

1 LOCAL LAND USE AMENDMENTS

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Michael K. McKell

5 House Sponsor: Mike Schultz

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7 LONG TITLE

8 General Description:

9 This bill modifies provisions regarding referenda.

10 Highlighted Provisions:

11 This bill:

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

14 Money Appropriated in this Bill:

15 None

16 Other Special Clauses:

17 None

18 Utah Code Sections Affected:

19 AMENDS:

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

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

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

24 **20A-7-602.8. Referability to voters of local land use law.**

25 (1) Within 20 days after the day on which an eligible voter files an application to  
26 circulate a referendum petition under Section **20A-7-602** for a land use law, counsel for the  
27 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:

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

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

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

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

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

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

58 to:

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

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

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

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