

**CITIES AND TOWNS - CLASSIFICATION
AND RELATED ISSUES**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

This act modifies provisions of the Utah Municipal Code relating to cities and towns. The act modifies provisions relating to the direction, control, and supervision of a chief of police or marshal in a third class city or town and their appointment of assistants. The act revises municipal classifications and adjusts certain h city and h town budgetary procedural

requirements to be

more consistent with h [those of cities] each other h . h [The act eliminates the requirement that cities of the first

class have a civil service commission and makes the establishment of a civil service

commission optional for cities of the first or second class.] h The act expands the authority of the civil service commission with respect to appeals of a suspension or discharge. The act establishes existing forms of government for first, second, and third class cities and towns as optional forms for all classes of municipalities. The act also makes technical changes.

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

AMENDS:

10-2-301, as repealed and reenacted by Chapter 318, Laws of Utah 2000

10-3-918, as last amended by Chapter 33, Laws of Utah 1983

10-3-1001, as enacted by Chapter 48, Laws of Utah 1977

10-3-1002, as last amended by Chapter 44, Laws of Utah 1977

10-3-1003, as enacted by Chapter 48, Laws of Utah 1977

10-3-1012, as last amended by Chapter 221, Laws of Utah 1991

10-3-1203, as last amended by Chapters 10 and 389, Laws of Utah 1997

10-3-1209, as last amended by Chapter 39, Laws of Utah 1979

10-5-107, as last amended by Chapter 3, Laws of Utah 1988

10-5-108, as last amended by Chapter 118, Laws of Utah 1989



28 ~~h [10-5-109, as last amended by Chapter 118, Laws of Utah 1989]~~

28a 10-6-118, as last amended by Chapter 300, Laws of Utah 1999 h

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

30 Section 1. Section 10-2-301 is amended to read:

31 **10-2-301. Classification of municipalities according to population.**

32 (1) Each municipality shall be classified according to its population, as provided in this
33 section.

34 (2) (a) A municipality with a population of 100,000 or more is a city of the first class.

35 (b) A municipality with a population of 60,000 or more but less than 100,000 is a city of
36 the second class.

37 (c) A municipality with a population of [800] 1,000 or more but less than 60,000 is a city
38 of the third class.

39 (d) A municipality with a population under [800] 1,000 is a town.

40 Section 2. Section 10-3-918 is amended to read:

41 **10-3-918. Chief of police or marshal in third class cities and towns.**

42 [~~In cities of the third class and towns, the~~] The chief of police or marshal [shall] in a city
43 of the third class or town:

44 (1) shall:

45 (a) exercise and perform [such] the duties [as may be] that are prescribed by the
46 [governing] legislative body[. The chief of police or marshal shall]; and

47 (b) be under the direction, control, and supervision of the [mayor. The chief of police or
48 marshal may with the consent of the mayor] person or body that appointed the chief or marshal;
49 and

50 (2) may, with the consent of the person or body that appointed the chief or marshal,
51 appoint assistants to the chief of police or marshal.

52 Section 3. Section 10-3-1001 is amended to read:

53 **10-3-1001. Subordinates in police, health, and fire departments to be appointed from**
54 **list.**

55 [~~The~~] Subject to the rules and regulations of the civil service commission, the head of [each
56 of] the police and fire departments [of cities] of [the] each first and second class city h [that chooses
57 to establish a civil service commission] h and the health officer in [cities of the] each first class city
58 h [that chooses to establish a civil service commission] h shall, from the classified civil service list

59 furnished by the civil service commission and by and with the advice and consent of the [~~board~~
60 ~~of~~] city [~~commissioners, and subject to the rules and regulations of the civil service commission,~~]
61 legislative body:

62 (1) appoint [~~from the classified civil service list furnished by the civil service commission~~]
63 all subordinate officers, employees, members, or agents in [~~his~~] the department[~~;~~]; and [~~in like~~
64 ~~manner~~]

65 (2) fill [~~all~~] vacancies in the [~~same~~] positions listed in Subsection (1).

66 Section 4. Section **10-3-1002** is amended to read:

67 **10-3-1002. Classified civil service -- Employment constituting.**

68 (1) The classified civil service shall consist of all places of employment now existing or
69 hereafter created in or under the police department and the fire department of each first or second
70 class city [~~of the first and second class,~~] ~~h~~ [that chooses to establish a civil service commission] ~~h~~ and
71 the health department in [~~cities of the~~] each first class[~~;~~] city ~~h~~ [that chooses to establish a civil
72 service commission] ~~h~~ , except the head of the departments, deputy chiefs of the police and fire
73 departments, and assistant chiefs of the police department in cities of the first and second class,
74 and the members of the board of health of the departments.

75 (2) No appointments to any of the places of employment constituting the classified civil
76 service in the departments shall be made except according to law and under the rules and
77 regulations of the civil service commission.

78 (3) The head of each of the departments may, and the deputy chiefs of the police and fire
79 departments and assistant chiefs of the police department shall, be appointed from the classified
80 civil service, and upon the expiration of [~~his~~] the term or upon the appointment of a successor shall
81 be returned thereto.

82 Section 5. Section **10-3-1003** is amended to read:

83 **10-3-1003. Commission -- Number, term, vacancies.**

84 [~~In each~~] (1) ~~h~~ **[A] EACH h** city of the first [~~and~~] or second class [~~there shall be~~] ~~h~~ **[may]**
84a **SHALL h** establish a civil
85 service commission[~~, consisting~~] under this part.

86 (2) Each civil service commission under this part shall consist of three members appointed
87 by the [~~board of commissioners~~] city legislative body. [~~Their~~]

88 (3) (a) The term of office of commission members shall be six years, but [~~they~~] members
89 shall be appointed so that the term of office of one member shall expire on the 30th day of June

90 of each even-numbered year.

91 (b) If a vacancy occurs in the civil service commission, it shall be filled by appointment
92 by the [~~board of~~] city [~~commissioners~~] legislative body for the unexpired term.

93 Section 6. Section **10-3-1012** is amended to read:

94 **10-3-1012. Suspension or discharge by department head -- Appeal to commission --**
95 **Hearing and decision.**

96 (1) All persons in the classified civil service may be suspended as provided in Section
97 10-3-912, or removed from office or employment by the head of the department for misconduct,
98 incompetency, failure to perform [~~his~~] duties, or failure to observe properly the rules of the
99 department, but subject to appeal by the suspended or discharged person to the civil service
100 commission.

101 (2) Any person suspended or discharged may, within five days from the issuance by the
102 head of the department of the order [~~suspending or discharging him~~] of suspension or discharge,
103 appeal to the civil service commission, which shall fully hear and determine the matter.

104 (3) The suspended or discharged person shall be entitled to appear in person and to have
105 counsel and a public hearing.

106 (4) (a) The civil service commission may accept ~~h~~ [.] **OR** ~~h~~ reject ~~h~~ [., or modify] ~~h~~ the
order

106a of suspension

107 or discharge ~~h~~ **OR MAY REMAND THE ORDER TO THE DEPARTMENT HEAD WITH A**

107a **RECOMMENDATION THAT A LESS HARSH DISCIPLINE BE IMPOSED ~~h~~ .**

108 (b) ~~h~~ (i) ~~h~~ The finding and decision of the civil service commission upon the hearing shall be
109 certified to the head of the department from whose order the appeal is taken, and shall ~~h~~ , **EXCEPT**

109a **AS PROVIDED IN SUBSECTION (4)(b)(ii), ~~h~~ be final and**

110 immediately enforced by [~~him~~] the head.

110a ~~h~~ (ii) **AN ORDER ISSUED BY A DEPARTMENT HEAD IN RESPONSE TO A REMAND UNDER**
110b **SUBSECTION (4)(a):**

110c **(A) IS FINAL AND SHALL IMMEDIATELY BE ENFORCED BY THE DEPARTMENT HEAD IF IT**
110d **IMPOSES A DISCIPLINE LESS HARSH THAN SUSPENSION OR DISCHARGE; AND**

110e **(B) MAY BE APPEALED UNDER SUBSECTION (2) TO THE CIVIL SERVICE COMMISSION BY**
110f **THE EMPLOYEE IF IT SUSPENDS OR DISCHARGES THE EMPLOYEE. ~~h~~**

111 Section 7. Section **10-3-1203** is amended to read:

112 **10-3-1203. Election requirements and procedure for organization under optional**
113 **form of government.**

114 (1) A municipality may reorganize under any form of municipal government provided for

115 in this part or under Sections 10-3-103, 10-3-104, 10-3-105, or 10-3-106, regardless of the city's
116 class under Section 10-2-301.

117 (2) Reorganization under Subsection (1) shall be by approval of a majority of registered
118 voters of the municipality voting in a special election held for that purpose.

119 (3) (a) The proposal may be entered on the ballot by resolution passed by the governing
120 body of the municipality or by initiative as provided for in Title 20A, Chapter 7, Part 5, Local

121 Initiatives - Procedures.

122 (b) The resolution or petition shall state the number, method of election, and initial terms
123 of council members and shall specify the boundaries of districts substantially equal in population
124 if some or all council members are to be chosen from these districts.

125 (4) (a) The proposal shall be voted upon at a special election to be held not more than
126 twelve months after the resolution is passed or after receipt of a valid initiative petition.

127 (b) The special election shall be held at least 90 days before or after regular municipal
128 elections.

129 (c) The ballot for the special election to adopt or reject one of the forms of municipal
130 government shall be in substantially the following form:

131	<hr/>	
132	Shall (name of municipality), Utah, adopt	Yes
133	the (council-mayor) (council-manager)	
134	<u>(five-member commission) (three-member commission)</u>	
135	<u>(six-member council) (five-member council)</u> form of	
136	municipal government?	No
137	<hr/>	

138 Section 8. Section **10-3-1209** is amended to read:

139 **10-3-1209. Optional forms defined.**

140 (1) (a) The optional form of government known as the council-mayor form vests the
141 government of a municipality ~~[which]~~ that adopts this form in two separate, independent, and equal
142 branches of municipal government~~;~~; the executive branch~~,~~, consisting of a mayor and the
143 administrative departments and officers; and the legislative branch~~,~~, consisting of a municipal
144 council.

145 (b) The optional form known as the council-manager form vests the government of the
146 municipality in a municipal council~~,~~, which ~~[shall be deemed]~~ is considered to be the governing
147 body of the municipality~~,~~, and a manager appointed by the council.

148 (c) The optional form known as the five-member commission is as described in Section
149 10-3-103.

150 (d) The optional form known as the three-member commission is as described in Section
151 10-3-104.

152 (e) The optional form known as the six-member council is as described in Section
153 10-3-105.

154 (f) The optional form known as the five-member council is as described in Section
155 10-3-106.

156 (2) Notwithstanding language contained in Sections 10-3-103, 10-3-104, 10-3-105, and
157 10-3-106 indicating that those forms of municipal government are only for the class of
158 municipality specified in those sections, any of those forms may be chosen by any class of
159 municipality as an optional form under this part.

160 (3) All provisions of this chapter that apply to the form of government specified in
161 Sections 10-3-103, 10-3-104, 10-3-105, and 10-3-106 shall apply equally to a municipality
162 choosing one of those forms of government as an optional form under this part.

163 Section 9. Section **10-5-107** is amended to read:

164 **10-5-107. Tentative budgets required for public inspection -- Contents -- Adoption**
165 **of tentative budget.**

166 (1) ~~(a) [At least seven days prior to its adoption]~~ On or before the first regularly scheduled
167 town council meeting of May, the mayor shall:

168 (i) prepare for the ensuing year, on forms provided by the state auditor, [and have available
169 for public inspection,] a tentative budget for each fund for which a budget is required[-];

170 (ii) make the tentative budget available for public inspection; and

171 (iii) submit the tentative budget to the town council.

172 (b) The tentative budget of each fund shall set forth in tabular form:

173 ~~(a)~~ (i) actual revenues and expenditures in the last completed fiscal year;

174 ~~(b)~~ (ii) estimated total revenues and expenditures for the current fiscal year; and

175 ~~(c)~~ (iii) the mayor's estimates of revenues and expenditures for the budget year.

176 (2) The mayor shall estimate the amount of revenue available to serve the needs of each
177 fund, estimate the portion to be derived from all sources other than general property taxes, and
178 estimate the portion that must be derived from general property taxes. From these estimates the
179 mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise
180 the required amount of revenue, calculating the levy on the latest taxable value.

181 (3) (a) Before the public hearing required under Section 10-5-108, the town council:

182 (i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting

183 or special meeting called for that purpose; and

184 (ii) may amend or revise the tentative budget.

185 (b) At the meeting at which the town council adopts the tentative budget, the council shall
186 establish the time and place of the public hearing required under Section 10-5-108.

187 Section 10. Section **10-5-108** is amended to read:

188 **10-5-108. Budget hearing -- Notice -- Adjustments.**

189 (1) Prior to the adoption of the final budget, each town council shall hold a public hearing
190 to receive public comment.

191 (2) ~~[Notice]~~ The council shall provide notice of the place, purpose, and time of the public
192 hearing ~~[shall be published]~~ by publishing notice at least seven days before the hearing at least
193 once in a newspaper of general circulation in the town, but if there is no newspaper of general
194 circulation, then ~~[notice may be given]~~ by posting the notice in three public places at least 48 hours
195 prior to the hearing.

196 (3) After the hearing, the council, subject to Section 10-5-110, may adjust expenditures
197 and revenues in conformity with this ~~[act]~~ chapter.

198 ~~h [Section 11. Section 10-5-109 is amended to read:~~

199 ~~10-5-109. Adoption of budgets -- Filing.~~

200 ~~— [Prior to] Before June [22] 30 of each year, or August [17] 31 in the case of a property tax~~
201 ~~increase under Sections 59-2-919 through 59-2-923, the council shall by resolution or ordinance~~
202 ~~adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this~~
203 ~~chapter. A copy of the final budget for each fund shall be filed with the state auditor within 30~~
204 ~~days after adoption.]~~

204a Section 11. Section 10-6-118 is amended to read:

204b 10-6-118. Adoption of final budget -- Certification and filing.

204c Before the last June ~~[30]~~ 22 of each fiscal period, or, in the case of a property tax increase
204d under Sections 59-2-919 through 59-2-923, before August ~~[34]~~ 17 of the year for which a property tax
204e increase is proposed, the governing body shall by resolution or ordinance adopt a budget for the
204f ensuing fiscal period for each fund for which a budget is required under this chapter. A copy of the
204g final budget for each fund shall be certified by the budget officer and filed with the state auditor within
204h 30 days after adoption. h

Legislative Review Note

as of 1-31-01 5:06 PM

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

Office of Legislative Research and General Counsel