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REFERABILITY ANALYSIS

FOR

REFERENDUM REGARDING LEASE REVENUE BONDS RESOLUTION OF THE BUILDING AUTHORITY OF THE WASATCH SCHOOL DISTRICT

August 9, 2022

The local referendum procedures of the Utah Code permit an eligible voter who seeks “to have a local law passed by the local legislative body submitted to a vote of the people” to submit a referendum application with the local clerk within seven days after the local law was passed. Utah Code §§ 20A-7-601(2), (6); 20A-7-602.5(1). The appropriate local clerk is the “the election official of the local government whose law is being challenged.” *Smith v. Zook*, 2021 UT 10, ¶ 5.

On July 21, 2022, the Wasatch County Clerk received a Referendum Application stating the following:

Referendum Petition To the Honorable Joey Granger, County Clerk:

We, the undersigned citizens of Utah, respectfully order that the adoption of a resolution (no # issued) authorizing the issuance and sale of not more than \$150,000,000 aggregate principal amount of Lease Revenue Bonds, Series 2022; of the Wasatch School Board’s Building Authority passed on July 14, 2022 by the Wasatch School Board by a 5-0 vote, be referred to the voters for their approval or rejection at the regular general election to be held November 8, 2022.

In summary, the referendum application seeks to submit to a vote of the people a resolution passed by the Governing Body of the Local Building Authority of the Wasatch School District which resolves, among other things, to issue Lease Revenue Bonds.

Pursuant to the local referendum procedures, counsel for the County is required to “review the application to determine whether the proposed referendum is legally referable to voters” within 20 days of receiving the application. Utah Code § 20A-7-602.7. For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

- (a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

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

(c) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part (Utah Code Title 20A Chapter 7 Part 6).

Utah Code § 20A-7-602.7(2).

The Referendum is not legally referable to voters because the application for the proposed referendum does not comply with the requirements of Utah Code Title 20A Chapter 7 Part 6.

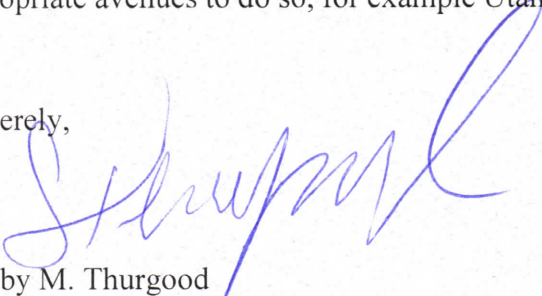
As stated above, the local referendum procedures of the Utah Code permit an eligible voter to seek “to have a local law passed by the local legislative body submitted to a vote of the people.” Utah Code § 20A-7-601(2). Within Title 20A Chapter 7, “ ‘local law’ includes an ordinance; resolution; land use law; land use regulation. . . ; or other legislative action of a local legislative body.” “ ‘Local legislative’ body means the legislative body of a county, city, town, or metro township.” Utah Code § 20A-7-101(15), (16).

First, While the Wasatch School Board is a public corporation and legal subdivision of the State of Utah, (Utah Code § 53G-4-401), neither the Building Authority nor the School District is a “legislative body of a county, city, town, or metro township.” Accordingly, the resolution at issue passed by the Building Authority of the Wasatch School District is not a “local law passed by a local legislative body.”

Second, an application for a referendum petition needs to be filed with the “local clerk, the election official of the local government whose law is being challenged.” *Smith v. Zook*, 2021 UT 10, ¶ 5. The referendum petition was filed with the Wasatch County Clerk but is not challenging a Wasatch County law. Rather it is challenging a resolution of the Building Authority of the Wasatch School Board and the Wasatch County Clerk is not the local clerk of the Building Authority of the Wasatch School Board.

For the reasons stated above, the Referendum Application is not referable because it does not comply with the requirements of Utah Code Title 20A Chapter 7 Part 6. Should the applicants seek to challenge the issuance of the Lease Revenue Bonds, the Utah Code may provide other appropriate avenues to do so, for example Utah Code sections 11-14-316; 17D-2-502; 17D-2-602.

Sincerely,



Shelby M. Thurgood
Deputy County Attorney
Wasatch County Attorney’s Office

COUNTY MANAGER
Dustin A. Grabau



COUNTY COUNCIL

Marilyn Crittenden
Steve Farrell
Danny Goode
Kendall Crittenden
Mark Nelson
Jeff Wade
Spencer Park

Fiscal and Legal Impact Statement

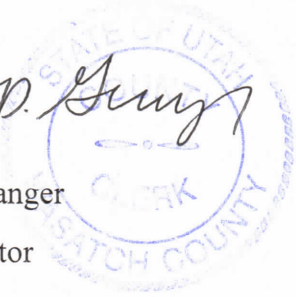
For

Referendum Regarding Wasatch School Board Lease Revenue Bonds Resolution

The funds authorized in the Building Authority Resolution is not more than \$150,000,000.00. It is unknown if rescinding the Resolution would increase or decrease taxes. It is unknown if rescinding would impact bonds, notes, or other debt instruments of the District, however it may increase other types of debt instruments should the District seek funds through alternative means. Sources of funding for the costs associated with rescinding are unknown. Costs or savings to the state and local government entities is unknown. Rescinding may hinder the District's ability to provide the educational services required in the Utah Code.

Handwritten signature of Joey D. Granger in black ink.

Joey D. Granger
Clerk/Auditor



ASSESSOR
Todd Griffin

ATTORNEY
Scott Sweat

CLERK/AUDITOR
Joey D Granger

RECORDER
Marcy Murray

SHERIFF
Jared Rigby

SURVEYOR
James Kaiserman

TREASURER
Diane G Burgener

JUSTICE COURT JUDGE
Brook Sessions