

COUNTY STATUTES REVISION

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies provisions relating to Counties. The act prohibits separate ownership or conveyance of common area on a recorded plat, contains provisions for how a common area is to be treated for assessment purposes and for purposes of instruments describing a parcel on the plat. The act modifies county and municipal land use and development provisions including county board of adjustment power provisions and conditional use and other appeal provisions. The act directs county legislative bodies to define how their power to consent of appointments takes place and authorizes the delegation of that power to the executive. The act modifies county budget provisions, including the designation of the county budget officer. The act modifies county clerk and county recorder provisions, including provisions relating to the recording of documents. The act modifies county surveyor provisions and requires all survey work to be done by a licensed land surveyor and distinguishes those surveyor functions that may be performed by someone who is not a licensed land surveyor. The act shifts responsibility for approving plats in the county from the legislative body to the executive. The act modifies county career service council provisions, allows for the appointment of alternate members of the career service council, modifies the authority of the career service council with respect to appeals of personnel matters, contains provisions relating to district court review of a career service council decision, and allows the appointment of administrative law judges to hear appeals referred by the career service council. The act modifies provisions relating to the office of personnel management and makes the position of director a merit position. The act modifies the procedure for adopting an alternate form of county government, modifies the makeup of the appointment council, eliminates some alternate forms of government, requires an optional plan to be prepared by a study committee before being presented to voters, and replaces the



county attorney for the attorney general with respect to a review of the optional plan for compliance with applicable law. The act authorizes the county executive and county legislative body to exercise limited direction and supervision over other county elected officers and modifies executive functions and powers. The act modifies the procedure for electing a county or district attorney under certain circumstances. The act provides for boundary agreements to act as quitclaim deeds under certain circumstances and eliminates a requirement for water right deeds to be transmitted by the county recorder to the state engineer. The act imposes a one-year limit on actions against a county legislative body or county executive for decisions they make. The act also makes technical changes.

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

AMENDS:

10-9-804, as last amended by Chapter 209, Laws of Utah 2000

10-9-805, as last amended by Chapter 209, Laws of Utah 2000

10-9-811, as last amended by Chapter 209, Laws of Utah 2000

17-16-7, as last amended by Chapter 139, Laws of Utah 1997

17-19-3, as last amended by Chapter 133, Laws of Utah 2000

17-19-19, as last amended by Chapter 22, Laws of Utah 1975

17-20-1, as last amended by Chapter 153, Laws of Utah 1989

17-20-4, as last amended by Chapter 227, Laws of Utah 1993

17-21-1, as last amended by Chapter 85, Laws of Utah 1999

17-21-6, as last amended by Chapter 85, Laws of Utah 1999

17-21-13, as last amended by Chapter 85, Laws of Utah 1999

17-21-17, as last amended by Chapter 85, Laws of Utah 1999

17-21-19, as last amended by Chapter 85, Laws of Utah 1999

17-21-21, as last amended by Chapter 85, Laws of Utah 1999

17-21-22, as last amended by Chapter 85, Laws of Utah 1999

17-23-1, as last amended by Chapter 133, Laws of Utah 2000

17-23-2, as last amended by Chapter 227, Laws of Utah 1993

17-23-3, as last amended by Chapter 227, Laws of Utah 1993

17-23-5, as last amended by Chapter 227, Laws of Utah 1993

17-23-14, as last amended by Chapter 150, Laws of Utah 1995

59 **17-23-15**, as enacted by Chapter 29, Laws of Utah 1987
60 **17-23-16**, as enacted by Chapter 29, Laws of Utah 1987
61 **17-23-17**, as last amended by Chapter 150, Laws of Utah 1995
62 **17-23-17.5**, as enacted by Chapter 150, Laws of Utah 1995
63 **17-23-18**, as last amended by Chapter 93, Laws of Utah 1989
64 **17-24-12**, as last amended by Chapter 227, Laws of Utah 1993
65 **17-27-103**, as last amended by Chapters 34 and 209, Laws of Utah 2000
66 **17-27-406**, as enacted by Chapter 235, Laws of Utah 1991
67 **17-27-702**, as last amended by Chapter 179, Laws of Utah 1995
68 **17-27-703**, as last amended by Chapter 23, Laws of Utah 1992
69 **17-27-704**, as last amended by Chapter 179, Laws of Utah 1995
70 **17-27-708**, as last amended by Chapter 291, Laws of Utah 1999
71 **17-27-804**, as last amended by Chapter 209, Laws of Utah 2000
72 **17-27-805**, as last amended by Chapter 209, Laws of Utah 2000
73 **17-27-806**, as last amended by Chapter 209, Laws of Utah 2000
74 **17-27-808**, as last amended by Chapter 209, Laws of Utah 2000
75 **17-27-809**, as last amended by Chapter 69, Laws of Utah 1997
76 **17-27-810**, as last amended by Chapter 179, Laws of Utah 1995
77 **17-27-811**, as last amended by Chapter 209, Laws of Utah 2000
78 **17-27-901**, as enacted by Chapter 235, Laws of Utah 1991
79 **17-27-1001**, as last amended by Chapter 291, Laws of Utah 1999
80 **17-33-1**, as enacted by Chapter 81, Laws of Utah 1981
81 **17-33-4**, as last amended by Chapter 182, Laws of Utah 1999
82 **17-33-5**, as last amended by Chapter 182, Laws of Utah 1999
83 **17-33-7**, as last amended by Chapter 182, Laws of Utah 1999
84 **17-33-8**, as last amended by Chapter 146, Laws of Utah 1994
85 **17-36-3**, as last amended by Chapter 300, Laws of Utah 1999
86 **17-50-402**, as renumbered and amended by Chapter 133, Laws of Utah 2000
87 **17-52-101**, as renumbered and amended by Chapter 133, Laws of Utah 2000
88 **17-52-102**, as enacted by Chapter 133, Laws of Utah 2000
89 **17-52-201**, as renumbered and amended by Chapter 133, Laws of Utah 2000

90 **17-52-202**, as renumbered and amended by Chapter 133, Laws of Utah 2000
91 **17-52-203**, as renumbered and amended by Chapter 133, Laws of Utah 2000
92 **17-52-204**, as renumbered and amended by Chapter 133, Laws of Utah 2000
93 **17-52-205**, as renumbered and amended by Chapter 133, Laws of Utah 2000
94 **17-52-206**, as renumbered and amended by Chapter 133, Laws of Utah 2000
95 **17-52-207**, as enacted by Chapter 133, Laws of Utah 2000
96 **17-52-301**, as renumbered and amended by Chapter 133, Laws of Utah 2000
97 **17-52-302**, as renumbered and amended by Chapter 133, Laws of Utah 2000
98 **17-52-303**, as renumbered and amended by Chapter 133, Laws of Utah 2000
99 **17-52-401**, as renumbered and amended by Chapter 133, Laws of Utah 2000
100 **17-52-402**, as renumbered and amended by Chapter 133, Laws of Utah 2000
101 **17-52-403**, as renumbered and amended by Chapter 133, Laws of Utah 2000
102 **17-53-201**, as enacted by Chapter 133, Laws of Utah 2000
103 **17-53-301**, as enacted by Chapter 133, Laws of Utah 2000
104 **17-53-302**, as enacted by Chapter 133, Laws of Utah 2000
105 **17-53-315**, as renumbered and amended by Chapter 133, Laws of Utah 2000
106 **20A-6-302**, as last amended by Chapter 139, Laws of Utah 1997
107 **21-2-3**, as last amended by Chapter 79, Laws of Utah 1996
108 **57-3-106**, as last amended by Chapter 320, Laws of Utah 2000
109 **73-1-10**, as last amended by Chapter 36, Laws of Utah 2000
110 **78-12-29**, as last amended by Chapter 79, Laws of Utah 1996

111 ENACTS:

112 **10-9-806.5**, Utah Code Annotated 1953
113 **17-27-806.5**, Utah Code Annotated 1953
114 **17-33-4.5**, Utah Code Annotated 1953
115 **17-52-203.5**, Utah Code Annotated 1953
116 **17-53-106**, Utah Code Annotated 1953
117 **17-53-316**, Utah Code Annotated 1953
118 **17-53-317**, Utah Code Annotated 1953
119 **57-1-45**, Utah Code Annotated 1953

120 REPEALS:

121 **17-5-213**, as renumbered and amended by Chapter 147, Laws of Utah 1994

122 **17-23-4**, as last amended by Chapter 33, Laws of Utah 1961

123 **17-52-503**, as renumbered and amended by Chapter 133, Laws of Utah 2000

124 **17-52-506**, as renumbered and amended by Chapter 133, Laws of Utah 2000

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

126 Section 1. Section **10-9-804** is amended to read:

127 **10-9-804. Plats required.**

128 (1) Unless exempt under Section 10-9-806 or not included in the definition of subdivision
129 under Subsection 10-9-103(1), whenever any lands are laid out and platted, the owner of those
130 lands shall provide an accurate plat that describes or specifies:

131 (a) the boundaries, course, and dimensions of the parcels of ground;

132 (b) whether the parcels of ground are intended to be used as streets or for other public uses,
133 and whether any areas are reserved for public purposes;

134 (c) the lot or unit reference, the block or building reference, the street or site address, the
135 street name or coordinate address, the acreage or square footage for all parcels, units, or lots, and
136 the length and width of the blocks and lots intended for sale; and

137 (d) existing right-of-way and easement grants of record for underground facilities, as
138 defined in Section 54-8a-2, and for other utility facilities.

139 (2) (a) The owner of the land shall acknowledge the plat before an officer authorized by
140 law to take the acknowledgement of conveyances of real estate.

141 (b) The surveyor making the plat shall certify it.

142 (c) The owner or operator of the underground and utility facilities shall approve the plat
143 of its property interest if it specifies:

144 (i) the boundary, course, dimensions, and intended use of the right-of-way and easement
145 grants of record;

146 (ii) the location of existing underground and utility facilities; and

147 (iii) any conditions or restrictions governing the location of the facilities within the
148 right-of-way, and easement grants of records, and utility facilities within the subdivision.

149 (d) The legislative body shall approve the plat as provided in this part. Before the
150 legislative body may approve a plat, the owner of the land shall provide the legislative body with
151 a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(3) After the plat has been acknowledged, certified, and approved, the owner of the land shall ~~file and~~ record it in the county recorder's office in the county in which the lands platted and laid out are situated.

Section 2. Section **10-9-805** is amended to read:

10-9-805. Subdivision approval procedure.

(1) A person may not submit a plat of a subdivision to the county recorder's office for recording unless a recommendation has been received from the planning commission and:

(a) the plat has been approved by:

(i) the legislative body of the municipality in which the subdivision is located; or

(ii) other officers that the municipal legislative body designates in an ordinance; and

(b) the ~~[approvals are]~~ approval is entered in writing on the plat by the mayor or chairperson of the legislative body or by the other officers designated in the ordinance.

(2) In municipalities under the council-mayor form of government, Section 10-3-1219.5 governs.

(3) A subdivision plat recorded without the approval required under this section is void.

Section 3. Section **10-9-806.5** is enacted to read:

10-9-806.5. Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) A parcel designated as common area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other parcels created by the plat.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

Section 4. Section **10-9-811** is amended to read:

10-9-811. Prohibited acts.

~~[(1)(a) A county recorder may not record a subdivision plat that has not been approved~~

by the legislative body of the municipality in which the subdivision is located.]

~~[(b) A plat of a subdivision recorded without the approval of the municipal legislative body required by this part is void.]~~

~~[(2)]~~ (1) (a) An owner of any land located in a subdivision, as defined in this chapter, who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection ~~[(2)]~~ (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection ~~[(2)]~~ (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

~~[(3)]~~ (2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection ~~[(3)]~~ (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

(c) A municipality need only establish the violation to obtain the injunction.

Section 5. Section **17-16-7** is amended to read:

17-16-7. Deputies -- Appointments -- Liability of principal -- Deputy may serve despite vacancy in office of appointing officer.

(1) ~~Every~~ (a) A county or precinct officer, including ~~any~~ an elected county executive, except a county commissioner or county council member, may, with the consent of the county legislative body, appoint deputies and ~~[assistants]~~ employees as necessary for the discharge of the duties of ~~[his]~~ the officer's office.

(b) The county legislative body's consent power under Subsection (1)(a) shall be defined in county ordinance and may include consent by:

(i) the budget approval process;

(ii) approval of an allocation of a certain number of positions; or

(iii) approval or disapproval of the hiring of individual applicants.

(c) A county legislative body may by ordinance delegate to the county executive the authority to consent to the appointment of deputies and employees under this Subsection (1).

(2) ~~[The county legislative body shall provide the clerk of the district court in those counties where]~~ If the county clerk performs district court clerk functions, the legislative body of that county shall provide the clerk with deputies and ~~[assistants]~~ employees for the business of the district courts as considered necessary and advisable by the judge or judges of the district court, consistent with the level of funding for clerk services from the court administrator's office.

(3) (a) Each officer appointing a deputy shall, for each deputy appointed, file a signed writing with the county clerk that memorializes the appointment.

(b) The officer appointing the deputy is liable for all official acts of the deputy.

(c) If the office of the officer who appointed the deputy becomes vacant, the deputy may continue to serve despite the vacancy.

Section 6. Section **17-19-3** is amended to read:

17-19-3. Payments -- Notification.

(1) (a) Subject to Subsection (1)(b), each ~~[bill, account, or charge]~~ claim incurred by the county and legally examined and allowed and ordered paid by the county executive shall, if approved by the county auditor as to the availability of funds as provided in Section 17-19-1, be paid by ~~[either]~~:

(i) a warrant drawn by the auditor on the county treasurer in favor of the person entitled to payment; or

(ii) a county check or such other payment mechanism as may be adopted pursuant to Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) No ~~[bill, account, or charge shall]~~ claim may be paid until:

(i) the auditor:

~~[(i)]~~ (A) receives from the county executive the certified list mentioned in Subsection 17-20-1.7(4); and

(B) makes a recommendation regarding payment as provided in Section 17-50-401; and

(ii) the county executive approves payment of the claim in accordance with the standards and procedures of Section 17-50-401.

(2) Each debt and demand against the county, when the amount is fixed by law and not

directed to be audited by some other person or tribunal, shall be paid by either:

(a) a warrant drawn by the auditor on the county treasurer; or

(b) a check or such other payment mechanism as may be adopted pursuant to Chapter 36, Uniform Fiscal Procedures Act for Counties.

(3) (a) The auditor shall distinctly specify on each warrant the liability for which it is made and when the liability accrued. The auditor shall also notify the treasurer of the date, amount, and payee of and number assigned to each warrant issued and the aggregate amount of all contemporaneous payments by warrant.

(b) The auditor shall notify the treasurer and the county executive of the amount and payee of all payments to be made by check or other payment mechanism and, if the auditor issues the check or other payment mechanism, the date of and number assigned to each check or other payment mechanism and the aggregate amount of all such contemporaneous payments.

Section 7. Section **17-19-19** is amended to read:

17-19-19. Budget officer -- Departmental revenue and expenditure reports.

~~[(1) The county auditor or the county clerk in those counties in which the functions of the clerk and auditor are combined shall be and act as budget officer of the county.]~~

(1) (a) Subject to Subsection (1)(b), the budget officer of a county is:

(i) except as provided in Subsection (1)(a)(ii), the county auditor; or

(ii) in a county in which the functions of clerk and auditor are combined, the county clerk.

(b) Notwithstanding Subsection (1)(a), if a county has adopted an optional plan, as defined in Section 17-52-101, that provides for the county executive to be the county budget officer, the county budget officer is the county executive.

(2) Each department for which county funds are appropriated shall file with the county ~~[auditor]~~ budget officer not less than three months before the commencement of each fiscal year on forms furnished by the county ~~[auditor]~~ budget officer a detailed estimate and statement of the revenue and necessary expenditures of ~~[such]~~ the department for the next budget year. The estimate and statement shall set forth the number of persons to be regularly employed; the kinds of service to be performed, the salaries and wages to be paid, the kind of work to be performed and the improvements to be made together with the estimated cost of ~~[such]~~ the service, work and improvements. The statement shall also record performance data expressed in work units, unit costs, man hours, and man years sufficient in detail, content, and scope to permit the county

276 ~~[auditor]~~ budget officer to prepare and process the county budget.

277 (3) In the preparation of the budget, the county ~~[auditor]~~ budget officer and all other county
278 officers are subject to Sections 17-36-1 to 17-36-44 and to the uniform system of budgeting,
279 accounting, and reporting established pursuant thereto.

280 Section 8. Section **17-20-1** is amended to read:

281 **17-20-1. County clerk -- District court clerk duties.**

282 The county clerk is the clerk of the ~~[governing]~~ legislative body of the county. ~~[He]~~ The
283 clerk shall act as clerk of the district court in secondary counties of the state district court
284 administrative system and those counties not in the system, and shall perform the duties listed in
285 Section 78-3-30.

286 Section 9. Section **17-20-4** is amended to read:

287 **17-20-4. Duties as county clerk.**

288 A county clerk shall:

289 (1) issue all marriage licenses and keep a register of marriages as provided by law;

290 (2) execute under ~~[his]~~ the clerk's seal and in the name of and for the county, all deeds and
291 conveyances of all real estate conveyed by the county ~~[pursuant to resolutions of the county~~
292 ~~legislative body]~~;

293 (3) take and certify acknowledgments and administer oaths;

294 (4) keep a fee book as provided by law; and

295 (5) take charge of and safely keep the seal of the county ~~[clerk]~~, and keep ~~[such]~~ other
296 records and perform ~~[such]~~ other duties as may be prescribed by law.

297 Section 10. Section **17-21-1** is amended to read:

298 **17-21-1. Recorder -- Document custody responsibility.**

299 The recorder ~~[has custody]~~:

300 (1) is custodian of~~[, and shall keep,]~~ all ~~[books,]~~ recorded documents and records~~[, maps,~~
301 ~~and papers]~~ required by law~~[:] to be recorded; and~~

302 (2) shall establish policies and procedures that the recorder considers necessary to protect
303 recorded documents and records in the recorder's custody, including determining the appropriate
304 method for the public to obtain copies of the public record under Section 17-21-19 and supervision
305 of those who make copies of the public record.

306 Section 11. Section **17-21-6** is amended to read:

17-21-6. General duties -- Records and indexes.

(1) [Every] Each recorder shall:

(a) keep an entry record, in which the recorder shall, upon acceptance of any instrument, enter the instrument in the order of its reception, the names of the parties to the instrument, its date, the hour, the day of the month and the year of recording, and a brief description, and endorse upon each instrument a number corresponding with the number of the entry;

(b) keep a grantors' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantor in alphabetical order, the name of the grantee, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(c) keep a grantees' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantee in alphabetical order, the name of the grantor, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagor, debtor, or person charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder, creditor, or claimant, the date of the instrument, the time of recording, the instrument, consideration, the book and page, and a brief description;

(e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged with the encumbrance, the date of the instrument, the time of recording, the kind of instrument, the consideration, the book and page, and a brief description;

(f) keep a tract index, which shall show by description every instrument recorded, the date and the kind of instrument, the time of recording, and the book and page and entry number;

(g) keep an index of recorded maps, plats, and subdivisions;

(h) keep an index of powers of attorney~~[-labeled "powers of attorney,"~~ showing~~[-"~~ the ~~[date] time of recording,~~^{[" ["the book,[" ["the page,[" and ["the entry number["};

(i) keep a miscellaneous index, in which the recorder shall enter all instruments of a miscellaneous character not otherwise provided for in this section, showing~~[-"~~ the date of recording,^{[" ["the book,[" ["the page,[" ["the entry number,[" ["the kind of instrument,[" ["from,[" ["to,[" and ["the parties["};

(j) keep an index of judgments~~[-labeled "judgments," each page divided into columns headed, respectively,"~~ showing the judgment debtors,^{[" [" the judgment creditors,[" ["the amount of judgment,}~~["when recorded,"~~ the time of recording, the satisfaction, and ^{["}~~when satisfied"~~ the book, the page, and the entry number; and

(k) keep a general recording index in which the recorder shall index all executions and writs of attachment, and any other instruments not required by law to be spread upon the records, and in separate columns the recorder shall enter the names of the plaintiffs in the execution and the names of the defendants in the execution.

(2) The recorder shall alphabetically arrange the indexes required by this section and keep a reverse index.

(3) The tract index required by Subsection (1)(f) shall be kept so that it shows a true chain of title to each tract or parcel, together with their encumbrances, according to the records of the office.

(4) Nothing in this section prevents the recorder from using a single name index if that index includes all of the indexes required by this section.

Section 12. Section **17-21-13** is amended to read:

17-21-13. Endorsement of book and page -- Return of instrument.

(1) (a) The recorder may also endorse upon each instrument, paper, or notice the book and page reference.

(b) If the entry number is endorsed on each page of the instrument, the recorder may omit the book and page reference~~[-]~~:

(i) on the instrument; and

(ii) in all indexes required by statute.

(c) If the county recorder has elected to omit the book and page reference under Subsection (1)(b), documents presented for recording in that county that are required to recite recording data

may omit the book and page reference.

(2) The recorder shall return the instrument to the appropriate party.

Section 13. Section **17-21-17** is amended to read:

17-21-17. Prohibited acts.

Upon acceptance of an instrument entitled to be recorded, the recorder may not:

~~[(1) neglect to record the instrument within a reasonable time after accepting it;]~~

~~[(2)] (1)~~ record ~~[any]~~ the instrument in any manner other than the manner required by this chapter; or

~~[(3)] (2)~~ alter, change, obliterate, or insert any new matter in any instrument of record.

Section 14. Section **17-21-19** is amended to read:

17-21-19. Records open to inspection -- Copies.

(1) All instruments of record and all indexes required by this chapter are open to public inspection ~~[free of charge]~~ during office hours.

(2) ~~[Any]~~ Upon payment of the applicable fee, a person ~~[copying or taking notes from]~~ may obtain copies of the public record ~~[in the recorder's office may do so only by pencil, typewriter, photocopy, microfilm, or electronic printout].~~

Section 15. Section **17-21-21** is amended to read:

17-21-21. Ownership plats -- Use of geographic information systems or computer systems.

(1) The county recorder shall prepare and keep ownership plats drawn to a convenient scale, which show the record owners of each tract of land in the county, together with the dimensions of the tract.

(2) The county recorder may not be required to:

~~[(a) trace any title back of apparent ownership as of February 6, 1899, at 12 o'clock noon;]~~

~~[(b)] (a)~~ show ownership of timeshare units or timeshare estates on ownership plats; or

~~[(c)] (b)~~ show lot or unit ownership on subdivisions or condominium plats or other ownership plats if that information is available through computer systems or other indexes.

(3) Nothing in this chapter precludes the use of geographic information systems or computer systems by the recorder if the systems include all of the information required by this section.

Section 16. Section **17-21-22** is amended to read:

**17-21-22. Annual revision -- Reporting changes in ownership to county assessors --
Use of geographic information systems or computer systems -- Return of plat books.**

(1) The county recorder shall:

(a) each year, prepare copies of ownership plats and descriptions, showing record owners at noon on January 1;

(b) on or before January 15 of each year, transmit the copies to the county assessor;

(c) report all changes in recorded ownership of real property made during the first seven months of each calendar year to the county assessor not later than August 15 of that year;

(d) for the remainder of the calendar year, report the changes in the ownership of real property that are recorded in the county recorder's office each month on or before the 15th day of the month following the month in which the changes were recorded;

(e) transmit the changes of ownership on appropriate forms that show the current owner's name and a full legal description of the property conveyed; and

(f) where only a part of the grantor's property is conveyed, transmit an additional form showing a full legal description of the portion retained.

(2) Nothing in this chapter precludes the use of geographic information systems or computer systems by the recorder if the systems include all of the information required by this section.

~~[(3) Not later than the first Monday in October of each year, the assessor may return the plat books and descriptions to the recorder for extension, alterations, and carrying to date for the ensuing year.]~~

Section 17. Section **17-23-1** is amended to read:

17-23-1. Duties of county surveyor -- Election requirements -- Contract option.

(1) (a) The office of the county surveyor in each county shall be filled by election and, except as provided in Subsection (1)(b), the county surveyor shall be a ~~[registered]~~ licensed professional land surveyor in the state.

(b) In a county where the office of county surveyor is consolidated with another elected office, ~~[the officeholder need not be a registered professional land surveyor, but]~~ all surveying work ~~[must]~~ shall be performed by a registered professional land surveyor.

(c) In a county where there is no elected county surveyor~~[-]~~:

(i) the county executive or legislative body may, consistent with Section 17-53-313,

contract with a ~~registered~~ licensed professional land surveyor to perform those duties[-];

(ii) all survey work shall be done by a licensed land surveyor;

(iii) the county recorder shall assume and perform all statutory functions and duties of the county surveyor related to the retention and maintenance of survey records;

(iv) the recorder's office shall act as the county surveyor's office only for the purpose of accepting, retaining, and managing county survey records;

(v) the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill its functions and duties under Subsection (1)(a)(iv); and

(vi) for purposes of this chapter, "county surveyor" means:

(A) for purposes of the retention and management of county survey records, the county recorder; and

(B) except as provided in Subsection (1)(a)(vi)(A), a licensed land surveyor.

(2) The county surveyor shall execute:

(a) all orders directed to the surveyor by any court; and

(b) all orders of survey required by the county executive or county legislative body.

(3) (a) The surveyor of each county shall:

(i) advise the county executive and county legislative body regarding all surveying work;

(ii) perform or arrange for the performance of all surveying work for the county;

(iii) permanently keep at county government offices at the county seat a fair and accurate record of all surveys made, including legal descriptions and geographic coordinates, all surveys received pursuant to Section 17-23-17, and all corner files received pursuant to Section 17-23-17.5;

(iv) number progressively all surveys received and state by whom and for whom the surveys were made;

(v) deliver a copy of any survey to any person or court requiring the survey after the payment of the fee established by the county legislative body;

(vi) ensure that all surveys of legal subdivisions of sections are made according to the ~~current~~ United States Manual of Surveying Instructions in effect at the time the survey is completed;

(vii) verify the correctness of or establish correct coordinates for all survey reference

monuments set in place and shown on all subdivision maps and plats which have a spatial relationship with any section or quarter section corner; and

(viii) perform other duties required by law.

(b) In arranging for the performance of surveying work for the county under Subsection (3)(a)(ii), a surveyor may comply with Section 17-53-313.

(4) (a) The county surveyor or his designee shall establish all corners of government surveys and reestablish all corners of government surveys where corners have been destroyed and where witness markers or other evidences of the government corners remain so that the corners established by government survey can be positively located.

(b) The corners shall be reestablished in the manner provided in Section 17-23-13 for establishing corners.

(c) The county surveyor shall keep a separate record of the established and reestablished corners of government surveys, giving the date and names of persons present and shall provide those records to his successor when he vacates his office.

(d) Established or reestablished corners shall be recognized as the legal and permanent corners.

(5) The county executive or legislative body may direct the county surveyor or his staff to perform engineering and architectural work if the county surveyor or his staff is qualified and licensed to perform that work.

Section 18. Section **17-23-2** is amended to read:

17-23-2. Office supplies -- Filing and indexing fees -- Records remain public property.

(1) The county [~~executive~~] shall furnish an office, furniture, and all stationery and record books necessary for the surveyor's office.

(2) The county legislative body, by ordinance or resolution, may establish the fee to be collected by the county [~~surveyor~~] for filing and indexing a map of a survey. Fees for filing of maps under Section 17-23-17 shall be governed by Section 17-23-19.

(3) All records, maps, plats, profiles, calculations, and field notes of all surveys made by the county surveyor in [~~his~~] an official capacity during [~~his~~] the surveyor's term of office, or by persons designated by [~~him~~] the surveyor to do survey work on behalf of the county, or maps of a survey filed under Section 17-23-17, shall be the property of the county, open to the inspection

of any person [~~free of charge~~], and shall be delivered by the surveyor to [his] a successor in office. [~~In counties where there is no elected county surveyor, the county legislative body may designate another office within the county to act as a depository for all documents filed in compliance with this section.~~]

Section 19. Section **17-23-3** is amended to read:

17-23-3. Seal.

The county surveyor shall have a seal, to be furnished by the county [~~legislative body~~], the impression of which shall contain the following words: "State of Utah, County Surveyor," together with the name of the county in which the same is to be used.

Section 20. Section **17-23-5** is amended to read:

17-23-5. Maps for county or county officers.

The county surveyor shall:

(1) trace, blueprint, or otherwise make all maps necessary for the county or any county officer[~~, when so requested, and the same shall be filed in his office, together with~~]; and

(2) file those maps and all data obtained by [him] the recorder from other sources[~~;~~
~~provided, that in counties where the salary of the county surveyor is not intended to cover the expenses of such work, the county executive may enter into a contract or other arrangement with the county surveyor, or another surveyor, or other person competent to make maps and plats for such mapping and platting as is required by law~~] in the recorder's office.

Section 21. Section **17-23-14** is amended to read:

17-23-14. Disturbed corners -- County surveyor to be notified.

(1) Any person who finds it necessary to disturb any established corner in the improvement of a road, or for any other cause, or finds a monument which needs rehabilitation, shall notify the county surveyor.

(2) The county surveyor or [his] designee shall:

(a) reconstruct or rehabilitate the monument for the corner by lowering and witnessing the corner or placing another monument and witness over the existing monument so that the monument:

(i) is left in a physical condition to remain as permanent a monument as is reasonably possible; and

(ii) may be reasonably located at all times in the future; and

(b) file the record ~~[the proceedings in the record]~~ of ~~[permanent surveys]~~ each reconstruction or rehabilitation under Subsection (2)(a).

Section 22. Section **17-23-15** is amended to read:

17-23-15. Removal, destruction, or defacement of monuments or corners as misdemeanor -- Costs.

(1) No person shall willfully or negligently remove, destroy, or deface any government survey monument, corner, or witness corner ~~[that is recorded in the office of the county surveyor]~~.

(2) Any person who violates this section is guilty of a class C misdemeanor and is additionally responsible for:

(a) the costs of any necessary legal action; and

(b) the costs of reestablishing the survey monument, corner, or witness corner.

Section 23. Section **17-23-16** is amended to read:

17-23-16. Resurveys.

In the resurvey of lands surveyed under the authority of the United States, the county surveyor or his designee shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established by the government survey, shall stand as the true corner.

(2) Missing corners shall be reestablished at the point where existing evidence would indicate the original corner was located by the government survey.

(3) In all cases, missing corners must be reestablished with reference to the ~~[current]~~ United States Manual of Surveying Instructions.

Section 24. Section **17-23-17** is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes.

(1) (a) ~~[Any registered]~~ Each licensed professional land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line ~~[on the ground by setting a monument]~~ or to obtain data for constructing a map or plat showing a ~~[monumented]~~ boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary ~~[monument or boundary line. Resurveys of filed surveys or subdivision lots are not required to be refiled if no monuments are set]~~.

- 555 (b) The county surveyor or designated office shall file and index the map of the survey.
- 556 (c) The map shall be a public record in the office of the county surveyor or designated
- 557 office.
- 558 (2) This type of map shall show:
- 559 (a) the location of survey by quarter section and township and range;
- 560 (b) the date of survey;
- 561 (c) the scale of drawing and north point;
- 562 (d) the distance and course of all lines traced or established, giving the basis of bearing and
- 563 the distance and course to [a] two or more section [~~corner~~] corners or quarter [~~corner~~] corners,
- 564 including township and range, or [an] to identified [~~monument~~] monuments within a recorded
- 565 subdivision;
- 566 (e) all measured bearings, angles, and distances separately indicated from those of record;
- 567 (f) a written boundary description of property surveyed;
- 568 (g) all monuments set and their relation to older monuments found;
- 569 (h) a detailed description of monuments found and monuments set, indicated separately;
- 570 (i) the surveyor's seal or stamp; and
- 571 (j) the surveyor's business name and address.
- 572 (3) (a) The map shall contain a written narrative that explains and identifies:
- 573 (i) the purpose of the survey;
- 574 (ii) the basis on which the lines were established; and
- 575 (iii) the found monuments and deed elements that controlled the established or
- 576 reestablished lines.
- 577 (b) If the narrative is a separate document, it shall contain:
- 578 (i) the location of the survey by quarter section and by township and range;
- 579 (ii) the date of the survey;
- 580 (iii) the surveyor's stamp or seal; and
- 581 (iv) the surveyor's business name and address.
- 582 (c) The map and narrative shall be referenced to each other if they are separate documents.
- 583 (4) The map and narrative shall be created on material of a permanent nature on stable base
- 584 reproducible material in the sizes required by the county surveyor.
- 585 (5) (a) Any monument set by a [~~registered~~] licensed professional land surveyor to mark

or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a ~~[registered]~~ licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(6) (a) If, in the performance of a survey, ~~[the]~~ a surveyor finds or makes any changes ~~[in]~~ to the section corner or quarter-section corner, or their accessories ~~[as they are described in an existing corner record or survey map in the office of the county surveyor or designated office]~~, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes ~~[needed to be]~~ made ~~[to any corner or accessories to the corner]~~.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(c) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any ~~[registered]~~ licensed professional land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act.

(7) Any federal or state agency, board, or commission, special district, or municipal corporation that makes a survey of lands within this state shall comply with this section.

Section 25. Section **17-23-17.5** is amended to read:

17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of corner file -- Preservation of map records -- Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is ~~registered~~ licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(2) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the

county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the ~~[county executive or]~~ county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 26. Section **17-23-18** is amended to read:

17-23-18. Amendment of survey maps or narratives by affidavit of corrections.

(1) Any survey map or narrative filed and recorded under the provisions of this chapter may be amended by an affidavit of corrections:

(a) to show any courses or distances omitted from the map or narrative;

(b) to correct an error in the description of the real property shown on the map or narrative;

or

(c) to correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.

(2) (a) The affidavit of correction shall be prepared by the ~~[registered]~~ licensed professional land surveyor who filed the map or narrative.

(b) In the event of the death, disability, or retirement from practice of the surveyor who filed the map or narrative, the county surveyor or designated office may prepare the affidavit of correction.

(c) The affidavit shall set forth in detail the corrections made.

(d) The seal and signature of the ~~[registered]~~ licensed professional land surveyor filing the affidavit of correction shall be affixed to the affidavit.

(3) The county surveyor or designated office having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.

(4) Nothing in this section permits changes in courses or distances for the purpose of redesigning parcel configurations.

Section 27. Section **17-24-12** is amended to read:

17-24-12. Reports to county legislative body.

Each county treasurer ~~[must]~~ shall make a detailed report whenever required so to do by the county executive or by the legislative body at any of their regular or special ~~[meeting of them]~~ meetings of all money received by ~~[him]~~ the treasurer, and of disbursements thereof, and of all other proceedings in ~~[his]~~ the treasurer's office so that the receipts into the treasury and the amount of disbursements shall clearly and distinctly appear.

Section 28. Section **17-27-103** is amended to read:

17-27-103. Definitions -- Notice.

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Chief executive officer" means the ~~[county executive, or if the county has adopted an alternative form of government, the official who]~~ person or body that exercises the executive powers of the county.

(c) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

(e) "County" means the unincorporated area of the county.

(f) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

(g) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(h) (i) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the land within the county, as set forth in Sections 17-27-301 and 17-27-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

(i) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(j) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(k) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(l) "Lot line adjustment" means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

(m) "Municipality" means a city or town.

(n) "Nonconforming structure" means a structure that:

(i) legally existed before its current zoning designation; and

(ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

(o) "Nonconforming use" means a use of land that:

(i) legally existed before its current zoning designation;

(ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(p) "Official map" has the same meaning as provided in Section 72-5-401.

(q) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(r) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27-804.

(s) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(t) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(u) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(v) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(w) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for agricultural purposes;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances;

(C) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or

(D) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels, an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1) (w) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(x) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A county meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A county legislative body may enact an ordinance establishing stricter notice requirements than those required by this Subsection (2).

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 29. Section **17-27-406** is amended to read:

17-27-406. Conditional uses.

(1) A zoning ordinance may contain provisions for administrative decisions relating to conditional uses that may be allowed, allowed with conditions, or denied in designated zoning districts, based on compliance with standards and criteria set forth in the zoning ordinance for those uses.

(2) Appeals of the approval or denial of a conditional use permit shall be decided by the board of adjustment, unless the county legislative body by ordinance designates itself or another body to decide those appeals.

Section 30. Section **17-27-702** is amended to read:

17-27-702. Organization -- Procedures.

(1) The board of adjustment shall:

(a) organize and elect a chairperson; and

(b) adopt rules that comply with any ordinance adopted by the legislative body.

(2) The board of adjustment shall meet at the call of the chairperson and at any other times that the board of adjustment determines.

(3) The chairperson, or in the absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(4) (a) All meetings of the board of adjustment shall comply with the requirements of Title 52, Chapter 4, Open and Public Meetings.

(b) The board of adjustment shall:

(i) keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact; and

(ii) keep records of its examinations and other official actions.

(c) The board of adjustment may, but is not required to, have its proceedings contemporaneously transcribed by a court reporter or a tape recorder.

(d) The board of adjustment shall file its records in the office of the board of adjustment.

(e) All records in the office of the board of adjustment are public records.

(5) The ~~[concurring]~~ vote of ~~[at least three]~~ a majority of the members of the board of adjustment present at a meeting at which a quorum is present is necessary to reverse any order, requirement, decision, or determination of any administrative official or agency or to decide in favor of the appellant.

(6) Decisions of the board of adjustment become effective at the meeting in which the decision is made, unless a different time is designated in the board's rules or at the time the decision is made.

(7) The legislative body may fix per diem compensation for the members of the board of adjustment, based on necessary and reasonable expenses and on meetings actually attended.

Section 31. Section **17-27-703** is amended to read:

17-27-703. Powers and duties.

(1) The board of adjustment shall hear and decide:

(a) appeals from ~~[zoning]~~ administrative decisions applying ~~[the]~~ a zoning [ordinance;] or subdivision ordinance, including appeals from:

(i) building permit denials based upon a failure to comply with a zoning or subdivision ordinance; and

(ii) administrative decisions related to subdivision plats;

(b) special exceptions to the terms of the zoning ordinance; ~~[and]~~

(c) variances from the terms of the zoning ordinance~~[-]~~ ; and

(d) appeals from a decision approving or denying a conditional use permit, unless the county legislative body has by ordinance designated itself or another body to hear and decide those appeals.

(2) The board of adjustments may make determinations regarding the existence, expansion, or modification of nonconforming uses if that authority is delegated to them by the legislative body.

(3) If authorized by the legislative body, the board of adjustment may interpret the zoning maps and pass upon disputed questions of lot lines, district boundary lines, or similar questions as they arise in the administration of the zoning regulations.

Section 32. Section **17-27-704** is amended to read:

17-27-704. Appeals.

(1) (a) ~~[(i)]~~ The applicant or any other person or entity adversely affected by ~~[a]~~ an administrative decision [administering or interpreting] applying a zoning or subdivision ordinance may appeal that decision ~~[applying the zoning ordinance]~~ by alleging that there is error in any order, requirement, decision, or determination made by an official ~~[in the administration or interpretation of the zoning ordinance]~~.

~~[(ii)]~~ (b) The legislative body shall enact an ordinance establishing a reasonable time for appeal to the board of adjustment of administrative decisions [administering or interpreting a zoning ordinance] under Subsection (1)(a).

~~[(b) Any officer, department, board, or bureau of a county affected by the grant or refusal of a building permit or by any other decisions of the administrative officer in the administration or interpretation of the zoning ordinance may appeal any decision to the board of adjustment.]~~

(2) (a) The board of adjustment shall presume that the administrative decision is valid.

(b) The person or entity making the appeal has the burden of proving that ~~[an error has been made]~~ a decision is arbitrary, capricious, or illegal.

(3) (a) Only decisions applying ~~[the]~~ a zoning or subdivision ordinance may be appealed to the board of adjustment.

(b) A person may not appeal, and the board of adjustment may not consider, any zoning or subdivision ordinance amendments.

(4) Appeals may not be used to waive or modify the terms or requirements of the zoning or subdivision ordinance.

Section 33. Section **17-27-708** is amended to read:

17-27-708. District court review of board of adjustment decision.

(1) Any person adversely affected by any decision of a board of adjustment may petition the district court for a review of the decision.

(2) (a) ~~[In the petition, the plaintiff may only allege that]~~ The district court's review is limited to a determination of whether the board of adjustment's decision ~~[was]~~ is arbitrary, capricious, or illegal.

(b) A determination of illegality requires a determination that the board of adjustment's decision violates an existing statute.

(3) (a) The petition is barred unless it is filed within 30 days after the board of adjustment's decision is final.

(b) (i) The time under Subsection (3)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the private property ombudsman under Section 63-34-13 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the private property ombudsman issues a written statement under Subsection 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (3)(b)(i) operates only as to the specific constitutional taking issues that are the subject of the request for arbitration filed with the private property ombudsman by a property owner.

(iii) A request for arbitration filed with the private property ombudsman after the time under Subsection (3)(a) to file a petition has expired does not affect the time to file a petition.

(4) (a) The board of adjustment shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Subsection (4).

(5) (a) (i) If there is a record, the district court's review is limited to the record provided by the board of adjustment.

(ii) The court may not accept or consider any evidence outside the board of adjustment's record unless that evidence was offered to the board of adjustment and the court determines that

it was improperly excluded by the board of adjustment.

(b) If there is no record, the court may call witnesses and take evidence.

(6) The court shall affirm the decision of the board of adjustment if the decision is supported by substantial evidence in the record.

(7) (a) The filing of a petition does not stay the decision of the board of adjustment.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may petition the board of adjustment to stay its decision.

(ii) Upon receipt of a petition to stay, the board of adjustment may order its decision stayed pending district court review if the board of adjustment finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an injunction staying the board of adjustment's decision.

Section 34. Section **17-27-804** is amended to read:

17-27-804. Plats required.

(1) Unless exempt under Section 17-27-806 or not included in the definition of a subdivision under Subsection 17-27-103(1), whenever any lands are divided, the owner of those lands shall have an accurate plat made of them that sets forth and describes:

(a) all the parcels of ground divided, by their boundaries, course, and extent, and whether they are intended for streets or other public uses, together with any areas that are reserved for public purposes; and

(b) the lot or unit reference, the block or building reference, the street or site address, the street name or coordinate address, the acreage or square footage for all parcels, units, or lots, and the length and width of the blocks and lots intended for sale.

(2) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate.

(b) The surveyor making the plat shall certify it.

(c) The county ~~[legislative body]~~ executive shall approve the plat as provided in this part. Before the ~~[legislative body]~~ county executive may approve a plat, the owner of the land shall provide the ~~[legislative body]~~ county executive with a tax clearance indicating that all taxes,

interest, and penalties owing on the land have been paid.

(3) After the plat has been acknowledged, certified, and approved, the owner of the land shall ~~[file and]~~ record it in the county recorder's office in the county in which the lands platted and ~~[divided]~~ laid out are situated.

Section 35. Section **17-27-805** is amended to read:

17-27-805. Subdivision approval procedure.

(1) A person may not submit a plat of a subdivision to the county recorder's office for recording unless a recommendation has been received from the planning commission and:

~~[(1)]~~ (a) the plat has been approved by:

~~[(a)]~~ (i) the ~~[legislative body]~~ executive of the county in whose unincorporated area the subdivision is located; or

~~[(b)]~~ (ii) other officers that the county legislative body designates in an ordinance; and

~~[(2)]~~ (b) the ~~[approvals are]~~ approval is entered in writing on the plat by the ~~[chief]~~ county executive ~~[officer or chairperson of the legislative body]~~ or by the other officers designated in the ordinance.

(2) A subdivision plat recorded without the approval required under this section is void.

Section 36. Section **17-27-806** is amended to read:

17-27-806. Exemptions from plat requirement.

(1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to the county recorder's office for recording a document that subdivides property by metes and bounds into less than ten lots, without the necessity of recording a plat, if:

(i) the planning commission, if required by county ordinance, has given the county ~~[legislative body]~~ executive its recommendation, whether favorable or not; and

(ii) the document contains a certificate or written approval from:

(A) the ~~[legislative body]~~ executive of the county in whose unincorporated area the property is located; or

(B) other officers that the county legislative body designates in an ordinance.

(b) By indicating its approval on a document under Subsection (1)(a), the county ~~[legislative body]~~ executive or other officer designated by the county legislative ~~[officer]~~ body certifies that:

(i) the planning commission:

958 (A) has given its recommendation to the county [~~legislative body~~] executive; or
959 (B) is not required by county ordinance to give its recommendation;
960 (ii) the subdivision is not traversed by the mapped lines of a proposed street as shown in
961 the general plan and does not require the dedication of any land for street or other public purposes;
962 and
963 (iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the
964 frontage, width, and area requirements of the zoning ordinance or has been granted a variance from
965 those requirements by the board of adjustment.

966 (2) (a) Subject to Subsection (2)(b), a lot or parcel resulting from a division of agricultural
967 land is exempt from the plat requirements of Section 17-27-804 if the lot or parcel:

968 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
969 Assessment Act;

970 (ii) meets the minimum size requirement of applicable zoning ordinances; and

971 (iii) is not used and will not be used for any nonagricultural purpose.

972 (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be
973 graphically illustrated on a record of survey map that, after receiving the same approvals as are
974 required for a plat under Section 17-27-805, shall be recorded with the county recorder.

975 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
976 purpose, the county in whose unincorporated area the lot or parcel is located may require the lot
977 or parcel to comply with the requirements of Section 17-27-804.

978 (3) (a) A person may not submit to the county recorder's office for recording a document
979 that subdivides property by metes and bounds unless it contains the certificate or written approval
980 required by this section.

981 (b) The recording of a document that subdivides property by metes and bounds and does
982 not contain the certificate or written approval required by this section:

983 (i) does not affect the validity of the document; and

984 (ii) does not affect whether the subdivided property complies with applicable county
985 ordinances on land use and development.

986 Section 37. Section **17-27-806.5** is enacted to read:

987 **17-27-806.5. Common area parcels on a plat -- No separate ownership -- Ownership**
988 **interest equally divided among other parcels on a plat and included in description of other**

989 **parcels.**

990 (1) A parcel designated as common area on a plat recorded in compliance with this part
991 may not be separately owned or conveyed independent of the other parcels created by the plat.

992 (2) The ownership interest in a parcel described in Subsection (1) shall:

993 (a) for purposes of assessment, be divided equally among all parcels created by the plat,
994 unless a different division of interest for assessment purposes is indicated on the plat or an
995 accompanying document; and

996 (b) be considered to be included in the description of each instrument describing a parcel
997 on the plat by its identifying plat number, even if the common area interest is not explicitly stated
998 in the instrument.

999 Section 38. Section **17-27-808** is amended to read:

1000 **17-27-808. Vacating or changing a subdivision plat.**

1001 (1) (a) Subject to Subsection (2), the county [~~legislative body~~] executive or any other
1002 officer that the county legislative body designates by ordinance may, with or without a petition,
1003 consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a
1004 subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

1005 (b) If a petition is filed, the responsible [~~body or~~] officer shall hold the public hearing
1006 within 45 days after receipt of the planning commission's recommendation under Subsection (2)
1007 if:

1008 (i) the plat change includes the vacation of a public street or alley;

1009 (ii) any owner within the plat notifies the municipality of their objection in writing within
1010 ten days of mailed notification; or

1011 (iii) a public hearing is required because all of the owners in the subdivision have not
1012 signed the revised plat.

1013 (2) (a) Before the county legislative body or officer designated by the county legislative
1014 body may consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6),
1015 the county legislative body or officer shall refer the proposal to the planning commission for its
1016 recommendation.

1017 (b) The planning commission shall give its recommendation within 30 days after the
1018 proposed vacation, alteration, or amendment is referred to it.

1019 (3) Any fee owner, as shown on the last county assessment rolls, of land within the

subdivision that has been laid out and platted as provided in this part may, in writing, petition the ~~[legislative body]~~ county executive to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

(4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
- (c) the signature of each of these owners who consents to the petition.

(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not be scheduled for consideration at a public hearing before the responsible ~~[body or]~~ officer until the notice required by this part is given.

(b) The petitioner shall pay the cost of the notice.

(6) Subject to Subsection (2), if the responsible body or officer proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this part.

(7) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed if:

- (a) no new dwelling lot or housing unit results from the lot line adjustment;
- (b) the adjoining property owners consent to the lot line adjustment;
- (c) the lot line adjustment does not result in remnant land that did not previously exist; and
- (d) the adjustment does not result in violation of applicable zoning requirements.

(8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section.

(b) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 39. Section **17-27-809** is amended to read:

17-27-809. Notice of hearing for plat change.

(1) (a) The responsible ~~[body or]~~ officer shall give notice of the proposed plat change by mailing the notice to each owner of property located within 300 feet of the property that is the subject of the proposed plat change, addressed to the owner's mailing address appearing on the

rolls of the county assessor of the county in which the land is located.

(b) The responsible ~~[body or]~~ officer shall ensure that the notice includes:

(i) a statement that anyone objecting to the proposed plat change must file a written objection to the change within ten days of the date of the notice;

(ii) a statement that if no written objections are received by the ~~[legislative body]~~ county executive within the time limit, no public hearing will be held; and

(iii) the date, place, and time when a hearing will be held, if one is required, to consider a vacation, alteration, or amendment without a petition when written objections are received or to consider any petition that does not include the consent of all land owners as required by Section 17-27-808.

(2) If the proposed change involves the vacation, alteration, or amendment of a street, the responsible ~~[body or]~~ officer shall give notice of the date, place, and time of the hearing by:

(a) mailing notice as required in Subsection (1); and

(b) (i) publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the county in which the land subject to the petition is located; or

(ii) if there is no newspaper of general circulation in the county, posting the notice for four consecutive weeks before the hearing in three public places in that county.

Section 40. Section **17-27-810** is amended to read:

17-27-810. Grounds for vacating or changing a plat.

(1) (a) Within 30 days after the public hearing required by this part, the responsible ~~[body or]~~ officer shall consider the petition.

(b) If the responsible ~~[body or]~~ officer is satisfied that ~~[neither]~~ the public ~~[nor any person]~~ will not be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the ~~[legislative body, by ordinance,]~~ county executive may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

(c) The responsible ~~[body or]~~ officer may approve the vacation, alteration, or amendment by ~~[ordinance,]~~ amended plat, administrative order, or deed containing a stamp or mark indicating approval by the responsible ~~[body or]~~ officer.

(d) The responsible ~~[body or]~~ officer shall ensure that the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located.

(2) An aggrieved party may appeal the responsible [body's or] officer's decision to [district court as provided in Section 17-27-1001] the board of adjustment.

Section 41. Section **17-27-811** is amended to read:

17-27-811. Prohibited acts -- Plat void if recorded without approvals -- Penalties.

~~[(1)(a) A county recorder may not record a subdivision plat that has not been approved by the legislative body of the county in whose unincorporated area the subdivision is located.]~~

~~[(b) A plat of a subdivision recorded without the approval of the county legislative body is void.]~~

~~[(2)]~~ (1) (a) An owner of any land located in a subdivision, as defined in this chapter, who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded as required in this part violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from a violation of Subsection (2)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection ~~[(2)]~~ (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

~~[(3)]~~ (2) (a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection ~~[(3)]~~ (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceedings to prevent, enjoin, or abate the violation.

(c) A county need only establish the violation to obtain the injunction.

Section 42. Section **17-27-901** is amended to read:

17-27-901. Restrictions for solar and other energy devices.

(1) The legislative body, in order to protect and ensure access to sunlight for solar energy devices, may adopt regulations governing legislative subdivision development plans that relate to the use of restrictive covenants or solar easements, height restrictions, side yard and setback requirements, street and building orientation and width requirements, height and location of

1113 vegetation with respect to property boundary lines, and other permissible forms of land use
1114 controls.

1115 (2) The ~~[legislative body]~~ county executive may refuse to approve or renew any plat or
1116 subdivision plan, or dedication of any street or other ground, if the deed restrictions, covenants,
1117 or similar binding agreements running with the land for the lots or parcels covered by the plat or
1118 subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar
1119 collectors, clotheslines, or other energy devices based on renewable resources from being installed
1120 on buildings erected on lots or parcels covered by the plat or subdivision.

1121 Section 43. Section **17-27-1001** is amended to read:

1122 **17-27-1001. Appeals.**

1123 (1) No person may challenge in district court a county's land use decisions made under this
1124 chapter or under the regulation made under authority of this chapter until that person has exhausted
1125 all administrative remedies.

1126 (2) (a) Any person adversely affected by any decision made in the exercise of the
1127 provisions of this chapter may file a petition for review of the decision with the district court
1128 within 30 days after the local decision is rendered.

1129 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property
1130 owner files a request for arbitration of a constitutional taking issue with the private property
1131 ombudsman under Section 63-34-13 until 30 days after:

1132 (A) the arbitrator issues a final award; or

1133 (B) the private property ombudsman issues a written statement under Subsection
1134 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

1135 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
1136 taking issues that are the subject of the request for arbitration filed with the private property
1137 ombudsman by a property owner.

1138 (iii) A request for arbitration filed with the private property ombudsman after the time
1139 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

1140 (3) (a) The courts shall:

1141 ~~[(a)]~~ (i) presume that land use decisions and regulations are valid; and

1142 ~~[(b)]~~ (ii) determine only whether or not the decision is arbitrary, capricious, or illegal.

1143 (b) A determination of illegality requires a determination that the decision violates an

existing statute.

Section 44. Section **17-33-1** is amended to read:

17-33-1. Title -- Establishment of merit system -- Separate systems for peace officers and firemen recognized -- Options of small counties.

(1) This chapter shall be known and may be cited as the "County Personnel Management Act."

(2) A merit system of personnel administration for the counties of the state of Utah, their departments, offices, and agencies, except as otherwise specifically provided, is established.

(3) This chapter recognizes the existence of the merit systems for peace officers of the several counties as provided for in Title 17, Chapter 30, and for firemen of the several counties as provided for in Title 17, Chapter 28, and is intended to give county commissions the option of using the provisions of this chapter as a single merit system for all county employees or in combination with these existing systems for firemen and peace officers.

(4) This chapter ~~[shall be]~~ is optional with counties having fewer than 130 full-time and part-time employees not covered by other merit systems.

Section 45. Section **17-33-4** is amended to read:

17-33-4. Career service council -- Powers and duties -- Qualifications, appointment, terms, compensation.

(1) (a) (i) There shall be in each county establishing a system a three-member bipartisan career service council appointed by the county ~~[legislative body]~~ executive. The members of the council shall be persons in sympathy with the application of merit principles to public employment.

(ii) (A) The county executive may appoint alternate members of the career service council to hear appeals that one or more regular career service council members are unable to hear.

(B) The term of an alternate member of the career service council may not exceed one year.

(b) The council shall hear appeals not resolved at lower levels in the cases of career service employees suspended, transferred, demoted, or dismissed as well in the cases of other grievances not resolved by the grievance procedure at the division or departmental level.

(c) The career service council:

(i) may make an initial determination in each appeal whether the appeal is one of the types

of matters under Subsection (1)(b) over which the council has jurisdiction;

(ii) shall review written appeals in cases of applicants rejected for examination and report final binding appeals decisions, in writing, to the county legislative body; ~~[and]~~

(iii) may not hear any other personnel matter~~[-]; and~~

(iv) may affirm, modify, vacate, or set aside an order for disciplinary action.

~~[(d) Notwithstanding the other provisions of this Subsection (1), a right of]~~

(d) (i) A person adversely affected by a decision of the career service council may appeal the decision to the district court ~~[under the provisions of the Utah Rules of Civil Procedure shall not be abridged].~~

(ii) An appeal to the district court under this Subsection (1)(d) is barred unless it is filed within 30 days after the career service council issues its decision.

(iii) If there is a record of the career service council proceedings, the district court review shall be limited to the record provided by the career service council.

(iv) In reviewing a decision of the career service council, the district court shall presume that the decision is valid and may determine only whether the decision is arbitrary or capricious.

(2) Each council member shall serve a term of three years to expire on June 30, three years after the date of his or her appointment, except that original appointees shall be chosen as follows: one member for a term expiring June 30, 1982; one member for a term expiring June 30, 1983; and one member for a term expiring June 30, 1984. Successors of original council members shall be chosen for three-year terms. An appointment to fill a vacancy on the council shall be for only the unexpired term of the appointee's successor. Each member of the board shall hold office until his successor is appointed and confirmed. A member of the council may be removed by the ~~[governing body]~~ county executive for cause, after having been given a copy of the charges against him or her and an opportunity to be heard publicly on the charges before the county legislative body. Adequate annual appropriations shall be made available to enable the council effectively to carry out its duties under this law.

(3) Members and alternates of the council shall be United States citizens and be actual and bona fide residents of the state of Utah and the county from which appointed for a period of not less than one year preceding the date of appointment and a member may not hold another government office or be employed by the county.

(4) The council shall elect one of its members as chairperson, and two or more members

1206 of the council shall constitute a quorum necessary for carrying on the business and activity of the
1207 council.

1208 (5) The council shall have subpoena power to compel attendance of witnesses, and to
1209 authorize witness fees where it deems appropriate, to be paid at the same rate as in justice courts.

1210 (6) (a) (i) Council members shall receive compensation for each day or partial day they are
1211 in session at a per diem rate determined by the county legislative body.

1212 (ii) An alternate member shall receive compensation for each day or partial day that the
1213 alternate member is required to replace a regular council member, at a per diem rate determined
1214 by the county legislative body.

1215 (b) The county legislative body may periodically adjust the compensation rate for inflation.

1216 Section 46. Section **17-33-4.5** is enacted to read:

1217 **17-33-4.5. Council may refer an appeal to an administrative law judge for a**
1218 **recommendation -- Council action on recommendation.**

1219 (1) (a) A county legislative body may appoint one or more administrative law judges to
1220 hear appeals referred by a career service council under this section.

1221 (b) Each administrative law judge shall be trained and experienced in personnel matters.

1222 (2) (a) If a career service council determines that it is in the county's best interest, it may
1223 initially refer an appeal to an administrative law judge who has been appointed under Subsection

1224 (1).

1225 (b) After holding a hearing, the administrative law judge shall make findings of fault and
1226 a recommendation to the career service council.

1227 (c) After receiving the administrative law judge's recommendation, a career service council
1228 may request the administrative law judge to hold a further factual hearing before the career service
1229 council's decision.

1230 (d) A career service council may adopt or reject an administrative law judge's
1231 recommendation, whether before or after a further hearing under Subsection (2)(c).

1232 Section 47. Section **17-33-5** is amended to read:

1233 **17-33-5. Office of personnel management -- Director -- Appointment and**
1234 **responsibilities -- Personnel rules.**

1235 (1) (a) Each county [~~legislative body~~] executive shall:

1236 (i) create an office of personnel management, administered by a director of personnel

management; and

(ii) ensure that the director is a person with proven experience in personnel management.

~~[(b) (i) Beginning July 1, 1993, the county legislative body shall appoint a director of personnel management to serve a four-year term.]~~

~~[(ii) At the expiration of any four-year term, the county legislative body may reappoint that director to another four-year term or may appoint a new director.]~~

~~[(iii) If the position of director of personnel management becomes vacant for any reason before the four-year term expires, the county legislative body shall appoint a person to complete the unexpired term by following the procedures and requirements of this section:]~~

(b) The position of director of personnel management shall be:

(i) a merit position; and

(ii) filled as provided in Subsection (1)(c).

(c) The career service council shall:

(i) advertise and recruit for the director position in the same manner as for merit positions;

(ii) select three names from a register; and

(iii) submit those names as recommendations to the county legislative body.

(d) The county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.

(2) The director of personnel management shall:

(a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;

(b) advise the county legislative and executive bodies on the use of human resources;

(c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;

(d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;

(e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;

(f) make an annual report to the county legislative body and county executive regarding the work of the department; and

1268 (g) apply and carry out this law and the policies under it and perform any other lawful acts
1269 that are necessary to carry out the provisions of this law.

1270 (3) (a) (i) The director shall ~~[issue]~~ recommend personnel rules for the county.

1271 (ii) The county legislative body may approve, amend, or reject those rules before they are
1272 ~~[implemented]~~ adopted.

1273 (b) The rules shall provide for:

1274 (i) recruiting efforts to be planned and carried out in a manner that assures open
1275 competition, with special emphasis to be placed on recruiting efforts to attract minorities, women,
1276 handicapped, or other groups that are substantially underrepresented in the county work force to
1277 help assure they will be among the candidates from whom appointments are made;

1278 (ii) the establishment of job related minimum requirements wherever practical, which all
1279 successful candidates shall be required to meet in order to be eligible for consideration for
1280 appointment or promotion;

1281 (iii) selection procedures that include consideration of the relative merit of each applicant
1282 for employment, a job related method of determining the eligibility or ineligibility of each
1283 applicant, and a valid, reliable, and objective system of ranking ~~[eligibles]~~ eligible applicants
1284 according to their qualifications and merit;

1285 (iv) certification procedures that insure equitable consideration of an appropriate number
1286 of the most qualified ~~[eligibles]~~ eligible applicants based on the ranking system;

1287 (v) appointments to positions in the career service by selection from the most qualified
1288 ~~[eligibles]~~ eligible applicants certified on eligible lists established in accordance with Subsections
1289 (3)(b)(iii) and (iv);

1290 (vi) noncompetitive appointments in the occasional instance where there is evidence that
1291 open or limited competition is not practical, such as for unskilled positions for which there are no
1292 minimum job requirements;

1293 (vii) limitation of competitions at the discretion of the director for appropriate positions
1294 to facilitate employment of qualified applicants with a substantial physical or mental impairment,
1295 or other groups protected by Title VII of the Civil Rights Act;

1296 (viii) permanent appointment for entry to the career service which shall be contingent upon
1297 satisfactory performance by the employee during a period of six months, with the probationary
1298 period extendable for a period not to exceed six months for good cause, but with the condition that

1299 the probationary employee may appeal directly to the council any undue prolongation of the period
1300 designed to thwart merit principles;

1301 (ix) temporary, provisional, or other noncareer service appointments, which may not be
1302 used as a way of defeating the purpose of the career service and may not exceed 90 days, with the
1303 period extendable for a period not to exceed an additional 90 days for good cause;

1304 (x) lists of ~~eligibles~~ eligible applicants normally to be used, if available, for filling
1305 temporary positions, and short term emergency appointments to be made without regard to the
1306 other provisions of law to provide for maintenance of essential services in an emergency situation
1307 where normal procedures are not practical, these emergency appointments not to exceed 90 days,
1308 with that period extendable for a period not to exceed an additional 90 days for good cause;

1309 (xi) promotion and career ladder advancement of employees to higher level positions and
1310 assurance that all persons promoted are qualified for the position;

1311 (xii) recognition of the equivalency of other merit processes by waiving, at the discretion
1312 of the director, the open competitive examination for placement in the career service positions of
1313 those who were originally selected through a competitive examination process in another
1314 governmental entity, the individual in those cases, to serve a probationary period;

1315 (xiii) preparation, maintenance, and revision of a position classification plan for all
1316 positions in the career service, based upon similarity of duties performed and responsibilities
1317 assumed, so that the same qualifications may reasonably be required for, and the same schedule
1318 of pay may be equitably applied to, all positions in the same class, the compensation plan, in order
1319 to maintain a high quality public work force, to take into account the responsibility and difficulty
1320 of the work, the comparative pay and benefits needed to compete in the labor market and to stay
1321 in proper alignment with other similar governmental units, and other factors;

1322 (xiv) keeping records of performance on all employees in the career service and requiring
1323 consideration of performance records in determining salary increases, any benefits for meritorious
1324 service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

1325 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,
1326 abolition of positions, or material changes in duties or organization, and governing reemployment
1327 of persons so laid off, taking into account with regard to layoffs and reemployment the relative
1328 ability, seniority, and merit of each employee;

1329 (xvi) establishment of a plan for resolving employee grievances and complaints with final

and binding decisions;

(xvii) establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge, such measures to provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the career service council;

(xviii) establishment of a procedure for employee development and improvement of poor performance;

(xix) establishment of hours of work, holidays, and attendance requirements in various classes of positions in the career service;

(xx) establishment and publicizing of fringe benefits such as insurance, retirement, and leave programs; and

(xxi) any other requirements not inconsistent with this law that are proper for its enforcement.

Section 48. Section **17-33-7** is amended to read:

17-33-7. Functions of county office of personnel management -- Personnel functions of county agencies, departments, or offices.

(1) (a) The county office of personnel management shall perform the functions required by this Subsection (1).

(b) The county executive, county legislative body, and county office of personnel management may not delegate those functions to a separate county agency, office, or department.

(c) The county office of personnel management shall:

(i) design and administer a county pay plan that includes salaries, wages, incentives, bonuses, leave, insurance, retirement, and other benefits;

(ii) design and administer the county classification plan and grade allocation system, including final decisions on position classification and grade allocation;

(iii) conduct position classification studies, including periodic desk audits, except that an agency, department, or office may submit classification recommendations to the county office of personnel management;

(iv) maintain registers of publicly recruited applicants and certification of top-ranking eligible applicants;

(v) monitor county agency, department, or office personnel practices to determine compliance with equal opportunity and affirmative action guidelines; and

(vi) maintain central personnel records.

(d) The county legislative body may approve, amend, or reject the pay plan.

(2) County agencies, departments, or offices shall:

(a) establish initial job descriptions;

(b) recommend position classifications and grade allocations;

(c) make final selections for appointments and promotions to vacant positions;

(d) conduct performance evaluations;

(e) discipline employees; and

(f) perform other functions approved by the ~~[legislative body]~~ county executive, and agreed to by the county agency, office, or department.

Section 49. Section **17-33-8** is amended to read:

17-33-8. Career service -- Exempt positions.

The career service shall be a permanent service to which this law shall apply and shall comprise all tenured positions in the public service now existing or hereafter established, except the following:

(1) The county executive, members of the county legislative body, other elected officials, and major department heads charged directly by the county legislative body, or by a board appointed by the county legislative body, with the responsibility of assisting in the formulation and carrying out of matters of policy; and if it is sought that any position which differs from its present status be exempted or tenured after the effective date of this act, a public hearing on the proposed exemption or tenure shall be held upon due notice and the concurrence of the council.

(2) One confidential secretary for each elected county officer and major department head if one is assigned.

(3) An administrative assistant to the county executive, each member of the county legislative body, and to each elected official, if one is assigned.

(4) The duly appointed chief deputy ~~[or]~~ of any elected county officer who would take over and discharge the duties of the elected county officer in the absence or disability of the originally responsible officer.

(5) Persons employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the county legislative body or one of its ~~[committee]~~ committees.

(6) Noncareer employees compensated for their services on a seasonal or contractual basis

who are hired on emergency or seasonal appointment basis, as approved by the council, and provisional or part-time employees as defined by the county's policies and procedures or its rules and regulations.

(7) Positions which by their nature -- confidential or key policy-determining or both -- cannot or should not be appropriately included in the career service. All positions designated as being exempt under this subsection shall be listed in the rules and regulations promulgated under this act by job title and department, office or agency, and any change in exempt status shall constitute an amendment to the rules and regulations.

Section 50. Section **17-36-3** is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means the county auditor, county clerk, or county executive as provided in ~~[Section]~~ Subsection 17-19-19(1).

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depository by any authorized officer in accordance with Section 17-19-3 or 17-24-1.

(8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted.

(10) "Department" means any functional unit within a fund which carries on a specific

1423 activity.

1424 (11) "Encumbrance system" means a method of budgetary control where part of an
1425 appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase
1426 orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be
1427 an encumbrance when paid or when the actual liability is entered in the books of account.

1428 (12) "Estimated revenue" means any revenue estimated to be received during the budget
1429 period in any fund for which a budget is prepared.

1430 (13) "Fiscal period" means the annual or biennial period for recording county fiscal
1431 operations.

1432 (14) "Fund" means an independent fiscal and accounting entity comprised of a sum of
1433 money or other resources segregated for a specific purpose or objective.

1434 (15) "Fund balance" means the excess of the assets over liabilities, reserves, and
1435 contributions, as reflected by its books of account.

1436 (16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its
1437 assets, as reflected by its books of account.

1438 (17) "General Fund" means the fund used to account for all receipts, disbursements, assets,
1439 liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in
1440 other funds.

1441 (18) "Interfund loan" means a loan of cash from one fund to another, subject to future
1442 repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance,
1443 or unappropriated surplus of the lending fund.

1444 (19) "Last completed fiscal period" means the fiscal period next preceding the current
1445 period.

1446 (20) "Modified accrual basis of accounting" means a method under which expenditures
1447 other than accrued interest on general long-term debt are recorded at the time liabilities are
1448 incurred and revenues are recorded when they become measurable and available to finance
1449 expenditures of the current period.

1450 (21) "Municipal capital project" means the acquisition, construction, or improvement of
1451 capital assets that facilitate providing municipal service.

1452 (22) "Municipal service" means a service not provided on a countywide basis and not
1453 accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation

1454 water retail service, water conservation, local parks, sewers, sewage treatment and disposal,
1455 cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local
1456 streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

1457 (23) "Retained earnings" means that part of the net earnings retained by an enterprise or
1458 internal service fund which is not segregated or reserved for any specific purpose.

1459 (24) "Special fund" means any fund other than the General Fund, such as those described
1460 in Section 17-36-6.

1461 (25) "Unappropriated surplus" means that part of a fund which is not appropriated for an
1462 ensuing budget period.

1463 (26) "Warrant" means an order in a specific amount drawn upon the treasurer by the
1464 auditor.

1465 Section 51. Section **17-50-402** is amended to read:

1466 **17-50-402. Payment or rejection of claims.**

1467 (1) If the county executive finds that any claim presented is not payable by the county or
1468 is not a proper county charge, the county executive shall reject the claim.

1469 (2) (a) If the claim is found to be a proper county charge, but greater in amount than is
1470 justly due, the county executive may allow the claim in part and may order a warrant drawn for the
1471 portion allowed.

1472 (b) If the claimant is unwilling to receive the amount in full payment, the county executive
1473 may again consider the claim.

1474 (3) No claim may be paid if paying the claim would exceed the current unencumbered
1475 funds.

1476 Section 52. Section **17-52-101** is amended to read:

1477 **17-52-101. Definitions.**

1478 As used in this chapter:

1479 (1) "Appointment council" means a group of persons consisting of:

1480 ~~[(a) the governor or the governor's designee;]~~

1481 ~~[(b) the speaker of the House of Representatives or the speaker's designee;]~~

1482 ~~[(c) the president of the Senate or the president's designee;]~~

1483 (a) a resident of the county in which the optional plan is proposed, designated by a
1484 majority of all state senators and representatives whose districts include any part of the county in

1485 which the optional plan is proposed;

1486 ~~[(d)]~~ (b) a resident of the county in which the optional plan is proposed, designated by the
1487 county legislative body;

1488 ~~[(e)]~~ (c) a resident of the county in which the optional plan is proposed, designated by
1489 ~~[majority vote of the mayors of all cities and towns in the county in which the optional plan is~~
1490 ~~proposed]~~ the petition sponsors; and

1491 ~~[(f) four]~~ (d) two other residents of the county in which the optional plan is proposed,
1492 designated by majority vote of the ~~[five]~~ three other members of the appointment council.

1493 (2) "Optional plan" means a plan establishing an alternate form of government for a county
1494 as provided in Section 17-52-401.

1495 (3) "Reasonable notice" means, at a minimum:

1496 (a) (i) publication in a newspaper of general circulation within the county at least once a
1497 week for at least two consecutive weeks ending no more than ten and no fewer than three days
1498 before the event that is the subject of the notice; or

1499 (ii) if there is no newspaper of general circulation within the county, posting at least one
1500 notice per 1,000 population within the county, for at least a week ending no more than three days
1501 before the event that is the subject of the notice, at locations throughout the county that are most
1502 likely to give actual notice to county residents; and

1503 (b) if the county has an Internet home page, posting an electronic notice on the Internet for
1504 at least seven days immediately before the event that is the subject of the notice.

1505 (4) "Study committee" means a group of persons:

1506 ~~[(a) (i) elected pursuant to a resolution adopted under Subsection 17-52-202(3)(a) or~~
1507 ~~17-52-203(3)(d)(i)(B) in which the county legislative body specifies that the members should be~~
1508 ~~elected; or]~~

1509 ~~[(ii)]~~ (a) appointed under Section 17-52-301; and

1510 (b) charged with the duties provided in Section 17-52-303.

1511 Section 53. Section **17-52-102** is amended to read:

1512 **17-52-102. Forms of county government -- County commission form required unless**
1513 **another is adopted.**

1514 (1) Each county shall operate under one of the following forms of county government:

1515 (a) the county commission form under Section 17-52-501;

(b) the expanded county commission form under Section 17-52-502;
[~~(c) the executive and chief administrative officer-council form under Section 17-52-503;~~]
[~~(d)~~] (c) the county executive and council form under Section 17-52-504; or
[~~(e)~~] (d) the council-manager form under Section 17-52-505[~~;~~or].
[~~(f) the council and county administrative officer form under Section 17-52-506.~~]

(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.

Section 54. Section **17-52-201** is amended to read:

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 Chapter 26, Laws of Utah 1973, 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 the county legislative body rejecting the optional plan;~~]
- [~~(ii)~~] (i) has been concluded by an affirmative or negative vote of registered voters; or
- [~~(iii)~~] (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.

Section 55. Section **17-52-202** is amended to read:

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 ~~[(a) adopting a resolution of intent as provided in Subsection (2)(a); (b)]~~ adopting a resolution to submit to the voters the question of whether a study committee should be established as provided in ~~[Subsection (3)(a); or]~~ Section 17-52-301.

~~[(c) adopting a resolution to approve the establishment of a study committee as provided in Subsection (4)(a);]~~

~~[(2) (a) A county legislative body may adopt a resolution indicating its intent to propose the adoption of an optional plan.]~~

~~[(b) Each resolution under Subsection (2)(a) shall:]~~

~~[(i) contain a general description of the proposed optional plan;]~~

~~[(ii) set a public hearing or series of public hearings on the proposed optional plan; and]~~

~~[(iii) require that reasonable notice be given of the public hearing or series of public hearings.]~~

~~[(c) A county legislative body may appoint an advisory committee to assist it in preparing the optional plan that the county legislative body intends to propose for adoption.]~~

~~[(d) Each county legislative body adopting a resolution under Subsection (2)(a) shall:]~~

~~[(i) hold a public hearing or series of public hearings, as the county legislative body determines, on the proposed optional plan beginning no less than 15 days after adoption of the resolution;]~~

~~[(ii) beginning the day after the resolution is adopted, maintain at least three complete copies of the proposed optional plan at the office of the county clerk for inspection and copying by the public; and]~~

~~[(iii) in each notice or publication of the public hearing or series of public hearings, refer to the complete proposed optional plan and its availability for inspection and copying in the county clerk's office.]~~

~~[(e) (i) At the conclusion of the public hearing or series of hearings required under Subsection (2)(d)(i), a county legislative body may adopt a resolution recommending the adoption of the proposed optional plan by registered voters.]~~

~~[(ii) Before adopting a resolution under Subsection (2)(e)(i), a county legislative body may modify the proposed optional plan.]~~

~~[(iii) Each resolution under Subsection (2)(e)(i) shall provide for submitting the proposed~~

1578 optional plan to the voters at an election held under Section 17-52-206.]

1579 ~~[(f) Failure to adopt a resolution under Subsection (2)(c)(i) within six months of the~~
1580 ~~adoption of a resolution under Subsection (2)(a) shall be considered a rejection of the proposed~~
1581 ~~optional plan.]~~

1582 ~~[(g) A county legislative body may reconsider its action in proposing an optional plan~~
1583 ~~under this Subsection (2) and terminate the process to adopt the optional plan if the reconsideration~~
1584 ~~and termination occur:]~~

1585 ~~[(i) within six months after the adoption of a resolution under Subsection (2)(c)(i); and]~~

1586 ~~[(ii) no later than six months before the date on which an election under Section 17-52-206~~
1587 ~~is scheduled:]~~

1588 ~~[(3) (a) As an alternative to the procedure under Subsection (2), a county legislative body~~
1589 ~~may adopt a resolution to submit to the registered voters of the county the question of whether a~~
1590 ~~study committee should be established:]~~

1591 ~~[(b)]~~ (2) Each resolution adopted under Subsection ~~[(3)(a)]~~ (1) shall ~~[: (i)]~~ require the
1592 question to be submitted to the registered voters of the county ~~[at a general or special]~~ on one of
1593 the election dates specified in Subsection 20A-1-204(1)(a), as the county legislative body
1594 determines, no less than 90 days and no more than 180 days after adoption of the resolution under
1595 Subsection ~~[(3)(a);]~~ (1).

1596 ~~[(ii) specify the number of members of the proposed study committee, subject to~~
1597 ~~Subsection 17-52-303(1)(a), and whether the members are to be elected or appointed; and]~~

1598 ~~[(iii) if the members are to be elected, provide procedures for the nonpartisan nomination~~
1599 ~~of the members of the proposed study committee and their nonpartisan election at the same~~
1600 ~~election at which the question of the establishment of the study committee is submitted:]~~

1601 ~~[(c) If the members of the proposed study committee are to be appointed, their~~
1602 ~~appointment shall be governed by Section 17-52-301.]~~

1603 ~~[(4) (a) As an alternative to the procedures under Subsections (2) and (3), a county~~
1604 ~~legislative body may adopt a resolution approving the establishment of a study committee with~~
1605 ~~appointed members:]~~

1606 ~~[(b) Each resolution under Subsection (4)(a) shall:]~~

1607 ~~[(i) specify the number of members of the study committee, subject to Subsection~~
1608 ~~17-52-303(1)(a); and]~~

1609 ~~[(ii) provide for the appointment of the members as provided in Section 17-52-301.]~~

1610 Section 56. Section **17-52-203** is amended to read:

1611 **17-52-203. Registered voter initiation of adoption of optional plan -- Procedure.**

1612 (1) Registered voters of a county may initiate the process of adopting an optional plan by[:]
1613 filing a petition for the establishment of a study committee as provided in Section 17-52-301.

1614 ~~[(a) filing copies of a proposed optional plan, as provided in Subsection (2)(c), in~~
1615 ~~anticipation of filing a petition under Subsection (2)(a); or]~~

1616 ~~[(b) filing a petition under Subsection (3).]~~

1617 ~~[(2) (a) Registered voters of a county may file a petition requiring the county legislative~~
1618 ~~body to submit a proposed optional plan to the registered voters of the county:]~~

1619 ~~[(b) Each petition under Subsection (2)(a) shall:]~~

1620 ~~[(i) be signed by registered voters residing in the county equal in number to at least 15%~~
1621 ~~of the total number of votes cast in the county at the most recent election for governor;]~~

1622 ~~[(ii) contain a general description of the proposed optional plan;]~~

1623 ~~[(iii) indicate that a complete copy of the proposed optional plan is available for inspection~~
1624 ~~and copying at the county clerk's office;]~~

1625 ~~[(iv) designate up to five of the petition signers as sponsors, one of whom shall be~~
1626 ~~designated as the contact sponsor, with the mailing address and telephone number of each; and]~~

1627 ~~[(v) be filed in the office of the clerk of the county in which the petition signers reside:]~~

1628 ~~[(c) Before circulating a petition under Subsection (2)(a) for signature, the petition~~
1629 ~~sponsors shall file with the county clerk at least three complete copies of the proposed optional~~
1630 ~~plan that is the subject of the petition:]~~

1631 ~~[(d) A county legislative body may not alter an optional plan proposed under this~~
1632 ~~Subsection (2):]~~

1633 ~~[(e) Within 30 days after the county clerk's receipt of the attorney general statement under~~
1634 ~~Section 17-52-204 with respect to a petition certified under Subsection (4)(a)(ii)(A), each county~~
1635 ~~legislative body shall establish the date for an election to be held as provided under Section~~
1636 ~~17-52-206.]~~

1637 ~~[(3) (a) Registered voters of a county may file a petition requiring the county legislative~~
1638 ~~body to adopt a resolution for the establishment of a study committee:]~~

1639 ~~[(b)]~~ (2) Each petition under Subsection [(3)(a)] (1) shall:

1640 ~~[(i) request the county legislative body to choose between:]~~

1641 ~~[(A) adopting a resolution that establishes a study committee with members appointed~~
1642 ~~under Section 17-52-301; or]~~

1643 ~~[(B) adopting a resolution submitting to the county's registered voters the question of~~
1644 ~~whether a study committee should be established;]~~

1645 ~~[(ii)]~~ (a) be signed by registered voters residing in the county equal in number to at least
1646 10% of the total number of votes cast in the county at the most recent election for governor;

1647 ~~[(iii)]~~ (b) designate up to five of the petition signers as sponsors, one of whom shall be
1648 designated as the contact sponsor, with the mailing address and telephone number of each; and

1649 ~~[(iv)]~~ (c) be filed in the office of the clerk of the county in which the petition signers
1650 reside.

1651 ~~[(c) (i) Within 90 days of the certification of the petition under Subsection (4)(a)(ii)(A);~~
1652 ~~the county legislative body shall hold a public hearing or series of public hearings, as the county~~
1653 ~~legislative body determines, on the petition.]~~

1654 ~~[(ii) The county legislative body shall give reasonable notice of the public hearing or series~~
1655 ~~of public hearings under Subsection (3)(c)(i).]~~

1656 ~~[(d) (i) At the conclusion of the public hearing or series of public hearings required under~~
1657 ~~Subsection (3)(c)(i), the county legislative body shall:]~~

1658 ~~[(A) adopt a resolution approving the establishment of a study committee with members~~
1659 ~~appointed under Section 17-52-301 and specifying the number of members to be appointed, subject~~
1660 ~~to Subsection 17-52-303(1)(a); or]~~

1661 ~~[(B) adopt a resolution submitting to the county's registered voters the question of whether~~
1662 ~~a study committee under Section 17-52-301 should be established.]~~

1663 ~~[(ii) Each resolution under Subsection (3)(d)(i)(B) shall comply with the requirements of~~
1664 ~~Subsection 17-52-202(3)(b).]~~

1665 ~~[(4)]~~ (3) (a) Within 30 days of the filing of a petition under Subsection ~~[(2)(a) or (3)(a)]~~
1666 ~~(1)~~ or an amended or supplemental petition under Subsection ~~[(4)]~~ (2)(b), the county clerk shall:

1667 (i) determine whether the petition or amended or supplemental petition has been signed
1668 by the required number of registered voters; and

1669 (ii) (A) if so:

1670 (I) certify the petition or amended or supplemental petition and deliver it to the county

1671 legislative body; and

1672 (II) notify in writing the contact sponsor of the certification; or

1673 (B) if not, reject the petition or the amended or supplemental petition and notify in writing
1674 the county legislative body and the contact sponsor of the rejection and the reasons for the
1675 rejection.

1676 (b) If a county clerk rejects a petition or an amended or supplemental petition under
1677 Subsection ~~[(4)]~~ (2)(a)(ii)(B), the petition may be amended or supplemented or an amended or
1678 supplemental petition may be further amended or supplemented with additional signatures and
1679 refiled within 20 days of the date of rejection.

1680 ~~[(5)]~~ (4) With the unanimous approval of petition sponsors, a petition filed under
1681 Subsection ~~[(2)(a) or (3)]~~ (1) may be withdrawn at any time within 90 days after petition
1682 certification but no later than 45 days before an election under Section 17-52-206 ~~[or Subsection~~
1683 ~~(3)(d)(i)(B)]~~ if:

1684 (a) the petition notified signers in conspicuous language that the petition sponsors are
1685 authorized to withdraw the petition; and

1686 (b) there are at least three sponsors of the petition.

1687 Section 57. Section **17-52-203.5** is enacted to read:

1688 **17-52-203.5. Election to determine whether study committee should be established.**

1689 (1) The county legislative body shall hold an election under this section if:

1690 (a) the county legislative body adopts a resolution under Subsection 17-52-202(1); or

1691 (b) a petition filed under Subsection 17-52-203(1) is certified by the county clerk under
1692 Subsection 17-52-203(3).

1693 (2) Each election under Subsection (1) shall be held on one of the election dates specified
1694 in Subsection 20A-1-204(1)(a), as the county legislative body determines, no less than 90 days and
1695 no more than 180 days after, as the case may be:

1696 (a) adoption of a resolution under Subsection 17-52-202(1); or

1697 (b) certification of a petition under Subsection 17-52-203(3).

1698 (3) The county clerk shall prepare the ballot for each election under Subsection (1) with
1699 a question that asks substantially as follows:

1700 "Shall a study committee be appointed to consider and possibly recommend a change in
1701 the form of government of _____ County?"

Section 58. Section **17-52-204** is amended to read:

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) ~~[The]~~ Within ten 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 [general] 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 [proposed] optional plan [within ten days after:] recommended by the study committee in its report under Subsection 17-52-303(3)(d).

~~[(a) for an optional plan proposed in a resolution adopted under Subsection 17-52-202(2)(c), adoption of the resolution;]~~

~~[(b) for an optional plan proposed by registered voters under Section 17-52-203;]~~

~~[(i) the filing of a request for attorney general review under Subsection (6); or]~~

~~[(ii) if the optional plan has not already been reviewed by the attorney general pursuant to a request under Subsection (6), certification of a petition under Subsection 17-52-203(4)(a)(ii)(A).]~~

(2) Within 45 days after receipt of the ~~[proposed]~~ recommended optional plan from the county clerk under Subsection (1), the county or district attorney ~~[general]~~ 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 ~~[general]~~ under Subsection (2) shall:

(a) state the ~~[attorney general's]~~ attorney's opinion as to whether implementation of the optional plan as ~~[proposed]~~ prepared by the study committee would result in a violation of any applicable statutory or constitutional provision;

(b) if the attorney ~~[general]~~ 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 ~~[proposed]~~ 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 ~~[proposed]~~ prepared by the study committee;

(iii) state whether, in the ~~[attorney general's]~~ 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 ~~[legislative body member or]~~ study committee member who favored the proposed optional plan ~~[or a reasonable petitioner who signed a petition proposing the 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 ~~[amended]~~ modified to avoid the statutory or constitutional violation.

(4) (a) If the ~~[attorney general's]~~ 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 ~~[presented to the voters under Section 17-52-206]~~ the subject of a resolution or petition under Subsection 17-52-206(1), except that~~[(i) for an optional plan proposed by a resolution under Subsection 17-52-202(2)(e), the county legislative body may amend the optional plan to avoid the violation and then adopt a new resolution under Subsection 17-52-202(2)(e) that shall be treated as any other resolution under that subsection; and (ii) for an optional plan proposed in a study committee report under Subsection 17-52-303(3)(d);]~~ the study committee may ~~[amend]~~ modify the optional plan to avoid the violation and then ~~[adopt]~~ file a new report under Subsection 17-52-303(3)(d) that will be treated as any other report under that subsection.

(b) ~~[(i)]~~ If the ~~[attorney general's]~~ 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 ~~[amended]~~ 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).

~~[(A) submitted to the voters at an election under Section 17-52-206, if the optional plan is proposed in a resolution adopted under Subsection 17-52-202(2)(e), a petition that has been certified under Subsection 17-52-203(4)(a)(ii)(A), or a study committee report filed under Subsection 17-52-303(3)(d); or]~~

~~[(B) the subject of a petition that is circulated for signatures under Subsection 17-52-203(2), if the attorney general's statement results from a request under Subsection (6).]~~

~~[(ii) Each amendment to an optional plan under Subsection (4)(b)(i) shall be made by:]~~

~~[(A) for an optional plan proposed in a resolution adopted under Subsection 17-52-202(2)(e), the county legislative body;]~~

1764 ~~[(B) for an optional plan proposed in a petition under Section 17-52-203, the petition~~
1765 ~~sponsors; and]~~

1766 ~~[(C) for an optional plan proposed in a study committee report filed under Subsection~~
1767 ~~17-52-303(3)(d), the study committee.]~~

1768 (5) If the ~~[attorney general's]~~ attorney's statement under Subsection (3) does not identify
1769 any provisions or features of the proposed optional plan that, if implemented, would violate a
1770 statutory or constitutional provision, the proposed optional plan may be~~[-]~~ the subject of a
1771 resolution or petition under Subsection 17-52-206(1).

1772 ~~[(a) submitted to the voters at an election under Section 17-52-206, if the optional plan is~~
1773 ~~proposed in a resolution adopted under Subsection 17-52-202(2)(c), a petition that has been~~
1774 ~~certified under Subsection 17-52-203(4)(a)(ii)(A), or a study committee report filed under~~
1775 ~~Subsection 17-52-303(3)(d); or]~~

1776 ~~[(b) the subject of a petition that is circulated for signatures under Subsection~~
1777 ~~17-52-203(2), if the attorney general's statement results from a request under Subsection (6).]~~

1778 ~~[(6) The attorney general review required under this section for each proposed optional~~
1779 ~~plan may be obtained in conjunction with the filing of a proposed optional plan under Subsection~~
1780 ~~17-52-203(1)(a) by filing a request for attorney general review signed by at least 100 registered~~
1781 ~~voters residing in the county.]~~

1782 Section 59. Section **17-52-205** is amended to read:

1783 **17-52-205. Voter information pamphlet.**

1784 (1) In anticipation of an election under Section 17-52-206, the county ~~[legislative body]~~
1785 clerk may prepare a voter information pamphlet to inform the public of the proposed optional plan.

1786 (2) In preparing a voter information pamphlet under this section, the county ~~[legislative~~
1787 ~~body]~~ clerk may:

1788 (a) allow proponents and opponents of the proposed optional plan to provide written
1789 statements to be included in the pamphlet; and

1790 (b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information
1791 Pamphlet.

1792 (3) Each county ~~[legislative body]~~ clerk preparing a voter information pamphlet under this
1793 section shall cause the publication and distribution of the pamphlet in a manner determined by the
1794 county ~~[legislative body]~~ clerk to be adequate.

Section 60. Section **17-52-206** is amended to read:

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

(1) ~~(a) [Subject to Section 17-52-204, the]~~ The county legislative body shall hold an election [if] on an optional plan ~~[is proposed: (a) by a resolution adopted under Subsection 17-52-202(2)(e); (b) in a petition filed under Subsection 17-52-203(2)(a) that is certified under Subsection 17-52-203(4)(a)(ii)(A); or (c)]~~ 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 governor;

(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 [clerk's receipt of the attorney general statement under Section 17-52-204:] 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 ~~[legislative body]~~ clerk shall prepare the ballot for each election under Subsection (1) so that the question on the ballot ~~[-:] (a) clearly, accurately, and impartially presents~~

1826 ~~the proposition to be voted on; and (b) does not constitute an argument or create prejudice for or~~
1827 ~~against the proposition.]~~ states substantially as follows:

1828 "Shall _____ County adopt the alternate form of government known as
1829 the (insert the proposed form of government) that has been recommended by the study
1830 committee?"

1831 (4) The county ~~[legislative body]~~ clerk shall:

1832 (a) cause the complete text of the proposed optional plan to be published in a newspaper
1833 of general circulation within the county at least once during two different calendar weeks within
1834 the 30-day period immediately before the date of the election under Subsection (1);

1835 (b) make a complete copy of the optional plan available free of charge to any member of
1836 the public who requests a copy; and

1837 (c) ~~[if the optional plan is proposed by a study committee report filed under Subsection~~
1838 ~~17-52-303(3)(d);]~~ make a complete copy of the study committee's report available free of charge
1839 to any member of the public who requests a copy.

1840 ~~[(5) If an optional plan proposed as a result of a process initiated by the county legislative~~
1841 ~~body and an optional plan proposed as a result of a process initiated by registered voters are both~~
1842 ~~scheduled for the same election;]~~

1843 ~~[(a) both proposals shall appear on the same ballot;]~~

1844 ~~[(b) a voter may vote for or against each proposal; and]~~

1845 ~~[(c) if both proposals receive a majority vote of those voting, the proposal with more votes~~
1846 ~~shall prevail and the other shall be considered rejected;]~~

1847 Section 61. Section **17-52-207** is amended to read:

1848 **17-52-207. Election of officers under optional plan.**

1849 If an optional plan is adopted by voters at an election under Section 17-52-206, the elected
1850 county officers specified in the plan shall be elected at the next regular general election following
1851 the election under Section 17-52-206, according to the procedure and schedule established under
1852 Title 20A, Election Code, for the election of county officers.

1853 Section 62. Section **17-52-301** is amended to read:

1854 **17-52-301. Procedure for appointing members to study committee.**

1855 (1) Each ~~[appointed]~~ member of a study committee shall be appointed by an appointment
1856 council as provided in this section.

(2) (a) The county [~~legislative body~~] executive shall convene a meeting of the [~~five~~] three members of the appointment council referred to in Subsections 17-52-101(1)(a), (b), and (c) [~~;(d); and (e);~~] within ten days after [~~:(i) the adoption of a resolution under Subsection 17-52-202(4)(a) or 17-52-203(3)(d)(i)(A); or (ii)~~] the canvass of an election [~~pursuant to a resolution adopted~~] under [~~Subsection 17-52-202(3)(a) or 17-52-203(3)(d)(i)(B)~~] Section 17-52-203.5 if [~~:(A) the resolution specified that study committee members would be appointed; and (B)~~] a majority of those voting voted in favor of establishing a study committee.

(b) Within ten days of the convening of the first meeting under Subsection (2)(a), the [~~five~~] three members of the appointment council shall designate the remaining [~~four~~] two members referred to in Subsection 17-52-101(1) [~~(f)~~] (d).

(3) (a) Within 30 days of the designation of the remaining [~~four~~] 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.

Section 63. Section **17-52-302** is amended to read:

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

The county [~~legislative body~~] executive shall convene the first meeting of the study committee within ten days [~~of: (1)~~] after receipt of notification of the study committee members' appointment under Subsection 17-52-301(3)(a) [~~;(or)~~].

[~~(2) the canvass of an election at which study committee members were elected pursuant to a resolution adopted under Subsection 17-52-202(3)(a) or 17-52-203(3)(d)(i)(B).~~]

Section 64. Section **17-52-303** is amended to read:

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 ~~[an optional]~~ 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.

Section 65. Section **17-52-401** is amended to read:

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

(1) Each optional plan proposed under this chapter [~~shall~~]:

(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) [~~continuity~~] retention, elimination, or combining of existing offices and [~~officers~~], if

1950 an office is eliminated, the division or department of county government responsible for
1951 performing the duties of the eliminated office;

1952 (iii) continuity of existing ordinances and regulations;

1953 (iv) continuation of pending legislative, administrative, or judicial proceedings;

1954 (v) making of interim and temporary appointments; and

1955 (vi) preparation, approval, and adjustment of necessary budget appropriations; ~~and~~

1956 (c) shall specify the date it is to become effective if adopted, which shall not be earlier than
1957 the first day of January next following the election of officers under the new plan; and

1958 ~~[(c)]~~ (d) notwithstanding any other provision of this title and except with respect to an
1959 optional plan that proposes the adoption of the county commission or expanded county
1960 commission form of government, ~~[provide that,]~~ with respect to the county budget~~;~~:

1961 (i) may provide that the county auditor's role is to be the budget officer ~~and~~, to project
1962 county revenues, and to prepare a tentative budget to present to the county executive; and

1963 (ii) shall provide that the county executive's role is to ~~[propose the]~~ prepare and present
1964 a tentative budget to the county legislative body, and the county legislative body's role is to adopt
1965 ~~[the]~~ a final budget.

1966 (2) Subject to Subsection (3), an optional plan may include provisions that are considered
1967 necessary or advisable to the effective operation of the proposed optional plan.

1968 (3) An optional plan may not include any provision that is inconsistent with or prohibited
1969 by the Utah Constitution or any statute.

1970 (4) Each optional plan proposing to change the form of government to a form under
1971 Section 17-52-503, 17-52-504, 17-52-505, or 17-52-506 shall:

1972 (a) provide for the same executive and legislative officers as are specified in the applicable
1973 section for the form of government being proposed by the optional plan;

1974 (b) provide for the election of the county council;

1975 (c) specify the number of county council members, which shall be an odd number from
1976 three to nine;

1977 (d) specify whether the members of the county council are to be elected from districts, at
1978 large, or by a combination of at large and by district;

1979 (e) specify county council members' qualifications and terms and whether the terms are
1980 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.

Section 66. Section **17-52-402** is amended to read:

17-52-402. Plan may propose changing forms of county government -- County executive -- Plan may propose change of structural form.

(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 executive and chief administrative officer-council form under Section 17-52-503;]~~

~~[(iv)]~~ (iii) the county executive and council form under Section 17-52-504; or

~~[(v)]~~ (iv) the council-manager form under Section 17-52-505~~[-or]~~.

~~[(vi) the council and county administrative officer form under Section 17-52-506.]~~

(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

2012 (iv) provide for elected officers to be subject to a recall election.

2013 [~~(2)(a) If an optional plan proposes changing the form of county government to a form~~
2014 ~~that has a separate county executive, the county executive may be:]~~

2015 [~~(i) an individual elected at large in the county; or]~~

2016 [~~(ii) a county executive body consisting of at least three members, elected at large or by~~
2017 ~~district or a combination of both, as provided in the optional plan:]~~

2018 [~~(b) An optional plan that proposes changing to a form of government with an executive~~
2019 ~~body, as provided in Subsection (2)(a)(ii), may divide the executive duties among the members of~~
2020 ~~the executive body:]~~

2021 [~~(3)~~] (2) In addition to proposing the adoption of any one of the optional forms of county
2022 government under Subsection (1)(a), an optional plan may also propose the adoption of any one
2023 of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms
2024 of County Government.

2025 Section 67. Section **17-52-403** is amended to read:

2026 **17-52-403. Adoption of optional plan -- Effect of adoption.**

2027 (1) If a proposed optional plan is approved at an election held under Section 17-52-206:

2028 (a) the proposed optional plan becomes effective according to its terms and, subject to
2029 Subsection 17-52-401(1)(c), at the time specified in it, is public record open to inspection by the
2030 public, and is judicially noticeable by all courts;

2031 (b) the county clerk shall, within ten days of the canvass of the election, file with the
2032 lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

2033 (c) all public officers and employees shall cooperate fully in making the transition between
2034 forms of county government; and

2035 (d) the county legislative body may enact and enforce necessary ordinances to bring about
2036 an orderly transition to the new form of government, including any transfer of power, records,
2037 documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved
2038 optional plan and necessary or convenient to place it into full effect.

2039 (2) Adoption of an optional plan changing only the form of county government without
2040 adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County
2041 Government, does not alter or affect the boundaries, organization, powers, duties, or functions of
2042 any:

2043 (a) school district;
2044 (b) justice court;
2045 (c) independent special district established under Title 17A, Chapter 2, Independent
2046 Special Districts;
2047 (d) city or town; or
2048 (e) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
2049 Cooperation Act.

2050 (3) After the adoption of an optional plan, the county remains vested with all powers and
2051 duties vested generally in counties by statute.

2052 Section 68. Section **17-53-106** is enacted to read:

2053 **17-53-106. Supervision of county elected officers -- Legislative body and executive**
2054 **may examine and audit accounts and conduct investigation.**

2055 (1) For purposes of this section, "professional duties" means a county elected officer's
2056 functions, duties, and responsibilities specifically provided for by law and includes:

2057 (a) the exercise of professional judgment and discretion reasonably related to the officer's
2058 required functions, duties, and responsibilities; and

2059 (b) the management of deputies and other employees under the supervision of the elected
2060 officer under statute or county ordinance, policy, or regulation.

2061 (2) (a) A county legislative body and a county executive each:

2062 (i) may generally direct and supervise all elected county officers and employees to ensure
2063 compliance with general county administrative ordinances, rules, or policies;

2064 (ii) may not direct or supervise other county officers or their sworn deputies with respect
2065 to the performance of the professional duties of the officers or deputies;

2066 (iii) may examine and audit the accounts of all county officers having the care,
2067 management, collection, or distribution of monies belonging to the county, appropriated to the
2068 county, or otherwise available for the county's use and benefit; and

2069 (iv) may investigate any matter pertaining to a county officer or to the county or its
2070 business or affairs, and may require the attendance of witnesses and take evidence in any such
2071 investigation.

2072 (b) In an investigation under Subsection (2)(a)(iv):

2073 (i) the county executive or any member of the county legislative body may administer

oaths to witnesses; and

(ii) if the county legislative body appoints members of the legislative body as a committee and confers on the committee power to hear or take evidence, the committee shall have the same power as the full county legislative body.

(3) Nothing in this section may be construed to prohibit the county executive or county legislative body from initiating an action for removal or prosecution of an elected county officer as provided by statute.

Section 69. Section **17-53-201** is amended to read:

17-53-201. General powers and functions of county legislative body.

(1) Except as expressly provided otherwise in statute, each county legislative body shall exercise all legislative powers, have all legislative duties, and perform all legislative functions of the county, including those enumerated in this part.

(2) The county legislative body may take any action necessary to fulfill a duty or responsibility imposed by statute on the county legislative body or to exercise an authority given to the county legislative body by statute, even though the action is not expressly authorized by statute.

Section 70. Section **17-53-301** is amended to read:

17-53-301. General powers and functions of county executive.

(1) The elected county executive is the chief executive ~~[office]~~ officer of the county.

(2) Except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in Chapters 16, 17, 18, 19, 20, 21, 22, 23, and 24, each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part.

(3) The county executive may take any action necessary to fulfill a duty or responsibility imposed by statute on the county executive or to exercise an authority given to the county executive by statute, even though the action is not expressly authorized in statute.

Section 71. Section **17-53-302** is amended to read:

17-53-302. County executive duties.

Each county executive shall:

(1) exercise supervisory control over all functions of the executive branch of county government;

2105 (2) direct and organize the management of the county in a manner consistent with state
2106 law, county ordinance, and the county's optional plan of county government;

2107 (3) carry out programs and policies established by the county legislative body;

2108 (4) faithfully ensure compliance with all applicable laws and county ordinances;

2109 (5) exercise supervisory and coordinating control over all departments of county
2110 government;

2111 (6) except as otherwise vested in the county legislative body by state law or by the optional
2112 plan of county government, appoint, suspend, and remove the directors of all county departments
2113 and all appointive officers of boards and commissions;

2114 (7) except as otherwise delegated by statute to another county officer, exercise
2115 administrative and auditing control over all funds and assets, tangible and intangible, of the county;

2116 (8) except as otherwise delegated by statute to another county officer, supervise and direct
2117 centralized budgeting, accounting, personnel management, purchasing, and other service functions
2118 of the county;

2119 (9) conduct planning studies and make recommendations to the county legislative body
2120 relating to financial, administrative, procedural, and operational plans, programs, and
2121 improvements in county government;

2122 (10) maintain a continuing review of expenditures and of the effectiveness of departmental
2123 budgetary controls;

2124 (11) develop systems and procedures, not inconsistent with statute, for planning,
2125 programming, budgeting, and accounting for all activities of the county;

2126 (12) if the county executive is an elected county executive, exercise a power of veto over
2127 ordinances enacted by the county legislative body, including an item veto upon budget
2128 appropriations, in the manner provided by the optional plan of county government; ~~and~~

2129 (13) review, negotiate, approve, and execute contracts for the county, unless otherwise
2130 provided by statute; and

2131 ~~[(13)]~~ (14) perform all other functions and duties required of the executive by state law,
2132 county ordinance, and the optional plan of county government.

2133 Section 72. Section **17-53-315** is amended to read:

2134 **17-53-315. Actions -- Control and direction.**

2135 (1) (a) A county executive may control and direct the prosecution ~~and~~, defense, and

2136 settlement of all lawsuits and other actions;

2137 (i) to which the county is a party[, and, when];

2138 (ii) as to which the county may be required to pay the judgment or the costs of prosecution
2139 or defense; or

2140 (iii) as further provided by county ordinance.

2141 (b) If necessary, the county executive may, upon the recommendation of the county or
2142 district attorney or if required by court order, employ counsel to represent the county in the lawsuit
2143 or other action or assist the county attorney or, in a county that does not have a county attorney,
2144 the district attorney in conducting those [actions] lawsuits or any other [cases] actions where the
2145 county attorney or district attorney, as the case may be, is authorized by law to act.

2146 (2) If a lawsuit or other action is brought or prosecuted by another elected official or a
2147 board or other entity of the county under a statutory duty, that other elected official, board, or other
2148 entity may control and direct the lawsuit or other action, consistent with applicable law.

2149 Section 73. Section **17-53-316** is enacted to read:

2150 **17-53-316. Executive orders.**

2151 (1) The county executive may issue an executive order to:

2152 (a) establish an executive policy;

2153 (b) implement an executive practice; or

2154 (c) execute a legislative policy or ordinance, as provided by statute.

2155 (2) An executive order may not:

2156 (a) be inconsistent with county ordinances addressing or with policies established by the
2157 county legislative body addressing the same subject as the executive order; or

2158 (b) expand or narrow legislative action taken or legislative policy issued by the county
2159 legislative body.

2160 (3) Each executive order exercising supervisory power over other elected county officers
2161 shall be consistent with the authority given the county executive under Section 17-53-106.

2162 Section 74. Section **17-53-317** is enacted to read:

2163 **17-53-317. Executive appointment with advice and consent of county legislative body.**

2164 The appointment of a person to fill a position on a board, committee, or similar body whose
2165 membership is appointed by the county shall be by the county executive, with the advice and
2166 consent of the county legislative body.

2167 Section 75. Section **20A-6-302** is amended to read:

2168 **20A-6-302. Placement of candidates' names on paper ballots.**

2169 (1) Each election officer shall ensure, for paper ballots in regular general elections, that:

2170 (a) except for candidates for state school board and local school boards:

2171 (i) each candidate is listed by party; and

2172 (ii) candidates' surnames are listed in alphabetical order on the ballots when two or more
2173 candidates' names are required to be listed on a ticket under the title of an office;

2174 (b) the names of candidates for the State Board of Education are placed on the ballot as
2175 certified by the lieutenant governor under Section 20A-14-105;

2176 (c) if candidates for membership on a local board of education were selected in a regular
2177 primary election, the name of the candidate who received the most votes in the regular primary
2178 election is listed first on the ballot; and

2179 (d) if candidates for membership on a local board of education were not selected in the
2180 regular primary election, the names of the candidates are listed on the ballot in the order
2181 determined by a lottery conducted by the county clerk.

2182 (2) (a) The election officer may not allow the name of a candidate who dies or withdraws
2183 before election day to be printed upon the ballots.

2184 (b) If the ballots have already been printed, the election officer:

2185 (i) shall, if possible, cancel the name of the dead or withdrawn candidate by drawing a line
2186 through the candidate's name before the ballots are delivered to voters; and

2187 (ii) may not count any votes for that dead or withdrawn candidate.

2188 (3) (a) When there is only one candidate for county attorney at the regular general election
2189 in counties that have three or fewer registered voters of the county who are licensed active
2190 members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name
2191 and party affiliation, if any, to be placed on a separate section of the ballot with the following
2192 question: "Shall (name of candidate) be elected to the office of county attorney? Yes ____ No
2193 ____."

2194 (b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is
2195 elected to the office of county attorney.

2196 (c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not
2197 elected and may not take office, nor may he continue in the office past the end of the term resulting

2198 from any prior election or appointment.

2199 (d) When the name of only one candidate for county attorney is printed on the ballot under
2200 authority of Subsection (3), the county clerk may not count any write-in votes received for the
2201 office of county attorney.

2202 (e) If no qualified person files for the office of county attorney or if the candidate is not
2203 elected by the voters, the county legislative body shall appoint the county attorney as provided in
2204 Section 20A-1-509.2.

2205 (f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the
2206 ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two
2207 consecutive terms immediately preceding the term for which the candidate is seeking election,
2208 Subsection (3)(a) shall not apply and that candidate shall be considered to be an unopposed
2209 candidate the same as any other unopposed candidate for another office, unless a petition is filed
2210 with the county clerk before the date of that year's primary election that:

2211 (i) requests the procedure set forth in Subsection (3)(a) to be followed; and

2212 (ii) contains the signatures of registered voters in the county representing in number at
2213 least 25% of all votes cast in the county for all candidates for governor at the last election at which
2214 a governor was elected.

2215 (4) (a) When there is only one candidate for district attorney at the regular general election
2216 in a prosecution district that has three or fewer registered voters of the district who are licensed
2217 active members in good standing of the Utah State Bar, the county clerk shall cause that
2218 candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with
2219 the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes
2220 ____ No ____."

2221 (b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is
2222 elected to the office of district attorney.

2223 (c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not
2224 elected and may not take office, nor may he continue in the office past the end of the term resulting
2225 from any prior election or appointment.

2226 (d) When the name of only one candidate for district attorney is printed on the ballot under
2227 authority of Subsection (4), the county clerk may not count any write-in votes received for the
2228 office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (4)(f), be placed on the ballot under Subsection (4)(a) has been elected on a ballot under Subsection (4)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (4)(a) shall not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (4)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 76. Section **21-2-3** is amended to read:

21-2-3. Fees of county recorder.

(1) The county recorder shall receive the following fees:

(a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, paper, or notice, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in size, and \$2 for each additional page, and if any instrument, paper, or notice contains more than one description, \$1 for each additional description;

(c) for recording any instrument in which a right-of-way is described, which is connected with or is appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if any instrument contains more than two names for either first or second party, or plaintiffs or defendants, for each additional name, \$1;

(d) for recording, indexing, and abstracting mining location notices, and recording, indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if that page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page; and

(e) for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains more than one mining claim, \$1 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or ~~[paper]~~ document, a reasonable fee as determined ~~[and set]~~ by the county legislative body;

(b) for each certificate under seal, ~~[\$2]~~ \$5;

(c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30 for each sheet;

(d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit designation;

(e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for each additional name;

(f) for recording any license issued by the Division of Occupational and Professional Licensing, \$10;

(g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10; and
~~[(h) for copies of microfilm, a charge per lineal foot as fixed by the county governing body, not to exceed the cost of reproduction of the film plus 10%; and]~~

~~[(i)]~~ (h) for all services not enumerated in this section, a reasonable compensation.

Section 77. Section **57-1-45** is enacted to read:

57-1-45. Boundary line agreements.

(1) If properly executed and acknowledged as required under this chapter, an agreement between property owners designating the boundary line between their properties, when recorded in the office of the recorder of the county in which the property is located, shall act as a quitclaim deed and convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary dispute that led to the boundary line agreement.

(2) Each boundary line agreement under Subsection (1) shall contain a description of the land conveyed and the address of each grantee.

Section 78. Section **57-3-106** is amended to read:

57-3-106. Original documents required -- Captions -- Legibility.

(1) (a) Unless otherwise provided, documents presented for recording in the office of the county recorder shall:

(i) be originals; and

(ii) contain a brief caption stating the nature of the document.

(b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (1)(a)(ii) shall state that the document is a master form.

(2) Documents presented for recording shall also be sufficiently legible for the recorder to make certified copies.

(3) (a) A document which is of record in the office of the appropriate county recorder in compliance with this chapter may not be recorded again in that same county recorder's office unless the original document has been reexecuted by all parties who executed the document. Unless exempt by statute, original documents which are reexecuted must also contain the appropriate acknowledgment, proof of execution, jurat or other notarial certification for all parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments. Documents submitted for rerecording shall contain a brief statement explaining the reason for rerecording.

(b) A county recorder may refuse to accept a document for rerecording if that document does not conform to the requirements of this section.

(c) Subsection (3) of this section applies only to documents executed after July 1, 1998.

(4) Minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit or other appropriate instrument.

Section 79. Section **73-1-10** is amended to read:

73-1-10. Conveyance of water rights -- Deed -- Exceptions -- Filing and recording of deed -- Report of water right conveyance.

(1) (a) A water right, whether evidenced by a decree, a certificate of appropriation, a diligence claim to the use of surface or underground water, or a water user's claim filed in general determination proceedings, shall be transferred by deed in substantially the same manner as is real

estate.

(b) The deed must be recorded in the office of the recorder of the county where the point of diversion of the water is located and in the county where the water is used.

~~[(c) (i) A copy of the deed or other conveyance which contains a reference to a water right number for a water right evidenced by any document listed in Subsection 73-1-11(5) shall be promptly transmitted by the county recorder to the state engineer for filing.]~~

~~[(ii) The state engineer may designate regional offices to receive copies of deeds or other conveyances transmitted pursuant to Subsection (1)(c)(i). A county recorder may not be required to transmit documents to more than one regional office.]~~

~~[(d)]~~ (c) A recorded deed of a water right shall from the time of its ~~[filing]~~ recording in the office of the county recorder constitute notice of its contents to all persons.

(2) The right to the use of water evidenced by shares of stock in a corporation shall be transferred in accordance with the procedures applicable to securities set forth in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities.

(3) (a) To update water right ownership on the records of the state engineer, a water right owner shall submit a report of water right conveyance to the state engineer.

(b) The report of water right conveyance shall be on forms provided by the state engineer.

(c) The report shall be prepared by:

(i) or prepared under the direction of and certified by, any of the following persons licensed in Utah:

(A) an attorney;

(B) a professional engineer;

(C) a title insurance agent; or

(D) a professional land surveyor; or

(ii) the water right owner as authorized by rule of the state engineer.

(d) The filing and processing of a report of water right conveyance with the state engineer is neither an adjudication of water right ownership nor an opinion as to title or validity of the water right.

(e) The state engineer shall adopt rules that specify:

(i) the information required in a report of water right conveyance; and

(ii) the procedures for processing the reports.

2353 Section 80. Section **78-12-29** is amended to read:

2354 **78-12-29. Within one year.**

2355 An action may be brought within one year:

2356 (1) for liability created by the statutes of a foreign state;

2357 (2) upon a statute for a penalty or forfeiture where the action is given to an individual, or
2358 to an individual and the state, except when the statute imposing it prescribes a different limitation;

2359 (3) upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty
2360 to the state;

2361 (4) for libel, slander, assault, battery, false imprisonment, or seduction;

2362 (5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned
2363 upon either civil or criminal process;

2364 (6) against a municipal corporation for damages or injuries to property caused by a mob
2365 or riot;

2366 (7) on a claim for relief or a cause of action under the following sections of Title 25,
2367 Chapter 6, Uniform Fraudulent Transfer Act:

2368 (a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to four
2369 years, under Section 25-6-10; or

2370 (b) Subsection 25-6-6(2)[~~;~~]; or

2371 (8) against a county legislative body or a county executive to challenge a decision of the
2372 county legislative body or county executive, respectively.

2373 Section 81. **Repealer.**

2374 This act repeals:

2375 Section **17-5-213, Powers of legislative body -- Supervision of other officers.**

2376 Section **17-23-4, Duty respecting maps filed for record.**

2377 Section **17-52-503, County executive and chief administrative officer-council form of**
2378 **county government.**

2379 Section **17-52-506, Council-county administrative officer form of county government.**

Legislative Review Note
as of 2-12-01 6:42 AM

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

Office of Legislative Research and General Counsel