or replacing an existing transportation facility;

(iii) explain and provide a reasonable calculation showing how existing city funding sources are inadequate to cover the cost of constructing a new transportation facility or maintaining, operating, repairing, upgrading, or replacing an existing transportation facility;†
and†

(iv) determine whether the proposed transportation utility fee is reasonably related to:

(A) the direct benefit received by persons who pay the transportation utility fee; or

(B) the impact on or usage of the transportation facility by those who pay the

transportation utility fee;

(v) explain the reasonable relationship determined under Subsection (4)(a)(iv); and

(vi) determine whether there is a reasonable basis for different rates within a proposed transportation utility fee based on different levels of benefit received by those who pay the transportation utility fee, as described in Subsection (7), and, if so, explain the basis for the proposed different rates.

(c) A city that conducts a study under Subsection (4)(a) shall post a copy of the study on the city's website, if the city has a website.

(5) (a) Subject to Subsection (5)(b), before adopting an ordinance imposing or

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increasing a transportation utility fee, the governing body shall comply with the notice and public hearing requirements established in Sections 10-6-113 and 10-6-114.

(b) (i) The governing body of a city that proposes to impose or increase a transportation utility fee shall, in addition to the notice required under Section 10-6-113, provide notice of the proposed fee and the public hearing:

(A) in a notice with the city's monthly utility bill, if the city mails or emails residents a monthly utility bill; or

(B) through another primary means of communicating with residents, if the city does not provide residents a monthly utility bill.

(ii) The public hearing required for a proposal to impose or increase a transportation utility fee may be held in conjunction with a budget hearing under Section 10-6-114 but shall be separate and distinct from the budget hearing.

(6) (a) A transportation utility fee may be imposed or increased only by an ordinance adopted by the city's governing body.

(b) (i) Subject to Subsection (6)(b)(ii), the governing body may adopt an ordinance imposing or increasing a transportation utility fee at the same meeting in which the public body adopts the city budget.

(ii) The governing body vote on the imposition or increase of a transportation utility fee shall be separate from the governing body vote on the city budget or any other item.

(c) The amount of a transportation utility fee for the city's population or for any user segment shall be reasonably related to the impact on or usage of the transportation facility by the city's population or that user segment, as stated in the study under Subsection (4).

(d) (i) Revenue from a transportation utility fee may not supplant existing general fund appropriations that the city has budgeted for transportation facilities as of the date the transportation utility fee becomes effective.

(ii) The limitation under Subsection (6)(d)(i) does not apply to a designated transportation facilities capital or reserve account established before the effective date of a transportation utility fee under this section.

(7) (a) A city ~~may~~ shall establish different rates within a transportation utility fee for different classifications of users of a transportation facility if the rates and classifications have a reasonable basis.

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(b) (i) A reasonable basis under Subsection (7)(a) may include:

(A) different levels of benefit received by users of a transportation utility fee;

(B) different impacts on or usage of transportation facilities by those who pay the transportation utility fee;

(~~A~~C) a difference in the cost of providing a transportation facility to different classifications of users;

(~~B~~D) a difference in levels of risk to the operation of a transportation facility for different classifications of users;

(~~C~~E) differing contributions that different classifications of users make, separate from a transportation utility fee, to the cost of constructing, maintaining, or operating a transportation facility; and

(~~D~~F) distinguishable differences in the needs or conditions of different classifications of users based on economic, public policy, or other identifiable elements.

(ii) A reasonable basis under Subsection (7)(a) does not include:

(A) whether a user resides inside or outside the city boundary; or

(B) a consideration of the age of development within areas with the same zoning designation.

(8) (a) A city that imposes a transportation utility fee shall establish a fund as provided in this Subsection (8).

(b) A city shall deposit into the transportation fund all revenue from a transportation utility fee.

(c) A city may not:

(i) deposit into or commingle with a transportation fund any money from any other source; or

(ii) use money in a transportation fund for any purpose other than to pay for the cost of:

(A) the development or construction of a new transportation facility;

(B) upgrading or replacing an existing transportation facility;

(C) the maintenance, operation, or repair of an existing transportation facility; or

(D) reasonable administrative costs associated with the transportation fund or with activities described in Subsections (8)(c)(ii)(A), (B), and (C).

(d) Notwithstanding Sections 10-6-124, 10-6-125, and 10-6-135.5, a city may not

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transfer money in a transportation fund to any other fund or to a separate account.

(9) (a) A city that imposes a transportation utility fee shall conduct an annual review of the transportation utility fee as provided in this Subsection (9) **and prepare a written report of the annual review.**

(b) In an annual review under Subsection (9)(a), the governing body shall:

(i) review the balance of the transportation fund;

(ii) review the current amount of the transportation utility fee;

(iii) demonstrate that there is still a reasonable relationship between the amount of the transportation utility fee and the transportation service provided to those who pay the fee;

(iv) consider other possible revenue sources that the city could use for transportation facilities instead of a transportation utility fee;

(v) ensure that Subsection (6)(d) is being complied with; and

(vi) demonstrate that revenue from the transportation utility fee continues to be needed to provide a transportation facility that the city could not otherwise provide from other existing revenue sources.

(c) (i) A city shall submit a copy of the written report under Subsection (9)(a) to the state auditor.

(ii) A city may fulfill the requirement of Subsection (9)(c)(i) by submitted the written report as part of the city's annual financial reports submitted to the state auditor under Section 10-6-150.

(10) (a) A transportation utility fee imposed under this section expires 10 years after the effective date of the ordinance imposing the transportation utility fee.

(b) The 10-year period in Subsection (10)(a) begins again with any subsequent adoption of any ordinance imposing a transportation utility fee after the initial adoption of an ordinance imposing a transportation utility fee.

(11) An ordinance imposing a transportation utility fee is subject to local referendum as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(12) A city that, before May 1, 2024, imposes a fee to pay for a transportation facility shall, no later than July 1, 2026:

(a) ensure that requirements of this section have been complied with for the fee that the city imposes; or

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(b) repeal the fee.

Section 5. Section **20A-7-101** is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

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

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

(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.

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

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

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "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.

(8) "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

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20A-7-502.5(2).

(9) "Initial fiscal impact statement" means

a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

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

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "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.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for

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submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

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

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

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

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

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

(21) "Local fiscal law" means a local tax law or a local transportation fee law.

~~[(21)]~~ (22) (a) "Local law" includes:

(i) an ordinance;

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- (ii) a resolution;
- (iii) a land use law;
- (iv) a land use regulation, as defined in Section 10-9a-103; or
- (v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

~~[(22)]~~ (23) "Local legislative body" means the legislative body of a county, city, town, or metro township.

~~[(23)]~~ (24) "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.

~~[(24)]~~ (25) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(26) "Local transportation fee law" means an ordinance adopted under Section 10-6-134.5 imposing or increasing a transportation utility fee, as defined in Section 10-6-134.5.

~~[(25)]~~ (27) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

~~[(26)]~~ (28) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

~~[(27)]~~ (29) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

~~[(28)]~~ (30) "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.

~~[(29)]~~ (31) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

~~[(30)]~~ (32) "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.

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~~[(31)]~~ (33) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

~~[(32)]~~ (34) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

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(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

~~[(33)]~~ (35) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

~~[(34)]~~ (36) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

~~[(35)]~~ (37) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

~~[(36)]~~ (38) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

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

~~[(37)]~~ (39) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

~~[(38)]~~ (40) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

~~[(39)]~~ (41) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 6. Section **20A-7-607** is amended to read:

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

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(1) In relation to the manual referendum process, when the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

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

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-105(5)(a)(iv), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted referendum packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601;

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(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the referendum petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the referendum for the ballot.

(5) (a) If the local clerk refuses to declare a referendum petition sufficient, any voter may, no later than 10 days after the day on which the local clerk declares the referendum petition insufficient, apply to the appropriate court for an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition should have been declared sufficient by the local clerk's office.

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

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

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

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

(7) (a) Except as provided in Subsection (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

- (i) the local clerk;
- (ii) the county clerk; and
- (iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

- (i) the next general election; or
- (ii) another election, if the following agree, in writing, on a timeline to place the

referendum on that ballot:

- (A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;
- (B) the local clerk;
- (C) the county clerk; and
- (D) the attorney for the county or municipality that took the legislative action.

Section 7. Section **20A-7-609.5** is amended to read:

20A-7-609.5. Election on referendum challenging local fiscal law conducted entirely by mail.

(1) An election officer may administer an election on a referendum challenging a local [~~tax~~] fiscal law entirely by mail.

(2) For purposes of an election conducted under this section, the election officer shall:

- (a) designate as the election day the day that is 30 days after the day on which the

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election officer complies with Subsection (2)(b); and

(b) within 30 days after the day on which the referendum described in Subsection (1) qualifies for the ballot, mail to each registered voter within the voting precincts to which the local ~~[tax]~~ fiscal law applies:

- (i) a manual ballot;
- (ii) a statement that there will be no polling place for the election;
- (iii) a statement specifying the election day described in Subsection (2)(a);
- (iv) a business reply mail envelope;
- (v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;
- (vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the manual ballot, the voter will be unable to vote in that election because there will be no polling place for the election; and
- (vii) (A) a copy of the proposition information pamphlet relating to the referendum if a proposition information pamphlet relating to the referendum was published under Section 20A-7-401.5; or
(B) a website address where an individual may view a copy of the proposition information pamphlet described in Subsection (2)(b)(vii)(A).

(3) An election officer who administers an election under this section shall:

- (a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or
 - (ii) obtain the signature of each voter within the voting precinct from the county clerk;
- and
- (b) maintain the signatures on file in the election officer's office.

(4) (a) Upon receiving a returned manual ballot under this section, the election officer shall compare the signature on each return envelope with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the return envelope, the election officer shall immediately contact the voter to verify the signature.

(c) If there is not a signature on the return envelope or if the election officer determines that the signature on the return envelope does not match the voter's signature that is maintained

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on file, the election officer shall:

- (i) disqualify the ballot; and
- (ii) notify the voter of the disqualification and the reason for the disqualification.

Section 8. Section **20A-7-613** is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote:

- (a) to impose a tax rate that exceeds the certified tax rate[.]; or
- (b) to impose or modify a transportation utility fee under Section 10-6-134.5.

(3) Notwithstanding Subsection 20A-7-105(5)(a)(iv), the sponsors or an agent of 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:

- (a) 30 days after the day on which the first individual signs the packet; or
- (b) 40 days after the day on which the local clerk complies with Subsection

20A-7-604(3).

(4) Notwithstanding Subsections 20A-7-105(6)(a) and (9), the county clerk shall take the actions required in Subsections 20A-7-105(6)(a) and (9) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after:

(a) in relation to the manual referendum process, the day on which the local clerk receives the referendum packets from the county clerk; or

(b) in relation to the electronic referendum process, the deadline described in Subsection 20A-7-616(2).

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the

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ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(8) The election officer shall mail manual ballots on a referendum under this section the later of:

(a) the time provided in Section 20A-3a-202 or 20A-16-403; or

(b) the time that ballots are prepared for mailing under this section.

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity].".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet

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qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (13)(a), the ballot title shall comply with Subsection (11).

(c) If an election officer includes on a ballot a referendum described in Subsection (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 9. Effective date.

This bill takes effect on May 1, 2024.