

ELECTION LAW CHANGES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the Election Code to establish procedures for submitting a nonbinding opinion question to the voters of Utah.

Highlighted Provisions:

This bill:

- defines terms;
- establishes procedures for submitting a nonbinding opinion question to the voters of Utah;
- describes the duties of the lieutenant governor and county clerks in submitting the opinion question to the voters;
- establishes procedures for the ballot form, voter information pamphlet, public notice, manner of voting, and canvass of returns in relation to the nonbinding opinion question; and
- provides a repealer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-6-107, as enacted by Laws of Utah 2008, Chapter 315

63I-2-220, as last amended by Laws of Utah 2017, Chapters 32 and 452

30 **63I-2-236**, as last amended by Laws of Utah 2017, Chapter 90

31 ENACTS:

32 **36-16b-101**, Utah Code Annotated 1953

33 **36-16b-102**, Utah Code Annotated 1953

34 **36-16b-103**, Utah Code Annotated 1953

35 **36-16b-201**, Utah Code Annotated 1953

36 **36-16b-202**, Utah Code Annotated 1953

37 **36-16b-203**, Utah Code Annotated 1953

38 **36-16b-204**, Utah Code Annotated 1953

39 **36-16b-301**, Utah Code Annotated 1953

40 **36-16b-302**, Utah Code Annotated 1953

41 **36-16b-303**, Utah Code Annotated 1953

42 **36-16b-304**, Utah Code Annotated 1953

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

45 Section 1. Section **20A-6-107** is amended to read:

46 **20A-6-107. Numbering of ballot propositions, bond propositions, and nonbinding**
47 **opinion questions -- Duties of election officer and lieutenant governor.**

48 (1) (a) Except as provided in Subsections (1)(b) and (1)(c), each ballot proposition
49 shall be listed on the ballot under the heading "Proposition #___", with the number of the ballot
50 proposition placed in the blank.

51 (b) Each proposed amendment to the Utah Constitution shall be listed on the ballot
52 under the heading "Constitutional Amendment ___", with a letter placed in the blank.

53 (c) Each bond proposition that has qualified for the ballot shall be listed on the ballot
54 under the title assigned to each bond proposition under Section **11-14-206**.

55 (2) Each nonbinding opinion question submitted to a vote of the people under Title 36,
56 Chapter 16b, Nonbinding Statewide Public Opinion Questions, shall be listed on the ballot
57 under the heading "Nonbinding Opinion Question # ___, " with the number of the nonbinding

opinion question placed in the blank.

(a) When an election officer or other person given authority to prepare or number ballot propositions receives a ballot proposition that is eligible for inclusion on the ballot, they shall ask the lieutenant governor to assign a number to the ballot proposition.

(b) (i) Upon request from an election officer or other person given authority to prepare or number ballot propositions, the lieutenant governor shall assign each ballot proposition a unique number, except as provided under Subsection ~~[(2)]~~ (3)(b)(iii).

(ii) Ballot proposition numbers shall be assigned sequentially, in the order requests for ballot proposition numbers are received.

(iii) The same ballot proposition number may be assigned to multiple ballot propositions if:

(A) the sponsors of each ballot proposition agree, in writing, to share the number; and

(B) the ballot propositions sharing the same number are identical in their terms, purpose, and effect, with jurisdiction being the only significant difference between the ballot propositions.

(4) When the lieutenant governor receives a joint resolution for a nonbinding opinion question under Section 36-16b-202, the lieutenant governor shall:

(a) assign a number to the nonbinding opinion question that is unique to the nonbinding opinion question; and

(b) assign numbers to each nonbinding opinion question sequentially, in the order in which the lieutenant governor receives the joint resolutions.

Section 2. Section 36-16b-101 is enacted to read:

CHAPTER 16b. NONBINDING STATEWIDE PUBLIC OPINION QUESTIONS

Part 1. General Provisions

36-16b-101. Title.

(1) This chapter is known as "Nonbinding Statewide Public Opinion Questions."

(2) This part is known as "General Provisions."

Section 3. Section 36-16b-102 is enacted to read:

36-16b-102. Definitions.

As used in this chapter:

(1) "Opinion question" means a nonbinding question that is submitted to all legal voters of the state in accordance with this chapter.

(2) "Originating house" means:

(a) the Utah House of Representatives if the resolution is a House joint resolution; or

(b) the Utah State Senate if the resolution is a Senate joint resolution.

(3) "Regular general election" means the same as that term is defined in Section 20A-1-102.

Section 4. Section **36-16b-103** is enacted to read:

36-16b-103. Exemption.

Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to an opinion question.

Section 5. Section **36-16b-201** is enacted to read:

Part 2. Submission of Nonbinding Opinion Questions to Voters**36-16b-201. Title.**

This part is known as "Submission of Nonbinding Opinion Questions to Voters."

Section 6. Section **36-16b-202** is enacted to read:

36-16b-202. Resolution to submit nonbinding opinion questions to voters.

(1) The Legislature may submit an opinion question to the legal voters of the state by passing a joint resolution in accordance with the requirements of this section.

(2) The joint resolution described in Subsection (1) shall include:

(a) the language of the opinion question as it will appear on the ballot;

(b) a statement directing that the lieutenant governor submit the language of the opinion question to the legal voters of the state for their approval or rejection; and

(c) language designating the date of the regular general election in which the opinion question shall be submitted to the voters.

(3) After passage by both houses of the Legislature, the originating house shall submit

the joint resolution to the lieutenant governor with instructions that the opinion question specified in the joint resolution be submitted to the legal voters on the regular general election date specified in the resolution.

Section 7. Section **36-16b-203** is enacted to read:

36-16b-203. Lieutenant governor's duties.

(1) After receipt of a joint resolution described in Section 36-16b-202, the lieutenant governor shall:

(a) submit the opinion question to the legal voters of Utah as required by the resolution;

(b) comply with Section 36-16b-302; and

(c) except as provided in Section 36-16b-103, comply with all relevant provisions of Title 20A, Election Code, relating to the conduct of elections.

(2) The lieutenant governor may establish additional requirements for county clerks to facilitate the conduct of the election.

Section 8. Section **36-16b-204** is enacted to read:

36-16b-204. Duties of county clerks.

Each county clerk shall, with respect to an opinion question described in this chapter, comply with:

(1) the requirements of Title 20A, Election Code, relating to regular general elections;

(2) the requirements of Section 36-16b-302; and

(3) any other requirement imposed by the lieutenant governor.

Section 9. Section **36-16b-301** is enacted to read:

Part 3. Voting and Canvassing

36-16b-301. Title.

This part is known as "Voting and Canvassing."

Section 10. Section **36-16b-302** is enacted to read:

36-16b-302. Procedures -- Ballot title -- Publication of nonbinding opinion question.

(1) The lieutenant governor, the Office of Legislative Research and General Counsel, and each county clerk shall comply with the procedures described in this section whenever the Legislature authorizes an opinion question under Section 36-16b-202.

(2) If the Legislature passes a resolution described in Section 36-16b-202, the Office of Legislative Research and General Counsel shall, on or before July 20:

(a) draft a ballot title that summarizes the subject matter of the opinion question; and

(b) deliver the ballot title to the lieutenant governor.

(3) On or before August 31, the lieutenant governor shall certify the number and ballot title of the opinion question to each county clerk in accordance with Section 20A-6-107.

(4) No more than 60 days nor less than 14 days before the date of the regular general election, the lieutenant governor shall cause the full text of the opinion question to be published in at least one newspaper in every county of the state where a newspaper is published.

(5) Each county clerk shall cause both the number and title of the opinion question to be:

(a) printed on the ballot to be used on election day;

(b) printed on the sample ballot; and

(c) otherwise published as required by law.

Section 11. Section **36-16b-303** is enacted to read:

36-16b-303. Ballot form -- Manner of voting.

The lieutenant governor shall ensure that a ballot containing an opinion question includes:

(1) a number and ballot title;

(2) the text of the opinion question; and

(3) (a) the words "FOR" and "AGAINST," each word presented with an adjacent square in which the voter may indicate the voter's vote; or

(b) all possible responses to the opinion question, each response presented with an adjacent square in which the voter may indicate the voter's vote.

Section 12. Section **36-16b-304** is enacted to read:

36-16b-304. Canvass of returns.

(1) The county legislative body shall conduct a public canvass of the returns from the opinion question election no later than 14 days after the day on which the regular general election is held.

(2) Each county clerk shall:

(a) make a certified abstract of the record of the canvassers detailing the votes cast on the opinion question; and

(b) seal the transcript, endorse on the transcript, "Election Returns," and transmit the transcript to the lieutenant governor's office so that the lieutenant governor receives the transcript on or before the fifth day before the day designated for the meeting of the state board of canvassers.

(3) The state board of canvassers established under Section [20A-4-306](#) shall meet to compute and determine the vote on the opinion question.

(4) The lieutenant governor may, in accordance with the requirements of Title 20A, Election Code, establish additional requirements for county clerks to facilitate the conduct of an election on an opinion question described in this chapter.

Section 13. Section **63I-2-220** is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Subsection [20A-5-803](#)(8) is repealed July 1, 2023.

(2) Section [20A-5-804](#) is repealed July 1, 2023.

(3) On July 1, 2018, in Subsection [20A-11-101](#)(21), the language that states "[10-2a-302](#)," is repealed.

(4) On January 1, 2019, Subsections [20A-6-107](#)(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.

Section 14. Section **63I-2-236** is amended to read:

63I-2-236. Repeal dates -- Title 36.

[Section [36-29-102](#) is repealed July 1, 2016.]

198 Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, is repealed on
199 January 1, 2019.