

1                                   **CREATING OR CONSOLIDATING COUNTIES**

2   1998 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Lloyd W. Frandsen**

5 AN ACT RELATING TO COUNTIES; REPEALING PROVISIONS RELATING TO THE  
6 CREATION OF A NEW COUNTY; REENACTING AND MODIFYING PROVISIONS  
7 RELATING TO THE CREATION OF A NEW COUNTY; AND PROVIDING FOR THE  
8 CONSOLIDATION OF COUNTIES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 ENACTS:

11           **17-3-201**, Utah Code Annotated 1953

12           **17-3-202**, Utah Code Annotated 1953

13           **17-3-203**, Utah Code Annotated 1953

14           **17-3-204**, Utah Code Annotated 1953

15           **17-3-205**, Utah Code Annotated 1953

16           **17-3-206**, Utah Code Annotated 1953

17           **17-3-207**, Utah Code Annotated 1953

18           **17-3-208**, Utah Code Annotated 1953

19           **17-3-209**, Utah Code Annotated 1953

20           **17-3-210**, Utah Code Annotated 1953

21           **17-3-211**, Utah Code Annotated 1953

22           **17-3-212**, Utah Code Annotated 1953

23           **17-3-301**, Utah Code Annotated 1953

24           **17-3-302**, Utah Code Annotated 1953

25           **17-3-303**, Utah Code Annotated 1953

26           **17-3-304**, Utah Code Annotated 1953

27           **17-3-305**, Utah Code Annotated 1953

1           **17-3-306**, Utah Code Annotated 1953

2           **17-3-307**, Utah Code Annotated 1953

3           **17-3-308**, Utah Code Annotated 1953

4 REPEALS:

5           **17-3-1**, as last amended by Chapter 227, Laws of Utah 1993

6           **17-3-2**, as last amended by Chapter 68, Laws of Utah 1984

7           **17-3-3**, as last amended by Chapter 68, Laws of Utah 1984

8           **17-3-4**, as last amended by Chapter 227, Laws of Utah 1993

9           **17-3-5**, as last amended by Chapter 227, Laws of Utah 1993

10          **17-3-6**, as last amended by Chapter 227, Laws of Utah 1993

11          **17-3-7**, Utah Code Annotated 1953

12          **17-3-8**, Utah Code Annotated 1953

13          **17-3-9**, Utah Code Annotated 1953

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

15          Section 1. Section **17-3-201** is enacted to read:

16                           **CHAPTER 3. CREATION AND CONSOLIDATION OF COUNTIES**

17   **Part 1. Reserved**

18   **Part 2. Creating a New County**

19           **17-3-201. Definitions.**

20           As used in this part, "original county" means the county from which a new county is  
21 created or proposed to be created, with boundaries that do not include the new county or proposed  
22 new county.

23          Section 2. Section **17-3-202** is enacted to read:

24           **17-3-202. Creating a new county.**

25           A new county may be created as provided in this part.

26          Section 3. Section **17-3-203** is enacted to read:

27           **17-3-203. Creation of new county -- Petition.**

28           (1) The process to create a new county is initiated by filing a petition with the clerk of the  
29 county from which the new county is proposed to be created.

30           (2) Each petition under Subsection (1) shall:

31           (a) contain the signatures of:

1           (i) registered voters residing within the proposed new county equal in number to at least  
2 25% of the number of votes cast within the proposed new county at the last gubernatorial election  
3 before the filing of the petition; and

4           (ii) registered voters residing within the original county equal in number to at least 25%  
5 of the number of votes cast within the original county at the last gubernatorial election before the  
6 filing of the petition;

7           (b) state the name of the proposed new county;

8           (c) define the boundaries of the proposed new county; and

9           (d) be filed before the first Monday in May of any year.

10          Section 4. Section **17-3-204** is enacted to read:

11          **17-3-204. Creation of new county -- Election.**

12          (1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than  
13 45 days after the filing of a petition under Subsection 17-3-203(1), the legislative body of the  
14 county in which the proposed new county is located shall hold an election on the proposal to create  
15 a new county.

16          (2) The county legislative body shall give reasonable, advance public notice of the election  
17 under Subsection (1).

18          (3) The form of ballot in an election under Subsection (1) shall be:

19          For the creation of (insert the name of the proposed new county)

20          Against the creation of (insert the name of the proposed new county)

21          Section 5. Section **17-3-205** is enacted to read:

22          **17-3-205. Election returns -- Lieutenant governor certification -- Governor's**  
23 **proclamation.**

24          (1) Immediately after the canvass of an election under Subsection 17-3-204(1) has been  
25 completed, the county clerk shall:

26          (a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it  
27 "election returns"; and

28          (b) deliver the sealed, certified abstract in person or mail it by registered mail to the  
29 lieutenant governor.

30          (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify  
31 the result of the election to the governor.

1           (3) If a majority of those voting from within the proposed new county and a majority of  
2 those voting from within the original county vote in favor of the proposed new county, the  
3 governor shall issue a written proclamation that:

4           (a) states the result of the election;

5           (b) declares the creation of the new county, to take effect at 12 noon on the first Monday  
6 in January of the year following the election of officers under Section 17-3-206;

7           (c) declares the name of the new county, as stated in the petition under Subsection  
8 17-3-203(2)(b);

9           (d) describes the boundaries of the new county and the boundaries of the original county  
10 as altered by the creation of the new county; and

11           (e) states the judicial district to which the new county belongs.

12           (4) Within three days after issuing a proclamation under Subsection (3), the governor shall  
13 mail a copy of the proclamation to the legislative body of the county from which the new county  
14 will be created.

15           Section 6. Section **17-3-206** is enacted to read:

16           **17-3-206. Transition committee -- Membership -- Duties.**

17           (1) Within 45 days after the issuance of the governor's proclamation under Subsection  
18 17-3-205(3), the legislative body of the original county shall convene the first meeting of a  
19 transition committee consisting of:

20           (a) three residents of the original county who are registered voters, appointed by the  
21 governor within 20 days after the issuance of the governor's proclamation under Subsection  
22 17-3-205(3);

23           (b) three residents of the new county who are registered voters, appointed by the governor  
24 within 20 days after the issuance of the governor's proclamation under Subsection 17-3-205(3);  
25 and

26           (c) three persons chosen by a majority of the six committee members in Subsections (1)(a)  
27 and (b).

28           (2) The transition committee shall elect a chair from its members and establish rules to  
29 govern its proceedings.

30           (3) A majority of the members of the transition committee constitutes a quorum, and the  
31 action of a majority of a quorum constitutes the action of the transition committee.

1           (4) All meetings of the transition committee shall comply with Title 52, Chapter 4, Open  
2 and Public Meetings.

3           (5) Members of the transition committee may not be paid for their service on the  
4 committee, but shall be reimbursed all reasonably necessary expenses incurred in serving on the  
5 committee.

6           (6) Before the effective date of the new county's creation, the transition committee shall:

7           (a) meet as often as the committee considers necessary;

8           (b) divide and allocate between the original county and the new county the assets and  
9 liabilities that existed within the county from which the new county was created at the time of the  
10 new county's creation;

11           (c) determine the effect of the new county's creation on each dependent special district  
12 created under Title 17A, Chapter 3, Dependent Special Districts, that is located partly within the  
13 original county and partly within the new county; and

14           (d) prepare and distribute publicly a written report of the transition committee's actions  
15 under Subsections (6)(b) and (c).

16           (7) In fulfilling its responsibilities under Subsection (5), each transition committee:

17           (a) shall treat both the original county and the new county fairly and equitably, giving  
18 preference to neither county and proportionately dividing between the counties the assets and  
19 liabilities, taking into account differences between the two counties in terms of population,  
20 population density, infrastructure, geography, size, assessed value of property, and expected  
21 revenues from property tax, other taxes, and other revenue sources; and

22           (b) may engage professionals the committee reasonably considers necessary to assist the  
23 committee.

24           (8) The original county and the new county shall equally bear all expenses of the transition  
25 committee.

26           (9) (a) Judicial review of a decision of the transition committee may be sought by:

27           (i) the legislative body of the original county; or

28           (ii) (A) before the creation of the new county, the members-elect of the legislative body  
29 of the new county; or

30           (B) after the creation of the new county, the legislative body of the new county.

31           (b) Each request for judicial review under Subsection (9)(a) shall be filed:

- 1           (i) within the later of:
- 2           (A) 30 days after the issuance of the transition committee's report under Subsection (6)(d);
- 3 or
- 4           (B) 30 days after the election of officers of the new county under Section 17-3-207; and
- 5           (ii) with the district court that has jurisdiction in the county from which the new county
- 6 is being created.
- 7           (c) In an action under Subsection (9)(a), the court shall uphold the decision of the
- 8 transition committee unless the court determines that the decision is arbitrary, capricious, or
- 9 illegal.

10           Section 7. Section **17-3-207** is enacted to read:

11           **17-3-207. Election to select county seat and to elect officers in new county.**

12           (1) On the first Tuesday after the first Monday of November next following the issuance  
13 of the governor's proclamation under Section 17-3-205, the legislative body of each county from  
14 which a new county is created shall hold an election to select a county seat and to elect county  
15 officers for the new county.

16           (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a  
17 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration  
18 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection  
19 17-3-205(3).

20           (3) The city or town receiving the largest number of votes for county seat in an election  
21 under Subsection (1) shall be the seat of the new county.

22           Section 8. Section **17-3-208** is enacted to read:

23           **17-3-208. Election code applies -- Election expenses.**

24           (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,  
25 apply to each election under this part.

26           (2) The original county and the new county shall equally share all expenses of the elections  
27 provided for under this part.

28           Section 9. Section **17-3-209** is enacted to read:

29           **17-3-209. Transfer of records -- Expenses shared by counties.**

30           (1) On or before the effective date of the creation of a new county, the clerk and recorder  
31 of the county from which the new county is created shall deliver to the clerk-elect and

1 recorder-elect of the new county:

2 (a) all original records relating to or affecting:

3 (i) title of real or personal property located entirely in the new county;

4 (ii) elections that have been held within the area of the new county;

5 (iii) the creation or operation of dependent special districts created under Title 17A,  
6 Chapter 3, Dependent Special Districts, located entirely within the new county; and

7 (iv) the creation of independent special districts created under Title 17A, Chapter 2,  
8 Independent Special Districts, located entirely within the new county; and

9 (b) certified copies of records relating to or affecting:

10 (i) title of real or personal property located partly in the original county and partly in the  
11 new county;

12 (ii) elections held in voting precincts located partly in the original county and partly in the  
13 new county;

14 (iii) the creation or operation of dependent special districts created under Title 17A,  
15 Chapter 3, Dependent Special Districts, located partly in the original county and partly in the new  
16 county; and

17 (iv) the creation of independent special districts created under Title 17A, Chapter 2,  
18 Independent Special Districts, located partly within the original county and partly within the new  
19 county.

20 (2) The new county shall pay all expenses of copying and transferring records or copies  
21 of records from the original county to the new county.

22 Section 10. Section **17-3-210** is enacted to read:

23 **17-3-210. Effect on school districts, special districts, and voting precincts.**

24 (1) The creation of a new county under this part does not affect the boundaries of an  
25 independent special district, created under Title 17A, Chapter 2, Independent Special Districts, or  
26 a school district located within the original county or the new county.

27 (2) The creation of a new county divides each voting precinct located partly within the  
28 original county and partly within the new county along the boundary separating the two counties.

29 (3) The effect of the creation of a new county on a dependent special district created under  
30 Title 17A, Chapter 3, Dependent Special Districts, located partly within the original county and  
31 partly within the new county, shall be determined by the transition committee under Section

1 17-3-206.

2 Section 11. Section **17-3-211** is enacted to read:

3 **17-3-211. Offenses in new county -- Civil and criminal actions.**

4 (1) Each offense committed in the area of the new county before the creation of the new  
5 county that has not been prosecuted may be prosecuted to judgment and execution in the new  
6 county.

7 (2) Each civil or criminal action pending in the district court to which the original county  
8 belongs may continue to be prosecuted in the district court to which the new county belongs,  
9 subject to a change of venue as provided by law.

10 Section 12. Section **17-3-212** is enacted to read:

11 **17-3-212. Delivery of certified tax list -- Delivery of taxes collected.**

12 Upon the effective date of the creation of the new county, the treasurer of the original  
13 county shall deliver to the treasurer of the new county:

14 (1) a certified list of all taxes collected by the treasurer of the original county for the  
15 preceding year upon the property located within the new county; and

16 (2) all taxes collected by the treasurer of the original county for the preceding year upon  
17 property located within the new county, less the new county's pro rata share of the cost of  
18 assessing and collecting the taxes and the entire cost of preparing the certified list under  
19 Subsection (1).

20 Section 13. Section **17-3-301** is enacted to read:

21 **Part 3. Consolidating Counties**

22 **17-3-301. Consolidation of multiple counties.**

23 Two or more contiguous counties may be consolidated into a single new county as  
24 provided in this part.

25 Section 14. Section **17-3-302** is enacted to read:

26 **17-3-302. Consolidation of counties -- Petition.**

27 (1) The process to consolidate more than one county into a single new county is initiated  
28 by filing a petition with the clerk of the most populous county of the counties proposed to be  
29 consolidated.

30 (2) Each petition under Subsection (1) shall:

31 (a) contain the signatures of registered voters residing within each of the counties proposed

1 to be consolidated equal in number to at least 25% of the number of votes cast within each of the  
2 respective counties at the last gubernatorial election before the filing of the petition;

3 (b) state the name of the proposed consolidated county; and

4 (c) be filed before the first Monday in May of any year.

5 (3) Within five days of the filing of a petition under Subsection (1), the clerk of the county  
6 in which the petition was filed shall deliver a copy of the petition to the clerk of each other county  
7 proposed to be consolidated.

8 Section 15. Section **17-3-303** is enacted to read:

9 **17-3-303. Consolidation of counties -- Election.**

10 (1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than  
11 45 days after the filing of a petition under Subsection 17-3-302(1), the legislative body of each of  
12 the counties proposed to be consolidated shall hold an election on the proposal to consolidate  
13 counties.

14 (2) The legislative body of each of the counties proposed to be consolidated shall give  
15 reasonable, advance public notice in its respective county of the election under Subsection (1).

16 (3) The form of ballot in an election under Subsection (1) shall be:

17 For the consolidation of (insert the names of each of the counties proposed to be  
18 consolidated) into a single new county known as (insert the proposed name of the proposed  
19 consolidated county)

20 Against the consolidation of (insert the names of each of the counties proposed to be  
21 consolidated) into a single new county known as (insert the proposed name of the proposed  
22 consolidated county)

23 Section 16. Section **17-3-304** is enacted to read:

24 **17-3-304. Election returns -- Lieutenant governor certification -- Governor's**  
25 **proclamation.**

26 (1) Immediately after the canvass of an election under Subsection 17-3-303(1) has been  
27 completed, the county clerk of each county proposed to be consolidated shall:

28 (a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it  
29 "election returns"; and

30 (b) deliver the sealed, certified abstract in person or mail it by registered mail to the  
31 lieutenant governor.

1           (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify  
2 the result of the election to the governor.

3           (3) If a majority of those voting from each county vote in favor of consolidating the  
4 counties into a single county, the governor shall issue a written proclamation that:

5           (a) states the result of the election;

6           (b) declares the consolidation of the multiple counties into a single county, to take effect  
7 at 12 noon on the first Monday in January of the year following the election of officers under  
8 Section 17-3-305;

9           (c) declares the name of the consolidated county, as stated in the petition under Subsection  
10 17-3-302(2)(b);

11           (d) describes the boundaries of the consolidated county; and

12           (e) states the judicial district to which the new county belongs.

13           (4) Within three days after issuing a proclamation under Subsection (3), the governor shall  
14 mail a copy of the proclamation to the legislative body of each of the counties to be consolidated.

15           Section 17. Section **17-3-305** is enacted to read:

16           **17-3-305. Election to select county seat and to elect officers in consolidated county.**

17           (1) On the first Tuesday after the first Monday of November next following the issuance  
18 of the governor's proclamation under Subsection 17-3-304(3), the legislative body of each of the  
19 counties to be consolidated shall hold an election to select a county seat and to elect county  
20 officers for the new consolidated county.

21           (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a  
22 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration  
23 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection  
24 17-3-304(3).

25           (3) The city or town receiving the largest number of votes for county seat in an election  
26 under Subsection (1) shall be the seat of the new county.

27           Section 18. Section **17-3-306** is enacted to read:

28           **17-3-306. Election code applies -- Election expenses.**

29           (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,  
30 apply to each election under this part.

31           (2) Each of the counties proposed to be consolidated shall bear their own respective

1 expenses of the elections provided for under this part.

2 Section 19. Section **17-3-307** is enacted to read:

3 **17-3-307. Transfer of records -- Expenses -- Transition to consolidated county.**

4 (1) On or before the effective date of the consolidation, the legislative body of each of the  
5 counties to be consolidated shall deliver to the members-elect of the legislative body of the  
6 consolidated county all original records of the respective counties to be consolidated.

7 (2) The new county shall pay all expenses of transferring records from the counties to be  
8 consolidated to the consolidated county.

9 (3) The legislative body and all officers and employees of each of the counties to be  
10 consolidated shall cooperate and take all steps reasonably necessary for a smooth and orderly  
11 transition from separate counties with their separate organizations and structures to a consolidated  
12 county with its consolidated organization and structure.

13 Section 20. Section **17-3-308** is enacted to read:

14 **17-3-308. Effect of consolidation.**

15 (1) Upon consolidation:

16 (a) each of the counties being consolidated are dissolved and lose their separate identity;

17 (b) all assets of each of the counties being consolidated are transferred and belong to the  
18 new consolidated county; and

19 (c) all liabilities of each of the counties being consolidated are transferred to and assumed  
20 by the new consolidated county.

21 (2) The consolidation of multiple counties under this part does not affect the boundaries  
22 of an independent special district, created under Title 17A, Chapter 2, Independent Special  
23 Districts, or a school district located within the area of the consolidated county.

24 Section 21. **Repealer.**

25 This act repeals:

26 Section **17-3-1, By petition -- Election -- Ballots.**

27 Section **17-3-2, Election returns transmitted to lieutenant governor.**

28 Section **17-3-3, Certification of returns -- Governor's proclamation of creation of new**  
29 **county -- Name -- Judicial district.**

30 Section **17-3-4, County seat, selection by election -- First officers -- Election.**

31 Section **17-3-5, Records to be transmitted -- Expenses for transcribing and transfer.**

- 1           Section 17-3-6, Effect on precincts and school and other districts -- Indebtedness.
- 2           Section 17-3-7, Pending civil and criminal actions.
- 3           Section 17-3-8, Prior offenses.
- 4           Section 17-3-9, Division of taxes.

---

---

**Legislative Review Note**  
**as of 1-23-98 11:30 AM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**