

Senator Carlene M. Walker proposes the following substitute bill:

MUNICIPAL GOVERNMENT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Aaron Tilton

LONG TITLE

General Description:

This bill modifies provisions of the Utah Municipal Code.

Highlighted Provisions:

This bill:

- ▶ rewrites and reorganizes provisions relating to forms of municipal government and municipal administration;
- ▶ repeals provisions relating to forms of municipal government that have been rewritten or made obsolete by the rewritten provisions;
- ▶ clarifies the forms of government under which a municipality may operate;
- ▶ clarifies provisions relating to the council-mayor, six-member council, and five-member council forms of municipal government;
- ▶ requires municipalities to operate under a council mayor, six-member council, or five-member council form of government, except those currently operating under a specified council-manager form;
- ▶ requires municipalities operating under the former council-manager form of government to continue to operate under that form of government, subject to a future potential change to another form; and
- ▶ makes technical and conforming changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 **AMENDS:**

32 **10-2-112**, as last amended by Laws of Utah 2004, Chapter 202

33 **10-2-114**, as last amended by Laws of Utah 2004, Chapter 202

34 **10-2-125**, as last amended by Laws of Utah 2007, Chapter 212

35 **10-2-303**, as last amended by Laws of Utah 2004, Chapter 202

36 **10-3-301**, as last amended by Laws of Utah 2000, Chapter 65

37 **10-3-502**, as last amended by Laws of Utah 2003, Chapter 292

38 **10-3-504**, as last amended by Laws of Utah 2004, Chapter 202

39 **10-3-507**, as last amended by Laws of Utah 2004, Chapter 202

40 **10-3-820**, as enacted by Laws of Utah 1977, Chapter 48

41 **10-3-902**, as enacted by Laws of Utah 1977, Chapter 48

42 **10-3-1106**, as last amended by Laws of Utah 2004, Chapter 260

43 **10-6-151**, as last amended by Laws of Utah 2005, Chapter 71

44 **10-9a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329

45 **20A-1-102**, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 329

46 **20A-1-506**, as last amended by Laws of Utah 2006, Chapter 16

47 **20A-1-510**, as last amended by Laws of Utah 2000, Chapter 3

48 **78-5-134**, as last amended by Laws of Utah 2006, Chapter 16

49 **ENACTS:**

50 **10-3b-101**, Utah Code Annotated 1953

51 **10-3b-102**, Utah Code Annotated 1953

52 **10-3b-103**, Utah Code Annotated 1953

53 **10-3b-104**, Utah Code Annotated 1953

54 **10-3b-201**, Utah Code Annotated 1953

55 **10-3b-202**, Utah Code Annotated 1953

56 **10-3b-203**, Utah Code Annotated 1953

- 57 **10-3b-204**, Utah Code Annotated 1953
- 58 **10-3b-205**, Utah Code Annotated 1953
- 59 **10-3b-301**, Utah Code Annotated 1953
- 60 **10-3b-302**, Utah Code Annotated 1953
- 61 **10-3b-303**, Utah Code Annotated 1953
- 62 **10-3b-401**, Utah Code Annotated 1953
- 63 **10-3b-402**, Utah Code Annotated 1953
- 64 **10-3b-403**, Utah Code Annotated 1953
- 65 **10-3b-501**, Utah Code Annotated 1953
- 66 **10-3b-502**, Utah Code Annotated 1953
- 67 **10-3b-503**, Utah Code Annotated 1953
- 68 **10-3b-504**, Utah Code Annotated 1953
- 69 **10-3b-505**, Utah Code Annotated 1953
- 70 **10-3b-506**, Utah Code Annotated 1953
- 71 **10-3b-507**, Utah Code Annotated 1953

72 REPEALS:

- 73 **10-3-101**, as last amended by Laws of Utah 2004, Chapter 202
- 74 **10-3-102**, as enacted by Laws of Utah 1977, Chapter 48
- 75 **10-3-106**, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 76 **10-3-207**, as enacted by Laws of Utah 1977, Chapter 48
- 77 **10-3-403**, as enacted by Laws of Utah 1977, Chapter 48
- 78 **10-3-404**, as enacted by Laws of Utah 1977, Chapter 48
- 79 **10-3-501**, as last amended by Laws of Utah 1979, Chapter 30
- 80 **10-3-503**, as last amended by Laws of Utah 1987, Chapter 92
- 81 **10-3-802**, as last amended by Laws of Utah 1987, Chapter 92
- 82 **10-3-804**, as last amended by Laws of Utah 1977, Chapter 39
- 83 **10-3-806**, as last amended by Laws of Utah 1993, Chapter 4
- 84 **10-3-807**, as last amended by Laws of Utah 1977, Chapter 39
- 85 **10-3-808**, as last amended by Laws of Utah 2003, Chapter 292
- 86 **10-3-809**, as last amended by Laws of Utah 2003, Chapter 292
- 87 **10-3-810**, as last amended by Laws of Utah 2003, Chapter 292

- 88 **10-3-811**, as last amended by Laws of Utah 2003, Chapter 292
- 89 **10-3-812**, as last amended by Laws of Utah 2003, Chapter 292
- 90 **10-3-813**, as enacted by Laws of Utah 1977, Chapter 48
- 91 **10-3-814**, as enacted by Laws of Utah 1977, Chapter 48
- 92 **10-3-815**, as enacted by Laws of Utah 1977, Chapter 48
- 93 **10-3-816**, as enacted by Laws of Utah 1977, Chapter 48
- 94 **10-3-817**, as enacted by Laws of Utah 1977, Chapter 48
- 95 **10-3-830**, as last amended by Laws of Utah 2007, Chapter 266
- 96 **10-3-901**, as enacted by Laws of Utah 1977, Chapter 48
- 97 **10-3-1201**, as enacted by Laws of Utah 1977, Chapter 48
- 98 **10-3-1202**, as enacted by Laws of Utah 1977, Chapter 48
- 99 **10-3-1203**, as last amended by Laws of Utah 2004, Chapters 202 and 371
- 100 **10-3-1204**, as enacted by Laws of Utah 1977, Chapter 48
- 101 **10-3-1205**, as enacted by Laws of Utah 1977, Chapter 48
- 102 **10-3-1206**, as last amended by Laws of Utah 1985, Chapter 222
- 103 **10-3-1207**, as enacted by Laws of Utah 1977, Chapter 48
- 104 **10-3-1208**, as last amended by Laws of Utah 2004, Chapter 202
- 105 **10-3-1210**, as enacted by Laws of Utah 1977, Chapter 48
- 106 **10-3-1211**, as enacted by Laws of Utah 1977, Chapter 48
- 107 **10-3-1212**, as last amended by Laws of Utah 2006, Chapter 14
- 108 **10-3-1213**, as enacted by Laws of Utah 1977, Chapter 48
- 109 **10-3-1214**, as enacted by Laws of Utah 1977, Chapter 48
- 110 **10-3-1215**, as enacted by Laws of Utah 1977, Chapter 48
- 111 **10-3-1216**, as last amended by Laws of Utah 1991, Chapter 54
- 112 **10-3-1217**, as last amended by Laws of Utah 1981, Chapter 47
- 113 **10-3-1218**, as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 114 **10-3-1219**, as last amended by Laws of Utah 2004, Chapter 156
- 115 **10-3-1219.5**, as enacted by Laws of Utah 1979, Chapter 39
- 116 **10-3-1220**, as enacted by Laws of Utah 1977, Chapter 48
- 117 **10-3-1221**, as enacted by Laws of Utah 1977, Chapter 48
- 118 **10-3-1222**, as last amended by Laws of Utah 1993, Chapter 231

- 119 **10-3-1223**, as enacted by Laws of Utah 1977, Chapter 48
- 120 **10-3-1224**, as enacted by Laws of Utah 1977, Chapter 48
- 121 **10-3-1225**, as enacted by Laws of Utah 1977, Chapter 48
- 122 **10-3-1226**, as enacted by Laws of Utah 1977, Chapter 48
- 123 **10-3-1227**, as enacted by Laws of Utah 1977, Chapter 48
- 124 **10-3-1228**, as enacted by Laws of Utah 1977, Chapter 48



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

127 Section 1. Section **10-2-112** is amended to read:

128 **10-2-112. Ballot used at the incorporation election.**

129 (1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the
130 incorporation question substantially as follows:

131 Shall the area described as (insert a description of the proposed city) be incorporated as
132 the city of (insert the proposed name of the proposed city)?

133 (2) The ballot shall provide a space for the voter to answer yes or no to the question in
134 Subsection (1).

135 (3) (a) The ballot at the incorporation election shall also pose the question relating to
136 the form of government substantially as follows:

137 If the above incorporation proposal passes, under what form of municipal government
138 shall (insert the name of the proposed city) operate? Vote for one:

139 Five-member [~~City~~] Council form

140 Six-member [~~City~~] Council form

141 [~~Council-Mayor~~] Five-member council-mayor form

142 [~~Council-Manager form~~] Seven-member council-mayor form.

143 (b) The ballot shall provide a space for the voter to vote for one form of government.

144 (4) (a) The ballot at the incorporation election shall also pose the question of whether
145 to elect city council members by district substantially as follows:

146 If the above incorporation proposal passes, shall members of the city council of (insert
147 the name of the proposed city) be elected by district?

148 (b) The ballot shall provide a space for the voter to answer yes or no to the question in
149 Subsection (4)(a).

150 Section 2. Section **10-2-114** is amended to read:

151 **10-2-114. Determination of number of council members -- Determination of**
152 **election districts -- Hearings and notice.**

153 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of
154 the canvass of the election under Section 10-2-111:

155 (a) if the voters at the incorporation election choose [~~either~~] the council-mayor [~~or the~~
156 ~~council-manager~~] form of government, determine the number of council members that will
157 constitute the council of the future city;

158 (b) if the voters at the incorporation election vote to elect council members by district,
159 determine the number of council members to be elected by district and draw the boundaries of
160 those districts, which shall be substantially equal in population;

161 (c) determine the initial terms of the mayor and members of the city council so that:

162 (i) the mayor and approximately half the members of the city council are elected to
163 serve an initial term, of no less than one year, that allows their successors to serve a full
164 four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

165 (ii) the remaining members of the city council are elected to serve an initial term, of no
166 less than one year, that allows their successors to serve a full four-year term that coincides with
167 the schedule established in Subsection 10-3-205(2); and

168 (d) submit in writing to the county legislative body the results of the sponsors'
169 determinations under Subsections (1)(a), (b), and (c).

170 (2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition
171 sponsors shall hold a public hearing within the future city on the applicable issues under
172 Subsections (1)(a), (b), and (c).

173 (b) (i) The petition sponsors shall publish notice of the public hearing under Subsection
174 (2)(a) in a newspaper of general circulation within the future city at least once a week for two
175 successive weeks before the hearing.

176 (ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days
177 before the public hearing under Subsection (2)(a).

178 (c) (i) If there is no newspaper of general circulation within the future city, the petition
179 sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous
180 places within the future city that are most likely to give notice of the hearing to the residents of

181 the future city.

182 (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven
183 days before the hearing under Subsection (2)(a).

184 Section 3. Section **10-2-125** is amended to read:

185 **10-2-125. Incorporation of a town.**

186 (1) As used in this section:

187 (a) "Base petition" means a petition under this section proposing the incorporation of a
188 town and signed by the owners of private real property that:

189 (i) is located within the area proposed to be incorporated;

190 (ii) covers at least a majority of the total private land area within the area proposed to
191 be incorporated; and

192 (iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private real
193 property within the area proposed to be incorporated.

194 (b) "Qualifying petition" means a petition under this section proposing the
195 incorporation of a town and signed by the owners of private real property that:

196 (i) is located within the area proposed to be incorporated;

197 (ii) covers at least a majority of the total private land area within the area proposed to
198 be incorporated; and

199 (iii) is equal in value to more than 1/2 of the value of all private real property within
200 the area proposed to be incorporated.

201 (2) (a) A contiguous area of a county not within a municipality, with a population of at
202 least 100 but less than 1,000, may incorporate as a town as provided in this section.

203 (b) (i) The population figure under Subsection (2)(a) shall be derived from the most
204 recent official census or census estimate of the United States Bureau of the Census.

205 (ii) If the population figure is not available from the United States Bureau of the
206 Census, the population figure shall be derived from the estimate from the Utah Population
207 Estimates Committee.

208 (3) (a) The process to incorporate an area as a town is initiated by filing a petition with
209 the clerk of the county in which the area is located.

210 (b) Each petition under Subsection (3)(a) shall:

211 (i) be signed by the owners of private real property that:

- 212 (A) is located within the area proposed to be incorporated;
- 213 (B) covers a majority of the total private land area within the area; and
- 214 (C) is equal in value to at least 1/3 of the value of all private real property within the
- 215 area;
- 216 (ii) state the legal description of the boundaries of the area proposed to be incorporated
- 217 as a town;
- 218 (iii) designate up to five signers of the petition as sponsors, one of whom shall be
- 219 designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;
- 220 (iv) be accompanied by and circulated with an accurate map or plat, prepared by a
- 221 licensed surveyor, showing the boundaries of the proposed town; and

222 (v) substantially comply with and be circulated in the following form:
223 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
224 town)
225 To the Honorable County Legislative Body of (insert the name of the county in which
226 the proposed town is located) County, Utah:

227 We, the undersigned owners of real property within the area described in this petition,
228 respectfully petition the county legislative body for the area described in this petition to be
229 incorporated as a town. Each of the undersigned affirms that each has personally signed this
230 petition and is an owner of real property within the described area, and that the current
231 residence address of each is correctly written after the signer's name. The area proposed to be
232 incorporated as a town is described as follows: (insert an accurate description of the area
233 proposed to be incorporated).

- 234 (c) A petition under this section may not describe an area that includes some or all of
- 235 an area proposed for annexation in an annexation petition under Section 10-2-403 that:
- 236 (i) was filed before the filing of the petition; and
- 237 (ii) is still pending on the date the petition is filed.

238 (4) Section 10-2-104 applies to a petition for incorporation as a town in any county,
239 except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days
240 after the filing of a petition under Subsection (3).

241 (5) (a) (i) The legislative body of each county with which a base petition is filed under
242 this section shall commission and pay for a feasibility study as provided in Section 10-2-103.

243 (ii) If the results of the feasibility study under Subsection (5)(a)(i) meet the
244 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.

245 (iii) If the results of the feasibility study under Subsection (5)(a)(i) do not meet the
246 requirements of Subsection 10-2-109(3), the county legislative body may:

247 (A) deny the petition;

248 (B) grant the petition; or

249 (C) with the consent of the petition sponsors, grant the petition, after:

250 (I) imposing conditions to mitigate the fiscal inequities identified in the feasibility
251 study; or

252 (II) altering the boundaries of the area proposed to be incorporated as a town to
253 approximate the boundaries necessary to meet the requirements of Subsection 10-2-109(3).

254 (iv) Each town that incorporates pursuant to a petition granted after the county
255 legislative body imposes conditions under Subsection (5)(a)(iii)(C)(I) shall comply with those
256 conditions.

257 (b) The legislative body of each county of the second, third, fourth, fifth, or sixth class
258 with which a qualifying petition is filed shall grant the petition.

259 (6) (a) Upon the granting of a petition filed under this section, the legislative body of
260 the county in which the proposed town is located shall appoint a mayor and members of the
261 town council from a list of qualified individuals approved by the petition sponsors.

262 (b) The officers appointed under Subsection (6)(a) shall hold office until the next
263 regular municipal election and until their successors are elected and qualified.

264 (7) Each newly incorporated town shall operate under the [~~six-member~~] five-member
265 council form of government as [~~described~~] defined in Section [~~10-3-101~~] 10-3b-102.

266 (8) (a) Each mayor appointed under Subsection (6) shall, within seven days of
267 appointment, file articles of incorporation of the new town with the lieutenant governor.

268 (b) The articles of incorporation shall meet the requirements of Subsection
269 10-2-119(2).

270 (9) A town is incorporated upon the lieutenant governor's issuance of a certificate of
271 entity creation under Section 67-1a-6.5.

272 (10) The legislative body of the new town shall comply with the notice requirements of
273 Section 10-1-116.

274 Section 4. Section **10-2-303** is amended to read:

275 **10-2-303. Effect of change in class.**

276 (1) ~~[(a)]~~ If a municipality changes from one class to another:

277 ~~[(i)]~~ (a) all property, property rights, and other rights that belonged to or were vested in
278 the municipality at the time of the change shall belong to and be vested in it after the change;

279 ~~[(ii)]~~ (b) no contract, claim, or right of the municipality or demand or liability against it
280 shall be altered or affected in any way by the change;

281 ~~[(iii)]~~ (c) each ordinance, order, and resolution in force in the municipality when it
282 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the
283 change and shall remain in effect until repealed or amended;

284 ~~[(iv)]~~ (d) the change shall not affect the identity of the municipality;

285 ~~[(v)]~~ (e) each municipal officer in office at the time of the change shall continue as an
286 officer until that officer's term expires and a successor is duly elected and qualified; and

287 ~~[(vi) except as provided in Subsection (1)(b);]~~

288 (f) the municipality maintains after the change in class the same form of government
289 that it had immediately before the change.

290 ~~[(b) (i) If a town operating under a five-member council form of government changes
291 classes to a fifth class city, its form of government shall, upon issuance of the lieutenant
292 governor's certificate under Section 10-2-302, change to a six-member council form.]~~

293 ~~[(ii) As soon as practicable after the change in form of government under Subsection
294 (1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is
295 elected at the next municipal general election at which the mayor is not subject to election.]~~

296 (2) (a) A change in class does not affect an action at law, prosecution, business, or
297 work of the municipality changing classes, and proceedings shall continue and may be
298 conducted and proceed as if no change in class had occurred.

299 (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the
300 new class provides the municipality a different remedy with respect to a right that it possessed
301 at the time of the change, the remedy shall be cumulative to the remedy applicable before the
302 change in class.

303 Section 5. Section **10-3-301** is amended to read:

304 **10-3-301. Eligibility and residency requirements for elected municipal office.**

305 (1) (a) A person filing a declaration of candidacy for a municipal office shall:
306 (i) have been a resident of the municipality in which the person seeks office for at least
307 365 consecutive days immediately before the date of the election; and

308 (ii) meet the other requirements of Section 20A-9-203.

309 (b) A person living in an area annexed to a municipality meets the residency
310 requirement of this subsection if that person resided within the area annexed to the
311 municipality for at least 365 consecutive days before the date of the election.

312 (c) For purposes of determining whether a person meets the residency requirement of
313 Subsection (1)(a)(i) in a municipality that was incorporated less than 365 days before the
314 election, the municipality shall be considered to have been incorporated 365 days before the
315 election.

316 (2) Any person elected to municipal office shall be a registered voter in the
317 municipality in which the person was elected.

318 (3) (a) Each elected officer of a municipality shall maintain residency within the
319 boundaries of the municipality during the officer's term of office.

320 (b) If an elected officer of a municipality establishes a principal place of residence as
321 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
322 office is automatically vacant.

323 (4) If an elected municipal officer is absent from the municipality any time during the
324 officer's term of office for a continuous period of more than 60 days without the consent of the
325 municipal legislative body, the municipal office is automatically vacant.

326 (5) (a) A mayor of a municipality may not also serve as the municipal recorder or
327 treasurer.

328 (b) The recorder of a municipality may not also serve as the municipal treasurer.

329 Section 6. Section **10-3-502** is amended to read:

330 **10-3-502. Meetings in cities of the third, fourth, or fifth class and towns.**

331 [~~In each city of the third, fourth, or fifth class and each town, the governing body shall]~~

332 (1) The council of each municipality shall:

333 (a) by ordinance prescribe the time and place for holding its regular meeting [which
334 shall be held], subject to Subsection (1)(b); and

335 (b) hold a regular meeting at least once each month. [If at any time the business of

336 such city or town requires a special meeting of the governing body, such meeting may be
337 ordered by the mayor or any two members of the governing body. The order shall]

338 (2) (a) The mayor of a municipality or a majority of council members may order the
339 convening of a special meeting of the council.

340 (b) Each order convening a special meeting of the council shall:

341 (i) be entered in the minutes of the [governing body. The order shall] council; and

342 (ii) provide at least three hours' notice of the special meeting [and notice thereof shall
343 be served by the].

344 (c) The municipal recorder or clerk shall serve notice of the special meeting on each
345 council member who did not sign the order by delivering the notice personally or by leaving it
346 at the member's usual place of abode.

347 (d) The personal appearance by a council member at [any specially called] a special
348 meeting of the council constitutes a waiver of the notice required [in this section] under
349 Subsection (2)(c).

350 Section 7. Section **10-3-504** is amended to read:

351 **10-3-504. Quorum defined.**

352 ~~[(1)]~~ The number of council members ~~[of the governing body]~~ necessary to constitute a
353 quorum ~~[is:]~~ of the council is a majority of all voting members, without considering any
354 vacancy in the council.

355 ~~[(a) in a municipality operating under a five-member or six-member city council form~~
356 ~~of government or a five-member council-manager form of government, three or more; or]~~

357 ~~[(b) in a seven-member council-manager form of government, four or more.]~~

358 ~~[(2) The number of members of the legislative body of a municipality operating under~~
359 ~~a council-mayor form of government necessary to constitute a quorum is:]~~

360 ~~[(a) for a five-member council-mayor form, three; and]~~

361 ~~[(b) for a seven-member council-mayor form, four.]~~

362 Section 8. Section **10-3-507** is amended to read:

363 **10-3-507. Minimum vote required.**

364 (1) ~~[(a)]~~ The minimum number of yes votes required to pass any ordinance or
365 resolution, or to take any action by the ~~[governing body]~~ council, unless otherwise prescribed
366 by law, ~~[shall be a majority of the members of the quorum, but may never be less than:]~~ is the

367 minimum number required for a quorum under Section 10-3-504.

368 ~~[(i) for a municipality operating under a five-member or six-member council form of~~
369 ~~government or a five-member council-manager form of government, three; or]~~

370 ~~[(ii) for a municipality operating under a seven-member council-manager form of~~
371 ~~government, four.]~~

372 ~~[(b) The minimum number of yes votes requires to pass an ordinance or resolution or~~
373 ~~to take an action by the legislative body of a municipality operating under a council-mayor~~
374 ~~form of government, unless otherwise prescribed by law, shall be a majority of the members of~~
375 ~~the quorum, but may never be less than:]~~

376 ~~[(i) for a five-member council-mayor form, three; and]~~

377 ~~[(ii) for a seven-member council-mayor form, four.]~~

378 (2) (a) Any ordinance, resolution, or motion of the ~~[governing body]~~ council having
379 fewer favorable votes than required in this section ~~[shall be considered]~~ is defeated and
380 invalid~~[, except].~~

381 (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a
382 specific time by a majority vote of the ~~[governing body]~~ council even though ~~[such]~~ the
383 majority vote is less than that required in this section.

384 (3) A majority of the council members ~~[of the governing body]~~, regardless of number,
385 may fill any vacancy in the ~~[governing body]~~ council.

386 Section 9. Section **10-3-820** is amended to read:

387 **10-3-820. Cities of the first and second class.**

388 In cities of the first and second class, the mayor and each ~~[commissioner]~~ council
389 member shall give a penal bond, with approved corporate surety, in the amount of not less than
390 \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of
391 not less than \$20,000 conditioned for the faithful performance of the duties of their offices and
392 payment of all monies received by them according to law and the ordinances of the city.

393 Section 10. Section **10-3-902** is amended to read:

394 **10-3-902. City engineer required to be licensed.**

395 ~~[In cities of the first and second class the board of commissioners shall appoint a~~
396 ~~qualified person to each of the offices of recorder, treasurer, engineer and attorney, and may~~
397 ~~create any other office that may be deemed necessary for the government of the city, and~~

398 regulate and prescribe the powers, duties and compensation of all officers of the city, except as
399 otherwise provided by law. The]

400 Each person [sø] appointed as city engineer shall be a registered professional engineer
401 under Title 58, Chapter 22[. The board of commissioners may appoint all officers and agents as
402 may be provided for by law or ordinances, and fill all vacancies occurring therein].
403 Professional Engineers and Professional Land Surveyors Licensing Act.

404 Section 11. Section **10-3-1106** is amended to read:

405 **10-3-1106. Discharge, suspension without pay, or involuntary transfer -- Appeals**
406 **-- Board -- Procedure.**

407 (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended
408 without pay, or involuntarily transferred to a position with less remuneration:

409 (a) because of the employee's politics or religious belief; or

410 (b) incident to, or through changes, either in the elective officers, governing body, or
411 heads of departments.

412 (2) (a) If an employee is discharged, suspended for more than two days without pay, or
413 involuntarily transferred from one position to another with less remuneration for any reason,
414 the employee may, subject to Subsection (2)(b), appeal the discharge, suspension without pay,
415 or involuntary transfer to a board to be known as the appeal board, established under
416 Subsection (7).

417 (b) If the municipality provides an internal grievance procedure, the employee shall
418 exhaust the employee's rights under that grievance procedure before appealing to the board.

419 (3) (a) Each appeal under Subsection (2) shall be taken by filing written notice of the
420 appeal with the municipal recorder within ten days after:

421 (i) if the municipality provides an internal grievance procedure, the employee receives
422 notice of the final disposition of the municipality's internal grievance procedure; or

423 (ii) if the municipality does not provide an internal grievance procedure, the discharge,
424 suspension, or involuntary transfer.

425 (b) (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder
426 shall forthwith refer a copy of the appeal to the appeal board.

427 (ii) Upon receipt of the referral from the municipal recorder, the appeal board shall
428 forthwith commence its investigation, take and receive evidence, and fully hear and determine

429 the matter which relates to the cause for the discharge, suspension, or transfer.

430 (4) An employee who is the subject of the discharge, suspension, or transfer may:

431 (a) appear in person and be represented by counsel;

432 (b) have a public hearing;

433 (c) confront the witness whose testimony is to be considered; and

434 (d) examine the evidence to be considered by the appeal board.

435 (5) (a) (i) Each decision of the appeal board shall be by secret ballot, and shall be

436 certified to the recorder within 15 days from the date the matter is referred to it, except as

437 provided in Subsection (5)(a)(ii).

438 (ii) For good cause, the board may extend the 15-day period under Subsection (5)(a)(i)

439 to a maximum of 60 days, if the employee and municipality both consent.

440 (b) If it finds in favor of the employee, the board shall provide that the employee shall

441 receive:

442 (i) the employee's salary for the period of time during which the employee is

443 discharged or suspended without pay; or

444 (ii) any deficiency in salary for the period during which the employee was transferred

445 to a position of less remuneration.

446 (6) (a) A final action or order of the appeal board may be appealed to the Court of

447 Appeals by filing with that court a notice of appeal.

448 (b) Each notice of appeal under Subsection (6)(a) shall be filed within 30 days after the

449 issuance of the final action or order of the appeal board.

450 (c) The Court of Appeals' review shall be on the record of the appeal board and for the

451 purpose of determining if the appeal board abused its discretion or exceeded its authority.

452 (7) (a) The method and manner of choosing the members of the appeal board, the

453 number of members, the designation of their terms of office, and the procedure for conducting

454 an appeal and the standard of review shall be prescribed by the governing body of each

455 municipality by ordinance.

456 (b) For a municipality operating under a form of government other than a

457 council-mayor form under [~~Part 12, Optional Forms of Municipal Government Act~~] Subsection

458 10-36-103(3), an ordinance adopted under Subsection (7)(a) may provide that the governing

459 body of the municipality shall serve as the appeal board.

460 Section 12. Section **10-3b-101** is enacted to read:

461 **CHAPTER 3a. (RESERVED)**

462 **CHAPTER 3b. FORMS OF MUNICIPAL GOVERNMENT**

463 **Part 1. General Provisions**

464 **10-3b-101. Title.**

465 This chapter is known as "Forms of Municipal Government."

466 Section 13. Section **10-3b-102** is enacted to read:

467 **10-3b-102. Definitions.**

468 As used in this chapter:

469 (1) "Council-mayor form of government" means the form of municipal government
470 described in Part 2, Council-Mayor Form of Municipal Government.

471 (2) "Five-member council form of government" means the form of municipal
472 government described in Part 4, Five-Member Council Form of Municipal Government.

473 (3) "Six-member council form of government" means the form of municipal
474 government described in Part 3, Six-Member Council Form of Municipal Government.

475 Section 14. Section **10-3b-103** is enacted to read:

476 **10-3b-103. Forms of municipal government -- Form of government for towns --**
477 **Former council-manager form.**

478 (1) Subject to Subsection (2) and except as provided in Subsection (3), each
479 municipality shall operate under:

480 (a) the council-mayor form of government, with a five-member council;

481 (b) the council-mayor form of government, with a seven-member council;

482 (c) the six-member council form of government; or

483 (d) the five-member council form of government.

484 (2) Unless it changes to another form of government under Part 5, Changing to
485 Another Form of Municipal Government, each town shall operate under a five-member council
486 form of government.

487 (3) (a) As used in this Subsection (3), "council-manager form of government" means
488 the form of municipal government:

489 (i) provided for in Chapter 48, Laws of Utah 1977;

490 (ii) that cannot be adopted without voter approval; and

491 (iii) that provides for an appointed manager with duties and responsibilities established
492 in Chapter 48, Laws of Utah 1977.

493 (b) Each municipality operating on May 4, 2008 under the council-manager form of
494 government shall continue to operate, on and after May 5, 2008, under the council-manager
495 form of government according to the applicable provisions of Chapter 48, Laws of Utah 1977.

496 (c) Subsection (3)(b) may not be construed to prevent a municipality operating under a
497 council-mayor form of government from changing to another form of government as provided
498 in Part 5, Changing to Another Form of Municipal Government.

499 (d) A municipality operating under the council-manager form of government is not
500 subject to:

501 (i) Part 2, Council-Mayor Form of Municipal Government;

502 (ii) Part 3, Six-Member Council Form of Municipal Government; or

503 (iii) Part 4, Five-Member Council Form of Municipal Government.

504 Section 15. Section **10-3b-104** is enacted to read:

505 **10-3b-104. Municipal council.**

506 Under each form of municipal government, the council:

507 (1) is the legislative body of the municipality and exercises the legislative powers and
508 performs the legislative duties and functions of the municipality; and

509 (2) may:

510 (a) adopt rules and regulations, not inconsistent with statute, for the efficient
511 administration, organization, operation, conduct, and business of the municipality;

512 (b) prescribe by resolution additional duties, powers, and responsibilities for any
513 elected or appointed municipal official, unless prohibited by statute;

514 (c) require by ordinance that any or all appointed officers reside in the municipality;

515 (d) create any office that the council considers necessary for the government of the
516 municipality;

517 (e) provide for filling a vacancy in an elective or appointive office; and

518 (f) perform any function specifically provided for by statute or necessarily implied by
519 law.

520 Section 16. Section **10-3b-201** is enacted to read:

521 **Part 2. Council-Mayor Form of Municipal Government**

522 **10-3b-201. Separate branches of government under a council-mayor form of**
523 **government.**

524 The powers of municipal government in a municipality operating under the
525 council-mayor form of government are vested in two separate, independent, and equal branches
526 of municipal government consisting of:

527 (1) a council composed of five or seven members; and

528 (2) a mayor and, under the mayor's supervision, any executive or administrative
529 departments, divisions, and offices and any executive or administrative officers provided for by
530 statute or municipal ordinance.

531 Section 17. Section **10-3b-202** is enacted to read:

532 **10-3b-202. Mayor in council-mayor form of government.**

533 (1) The mayor in a municipality operating under the council-mayor form of
534 government:

535 (a) is the chief executive and administrative officer of the municipality;

536 (b) exercises the executive and administrative powers and performs or supervises the
537 performance of the executive and administrative duties and functions of the municipality;

538 (c) shall:

539 (i) keep the peace and enforce the laws and ordinances of the municipality;

540 (ii) execute the policies adopted by the council;

541 (iii) appoint, with the council's advice and consent, a qualified person for each of the
542 following positions:

543 (A) subject to Subsection (3), chief administrative officer, if required under the
544 resolution or petition under Subsection 10-3b-503(1)(a) that proposed the change to a
545 council-mayor form of government;

546 (B) recorder;

547 (C) treasurer;

548 (D) engineer; and

549 (E) attorney;

550 (iv) provide to the council, at intervals provided by ordinance, a written report to the
551 council setting forth:

552 (A) the amount of budget appropriations;

553 (B) total disbursements from the appropriations;
554 (C) the amount of indebtedness incurred or contracted against each appropriation,
555 including disbursements and indebtedness incurred and not paid; and
556 (D) the percentage of the appropriations encumbered;
557 (v) inform the council of the condition and needs of the municipality;
558 (vi) remit fines and forfeitures to the council at the council's next regular meeting after
559 the fines and forfeitures are collected;
560 (vii) report to the council any release that the mayor grants under Subsection (4)(k);
561 and
562 (viii) perform each other duty:
563 (A) prescribed by statute; or
564 (B) required by a municipal ordinance that is not inconsistent with statute;
565 (d) may:
566 (i) subject to budget constraints:
567 (A) appoint:
568 (I) a chief administrative officer; and
569 (II) one or more deputies or administrative assistants to the mayor; and
570 (B) (I) create any other administrative office that the mayor considers necessary for
571 good government of the municipality; and
572 (II) appoint a person to the office;
573 (ii) with the council's advice and consent and except as otherwise specifically limited
574 by statute, appoint:
575 (A) each department head of the municipality;
576 (B) each statutory officer of the municipality; and
577 (C) each member of a statutory commission, board, or committee of the municipality;
578 (iii) dismiss any person appointed by the mayor;
579 (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation
580 passed by the council;
581 (v) exercise control of and supervise each executive or administrative department,
582 division, or office of the municipality;
583 (vi) within the general provisions of statute and ordinance, regulate and prescribe the

584 powers and duties of each other executive or administrative officer or employee of the
585 municipality;

586 (vii) attend each council meeting, take part in council meeting discussions, and freely
587 give advice to the council;

588 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill
589 in all other respects the requirements of, as the case may be:

590 (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or
591 (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, as the case may be;

592 (ix) if necessary, call on residents of the municipality over the age of 21 years to assist
593 in enforcing state laws and municipal ordinances;

594 (x) at any reasonable time, examine and inspect the official books, papers, records, or
595 documents of the municipality or of any officer, employee, or agent of the municipality;

596 (xi) release a person imprisoned for a violation of a municipal ordinance; and
597 (xii) execute an agreement on behalf of the municipality, or delegate, by written
598 executive order, the authority to execute an agreement on behalf of the municipality:

599 (A) if the obligation under the agreement is within certified budget appropriations; and
600 (B) subject to Section 10-6-138; and

601 (e) may not vote on any matter before the council.

602 (2) (a) The first mayor elected under a newly established mayor-council form of
603 government shall, within six months after taking office, draft and submit to the council a
604 proposed ordinance:

605 (i) providing for the division of the municipality's administrative service into
606 departments, divisions, and bureaus; and

607 (ii) defining the functions and duties of each department, division, and bureau.

608 (b) Before the council adopts an ordinance on the municipality's administrative service,
609 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness
610 in the divisions of the municipal government.

611 (3) Each person appointed as chief administrative officer under Subsection
612 (1)(c)(iii)(A) shall be appointed on the basis of:

613 (a) the person's ability and prior experience in the field of public administration; and
614 (b) any other qualification prescribed by ordinance.

615 Section 18. Section **10-3b-203** is enacted to read:

616 **10-3b-203. Council in a council-mayor form of government.**

617 (1) The council in a municipality operating under a council-mayor form of government:

618 (a) shall:

619 (i) by ordinance, provide for the manner in which:

620 (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred;

621 and

622 (B) a subdivision or annexation is approved, disapproved, or otherwise regulated; and

623 (ii) elect one of its members to be the chair of the council;

624 (b) may:

625 (i) adopt an ordinance, to be known as the municipal administrative code:

626 (A) dividing the municipality's administrative service into departments, divisions, and

627 bureaus; and

628 (B) defining the functions and duties of each department, division, and bureau;

629 (ii) upon the mayor's recommendation, adopt an ordinance:

630 (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and

631 (B) defining or altering the functions and duties of each department, division, and

632 bureau;

633 (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a
634 subordinate of the mayor; and

635 (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or
636 citizens to conduct an investigation into:

637 (I) an officer, department, or agency of the municipality; or

638 (II) any other matter relating to the welfare of the municipality; and

639 (B) delegate to an appointed committee powers of inquiry that the council considers
640 necessary; and

641 (c) may not:

642 (i) direct or request, other than in writing, the appointment of a person to or the
643 removal of a person from an executive municipal office;

644 (ii) interfere in any way with an executive officer's performance of the officer's duties;

645 or

646 (iii) publicly or privately give orders to a subordinate of the mayor.

647 (2) A member of a council in a municipality operating under the council-mayor form of
648 government may not have any other compensated employment with the municipality.

649 Section 19. Section **10-3b-204** is enacted to read:

650 **10-3b-204. Presenting council action to mayor -- Veto -- Reconsideration -- When**
651 **ordinance, tax levy, or appropriation takes effect.**

652 (1) The council in each municipality operating under a council-mayor form of
653 municipal government shall present to the mayor each ordinance, tax levy, and appropriation
654 passed by the council.

655 (2) (a) The mayor in a municipality operating under a council-mayor form of municipal
656 government may veto an ordinance or tax levy or all or any part of an appropriation passed by
657 the council.

658 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the
659 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after
660 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement
661 explaining the mayor's objections.

662 (3) At its next meeting following a mayor's veto under Subsection (2), the council shall
663 reconsider the vetoed ordinance, tax levy, or appropriation.

664 (4) An ordinance, tax levy, or appropriation passed by the council takes effect as
665 provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure, if:

666 (a) the mayor signs the ordinance, tax levy, or appropriation;

667 (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after
668 the council presents the ordinance, tax levy, or appropriation to the mayor; or

669 (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation
670 and passes it by a vote of at least two-thirds of all council members.

671 Section 20. Section **10-3b-205** is enacted to read:

672 **10-3b-205. Rules and regulations by municipal officers.**

673 A municipal officer in a municipality operating under a council-mayor form of
674 government may prescribe rules and regulations, not inconsistent with statute, municipal
675 ordinance, or the merit plan.

676 Section 21. Section **10-3b-301** is enacted to read:

677 **Part 3. Six-Member Council Form of Municipal Government**

678 **10-3b-301. Municipal government powers vested in a six-member council.**

679 The powers of municipal government in a municipality operating under the six-member
680 council form of government are vested in a council consisting of six members, one of which is
681 a mayor.

682 Section 22. Section **10-3b-302** is enacted to read:

683 **10-3b-302. Mayor in six-member council form of government -- Mayor pro**
684 **tempore.**

685 (1) The mayor in a municipality operating under a six-member council form of
686 municipal government:

687 (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

688 (b) votes as a voting member of the council:

689 (i) on each matter for which there is a tie vote of the other council members present at a
690 council meeting; or

691 (ii) when the council is voting on:

692 (A) whether to appoint or dismiss a municipal manager; or

693 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;

694 (c) is the chair of the council and presides at all council meetings;

695 (d) exercises ceremonial functions for the municipality;

696 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;

697 (f) exercises the executive and administrative powers and performs or supervises the
698 performance of executive and administrative duties and functions of the municipality, if and to
699 the extent provided by municipal ordinance; and

700 (g) if delegated executive or administrative powers, duties, or functions, may, within
701 budget constraints, appoint one or more administrative assistants to the mayor.

702 (2) (a) If the mayor is absent from a council meeting or is unable or refuses to act as
703 chair at a council meeting, the council may elect a member of the council as mayor pro tempore
704 to preside at the council meeting and to perform the duties and functions of mayor at the
705 meeting.

706 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
707 the election of a council member as mayor pro tempore under Subsection (2)(a).

708 Section 23. Section **10-3b-303** is enacted to read:

709 **10-3b-303. Council in six-member council form of government.**

710 The council in a municipality operating under a six-member council form of
711 government:

712 (1) exercises the executive and administrative powers and performs or supervises the
713 performance of the executive and administrative duties and functions of the municipality,
714 including the powers, duties, and functions stated in Section 10-3b-202, except:

715 (a) to the extent that those powers, duties, or functions are delegated to the mayor by
716 municipal ordinance; and

717 (b) the power to veto under Subsection 10-3b-202(1)(d)(iv);

718 (2) may:

719 (a) subject to Subsection 10-3b-302(1)(b)(ii)(B), adopt an ordinance:

720 (i) delegating to the mayor any of the powers, duties, or functions of a mayor under a
721 council-mayor form of municipal government under Section 10-3b-202, except the power to
722 veto an ordinance, tax levy, or appropriation passed by the council; or

723 (ii) removing from the mayor any power, duty, or function previously delegated to the
724 mayor by municipal ordinance;

725 (b) subject to Subsection 10-3b-302(1)(b)(ii)(A):

726 (i) appoint a manager to perform executive and administrative duties or functions that
727 the council by ordinance delegates to the manager, subject to Subsection (3); and

728 (ii) dismiss a manager appointed under Subsection (2)(b)(i); and

729 (c) assign any or all council members, including the mayor, to supervise one or more
730 administrative departments of the municipality; and

731 (3) may not delegate to a manager appointed by the council:

732 (a) any of the mayor's legislative or judicial powers or ceremonial functions;

733 (b) the mayor's position as chair of the council; or

734 (c) any ex officio position that the mayor holds.

735 Section 24. Section **10-3b-401** is enacted to read:

736 **Part 4. Five-Member Council Form of Municipal Government**

737 **10-3b-401. Municipal government powers vested in a five-member council.**

738 The powers of municipal government in a municipality operating under the

739 five-member council form of municipal government are vested in a council consisting of five
740 members, one of which is a mayor.

741 Section 25. Section **10-3b-402** is enacted to read:

742 **10-3b-402. Mayor in a five-member council form of government.**

743 (1) The mayor in a municipality operating under a five-member council form of
744 municipal government:

745 (a) is a regular and voting member of the council;

746 (b) is the chair of the council and presides at all council meetings;

747 (c) exercises ceremonial functions for the municipality; and

748 (d) may not veto any ordinance, tax levy, or appropriation passed by the council.

749 (2) (a) If the mayor is absent from a council meeting or is unable or refuses to act as
750 chair at a council meeting, the council may elect another member of the council as mayor pro
751 tempore to preside at the council meeting and to perform the duties and functions of mayor at
752 the meeting.

753 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
754 the election of a council member as mayor pro tempore under Subsection (2)(a).

755 Section 26. Section **10-3b-403** is enacted to read:

756 **10-3b-403. Council in a five-member form of government.**

757 The council in a municipality operating under a five-member council form of municipal
758 government:

759 (1) exercises the executive and administrative powers and performs or supervises the
760 performance of the executive and administrative duties and functions of the municipality,
761 including the powers, duties, and functions stated in Section 10-3b-202, except the power to
762 veto under Subsection 10-3b-202(1)(d)(iv);

763 (2) may:

764 (a) appoint a manager to perform executive and administrative duties or functions that
765 the council by ordinance delegates to the manager, subject to Subsection (3); and

766 (b) dismiss a manager appointed under Subsection (2)(a); and

767 (c) assign any or all council members, including the mayor, to supervise one or more
768 administrative departments of the municipality; and

769 (3) may not delegate to a manager appointed by the council:

- 770 (a) any of the mayor's legislative or judicial powers or ceremonial functions;
- 771 (b) the mayor's position as chair of the council; or
- 772 (c) any ex officio position that the mayor holds.

773 Section 27. Section **10-3b-501** is enacted to read:

774 **Part 5. Changing to Another Form of Municipal Government**

775 **10-3b-501. Authority to change to another form of municipal government.**

776 As provided in this part, a municipality may change from the form of government under
777 which it operates to:

- 778 (1) the council-mayor form of government with a five-member council;
- 779 (2) the council-mayor form of government with a seven-member council;
- 780 (3) the six-member form of government; or
- 781 (4) the five-member form of government.

782 Section 28. Section **10-3b-502** is enacted to read:

783 **10-3b-502. Voter approval required for a change in the form of government.**

784 A municipality may not change its form of government under this part unless voters of
785 the municipality approve the change at an election held for that purpose.

786 Section 29. Section **10-3b-503** is enacted to read:

787 **10-3b-503. Resolution or petition proposing a change in the form of government**

788 (1) Subject to Section 10-3b-504, the legislative body of a municipality shall hold an
789 election on a proposal to change the municipality's form of government under this part:

- 790 (a) if:
 - 791 (i) the municipal legislative body adopts a resolution proposing a change; or
 - 792 (ii) a petition is filed, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives -
793 Procedures, proposing a change; and
- 794 (b) within 12 months after:
 - 795 (i) adoption of a resolution, for a resolution adopted under Subsection (2)(a)(i)(A); or
 - 796 (ii) the petition is declared sufficient under Section 20A-7-507, for an initiative petition
797 filed under Subsection (2)(a)(i)(B).

798 (2) Each resolution adopted under Subsection (1)(a)(i) or petition filed under
799 Subsection (1)(a)(ii) shall:

- 800 (a) state the method of election and initial terms of council members; and

801 (b) specify the boundaries of districts substantially equal in population, if some or all
802 council members are to be elected by district.

803 (3) A resolution under Subsection (1)(a)(i) or petition under Subsection (1)(a)(ii)
804 proposing a change to a council-mayor form of government may require that, if the change is
805 adopted, the mayor appoint, with the council's advice and consent, a chief administrative
806 officer, to exercise the administrative powers and perform the duties that the mayor prescribes.

807 Section 30. Section **10-3b-504** is enacted to read:

808 **10-3b-504. Limitations on adoption of a resolution and filing of a petition.**

809 A resolution may not be adopted under Subsection 10-3b-503(1)(a)(i) and a petition
810 may not be filed under Subsection 10-3b-503(1)(a)(ii) within:

811 (1) two years after an election at which voters reject a proposal to change the
812 municipality's form of government, if the resolution or petition proposes changing to the same
813 form of government that voters rejected at the election; or

814 (2) four years after the effective date of a change in the form of municipal government.

815 Section 31. Section **10-3b-505** is enacted to read:

816 **10-3b-505. Ballot form.**

817 The ballot at an election on a proposal to change the municipality's form of government
818 shall:

819 (1) state the ballot question substantially as follows: "Shall (state the municipality's
820 name), Utah change its form of government to the (state "council-mayor form, with a
821 five-member council," "council-mayor form, with a seven-member council," "six-member
822 council form," or "five-member council form," as applicable)?"; and

823 (2) provide a space or method for the voter to vote "yes" or "no."

824 Section 32. Section **10-3b-506** is enacted to read:

825 **10-3b-506. Election of officers after a change in the form of government.**

826 (1) If voters approve a proposal to change the municipality's form of government at an
827 election held as provided in this part, an election of officers under the new form of government
828 shall be held on the municipal general election date following the election at which voters
829 approve the proposal.

830 (2) If a municipality changes its form of government under this part resulting in the
831 elimination of an elected official's position, the municipality shall continue to pay that official

832 at the same rate until the date on which the official's term would have expired, unless under the
833 new form of government the official holds municipal office for which the official is regularly
834 compensated.

835 (3) A council member whose term has not expired at the time the municipality changes
836 its form of government under this part may, at the council member's option, continue to serve
837 as a council member under the new form of government for the remainder of the member's
838 term.

839 Section 33. Section **10-3b-507** is enacted to read:

840 **10-3b-507. Effective date of change in the form of government.**

841 A change in the form of government under this chapter takes effect at noon on the first
842 Monday of January next following the election of officers under Section 10-3b-506.

843 Section 34. Section **10-6-151** is amended to read:

844 **10-6-151. Independent audits required.**

845 Independent audits of all cities are required, to be performed in conformity with Title
846 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
847 Other Local Entities Act. [~~In the case of a city organized under Title 10, Chapter 3, Part 12,~~
848 ~~Optional Forms of Municipal Government Act, the council shall appoint an independent~~
849 ~~auditor for the purpose of complying with the requirements of this section and of Title 51,~~
850 ~~Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and~~
851 ~~Other Local Entities Act.]~~

852 Section 35. Section **10-9a-103** is amended to read:

853 **10-9a-103. Definitions.**

854 As used in this chapter:

855 (1) "Affected entity" means a county, municipality, local district, special service
856 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,
857 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
858 specified public utility, a property owner, a property owners association, or the Utah
859 Department of Transportation, if:

860 (a) the entity's services or facilities are likely to require expansion or significant
861 modification because of an intended use of land;

862 (b) the entity has filed with the municipality a copy of the entity's general or long-range

863 plan; or

864 (c) the entity has filed with the municipality a request for notice during the same
865 calendar year and before the municipality provides notice to an affected entity in compliance
866 with a requirement imposed under this chapter.

867 (2) "Appeal authority" means the person, board, commission, agency, or other body
868 designated by ordinance to decide an appeal of a decision of a land use application or a
869 variance.

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

873 (4) "Charter school" includes:

874 (a) an operating charter school;

875 (b) a charter school applicant that has its application approved by a chartering entity in
876 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

877 (c) an entity who is working on behalf of a charter school or approved charter applicant
878 to develop or construct a charter school building.

879 (5) "Chief executive officer" means the:

880 (a) mayor in municipalities operating under all forms of municipal government except
881 the council-manager form under Subsection 10-3b-103(3); or

882 (b) city manager in municipalities operating under the council-manager form of
883 municipal government under Subsection 10-3b-103(3).

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

888 (7) "Constitutional taking" means a governmental action that results in a taking of
889 private property so that compensation to the owner of the property is required by the:

890 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

891 (b) Utah Constitution Article I, Section 22.

892 (8) "Culinary water authority" means the department, agency, or public entity with
893 responsibility to review and approve the feasibility of the culinary water system and sources for

894 the subject property.

895 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
896 or more of a person's major life activities, including a person having a record of such an
897 impairment or being regarded as having such an impairment.

898 (b) "Disability" does not include current illegal use of, or addiction to, any federally
899 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
900 802.

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

904 (11) "Fire authority" means the department, agency, or public entity with responsibility
905 to review and approve the feasibility of fire protection and suppression services for the subject
906 property.

907 (12) "General plan" means a document that a municipality adopts that sets forth general
908 guidelines for proposed future development of the land within the municipality.

909 (13) "Identical plans" means building plans submitted to a municipality that are
910 substantially identical to building plans that were previously submitted to and reviewed and
911 approved by the municipality and describe a building that is:

912 (a) located on land zoned the same as the land on which the building described in the
913 previously approved plans is located; and

914 (b) subject to the same geological and meteorological conditions and the same law as
915 the building described in the previously approved plans.

916 (14) "Land use application" means an application required by a municipality's land use
917 ordinance.

918 (15) "Land use authority" means a person, board, commission, agency, or other body
919 designated by the local legislative body to act upon a land use application.

920 (16) "Land use ordinance" means a planning, zoning, development, or subdivision
921 ordinance of the municipality, but does not include the general plan.

922 (17) "Land use permit" means a permit issued by a land use authority.

923 (18) "Legislative body" means the municipal council.

924 (19) "Local district" means an entity under Title 17B, Limited Purpose Local

925 Government Entities - Local Districts, and any other governmental or quasi-governmental
926 entity that is not a county, municipality, school district, or unit of the state.

927 (20) "Lot line adjustment" means the relocation of the property boundary line in a
928 subdivision between two adjoining lots with the consent of the owners of record.

929 (21) "Moderate income housing" means housing occupied or reserved for occupancy
930 by households with a gross household income equal to or less than 80% of the median gross
931 income for households of the same size in the county in which the city is located.

932 (22) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
933 spent and expenses incurred in:

934 (a) verifying that building plans are identical plans; and

935 (b) reviewing and approving those minor aspects of identical plans that differ from the
936 previously reviewed and approved building plans.

937 (23) "Noncomplying structure" means a structure that:

938 (a) legally existed before its current land use designation; and

939 (b) because of one or more subsequent land use ordinance changes, does not conform
940 to the setback, height restrictions, or other regulations, excluding those regulations, which
941 govern the use of land.

942 (24) "Nonconforming use" means a use of land that:

943 (a) legally existed before its current land use designation;

944 (b) has been maintained continuously since the time the land use ordinance governing
945 the land changed; and

946 (c) because of one or more subsequent land use ordinance changes, does not conform
947 to the regulations that now govern the use of the land.

948 (25) "Official map" means a map drawn by municipal authorities and recorded in a
949 county recorder's office that:

950 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
951 highways and other transportation facilities;

952 (b) provides a basis for restricting development in designated rights-of-way or between
953 designated setbacks to allow the government authorities time to purchase or otherwise reserve
954 the land; and

955 (c) has been adopted as an element of the municipality's general plan.

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

958 (27) "Plan for moderate income housing" means a written document adopted by a city
959 legislative body that includes:

960 (a) an estimate of the existing supply of moderate income housing located within the
961 city;

962 (b) an estimate of the need for moderate income housing in the city for the next five
963 years as revised biennially;

964 (c) a survey of total residential land use;

965 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
966 income housing; and

967 (e) a description of the city's program to encourage an adequate supply of moderate
968 income housing.

969 (28) "Plat" means a map or other graphical representation of lands being laid out and
970 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

971 (29) "Public hearing" means a hearing at which members of the public are provided a
972 reasonable opportunity to comment on the subject of the hearing.

973 (30) "Public meeting" means a meeting that is required to be open to the public under
974 Title 52, Chapter 4, Open and Public Meetings Act.

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

977 (32) "Receiving zone" means an area of a municipality that the municipality's land use
978 authority designates as an area in which an owner of land may receive transferrable
979 development rights.

980 (33) "Residential facility for elderly persons" means a single-family or multiple-family
981 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health
982 care facility as defined by Section 26-21-2.

983 (34) "Residential facility for persons with a disability" means a residence:

984 (a) in which more than one person with a disability resides; and

985 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
986 Chapter 2, Licensure of Programs and Facilities; or

987 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
988 Health Care Facility Licensing and Inspection Act.

989 (35) "Sanitary sewer authority" means the department, agency, or public entity with
990 responsibility to review and approve the feasibility of sanitary sewer services or onsite
991 wastewater systems.

992 (36) "Sending zone" means an area of a municipality that the municipality's land use
993 authority designates as an area from which an owner of land may transfer transferrable
994 development rights to an owner of land in a receiving zone.

995 (37) "Specified public utility" means an electrical corporation, gas corporation, or
996 telephone corporation, as those terms are defined in Section 54-2-1.

997 (38) "Street" means a public right-of-way, including a highway, avenue, boulevard,
998 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
999 way.

1000 (39) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
1001 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1002 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1003 installment plan or upon any and all other plans, terms, and conditions.

1004 (b) "Subdivision" includes:

1005 (i) the division or development of land whether by deed, metes and bounds description,
1006 devise and testacy, map, plat, or other recorded instrument; and

1007 (ii) except as provided in Subsection (39)(c), divisions of land for residential and
1008 nonresidential uses, including land used or to be used for commercial, agricultural, and
1009 industrial purposes.

1010 (c) "Subdivision" does not include:

1011 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
1012 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
1013 neither the resulting combined parcel nor the parcel remaining from the division or partition
1014 violates an applicable land use ordinance;

1015 (ii) a recorded agreement between owners of adjoining unsubdivided properties
1016 adjusting their mutual boundary if:

1017 (A) no new lot is created; and

- 1018 (B) the adjustment does not violate applicable land use ordinances;
1019 (iii) a recorded document, executed by the owner of record:
1020 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1021 property into one legal description encompassing all such parcels of property; or
1022 (B) joining a subdivided parcel of property to another parcel of property that has not
1023 been subdivided, if the joinder does not violate applicable land use ordinances; or
1024 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
1025 their mutual boundary if:
1026 (A) no new dwelling lot or housing unit will result from the adjustment; and
1027 (B) the adjustment will not violate any applicable land use ordinance.
1028 (d) The joining of a subdivided parcel of property to another parcel of property that has
1029 not been subdivided does not constitute a subdivision under this Subsection (39) as to the
1030 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
1031 subdivision ordinance.
1032 (40) "Transferrable development right" means the entitlement to develop land within a
1033 sending zone that would vest according to the municipality's existing land use ordinances on
1034 the date that a completed land use application is filed seeking the approval of development
1035 activity on the land.
1036 (41) "Unincorporated" means the area outside of the incorporated area of a city or
1037 town.
1038 (42) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
1039 land use zones, overlays, or districts.
1040 Section 36. Section **20A-1-102** is amended to read:
1041 **20A-1-102. Definitions.**
1042 As used in this title:
1043 (1) "Active voter" means a registered voter who has not been classified as an inactive
1044 voter by the county clerk.
1045 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1046 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
1047 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
1048 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and

1049 secrecy envelopes.

1050 (4) "Ballot sheet":

1051 (a) means a ballot that:

1052 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1053 (ii) can be counted using automatic tabulating equipment; and

1054 (b) includes punch card ballots, and other ballots that are machine-countable.

1055 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that

1056 contain the names of offices and candidates and statements of ballot propositions to be voted

1057 on and which are used in conjunction with ballot sheets that do not display that information.

1058 (6) "Ballot proposition" means opinion questions specifically authorized by the

1059 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions

1060 that are submitted to the voters for their approval or rejection.

1061 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and

1062 20A-4-306 to canvass election returns.

1063 (8) "Bond election" means an election held for the purpose of approving or rejecting

1064 the proposed issuance of bonds by a government entity.

1065 (9) "Book voter registration form" means voter registration forms contained in a bound

1066 book that are used by election officers and registration agents to register persons to vote.

1067 (10) "By-mail voter registration form" means a voter registration form designed to be

1068 completed by the voter and mailed to the election officer.

1069 (11) "Canvass" means the review of election returns and the official declaration of

1070 election results by the board of canvassers.

1071 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at

1072 the canvass.

1073 (13) "Convention" means the political party convention at which party officers and

1074 delegates are selected.

1075 (14) "Counting center" means one or more locations selected by the election officer in

1076 charge of the election for the automatic counting of ballots.

1077 (15) "Counting judge" means a poll worker designated to count the ballots during

1078 election day.

1079 (16) "Counting poll watcher" means a person selected as provided in Section

1080 20A-3-201 to witness the counting of ballots.

1081 (17) "Counting room" means a suitable and convenient private place or room,
1082 immediately adjoining the place where the election is being held, for use by the poll workers
1083 and counting judges to count ballots during election day.

1084 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

1085 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

1086 (20) "County officers" means those county officers that are required by law to be
1087 elected.

1088 (21) "Election" means a regular general election, a municipal general election, a
1089 statewide special election, a local special election, a regular primary election, a municipal
1090 primary election, and a local district election.

1091 (22) "Election Assistance Commission" means the commission established by Public
1092 Law 107-252, the Help America Vote Act of 2002.

1093 (23) "Election cycle" means the period beginning on the first day persons are eligible to
1094 file declarations of candidacy and ending when the canvass is completed.

1095 (24) "Election judge" means a poll worker that is assigned to:

1096 (a) preside over other poll workers at a polling place;

1097 (b) act as the presiding election judge; or

1098 (c) serve as a canvassing judge, counting judge, or receiving judge.

1099 (25) "Election officer" means:

1100 (a) the lieutenant governor, for all statewide ballots;

1101 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
1102 as provided in Section 20A-5-400.5;

1103 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
1104 provided in Section 20A-5-400.5;

1105 (d) the local district clerk or chief executive officer for certain ballots and elections as
1106 provided in Section 20A-5-400.5; and

1107 (e) the business administrator or superintendent of a school district for certain ballots
1108 or elections as provided in Section 20A-5-400.5.

1109 (26) "Election official" means any election officer, election judge, or poll worker.

1110 (27) "Election results" means, for bond elections, the count of those votes cast for and

1111 against the bond proposition plus any or all of the election returns that the board of canvassers
1112 may request.

1113 (28) "Election returns" includes the pollbook, all affidavits of registration, the military
1114 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1115 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1116 spoiled ballots, the ballot disposition form, and the total votes cast form.

1117 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1118 device or other voting device that records and stores ballot information by electronic means.

1119 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1120 (b) "Electronic voting device" includes a direct recording electronic voting device.

1121 (31) "Inactive voter" means a registered voter who has been sent the notice required by
1122 Section 20A-2-306 and who has failed to respond to that notice.

1123 (32) "Inspecting poll watcher" means a person selected as provided in this title to
1124 witness the receipt and safe deposit of voted and counted ballots.

1125 (33) "Judicial office" means the office filled by any judicial officer.

1126 (34) "Judicial officer" means any justice or judge of a court of record or any county
1127 court judge.

1128 (35) "Local district" means a local government entity under Title 17B, Limited Purpose
1129 Local Government Entities - Local Districts, and includes a special service district under Title
1130 17A, Chapter 2, Part 13, Utah Special Service District Act.

1131 (36) "Local district officers" means those local district officers that are required by law
1132 to be elected.

1133 (37) "Local election" means a regular municipal election, a local special election, a
1134 local district election, and a bond election.

1135 (38) "Local political subdivision" means a county, a municipality, a local district, or a
1136 local school district.

1137 (39) "Local special election" means a special election called by the governing body of a
1138 local political subdivision in which all registered voters of the local political subdivision may
1139 vote.

1140 (40) "Municipal executive" means:

1141 [~~(a) the city council or town council in the traditional management arrangement~~

1142 established by Title 10, Chapter 3, Part 1, ~~Governing Body;~~

1143 ~~[(b)]~~ (a) the mayor in the council-mayor ~~[optional]~~ form of government defined in
1144 Section ~~[10-3-101]~~ 10-3b-102; and

1145 ~~[(c)]~~ (b) the ~~[manager]~~ mayor in the council-manager ~~[optional]~~ form of government
1146 defined in ~~[Section 10-3-101]~~ Subsection 10-3b-103(3).

1147 (41) "Municipal general election" means the election held in municipalities and local
1148 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1149 for the purposes established in Section 20A-1-202.

1150 (42) "Municipal legislative body" means~~[(a)]~~ the ~~[city]~~ council of the city or town
1151 ~~[council]~~ in ~~[the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1152 ~~Governing Body;]~~ any form of municipal government.

1153 ~~[(b) the municipal council in the council-mayor optional form of government defined~~
1154 ~~in Section 10-3-101; and]~~

1155 ~~[(c) the municipal council in the council-manager optional form of government defined~~
1156 ~~in Section 10-3-101.]~~

1157 (43) "Municipal officers" means those municipal officers that are required by law to be
1158 elected.

1159 (44) "Municipal primary election" means an election held to nominate candidates for
1160 municipal office.

1161 (45) "Official ballot" means the ballots distributed by the election officer to the poll
1162 workers to be given to voters to record their votes.

1163 (46) "Official endorsement" means:

1164 (a) the information on the ballot that identifies:

1165 (i) the ballot as an official ballot;

1166 (ii) the date of the election; and

1167 (iii) the facsimile signature of the election officer; and

1168 (b) the information on the ballot stub that identifies:

1169 (i) the poll worker's initials; and

1170 (ii) the ballot number.

1171 (47) "Official register" means the official record furnished to election officials by the
1172 election officer that contains the information required by Section 20A-5-401.

1173 (48) "Paper ballot" means a paper that contains:

1174 (a) the names of offices and candidates and statements of ballot propositions to be
1175 voted on; and

1176 (b) spaces for the voter to record his vote for each office and for or against each ballot
1177 proposition.

1178 (49) "Political party" means an organization of registered voters that has qualified to
1179 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party
1180 Formation and Procedures.

1181 (50) (a) "Poll worker" means a person assigned by an election official to assist with an
1182 election, voting, or counting votes.

1183 (b) "Poll worker" includes election judges.

1184 (c) "Poll worker" does not include a watcher.

1185 (51) "Pollbook" means a record of the names of voters in the order that they appear to
1186 cast votes.

1187 (52) "Polling place" means the building where voting is conducted.

1188 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
1189 in which the voter marks his choice.

1190 (54) "Provisional ballot" means a ballot voted provisionally by a person:

1191 (a) whose name is not listed on the official register at the polling place;

1192 (b) whose legal right to vote is challenged as provided in this title; or

1193 (c) whose identity was not sufficiently established by a poll worker.

1194 (55) "Provisional ballot envelope" means an envelope printed in the form required by
1195 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
1196 verify a person's legal right to vote.

1197 (56) "Primary convention" means the political party conventions at which nominees for
1198 the regular primary election are selected.

1199 (57) "Protective counter" means a separate counter, which cannot be reset, that is built
1200 into a voting machine and records the total number of movements of the operating lever.

1201 (58) "Qualify" or "qualified" means to take the oath of office and begin performing the
1202 duties of the position for which the person was elected.

1203 (59) "Receiving judge" means the poll worker that checks the voter's name in the

1204 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1205 after the voter has voted.

1206 (60) "Registration form" means a book voter registration form and a by-mail voter
1207 registration form.

1208 (61) "Regular ballot" means a ballot that is not a provisional ballot.

1209 (62) "Regular general election" means the election held throughout the state on the first
1210 Tuesday after the first Monday in November of each even-numbered year for the purposes
1211 established in Section 20A-1-201.

1212 (63) "Regular primary election" means the election on the fourth Tuesday of June of
1213 each even-numbered year, at which candidates of political parties and nonpolitical groups are
1214 voted for nomination.

1215 (64) "Resident" means a person who resides within a specific voting precinct in Utah.

1216 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed
1217 and distributed as provided in Section 20A-5-405.

1218 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or
1219 punch the ballot for one or more candidates who are members of different political parties.

1220 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1221 which the voter places the ballot after he has voted it in order to preserve the secrecy of the
1222 voter's vote.

1223 (68) "Special election" means an election held as authorized by Section 20A-1-204.

1224 (69) "Spoiled ballot" means each ballot that:

1225 (a) is spoiled by the voter;

1226 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1227 (c) lacks the official endorsement.

1228 (70) "Statewide special election" means a special election called by the governor or the
1229 Legislature in which all registered voters in Utah may vote.

1230 (71) "Stub" means the detachable part of each ballot.

1231 (72) "Substitute ballots" means replacement ballots provided by an election officer to
1232 the poll workers when the official ballots are lost or stolen.

1233 (73) "Ticket" means each list of candidates for each political party or for each group of
1234 petitioners.

1235 (74) "Transfer case" means the sealed box used to transport voted ballots to the
1236 counting center.

1237 (75) "Vacancy" means the absence of a person to serve in any position created by
1238 statute, whether that absence occurs because of death, disability, disqualification, resignation,
1239 or other cause.

1240 (76) "Valid voter identification" means:

1241 (a) a form of identification that bears the name and photograph of the voter which may
1242 include:

1243 (i) a currently valid Utah driver license;

1244 (ii) a currently valid identification card that is issued by:

1245 (A) the state;

1246 (B) a local government within the state; or

1247 (C) a branch, department, or agency of the United States;

1248 (iii) an identification card that is issued by an employer for an employee;

1249 (iv) a currently valid identification card that is issued by a college, university, technical
1250 school, or professional school that is located within the state;

1251 (v) a currently valid Utah permit to carry a concealed weapon;

1252 (vi) a currently valid United States passport; or

1253 (vii) a valid tribal identification card; or

1254 (b) two forms of identification that bear the name of the voter and provide evidence
1255 that the voter resides in the voting precinct, which may include:

1256 (i) a voter identification card;

1257 (ii) a current utility bill or a legible copy thereof;

1258 (iii) a bank or other financial account statement, or a legible copy thereof;

1259 (iv) a certified birth certificate;

1260 (v) a valid Social Security card;

1261 (vi) a check issued by the state or the federal government or a legible copy thereof;

1262 (vii) a paycheck from the voter's employer, or a legible copy thereof;

1263 (viii) a currently valid Utah hunting or fishing license;

1264 (ix) a currently valid United States military identification card;

1265 (x) certified naturalization documentation;

1266 (xi) a currently valid license issued by an authorized agency of the United States;
1267 (xii) a certified copy of court records showing the voter's adoption or name change;
1268 (xiii) a Bureau of Indian Affairs card;
1269 (xiv) a tribal treaty card;
1270 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
1271 (xvi) a form of identification listed in Subsection (76)(a) that does not contain a
1272 photograph, but establishes the name of the voter and provides evidence that the voter resides
1273 in the voting precinct.

1274 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in
1275 candidate by following the procedures and requirements of this title.

1276 (78) "Voter" means a person who meets the requirements for voting in an election,
1277 meets the requirements of election registration, is registered to vote, and is listed in the official
1278 register book.

1279 (79) "Voter registration deadline" means the registration deadline provided in Section
1280 20A-2-102.5.

1281 (80) "Voting area" means the area within six feet of the voting booths, voting
1282 machines, and ballot box.

1283 (81) "Voting booth" means:

1284 (a) the space or compartment within a polling place that is provided for the preparation
1285 of ballots, including the voting machine enclosure or curtain; or

1286 (b) a voting device that is free standing.

1287 (82) "Voting device" means:

1288 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1289 piercing the ballots by the voter;

1290 (b) a device for marking the ballots with ink or another substance;

1291 (c) an electronic voting device or other device used to make selections and cast a ballot
1292 electronically, or any component thereof;

1293 (d) an automated voting system under Section 20A-5-302; or

1294 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1295 by means of automatic tabulating equipment.

1296 (83) "Voting machine" means a machine designed for the sole purpose of recording

1297 and tabulating votes cast by voters at an election.

1298 (84) "Voting poll watcher" means a person appointed as provided in this title to
1299 witness the distribution of ballots and the voting process.

1300 (85) "Voting precinct" means the smallest voting unit established as provided by law
1301 within which qualified voters vote at one polling place.

1302 (86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1303 poll watcher, and a testing watcher.

1304 (87) "Western States Presidential Primary" means the election established in Title 20A,
1305 Chapter 9, Part 8.

1306 (88) "Write-in ballot" means a ballot containing any write-in votes.

1307 (89) "Write-in vote" means a vote cast for a person whose name is not printed on the
1308 ballot according to the procedures established in this title.

1309 Section 37. Section **20A-1-506** is amended to read:

1310 **20A-1-506. Judicial vacancies -- Courts not of record.**

1311 (1) As used in this section:

1312 (a) "Appointing authority" means:

1313 (i) for a county:

1314 ~~[(i)]~~ (A) the chair of the county commission in ~~[counties]~~ a county having the county
1315 commission form of county government; and

1316 ~~[(ii)]~~ (B) the county executive in ~~[counties]~~ a county having the county
1317 executive-council form of government; and

1318 ~~[(iii) the chair]~~ (ii) for a city, or town, the mayor of the city [council] or town [council
1319 in municipalities having:].

1320 ~~[(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1321 ~~Governing Body; and]~~

1322 ~~[(B) the council-manager optional form of government defined in Section 10-3-101;~~
1323 ~~and]~~

1324 ~~[(iv) the mayor, in the council-mayor optional form of government defined in Section~~
1325 ~~10-3-101;]~~

1326 (b) "Local legislative body" means:

1327 (i) the county commission or county council; and

1328 (ii) the [city] council of the city or town [~~council~~].

1329 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the
1330 completion of his term of office, the appointing authority may:

1331 (i) fill the vacancy by appointment for the unexpired term by following the procedures
1332 and requirements for appointments in Section 78-5-134; or

1333 (ii) contract with a justice court judge of the county, an adjacent county, or another
1334 municipality within those counties for judicial services.

1335 (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it
1336 shall ensure that the contract is for the same term as the term of office of the judge whose
1337 services are replaced by the contract.

1338 (c) The appointing authority shall notify the Office of the State Court Administrator in
1339 writing of the appointment, resignation, or the contractual agreement for services of a judge
1340 under this section within 30 days after filling the vacancy.

1341 (3) (a) If a vacancy occurs in the office of a county justice court judge before the
1342 completion of that judge's term of office, the appointing authority may fill the vacancy by
1343 appointment for the unexpired term by following the procedures and requirements for
1344 appointments in Section 78-5-134.

1345 (b) The appointing authority shall notify the Office of the State Court Administrator in
1346 writing of any appointment of a county justice court judge under this section within 30 days
1347 after the appointment is made.

1348 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing
1349 authority shall:

1350 (i) advertise the vacancy and solicit applications for the vacancy;

1351 (ii) appoint the best qualified candidate to office based solely upon fitness for office;

1352 (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting
1353 employment of relatives in making appointments to fill the vacancy; and

1354 (iv) submit the name of the appointee to the local legislative body.

1355 (b) If the local legislative body does not confirm the appointment within 30 days of
1356 submission, the appointing authority may either appoint another of the applicants or reopen the
1357 vacancy by advertisement and solicitations of applications.

1358 Section 38. Section **20A-1-510** is amended to read:

1359 **20A-1-510. Midterm vacancies in municipal offices.**

1360 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the
1361 office of municipal executive or member of a municipal legislative body, the municipal
1362 legislative body shall appoint a registered voter in the municipality who meets the
1363 qualifications for office established in Section 10-3-301 to fill the unexpired term of the office
1364 vacated until the January following the next municipal election.

1365 (b) Before acting to fill the vacancy, the municipal legislative body shall:

1366 (i) give public notice of the vacancy at least two weeks before the municipal legislative
1367 body meets to fill the vacancy; and

1368 (ii) identify, in the notice:

1369 (A) the date, time, and place of the meeting where the vacancy will be filled; and

1370 (B) the person to whom a person interested in being appointed to fill the vacancy may
1371 submit his name for consideration and any deadline for submitting it.

1372 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within
1373 30 days after the vacancy occurs, the municipal legislative body shall vote upon the names that
1374 have been submitted.

1375 (ii) The two persons having the highest number of votes of the municipal legislative
1376 body shall appear before the municipal legislative body and the municipal legislative body shall
1377 vote again.

1378 (iii) If neither candidate receives a majority vote of the municipal legislative body at
1379 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

1380 (2) (a) A vacancy in the office of municipal executive or member of a municipal
1381 legislative body shall be filled by an interim appointment, followed by an election to fill a
1382 two-year term, if:

1383 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive
1384 at least 14 days before the deadline for filing for election in an odd-numbered year; and

1385 (ii) two years of the vacated term will remain after the first Monday of January
1386 following the next municipal election.

1387 (b) In appointing an interim replacement, the municipal legislative body shall comply
1388 with the notice requirements of this section.

1389 (3) A member of a municipal legislative body may not participate in any part of the

1390 process established in this section to fill a vacancy if that member is being considered for
1391 appointment to fill the vacancy.

1392 (4) (a) In a municipality operating under the council-mayor form of government, as
1393 defined in Section 10-3b-102:

1394 (i) the council may appoint a person to fill a vacancy in the office of mayor before the
1395 effective date of the mayor's resignation by making the effective date of the appointment the
1396 same as the effective date of the mayor's resignation; and

1397 (ii) if a vacancy in the office of mayor occurs before the effective date of an
1398 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as
1399 acting mayor during the time between the creation of the vacancy and the effective date of the
1400 appointment to fill the vacancy.

1401 (b) While serving as acting mayor under Subsection (4)(a)(ii), the council chair
1402 continues to:

1403 (i) act as a council member; and

1404 (ii) vote at council meetings.

1405 Section 39. Section **78-5-134** is amended to read:

1406 **78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial**
1407 **Council -- Retention election -- Vacancy.**

1408 (1) As used in this section:

1409 (a) "Appointing authority" means:

1410 (i) for a county:

1411 ~~[(i)]~~ (A) the chair of the county commission in [counties] a county having the county
1412 commission form of county government; and

1413 ~~[(ii)]~~ (B) the county executive in [counties] a county having the county
1414 executive-council form of government;

1415 ~~[(iii) the chair]~~ (ii) for a city or town, the mayor of the city [council] or town [council
1416 in municipalities having the traditional management arrangement established by Title 10,
1417 Chapter 3, Part 1, Governing Body;].

1418 ~~[(iv) the city manager, in the council-manager optional form of government defined in~~
1419 Section 10-3-101; and]

1420 ~~[(v) the mayor, in the council-mayor optional form of government defined in Section~~

1421 ~~10-3-101.]~~

1422 (b) "Local legislative body" means:

1423 (i) the county commission or county council; and

1424 (ii) the [city] council of the city or town [council].

1425 (2) Justice court judges shall be appointed by the appointing authority and confirmed
1426 by a majority vote of the local legislative body.

1427 (3) (a) After a newly appointed justice court judge has been confirmed, the local
1428 legislative body shall report the confirmed judge's name to the Judicial Council.

1429 (b) The Judicial Council shall certify the judge as qualified to hold office upon
1430 successful completion of the orientation program and upon the written opinion of the county or
1431 municipal attorney that the judge meets the statutory qualifications for office.

1432 (c) A justice court judge may not perform judicial duties until certified by the Judicial
1433 Council.

1434 (4) Upon the expiration of a county justice court judge's term of office the judge shall
1435 be subject to an unopposed retention election in accordance with the procedures set forth in
1436 Section 20A-12-201.

1437 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
1438 justice court judge shall be reappointed absent a showing of good cause by the appointing
1439 authority.

1440 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
1441 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
1442 the local legislative body.

1443 (b) The local legislative body shall determine by majority vote whether good cause
1444 exists not to reappoint the municipal justice court judge.

1445 (c) The decision of the local legislative body is not subject to appeal.

1446 (d) In determining whether good cause exists to not reappoint a municipal justice court
1447 judge, the appointing authority and local legislative body shall consider:

1448 (i) whether or not the judge has been certified as meeting the evaluation criteria for
1449 judicial performance established by the Judicial Council; and

1450 (ii) any other factors considered relevant by the appointing authority.

1451 (6) Before reappointment or retention election, each justice court judge shall be

1452 evaluated in accordance with the performance evaluation program established in Subsection
1453 78-3-21(4).

1454 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
1455 justice court judge, the appointing authority may contract with a justice court judge in the
1456 county or an adjacent county to serve as justice court judge.

1457 (b) The contract shall be for the duration of the justice court judge's term of office.

1458 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
1459 20A-1-506.

1460 Section 40. **Repealer.**

1461 This bill repeals:

1462 Section **10-3-101, Governing body -- Legislative and executive powers.**

1463 Section **10-3-102, Governing body -- Other functions.**

1464 Section **10-3-106, Governing body in towns.**

1465 Section **10-3-207, Determining two and four year terms.**

1466 Section **10-3-403, Mayor as presiding officer -- Mayor pro tempore.**

1467 Section **10-3-404, No veto.**

1468 Section **10-3-501, Meetings in cities of the first and second class.**

1469 Section **10-3-503, Quorum necessary to do business.**

1470 Section **10-3-802, Designation of department head in cities of the first class.**

1471 Section **10-3-804, Change in names, functions and superintendents of departments.**

1472 Section **10-3-806, Designation of department head in cities of the second class.**

1473 Section **10-3-807, Commissioners may administer two departments -- Change in**
1474 **names, functions and superintendents.**

1475 Section **10-3-808, Administration vested in mayor.**

1476 Section **10-3-809, Powers of mayors in a city of third, fourth, or fifth class or a**
1477 **town.**

1478 Section **10-3-810, Additional powers and duties of elected officials in a city of the**
1479 **third, fourth, or fifth class or a town.**

1480 Section **10-3-811, Members of the governing body may be appointed to**
1481 **administration in a city of the third, fourth, or fifth class or a town.**

1482 Section **10-3-812, Change of duties in a city of the third, fourth, or fifth class or a**

- 1483 **town.**
- 1484 Section 10-3-813, General administrative powers of all municipalities.
- 1485 Section 10-3-814, Personnel assigned to one or more departments.
- 1486 Section 10-3-815, Rules and regulations for administration of municipality.
- 1487 Section 10-3-816, Appointed officers -- Residency requirement authorized.
- 1488 Section 10-3-817, Elected executives to appoint their deputies.
- 1489 Section 10-3-830, Appointment of city or town manager.
- 1490 Section 10-3-901, Creating offices -- Filling vacancies.
- 1491 Section 10-3-1201, Citation of act.
- 1492 Section 10-3-1202, Legislative finding.
- 1493 Section 10-3-1203, Election requirements and procedure for organization under
- 1494 **different form of government.**
- 1495 Section 10-3-1204, Application of act.
- 1496 Section 10-3-1205, Rights, powers, and duties of municipality operating under
- 1497 **optional form.**
- 1498 Section 10-3-1206, Limitation on changing form of government.
- 1499 Section 10-3-1207, Disapproval of optional form by voters -- Limitation on
- 1500 **resubmission.**
- 1501 Section 10-3-1208, Election of officers -- When new government operative --
- 1502 **Compensation of officials without position in new government.**
- 1503 Section 10-3-1210, Functions of the council.
- 1504 Section 10-3-1211, Council members -- Qualifications -- Terms of office.
- 1505 Section 10-3-1212, Meetings of council -- Access to records.
- 1506 Section 10-3-1213, Chairmen of councils -- Power to call witnesses and administer
- 1507 **oath -- Quorum -- Voting procedure.**
- 1508 Section 10-3-1214, Ordinance adoption under council-mayor form -- Powers of
- 1509 **mayor.**
- 1510 Section 10-3-1215, Rules and regulations for government of council.
- 1511 Section 10-3-1216, Council members elected from districts -- Boundary --
- 1512 **Adjustments.**
- 1513 Section 10-3-1217, Limitations on actions and authority of council members --

- 1514 **Investigatory committees.**
- 1515 Section **10-3-1218, Vacancy in council.**
- 1516 Section **10-3-1219, Council-mayor form -- Powers and duties of mayor.**
- 1517 Section **10-3-1219.5, Council-mayor form -- Ordinances on transfer of municipal**
- 1518 **property and regulation of subdivisions or annexations.**
- 1519 Section **10-3-1220, Council-mayor form -- Appointment of chief administrative**
- 1520 **officer.**
- 1521 Section **10-3-1221, Municipal administrative code in council-mayor form.**
- 1522 Section **10-3-1222, Council-mayor form -- Vacancy in office of mayor.**
- 1523 Section **10-3-1223, Council-manager form -- Election and powers and duties of**
- 1524 **mayor.**
- 1525 Section **10-3-1224, Council-manager form -- Appointment of municipal manager.**
- 1526 Section **10-3-1225, Manager -- Removal from office.**
- 1527 Section **10-3-1226, Manager -- Powers and duties.**
- 1528 Section **10-3-1227, Municipal administrative code in council-manager form.**
- 1529 Section **10-3-1228, Manager -- Working time and compensation.**

S.B. 20 1st Sub. (Green) - Municipal Government Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
