

# HB 362 Local Option: County Requirements<sup>1</sup> 2016 update



A county must follow these steps if the county submits the ballot proposition to voters in 2016:

**AFTER THE COUNTY ACTS:** The county clerk must prepare an election notice either 100 days prior to the election OR as soon as possible before the local election to use in conjunction with a federal write-in absentee ballot<sup>2</sup>

- The notice must include the ballot propositions and other offices as well as instructions for how to use the federal write-in absentee ballot
- The county clerk must post the notice on the county website & provide it upon request<sup>3</sup>
- Once the ballot is certified, then the county clerk must update & publish the notice

**SEP 4 (LAST DATE FOR 2016 ACTION):** The county governing body must submit the certified ballot title of the ballot proposition to the county clerk 65 days prior to the election<sup>4</sup>

**SEP 4:** The county clerk must receive petitions from supporters (governing body) and opponents to prepare arguments for and against the ballot proposition for the local voter information pamphlet<sup>5</sup>

- If more than one person files a request to prepare arguments for or against the ballot proposition in the local voter information pamphlet, then the election officer must make the final designation<sup>6</sup> and give priority to members of the governing body. The voter information pamphlet arguments may not exceed 500 words in length and not list more than five names as sponsors.<sup>7</sup>

**SEP 9:** Per the TBPA, the county clerk must provide the ballot proposition title, number, and text, the county legislative vote, and other factual information to the lieutenant governor for the Statewide Electronic Voter Information Website<sup>8</sup>

- The county governing body must provide a 500 word argument in favor of the ballot proposition to the county clerk per the TBPA to later publish on the county website, state website, and county newsletter (if applicable) by Sep 9 (60 days prior to Election Day)
- The county clerk must also receive the 500 word opposing argument for the voter information pamphlet
  - If multiple opposing arguments arrive, then the election officer designates one as "official"<sup>9</sup>
- The county clerk has the duty to share the support and opposition arguments with the opponents or supporters within 1 day of receiving both arguments so they can prepare rebuttals<sup>10</sup>

**SEP 24:** The county governing body & opponents may provide 250 word rebuttals (45 days prior to Election Day)<sup>11</sup>

**SEP 24-NOV 4:** The county governing body per the TBPA must publicize and hold one public meeting after 6 pm during this time frame and present both supporting and opposing arguments<sup>12</sup>

**OCT 9-NOV 8:** The county per the TBPA must post the argument, opposing argument, and rebuttals on the county website, state website, & the county newsletter (if applicable) until Election Day

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<sup>1</sup> Transparency of Ballot Propositions Act, Utah Code Ann. § 59-1-1602; voter information pamphlet, § 20A-7-402

<sup>2</sup> Utah Code Ann. § 20A-16-502(1),(2)

<sup>3</sup> Utah Code Ann. § 20A-16-502(5)

<sup>4</sup> Utah Code Ann. § 20A-6-106

<sup>5</sup> Utah Code Ann. § 59-1-1604(2)(a)(ii)

<sup>6</sup> Utah Code Ann. § 20A-7-402(2)(c)

<sup>7</sup> Utah Code Ann. § 20A-7-402(2)(f)

<sup>8</sup> Utah Code Ann. § 20A-7-801(4)(a)

<sup>9</sup> Utah Code Ann. § 20A-7-402(2)(c)

<sup>10</sup> Utah Code Ann. § 20A-7-402(3)(a)

<sup>11</sup> Utah Code Ann. § 20A-7-402(3); § 59-1-1604(3)

<sup>12</sup> Utah Code Ann. § 59-1-1605(1)



## Public Entities: What can and can't be done<sup>13</sup>

\* Consult with your city attorney and see the *Public entity and public official involvement memo* available on ULCT website for more details

**CAN:** provide a “brief statement” about the public entity’s position & reason for the position<sup>14</sup>

**CAN:** provide “factual information” as long as the public entity grants “equal access” to opponents of the ballot proposition<sup>15</sup>

**CAN:** provide “factual information” that is consistent with the TBPA—up to 500 word arguments & 250 word rebuttals—for publicizing arguments & rebuttals<sup>16</sup>

**CAN:** neutrally encourage voters to vote regardless of whether the city/town provides a “brief statement” or “factual information”<sup>17</sup>

**CANNOT:** make an expenditure from public funds to influence a ballot proposition<sup>18</sup>

**CANNOT:** spend public money or provide anything of value to campaign or advocate for or against the ballot proposition<sup>19</sup>

**CANNOT:** Provide services at less than fair market value for a political issues committee<sup>20</sup>

## Public Officials & Public Employees: What can and can't be done

**CAN:** advocate for or against the ballot proposition by speaking independently of the public entity, using your personal email account, and without using public funds<sup>21</sup>

**CAN:** advocate for or against the ballot proposition by providing campaign contributions from personal resources<sup>22</sup>

**CANNOT:** use your public email account to send emails that advocate for or against the ballot proposition<sup>23</sup>

**CANNOT:** approve expenditures from public funds to influence the ballot proposition<sup>24</sup>

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<sup>13</sup> Transparency of Ballot Propositions Act, Utah Code Ann. § 20A-1-1602; Political Activities of Public Entities Act, § 20A-11-1201

<sup>14</sup> Utah Code Ann. § 20A-11-1202(6)(a),(b)

<sup>15</sup> Utah Code Ann. § 20A-11-1206(2),(3)

<sup>16</sup> Utah Code Ann. § 59-1-1604

<sup>17</sup> Utah Code Ann. § 20A-11-1206(3)

<sup>18</sup> Utah Code Ann. § 20A-11-1203(1)

<sup>19</sup> *Id.*; Utah Code Ann. § 20A-11-1202(4)(a)

<sup>20</sup> Utah Code Ann. § 20A-11-1202(4)(e)

<sup>21</sup> Utah Code Ann. § 20A-11-1206(1)

<sup>22</sup> *Id.*

<sup>23</sup> Utah Code Ann. § 20A-11-1205(1)

<sup>24</sup> Utah Code Ann. § 20A-11-1203(1)