

**LOCAL LAND USE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions regarding referenda.

**Highlighted Provisions:**

This bill:

▶ disallows referral of a referendum to voters for a land use law that passed by a two-thirds 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

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*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:



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

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

31 (i) legally referable to voters; or

32 (ii) rejected as not legally referable to voters.

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

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

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

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

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

43 (b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not  
44 legally referable to voters for a land use law, as defined in Section 20A-7-101, or a transit area  
45 land use law, as defined in Section 20A-7-601, if the land use law or transit area land use law  
46 was passed by a two-thirds vote of the local legislative body.

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

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

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

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

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

58 (ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ

59 under Subsection (4)(a)(i).

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

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