

## Chapter 52 Changing Forms of County Government

### Part 1 General Provisions

#### **17-52-101 Definitions.**

As used in this chapter:

- (1) "Appointment council" means a group of persons consisting of:
  - (a) a resident of the county in which the optional plan is proposed, designated by a majority of all state senators and representatives whose districts include any part of the county in which the optional plan is proposed;
  - (b) a resident of the county in which the optional plan is proposed, designated by the county legislative body;
  - (c) a resident of the county in which the optional plan is proposed, designated by the petition sponsors; and
  - (d) two other residents of the county in which the optional plan is proposed, designated by majority vote of the three other members of the appointment council.
- (2) "Optional plan" means a plan establishing an alternate form of government for a county as provided in Section 17-52-401.
- (3) "Reasonable notice" means, at a minimum:
  - (a) publication:
    - (i)
      - (A) in a newspaper of general circulation within the county at least once a week for at least two consecutive weeks ending no more than 10 and no fewer than three days before the event that is the subject of the notice; or
      - (B) if there is no newspaper of general circulation within the county, posting at least one notice per 1,000 population within the county, for at least a week ending no more than three days before the event that is the subject of the notice, at locations throughout the county that are most likely to give actual notice to county residents; and
    - (ii) in accordance with Section 45-1-101 for two weeks before the event that is the subject of the notice; and
  - (b) if the county has an Internet home page, posting an electronic notice on the Internet for at least seven days immediately before the event that is the subject of the notice.
- (4) "Study committee" means a group of persons:
  - (a) appointed under Section 17-52-301; and
  - (b) charged with the duties provided in Section 17-52-303.

Amended by Chapter 17, 2012 General Session

#### **17-52-102 Forms of county government -- County commission form required unless another is adopted.**

- (1) Each county shall operate under one of the following forms of county government:
  - (a) the county commission form under Section 17-52-501;
  - (b) the expanded county commission form under Section 17-52-502;
  - (c) the county executive and council form under Section 17-52-504; or
  - (d) the council-manager form under Section 17-52-505.

- (2) Unless it adopts another form of government as provided in this chapter, each county shall operate under the county commission form of government under Section 17-52-501.

Amended by Chapter 241, 2001 General Session

## **Part 2 Procedure**

### **17-52-201 Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.**

- (1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.
- (2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:
  - (a) the county legislative body as provided in Section 17-52-202; or
  - (b) registered voters of the county as provided in Section 17-52-203.
- (3)
  - (a) If the process to adopt an optional plan has been initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section 17-52-202 or 17-52-203, the county legislative body may not initiate the process again under Section 17-52-202 unless the earlier proceeding:
    - (i) has been concluded by an affirmative or negative vote of registered voters; or
    - (ii) has not been concluded but has been pending for at least two years.
  - (b) A county legislative body may not initiate the process to adopt an optional plan under Section 17-52-202 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by the county legislative body.
  - (c) Registered voters of a county may not initiate the process to adopt an optional plan under Section 17-52-203 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by registered voters.

Amended by Chapter 250, 2008 General Session

### **17-52-202 County legislative body initiation of adoption of optional plan -- Procedure.**

- (1) A county legislative body may initiate the process of adopting an optional plan by adopting a resolution to submit to the voters the question of whether a study committee should be established as provided in Section 17-52-301.
- (2) Each resolution adopted under Subsection (1) shall require the question to be submitted to the registered voters of the county at the next special election scheduled pursuant to Section 20A-1-204 after adoption of the resolution under Subsection (1).

Amended by Chapter 371, 2004 General Session

### **17-52-203 Registered voter initiation of adoption of optional plan -- Procedure.**

- (1) Registered voters of a county may initiate the process of adopting an optional plan by filing a petition for the establishment of a study committee as provided in Section 17-52-301.
- (2) Each petition under Subsection (1) shall:

- (a) be signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States;
  - (b) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
  - (c) be filed in the office of the clerk of the county in which the petition signers reside.
- (3)
- (a) Within 30 days of the filing of a petition under Subsection (1) or an amended or supplemental petition under Subsection (3)(b), the county clerk shall:
    - (i) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters; and
    - (ii)
      - (A) if so, certify the petition or amended or supplemental petition and deliver it to the county legislative body and notify in writing the contact sponsor of the certification; or
      - (B) if not, reject the petition or the amended or supplemental petition and notify in writing the county legislative body and the contact sponsor of the rejection and the reasons for the rejection.
  - (b) If a county clerk rejects a petition or an amended or supplemental petition under Subsection (3)(a)(ii)(B), the petition may be amended or supplemented or an amended or supplemental petition may be further amended or supplemented with additional signatures and refiled within 20 days of the date of rejection.
- (4) With the unanimous approval of petition sponsors, a petition filed under Subsection (1) may be withdrawn at any time within 90 days after petition certification but no later than 45 days before an election under Section 17-52-206 if:
- (a) the petition notified signers in conspicuous language that the petition sponsors are authorized to withdraw the petition; and
  - (b) there are at least three sponsors of the petition.

Amended by Chapter 37, 2013 General Session  
Amended by Chapter 134, 2013 General Session

**17-52-203.5 Election to determine whether study committee should be established.**

- (1) The county legislative body shall hold an election under this section if:
  - (a) the county legislative body adopts a resolution under Subsection 17-52-202(1); or
  - (b) a petition filed under Subsection 17-52-203(1) is certified by the county clerk under Subsection 17-52-203(3).
- (2) Each election under Subsection (1) shall be a special election, called and held as required by Sections 20A-1-203 and 20A-1-204 after:
  - (a) adoption of a resolution under Subsection 17-52-202(1); or
  - (b) certification of a petition under Subsection 17-52-203(3).
- (3) The county clerk shall prepare the ballot for each election under Subsection (1) with a question that asks substantially as follows:

"Shall a study committee be appointed to consider and possibly recommend a change in the form of government of \_\_\_\_\_ County?"

Amended by Chapter 371, 2004 General Session

**17-52-204 County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.**

- (1) Within 10 days after the study committee submits its report under Subsection 17-52-303(3)(d) to the county legislative body recommending a change in the form of county government, the county clerk shall send to the county attorney of the county in which the optional plan is proposed or, if the county does not have a county attorney, to the district attorney a copy of each optional plan recommended by the study committee in its report under Subsection 17-52-303(3)(d).
- (2) Within 45 days after receipt of the recommended optional plan from the county clerk under Subsection (1), the county or district attorney shall send a written report to the county clerk containing the information required under Subsection (3).
- (3) Each report from the county or district attorney under Subsection (2) shall:
  - (a) state the attorney's opinion as to whether implementation of the optional plan as prepared by the study committee would result in a violation of any applicable statutory or constitutional provision;
  - (b) if the attorney concludes that a violation would result:
    - (i) identify specifically each statutory or constitutional provision that would be violated by implementation of the optional plan as prepared by the study committee;
    - (ii) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the plan is implemented as prepared by the study committee;
    - (iii) state whether, in the attorney's opinion, any of the provisions or features identified in Subsection (3)(b)(ii) are so integral to the proposed optional plan that having previously changed the specified provision or feature to avoid the violation would have affected the decision of a study committee member who favored the proposed optional plan; and
    - (iv) if all the provisions or features identified in Subsection (3)(b)(ii) do not meet the standard of Subsection (3)(b)(iii), recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.
- (4)
  - (a) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that meet the standard of Subsection (3)(b)(iii), the proposed optional plan may not be the subject of a resolution or petition under Subsection 17-52-206(1), except that the study committee may modify the optional plan to avoid the violation and then file a new report under Subsection 17-52-303(3)(d) that will be treated as any other report under that subsection.
  - (b) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that do not meet the standard of Subsection (3)(b)(iii), the optional plan may be modified by the study committee to avoid the statutory or constitutional violations and then be the subject of a resolution or petition under Subsection 17-52-206(1).
- (5) If the attorney's statement under Subsection (3) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan may be the subject of a resolution or petition under Subsection 17-52-206(1).

Amended by Chapter 241, 2001 General Session

**17-52-205 Voter information pamphlet.**

- (1) In anticipation of an election under Section 17-52-206, the county clerk may prepare a voter information pamphlet to inform the public of the proposed optional plan.
- (2) In preparing a voter information pamphlet under this section, the county clerk may:
  - (a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and
  - (b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.
- (3) Each county clerk preparing a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner determined by the county clerk to be adequate.

Amended by Chapter 241, 2001 General Session

**17-52-206 Election on recommended optional plan -- Resolution or petition to submit plan to voters.**

- (1)
  - (a) The county legislative body shall hold an election on an optional plan recommended in a study committee report filed under Subsection 17-52-303(3)(d) if:
    - (i) the county or district attorney has completed the review of the recommended optional plan and has submitted the attorney's report to the county clerk as provided in Section 17-52-204;
    - (ii) the recommended optional plan may, under Subsection 17-52-204(3), be the subject of a resolution or petition under this Subsection (1); and
    - (iii) after the county or district attorney has submitted the attorney's report under Section 17-52-204:
      - (A) the county legislative body adopts a resolution to submit the recommended optional plan to voters; or
      - (B) a petition is filed with the county clerk that:
        - (I) is signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States;
        - (II) designates up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
        - (III) requests that the recommended optional plan be submitted to voters.
  - (b) The process for certifying a petition filed under Subsection (1)(a)(iii)(B) shall be the same as that provided in Subsection 17-52-203(3).
- (2) Each election under Subsection (1) shall be held at the next regular general or municipal general election date that is no less than two months after:
  - (a) the county legislative body's adoption of a resolution under Subsection (1)(a)(iii)(A); or
  - (b) certification of a petition filed under Subsection (1)(a)(iii)(B).
- (3) The county clerk shall prepare the ballot for each election under Subsection (1) so that the question on the ballot states substantially as follows:

"Shall \_\_\_\_\_ County adopt the alternate form of government known as the \_\_\_(insert the proposed form of government)\_\_\_ that has been recommended by the study committee?"
- (4) The county clerk shall:

- (a) cause the complete text of the proposed optional plan to be published in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election under Subsection (1); and
- (b) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.

Amended by Chapter 37, 2013 General Session

**17-52-207 Election of officers under optional plan.**

If an optional plan is adopted by voters at an election under Section 17-52-206, the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section 17-52-206, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers.

Amended by Chapter 241, 2001 General Session

**Part 3  
Study Committee**

**17-52-301 Procedure for appointing members to study committee.**

- (1) Each member of a study committee shall be appointed by an appointment council as provided in this section.
- (2)
  - (a) The county executive shall convene a meeting of the three members of the appointment council referred to in Subsections 17-52-101(1)(a), (b), and (c) within 10 days after the canvass of an election under Section 17-52-203.5 if a majority of those voting voted in favor of establishing a study committee.
  - (b) Within 10 days of the convening of the first meeting under Subsection (2)(a), the three members of the appointment council shall designate the remaining two members referred to in Subsection 17-52-101(1)(d).
- (3)
  - (a) Within 30 days of the designation of the remaining two members under Subsection (2)(b), the appointment council shall:
    - (i) appoint the members to the study committee; and
    - (ii) notify in writing the appointees, the county executive, and the county legislative body of the appointments.
  - (b) In making appointments to the study committee, the appointment council shall work to achieve a broadly representative membership.
  - (c) The appointment council may not appoint a person to the study committee unless that person:
    - (i) is a registered voter in the county whose form of government will be studied by the study committee; and
    - (ii) does not hold any public office or employment other than membership on the appointment council.

Amended by Chapter 241, 2001 General Session

**17-52-302 Convening of first meeting of study committee.**

The county executive shall convene the first meeting of the study committee within 10 days after receipt of notification of the study committee members' appointment under Subsection 17-52-301(3)(a).

Amended by Chapter 241, 2001 General Session

**17-52-303 Study committee -- Members -- Powers and duties -- Report -- Services provided by county.**

- (1)
  - (a) Each study committee shall consist of at least seven but no more than 11 members.
  - (b) A member of a study committee may not receive compensation for service on the committee.
  - (c) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.
- (2) A study committee may:
  - (a) adopt rules for its own organization and procedure and to fill a vacancy in its membership;
  - (b) establish advisory boards or committees and include on them persons who are not members of the study committee; and
  - (c) request the assistance and advice of any officers or employees of any agency of state or local government.
- (3) Each study committee shall:
  - (a) study the form of government within the county and compare it with other forms available under this chapter;
  - (b) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;
  - (c) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and
  - (d) file a written report of its findings and recommendations with the county executive and the county legislative body no later than one year after the convening of its first meeting under Section 17-52-302.
- (4) Each study committee report under Subsection (3)(d) shall include:
  - (a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;
  - (b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and
  - (c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.
- (5)
  - (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(d) and, following the hearings and subject to Subsection (5)(b), alter the report.
  - (b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:

- (i) that would recommend the adoption of an optional form different from that recommended in the original report; or
  - (ii) within the 120-day period before the election under Section 17-52-206.
- (6) Each meeting held by the study committee shall be open to the public.
- (7) The county legislative body shall provide for the study committee:
- (a) suitable meeting facilities;
  - (b) necessary secretarial services;
  - (c) necessary printing and photocopying services;
  - (d) necessary clerical and staff assistance; and
  - (e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

Amended by Chapter 241, 2001 General Session

## **Part 4**

### **Optional Plan**

#### **17-52-401 Contents of proposed optional plan.**

- (1) Each optional plan proposed under this chapter:
- (a) shall propose the adoption of one of the forms of county government listed in Subsection 17-52-402(1)(a);
  - (b) shall contain detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:
    - (i) election or appointment of officers specified in the optional plan for the new form of county government;
    - (ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;
    - (iii) continuity of existing ordinances and regulations;
    - (iv) continuation of pending legislative, administrative, or judicial proceedings;
    - (v) making of interim and temporary appointments; and
    - (vi) preparation, approval, and adjustment of necessary budget appropriations;
  - (c) shall specify the date it is to become effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and
  - (d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget shall provide that the county executive's role is to prepare and present a proposed budget to the county legislative body, and the county legislative body's role is to adopt a final budget.
- (2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.
- (3) An optional plan may not include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute.
- (4) Each optional plan proposing to change the form of government to a form under Section 17-52-504 or 17-52-505 shall:

- (a) provide for the same executive and legislative officers as are specified in the applicable section for the form of government being proposed by the optional plan;
  - (b) provide for the election of the county council;
  - (c) specify the number of county council members, which shall be an odd number from three to nine;
  - (d) specify whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;
  - (e) specify county council members' qualifications and terms and whether the terms are to be staggered;
  - (f) contain procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and
  - (g) state the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.
- (5) Each optional plan proposing to change the form of government to the county commission form under Section 17-52-501 or the expanded county commission form under Section 17-52-502 shall specify:
- (a)
    - (i) for the county commission form of government, that the county commission shall have three members; or
    - (ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;
  - (b) the terms of office for county commission members and whether the terms are to be staggered;
  - (c) whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts; and
  - (d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members.

Amended by Chapter 17, 2012 General Session

**17-52-402 Plan may propose changing forms of county government -- Plan may propose change of structural form -- Partisan elections.**

- (1)
- (a) Each optional plan shall propose changing the form of county government to:
    - (i) the county commission form under Section 17-52-501;
    - (ii) the expanded county commission form under Section 17-52-502;
    - (iii) the county executive and council form under Section 17-52-504; or
    - (iv) the council-manager form under Section 17-52-505.
  - (b) An optional plan adopted after May 1, 2000, may not:
    - (i) propose changing the form of government to a form not included in Subsection (1)(a);
    - (ii) provide for the nonpartisan election of elected officers;
    - (iii) impose a limit on the number of terms or years that an elected officer may serve; or
    - (iv) provide for elected officers to be subject to a recall election.
- (2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.

- (3) A county that provided for the election of the county's elected officers through a partisan election in or after the 2000 general election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

Amended by Chapter 216, 2015 General Session

**17-52-403 Adoption of optional plan -- Effect of adoption.**

- (1) If a proposed optional plan is approved at an election held under Section 17-52-206:
  - (a) the proposed optional plan becomes effective according to its terms and, subject to Subsection 17-52-401(1)(c), at the time specified in it, is public record open to inspection by the public, and is judicially noticeable by all courts;
  - (b) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;
  - (c) all public officers and employees shall cooperate fully in making the transition between forms of county government; and
  - (d) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.
- (2) Adoption of an optional plan changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:
  - (a) school district;
  - (b) justice court;
  - (c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;
  - (d) special service district under Title 17D, Chapter 1, Special Service District Act;
  - (e) city or town; or
  - (f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.
- (3) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Amended by Chapter 17, 2012 General Session

**17-52-404 Amendment of optional plan.**

- (1) Subject to Subsection (2), an optional plan, after going into effect following an election held under Section 17-52-206, may be amended by an affirmative vote of two-thirds of the county legislative body.
- (2) Notwithstanding Subsection (1), an amendment to an optional plan in effect may not take effect until approved by a majority of registered voters voting in a general or special election at which the amendment is proposed, if the amendment changes:
  - (a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;
  - (b) the distribution of powers between the executive and legislative branches of county government; or
  - (c) the status of the county executive or legislative body from full-time to part-time or vice versa.

Renumbered and Amended by Chapter 133, 2000 General Session

**17-52-405 Repeal of optional plan.**

- (1) An optional plan adopted under this chapter may be repealed as provided in this section.
- (2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.
- (3)
  - (a) A petition to repeal an optional plan may not be filed sooner than four years after the election of county officers under Section 17-52-207.
  - (b)
    - (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in Subsection (8), the voters may not circulate or file a subsequent petition to repeal until at least four years after the certification of the original petition.
    - (ii) If, after four years, the voters file a subsequent petition as described in Subsection (3)(b)(i), the voters:
      - (A) may not circulate or file another petition to repeal until at least four years after certification of the subsequent petition; and
      - (B) shall wait an additional four years after the date of certification of the previous petition for each petition filed thereafter.
- (4) Each petition under Subsection (2) shall:
  - (a) be signed by registered voters residing in the county:
    - (i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) at the most recent election for president of the United States; and
    - (ii) who represent at least 85% of the voting precincts located within the county;
  - (b) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
  - (c) be filed in the office of the clerk of the county in which the petition signers reside.
- (5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:
  - (a) determine whether the petition or amended petition has been signed by the required number of registered voters; and
  - (b)
    - (i) if so, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or
    - (ii) if not, reject the petition or the amended petition and notify in writing the county legislative body and the contact sponsor of the rejection and the reasons for the rejection.
- (6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection.
- (7)
  - (a) If a petition under Subsection (2) is certified, the county legislative body shall within 60 days after petition certification adopt a resolution granting the petition and deciding to hold an election on the proposal to repeal the optional plan.
  - (b) The county legislative body shall hold the election at the next regular general election date that is at least two months after the legislative body's decision.
- (8) If, at an election held under Subsection (7)(b), a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:

- (a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection (8)(c);
- (b) upon the effective date of the repeal under Subsection (8)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and
- (c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next regular general election following the election under Subsection (7)(b).

Enacted by Chapter 134, 2013 General Session

## **Part 5 Forms of County Government**

### **17-52-501 County commission form of government.**

- (1) Each county operating under the county commission form of government shall be governed by a county commission consisting of three members.
- (2) A county commission under a county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.
- (3) Except as otherwise provided in an optional plan adopted under this chapter:
  - (a) the term of office of each county commission member is four years;
  - (b) the terms of county commission members shall be staggered so that two members are elected at a regular general election date that alternates with the regular general election date of the other member; and
  - (c) each county commission member shall be elected at large, unless otherwise required by court order.
- (4)
  - (a) If two county commission positions are vacant for an election, the positions shall be designated "county commission seat A" and "county commission seat B."
  - (b) Each candidate who files a declaration of candidacy when two positions are vacant shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B.
  - (c) No person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

Renumbered and Amended by Chapter 133, 2000 General Session

### **17-52-502 Expanded county commission form of government.**

- (1) Each county operating under an expanded county commission form of government shall be governed by a county commission consisting of five or seven members.
- (2) A county commission under the expanded county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

- (3) Except as otherwise provided in an optional plan adopted under this chapter:
  - (a) the term of office of each county commission member is four years;
  - (b) the terms of county commission members shall be staggered so that approximately half the members are elected at alternating regular general election dates; and
  - (c) each county commission member shall be elected.
- (4)
  - (a) If multiple at-large county commission positions are vacant for an election, the positions shall be designated "county commission seat A," "county commission seat B," and so on as necessary for the number of vacant positions.
  - (b) Each candidate who files a declaration of candidacy when multiple positions are vacant shall designate the letter of the county commission seat for which the candidate is a candidate.
  - (c) No person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

Amended by Chapter 42, 2005 General Session

**17-52-504 County executive-council form of county government.**

- (1)
  - (a) A county operating under the form of government known as the "county executive-council" form shall be governed by an elected county council, an elected county executive, and such other officers and employees as are authorized by law.
  - (b) The optional plan shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.
- (2) The county executive shall be the chief executive officer or body of the county.
- (3) In the county executive-council form of county government:
  - (a) the county council is the county legislative body and shall have the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body; and
  - (b) the county executive shall have the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.
- (4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:
  - (a) the county council, with respect to legislative functions, duties, and powers; and
  - (b) the county executive, with respect to executive functions, duties, and powers.

Renumbered and Amended by Chapter 133, 2000 General Session

**17-52-505 Council-manager form of county government.**

- (1)
  - (a) A county operating under the form of government known as the "council-manager" form shall be governed by an elected county council, a county manager appointed by the council, and such other officers and employees as are authorized by law.
  - (b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.
- (2) The county manager shall be the administrative head of the county government and shall have the powers, functions, and duties of a county executive, except:
  - (a) as the county legislative body otherwise provides by ordinance; and
  - (b) that the county manager may not veto any ordinances enacted by the council.

- (3)
- (a) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies, attempt to exact any promise relative to any appointment from any candidate for manager, or discuss directly or indirectly with him the matter of specific appointments to any county office or employment.
  - (b)
    - (i) A person who violates the provisions of this Subsection (3) shall forfeit the office of the offending member of the council.
    - (ii) Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.
    - (iii) Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.
    - (iv) The optional plan may provide procedures for implementing this Subsection (3).
- (4) In the council-manager form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county manager.
- (5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:
- (a) the county council, with respect to legislative functions, duties, and powers; and
  - (b) the county manager, with respect to executive functions, duties, and powers.
- (6)
- (a) As used in this Subsection (6), "interim vacancy period" means the period of time that:
    - (i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and
    - (ii) ends on the day on which the council member-elect begins the council member's term.
  - (b)
    - (i) The county council may not appoint a county manager during an interim vacancy period.
    - (ii) Notwithstanding Subsection (6)(b)(i):
      - (A) the county council may appoint an interim county manager during an interim vacancy period; and
      - (B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.
  - (c) Subsection (6)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (7) A county council that appoints a county manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the county manager.

Amended by Chapter 209, 2011 General Session