

Part 2 Procedure

17-52-201 Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.

- (1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.
- (2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:
 - (a) the county legislative body as provided in Section 17-52-202; or
 - (b) registered voters of the county as provided in Section 17-52-203.
- (3)
 - (a) If the process to adopt an optional plan has been initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section 17-52-202 or 17-52-203, the county legislative body may not initiate the process again under Section 17-52-202 unless the earlier proceeding:
 - (i) has been concluded by an affirmative or negative vote of registered voters; or
 - (ii) has not been concluded but has been pending for at least two years.
 - (b) A county legislative body may not initiate the process to adopt an optional plan under Section 17-52-202 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by the county legislative body.
 - (c) Registered voters of a county may not initiate the process to adopt an optional plan under Section 17-52-203 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by registered voters.

Amended by Chapter 250, 2008 General Session

17-52-202 County legislative body initiation of adoption of optional plan -- Procedure.

- (1) A county legislative body may initiate the process of adopting an optional plan by adopting a resolution to submit to the voters the question of whether a study committee should be established as provided in Section 17-52-301.
- (2) Each resolution adopted under Subsection (1) shall require the question to be submitted to the registered voters of the county at the next special election scheduled pursuant to Section 20A-1-204 after adoption of the resolution under Subsection (1).

Amended by Chapter 371, 2004 General Session

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

- (1) Registered voters of a county may initiate the process of adopting an optional plan by filing a petition for the establishment of a study committee as provided in Section 17-52-301.
- (2) Each petition under Subsection (1) shall:
 - (a) be signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States;
 - (b) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
 - (c) be filed in the office of the clerk of the county in which the petition signers reside.
- (3)

- (a) Within 30 days of the filing of a petition under Subsection (1) or an amended or supplemental petition under Subsection (3)(b), the county clerk shall:
 - (i) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters; and
 - (ii)
 - (A) if so, certify the petition or amended or supplemental petition and deliver it to the county legislative body and notify in writing the contact sponsor of the certification; or
 - (B) if not, reject the petition or the amended or supplemental petition and notify in writing the county legislative body and the contact sponsor of the rejection and the reasons for the rejection.
- (b) If a county clerk rejects a petition or an amended or supplemental petition under Subsection (3)(a)(ii)(B), the petition may be amended or supplemented or an amended or supplemental petition may be further amended or supplemented with additional signatures and refiled within 20 days of the date of rejection.
- (4) With the unanimous approval of petition sponsors, a petition filed under Subsection (1) may be withdrawn at any time within 90 days after petition certification but no later than 45 days before an election under Section 17-52-206 if:
 - (a) the petition notified signers in conspicuous language that the petition sponsors are authorized to withdraw the petition; and
 - (b) there are at least three sponsors of the petition.

Amended by Chapter 37, 2013 General Session
Amended by Chapter 134, 2013 General Session

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

- (1) The county legislative body shall hold an election under this section if:
 - (a) the county legislative body adopts a resolution under Subsection 17-52-202(1); or
 - (b) a petition filed under Subsection 17-52-203(1) is certified by the county clerk under Subsection 17-52-203(3).
- (2) Each election under Subsection (1) shall be a special election, called and held as required by Sections 20A-1-203 and 20A-1-204 after:
 - (a) adoption of a resolution under Subsection 17-52-202(1); or
 - (b) certification of a petition under Subsection 17-52-203(3).
- (3) The county clerk shall prepare the ballot for each election under Subsection (1) with a question that asks substantially as follows:

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

Amended by Chapter 371, 2004 General Session

17-52-204 County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.

- (1) Within 10 days after the study committee submits its report under Subsection 17-52-303(3)
 - (d) to the county legislative body recommending a change in the form of county government, the county clerk shall send to the county attorney of the county in which the optional plan is proposed or, if the county does not have a county attorney, to the district attorney a copy of each optional plan recommended by the study committee in its report under Subsection 17-52-303(3)(d).

- (2) Within 45 days after receipt of the recommended optional plan from the county clerk under Subsection (1), the county or district attorney shall send a written report to the county clerk containing the information required under Subsection (3).
- (3) Each report from the county or district attorney under Subsection (2) shall:
 - (a) state the attorney's opinion as to whether implementation of the optional plan as prepared by the study committee would result in a violation of any applicable statutory or constitutional provision;
 - (b) if the attorney concludes that a violation would result:
 - (i) identify specifically each statutory or constitutional provision that would be violated by implementation of the optional plan as prepared by the study committee;
 - (ii) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the plan is implemented as prepared by the study committee;
 - (iii) state whether, in the attorney's opinion, any of the provisions or features identified in Subsection (3)(b)(ii) are so integral to the proposed optional plan that having previously changed the specified provision or feature to avoid the violation would have affected the decision of a study committee member who favored the proposed optional plan; and
 - (iv) if all the provisions or features identified in Subsection (3)(b)(ii) do not meet the standard of Subsection (3)(b)(iii), recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.
- (4)
 - (a) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that meet the standard of Subsection (3)(b)(iii), the proposed optional plan may not be the subject of a resolution or petition under Subsection 17-52-206(1), except that the study committee may modify the optional plan to avoid the violation and then file a new report under Subsection 17-52-303(3)(d) that will be treated as any other report under that subsection.
 - (b) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that do not meet the standard of Subsection (3)(b)(iii), the optional plan may be modified by the study committee to avoid the statutory or constitutional violations and then be the subject of a resolution or petition under Subsection 17-52-206(1).
- (5) If the attorney's statement under Subsection (3) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan may be the subject of a resolution or petition under Subsection 17-52-206(1).

Amended by Chapter 241, 2001 General Session

17-52-205 Voter information pamphlet.

- (1) In anticipation of an election under Section 17-52-206, the county clerk may prepare a voter information pamphlet to inform the public of the proposed optional plan.
- (2) In preparing a voter information pamphlet under this section, the county clerk may:
 - (a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and
 - (b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.
- (3) Each county clerk preparing a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner determined by the county clerk to be adequate.

Amended by Chapter 241, 2001 General Session

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

- (1)
- (a) The county legislative body shall hold an election on an optional plan recommended in a study committee report filed under Subsection 17-52-303(3)(d) if:
 - (i) the county or district attorney has completed the review of the recommended optional plan and has submitted the attorney's report to the county clerk as provided in Section 17-52-204;
 - (ii) the recommended optional plan may, under Subsection 17-52-204(3), be the subject of a resolution or petition under this Subsection (1); and
 - (iii) after the county or district attorney has submitted the attorney's report under Section 17-52-204:
 - (A) the county legislative body adopts a resolution to submit the recommended optional plan to voters; or
 - (B) a petition is filed with the county clerk that:
 - (I) is signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States;
 - (II) designates up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and
 - (III) requests that the recommended optional plan be submitted to voters.
 - (b) The process for certifying a petition filed under Subsection (1)(a)(iii)(B) shall be the same as that provided in Subsection 17-52-203(3).
- (2) Each election under Subsection (1) shall be held at the next regular general or municipal general election date that is no less than two months after:
 - (a) the county legislative body's adoption of a resolution under Subsection (1)(a)(iii)(A); or
 - (b) certification of a petition filed under Subsection (1)(a)(iii)(B).
- (3) The county clerk shall prepare the ballot for each election under Subsection (1) so that the question on the ballot states substantially as follows:
"Shall _____ County adopt the alternate form of government known as the ___(insert the proposed form of government)___ that has been recommended by the study committee?"
- (4) The county clerk shall:
 - (a) cause the complete text of the proposed optional plan to be published in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election under Subsection (1); and
 - (b) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.

Amended by Chapter 37, 2013 General Session

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

If an optional plan is adopted by voters at an election under Section 17-52-206, the elected county officers specified in the plan shall be elected at the next regular general election following

the election under Section 17-52-206, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers.

Amended by Chapter 241, 2001 General Session