

**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 city and town budgetary procedural requirements to be more consistent with each other. The act modifies civil service commission provisions. 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**10-2-301**, as repealed and reenacted by Chapter 318, Laws of Utah 2000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

**10-6-118**, as last amended by Chapter 300, Laws of Utah 1999

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

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

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

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

section.

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

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

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

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

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

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

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

(1) shall:

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

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

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

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

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

~~[The]~~ Subject to the rules and regulations of the civil service commission, the head of [each of] the police and fire departments [of cities] of [the] each first and second class city that establishes a civil service commission and the health officer in [cities of the] each first class city that establishes a civil service commission shall, from the classified civil service list furnished by the civil service commission and by and with the advice and consent of the [board of] city [commissioners, and subject to the rules and regulations of the civil service commission,] legislative body:

(1) appoint [from the classified civil service list furnished by the civil service commission]

all subordinate officers, employees, members, or agents in ~~his~~ the department~~;~~; and ~~in like manner~~

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

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

**10-3-1002. Classified civil service -- Places of employment constituting classified civil service -- Appointments to and from classified civil service.**

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

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

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

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

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

~~[In each]~~ (1) (a) A city of the first ~~and~~ or second class ~~[there shall be]~~ may establish a civil service commission~~;~~ under this part.

(b) A city that establishes a civil service commission under this part before January 1, 2001 may not dissolve the civil service commission.

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

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

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

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

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

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

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

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

(4) The finding and decision of the civil service commission upon the hearing shall be certified to the head of the department from whose order the appeal is taken, and shall be final and immediately enforced by ~~[him]~~ the head.

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

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

(1) A municipality may reorganize under any form of municipal government provided for in this part or under Sections 10-3-103, 10-3-104, 10-3-105, or 10-3-106, regardless of the city's class under Section 10-2-301.

(2) Reorganization under Subsection (1) shall be by approval of a majority of registered

voters of the municipality voting in a special election held for that purpose.

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

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

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

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

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

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Shall (name of municipality), Utah, adopt the (council-mayor) (council-manager) <u>(five-member commission) (three-member commission)</u> <u>(six-member council) (five-member council)</u> form of municipal government?	Yes          No
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Section 8. Section **10-3-1209** is amended to read:

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

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

(b) The optional form known as the council-manager form vests the government of the

municipality in a municipal council, which ~~[shall be deemed]~~ is considered to be the governing body of the municipality, and a manager appointed by the council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget.

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

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

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

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

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

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

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

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

Before the last June ~~[30]~~ 22 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August ~~[31]~~ 17 of the year for which a property tax increase is proposed, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required under this chapter. A copy of the

final budget for each fund shall be certified by the budget officer and filed with the state auditor within 30 days after adoption.