



---

# **Initiatives and Referenda**

Justin Lee  
Lt. Governor's Office  
March 22, 2017



# Please Note:

---

- This presentation is for instructional purposes only. Please refer to the Utah Code for the most current and exact requirements of processing an initiative or referendum.



# What's the difference?

---

## Initiative

- A new law proposed for adoption by the public
- The new law is **initiated** by the public

## Referendum

- A law passed by a legislative body is submitted to the vote of the people
- A passed law is **referred** to the people

# Initiatives

---

Utah Code Section 20A-7 Part 5



# HB255 – Initiative Amendments

---

- If an initiative proposes a tax increase the:
  - application,
  - initial fiscal impact statement,
  - petition signature sheets,
  - ballot title,
  - VIP,
- shall include information regarding the tax percentage difference and the tax percentage increase



# HB255 – Initiative Amendments

---

- Example – the application shall include the following language:
  - "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."



# Step 1 - Applications

---

- The application shall contain
  - Name & Residence Address of at least 5 sponsors
  - A statement indicating that each of the sponsors:
    - Is a registered voter
    - Has voted in a regular municipal election in Utah within the last three years\*

\*see 20A-7-502(2)(b)(ii)(B)(II) for exception



# Step 1 - Applications

---

- Notarized signature of each of the sponsors
- A copy of the proposed law
  - With a title that clearly expresses the subject of the law
  - The text of the proposed law
- The proposed law may not contain more than one subject





## Step 2 - Fiscal Impact Estimate

---

- Within 3 working days the local clerk shall submit a copy of the application to the budget officer
  - The budget officer shall prepare an unbiased, good faith estimate of the fiscal impact of the proposed law, and
  - An unbiased, good faith estimate of the cost of distributing information related to the petition in a Voter Information Pamphlet



# Step 2 - Fiscal Impact Estimate

---

- Within 25 calendar days from the date the local clerk delivers the application to the budget officer the budget officer shall:
  - Deliver a copy of the initial fiscal impact estimate to the local clerk's office; and
  - Mail a copy to the first 5 sponsors named in the application



# Step 2 - Fiscal Impact Estimate

---

## □ Challenge

- Within 20 calendar days of delivery of the initial fiscal impact
- 3 or more of the sponsors of the petition may file a petition with the Supreme Court alleging that the fiscal estimate is inaccurate



# Step 3 - Circulation Materials

---

- Petition forms should be printed in **substantially** the format laid out in 20A-7-503
- The local clerk shall furnish to the sponsors
  - One copy of the initiative petition; and
  - One signature sheet
    - The signature sheet shall include:
      - The initial fiscal impact estimate summary statement
      - The cost estimate for printing and distributing the petition



# Step 3 - Circulation Materials

---

- The sponsors of the petition:
  - Arrange and pay for the printing of all additional copies of the petition and signature sheets
  - Ensure that the copies meet the form requirements
- Packets must be bound:
  - Secured with a staple or stitch in at least 3 places across the top of the paper



# Step 3 - Circulation Materials

---

- After sponsors have prepared packets
  - The local clerk:
    - Numbers each packet
    - Returns them to the sponsor within 5 working days
    - Keeps a record of the numbers assigned to each packet



# Step 4 - Collecting Signatures

---

- Who can sign?
  - Any legal Utah voter that resides in the jurisdiction
- Who can witness?
  - At least 18 years old and resident of Utah
  - Signs the verification page on the last page of the packet
  - A voter who signs the packet cannot verify it



# Step 5 - Submitting the Petition

---

- Deadlines to submit packets to the county clerk
  - 316 days after the application was filed, or
  - April 15 immediately before the next municipal general election





# Step 5 - Submitting the Petition

---

- No later than May 1 the county clerk shall:
  - Check the names of all persons completing the verification page
  
- No later than May 15 the county clerk shall:
  - Determine whether or not each signer is a voter
  - Certify whether or not each name is a voter
  - Deliver all verified packets to the local clerk



# Step 6 - Evaluating the Petition

---

- ❑ Local clerk shall check off packet numbers as received
- ❑ After all packets have been received shall count the number of names certified by the county clerk
- ❑ Mark the petition as sufficient or insufficient



# Step 6 - Evaluating the Petition

---

- If it is declared sufficient:
  - The petition is qualified for the ballot
  
- If it is declared insufficient:
  - Any sponsor may file a written demand with the local clerk for a recount in the presence of the sponsor
  - No new signatures may be submitted



# Step 7 - Ballot Title

---

- Local clerk delivers a copy of the petition and the proposed law to the local attorney
- The local attorney ask the lieutenant governor to assign a number
  - The lieutenant governor assigns a unique number to each ballot proposition



# Step 7 - Ballot Title

---

- The attorney prepares a proposed ballot title
  - A true and impartial statement of the purpose of the measure
  - Not intentionally an argument or likely to create prejudice for or against the measure
  
- Files the proposed ballot title with the local clerk within 15 days after the date the initiative is declared sufficient



# Step 7 - Ballot Title

---

- Within 5 days after the local attorney files a proposed ballot title the local legislative body may file written comments
- Within five calendar days the local attorney shall
  - Review the written comments, and
  - Prepare a final ballot title



## Step 7 - Ballot Title

---

- Immediately after the attorney files a copy of the ballot title with the local clerk the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the local legislative body
- Three or more sponsors or a majority of the local legislative body may appeal to the Supreme Court if the ballot title is unsatisfactory or does not comply with code



# Step 8 - Voter Information Pamphlet

---

- A municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet
  - See VIP section below





# Step 9 - Ballot & Voting

---

- Local clerk shall place the number and ballot title on the official ballot with the choices
  - “For”
  - “Against”



# Step 9 - Ballot & Voting

---

- Scheduling Special Elections
  - A special election for a ballot proposition related to a bond, debt, leeway, levy or tax can only be held on the November general or municipal general election



# Step 9 - Ballot & Voting

---

- Scheduling Special Elections
    - Any other special election may be held on
      - The Fourth Tuesday in June
      - The First Tuesday after the first Monday in November
- 20A-1-204(1)(a)



# Step 10 - Canvass & Effective Date

---

- After the canvass the local legislative body shall immediately issue a proclamation that:
  - Gives the total number of votes for or against each proposed law
  - Declares those approved laws to be in full force and effect as the law of the local jurisdiction



# Step 10 - Canvass & Effective Date

---

- Approved laws take effect:
  - On the date specified in the initiative petition; or
  - 5 days after the date of the official proclamation by the legislative body



# Epilogue - Fiscal Review

---

- No later than 60 days after the date of the election the budget officer shall prepare a final fiscal impact statement and deliver a copy to:
  - The local legislative body
  - The local clerk
  - The first 5 sponsors listed on the initiative application



# Epilogue - Fiscal Review

---

- If the final fiscal impact statement exceeds the initial fiscal impact statement by 25% or more:
  - The local legislative body reviews and may:
    - Repeal the law
    - Amend the law
    - Pass a resolution informing the voters that they may file an initiative petition to repeal the law

# Referenda

---

Utah Code Section 20A-7 Part 6





# Step 1 - Legislation

---

- The municipal legislative body passes a new local law
  - Local law includes:
    - An ordinance
    - A resolution
    - A master plan
    - A comprehensive zoning regulation adopted by ordinance or resolution
    - Other legislative action of a local legislative body



# Step 2- Applications

---

- Within 5 days of passage of the local law, sponsors shall file an application
- The application shall contain
  - Name & Residence Address of at least 5 sponsors
  - A statement indicating that each of the sponsors:
    - Is a registered voter
    - Has voted in a regular municipal election in Utah within the last three years



## Step 2 - Applications

---

- Notarized signature of each of the sponsors
- A copy of the law, or
- A written description of the local law
  - If the referendum challenges a local law that is not an ordinance or resolution



# Step 3a - Circulation Materials

---

- Petition forms should be printed in **substantially** the format laid out in 20A-7-603
- The local clerk shall furnish to the sponsors
  - Five copies of the referendum petition; and
  - Five signature sheet



# Step 3a - Circulation Materials

---

- The sponsors of the petition:
  - Arrange and pay for the printing of all additional copies of the petition and signature sheets
  - Ensure that the copies meet the form requirements
- Packets must be bound:
  - Secure with a staple or stich in at least 3 places across the top of the paper



# Step 3a - Circulation Materials

---

- After sponsors have prepared packets
  - The local clerk:
    - Numbers each packet
    - Returns them to the sponsor within 5 working days
    - Keeps a record of the numbers assigned to each packet



## Step 3b – Fiscal and Legal Impact

---

- Within 3 working days the local clerk shall submit a copy of the application to the budget officer
  - The budget officer, with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of repealing the law



# Step 3b – Fiscal and Legal Impact

---

- Within 25 calendar days from the date the local clerk delivers the application to the budget officer the budget officer shall:
  - Deliver a copy of the initial fiscal impact estimate to the local clerk's office; and
  - Mail a copy to the first 5 sponsors named in the application





# Step 4 - Collecting Signatures

---

- Who can sign?
  - Any legal Utah voter that resides in the jurisdiction
- Who can witness?
  - At least 18 years old and resident of Utah
  - Signs the verification page on the last page of the packet
  - A voter who signs the packet cannot verify it



# Step 5 - Submitting the Petition

---

- Deadlines to submit packets to the county clerk
  - 45 days after the petition materials are provided to the sponsors



# Step 5 - Submitting the Petition

---

- No later than 15 days after a county clerk receives a verified packet:
  - Check the names of all persons completing the verification page
- No later than 30 days after a county clerk receives a verified packet :
  - Determine whether or not each signer is a voter
  - Certify whether or not each name is a voter
  - Deliver all verified packets to the local clerk



# Step 6 - Evaluating the Petition

---

- ❑ Local clerk shall check off packet numbers as received
- ❑ Within 15 days after receiving each packet from the County Clerk shall count the number of names certified by the county clerk
- ❑ Mark the petition as sufficient or insufficient
- ❑ Immediately notify any of the sponsors of the findings



# Step 6 - Evaluating the Petition

---

- If it is declared sufficient:
  - The petition is qualified for the ballot
  - The local law that is the subject of the petition does not take effect until the law is approved by the vote of the people



# Step 6 - Evaluating the Petition

---

- If it is declared insufficient:
  - Any sponsor may file a written demand with the local clerk for a recount in the presence of the sponsor
  - No new signatures may be submitted



# Step 7 - Ballot Title

---

- Local Clerk delivers a copy of the petition and the proposed law to the local attorney
- The local attorney ask the lieutenant governor to assign a number
  - The lieutenant governor assigns a unique number to each ballot proposition



# Step 7 - Ballot Title

---

- The attorney prepares a proposed ballot title
  - A true and impartial statement of the purpose of the measure
  - Not intentionally an argument or likely to create prejudice for or against the measure
- Files the proposed ballot title with the local clerk within 15 days after the date the initiative is declared sufficient





# Step 7 - Ballot Title

---

- Within 5 days after the local attorney files a proposed ballot title the local legislative body may file written comments
- Within five calendar days the local attorney shall
  - Review the written comments, and
  - Prepare a final ballot title



## Step 7 - Ballot Title

---

- Immediately after the attorney files a copy of the ballot title with the local clerk the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the local legislative body
- Three or more sponsors or a majority of the local legislative body may appeal to the Supreme Court if the ballot title is unsatisfactory or does not comply with code



# Step 8 - Voter Information Pamphlet

---

- A municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet
  - See VIP section below



# Step 9 - Ballot & Voting

---

- Local clerk shall place the number and ballot title on the official ballot with the choices
  - “For”
  - “Against”



# Step 9 - Ballot & Voting

---

- Scheduling Special Elections
  - A special election for a ballot proposition related to a bond, debt, leeway, levy or tax can only be held on the November general or municipal general election



# Step 9 - Ballot & Voting

---

- Scheduling Special Elections
    - Any other special election may be held on
      - The Fourth Tuesday in June
      - The First Tuesday after the first Monday in November
- 20A-1-204(1)(a)



# Step 9 - Ballot & Voting

---

- When referendum appears on ballot
  - Unless a special election is called the referendum shall appear on the next municipal general election ballot; unless
    - The local law passes after January 30 of an odd numbered year, then it shall be placed on the second municipal general election after the law is passed
      - Unless the municipal legislative body calls a special election



# Step 10 - Canvass & Effective Date

---

- After the canvass the local legislative body shall immediately issue a proclamation that:
  - Gives the total number of votes for or against each proposed law
  - Declares those approved laws to be in full force and effect as the law of the local jurisdiction





# Step 10 - Canvass & Effective Date

---

- Rejected Law is repealed as of the date of the election



# Voter Information Pamphlet

---

Utah Code Section 20A-7 Part 4

# SB69 – Notification Requirements for Ballot Proposals

---

- A municipality that must prepare a local Voter Information Pamphlet shall provide notice of the requirements to submit for or against arguments by:
  - Mailing a notice with a utility bill or other material regularly mailed to residents (if applicable)
  - Posting the notice on the Utah Public Notice Website
  - Posting the notice on the homepage of the municipality's website
  - Sending the notice by email to each individual for whom the municipality has an email address



# Voter Information

---

## **Voter Information Pamphlet**

- “The... municipality that is the subject of an initiative, referendum or other ballot proposition shall prepare a local voter information pamphlet”

20A-7-402

## **Transparency of Ballot Propositions Act**

- “Ballot proposition” means a question concerning a tax increase or a bond submitted to voters

59-1 Part 16



# Voter Information

---

## **Voter Information Pamphlet**

- To prepare an argument for or against a ballot proposition an eligible voter shall file a request at least 65 days before the election

## **Transparency of Ballot Propositions Act**

- To prepare an argument for or against a ballot proposition an eligible voter shall file a request at least 65 days before the election



# Voter Information

---

## **Voter Information Pamphlet**

- If more than one eligible voter requests to prepare an argument for or against the election officer shall make the final designation
  - Sponsors have priority
  - Local legislative body members have priority

## **Transparency of Ballot Propositions Act**

- If two or more eligible voters wish to submit an argument for or against the election officer shall designate one of the eligible voters to submit the argument



# Voter Information

---

## **Voter Information Pamphlet**

- ❑ Arguments may not exceed 500 words
- ❑ Arguments shall be filed 60 days before election

## **Transparency of Ballot Propositions Act**

- ❑ Arguments may not exceed 500 words
- ❑ Arguments shall be filed 60 days before election



# Voter Information

---

## **Voter Information Pamphlet**

- Rebuttal arguments
  - Due not later than 45 days before the election
  - Do not exceed 250 words in length

## **Transparency of Ballot Propositions Act**

- Rebuttal arguments
  - Due not later than 45 days before the election
  - Do not exceed 250 words in length





# Voter Information

---

## **Voter Information Pamphlet**

- The pamphlet is distributed not more than 45 days before and not less than 15 days before the election

## **Transparency of Ballot Propositions Act**

- Arguments shall be posted on the [vote.utah.gov](http://vote.utah.gov) for 30 days before the election
- Arguments shall be posted on the municipalities website for 30 days before the election
- If municipality publishes a newsletter post all arguments in newsletter before the election



# Voter Information

---

## **Voter Information Pamphlet**

- No public meeting required

## **Transparency of Ballot Propositions Act**

- A public meeting shall be held no more than 45 days but at least 4 days before the election



# Political Activities of Public Entities

---

- Unless specifically required by law, a public entity may not make an expenditure from public funds for political purposes or to influence a ballot proposition

□ 20A-11-12



# Political Activities of Public Entities

---

- Public officials can exercise First Amendment rights
  - Speaking, campaigning, contributing personal money
- Public entities can:
  - Still provide factual information about ballot propositions
  - Analyze pros and cons of a ballot proposition
  - Provide neutral encouragement to vote

# Questions?

---





# Lt. Governor's Office

## Contact Information

---

Utah State Capitol

Suite 220

Salt Lake City, UT 84114

(801) 538-1041

(800) 995-VOTE

Fax: (801) 538-1133

E-mail: [elections@utah.gov](mailto:elections@utah.gov)

[vote.utah.gov](http://vote.utah.gov)