

Part 4 Optional Plan

17-52-401 Contents of proposed optional plan.

- (1) Each optional plan proposed under this chapter:
 - (a) shall propose the adoption of one of the forms of county government listed in Subsection 17-52-402(1)(a);
 - (b) shall contain detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:
 - (i) election or appointment of officers specified in the optional plan for the new form of county government;
 - (ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;
 - (iii) continuity of existing ordinances and regulations;
 - (iv) continuation of pending legislative, administrative, or judicial proceedings;
 - (v) making of interim and temporary appointments; and
 - (vi) preparation, approval, and adjustment of necessary budget appropriations;
 - (c) shall specify the date it is to become effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and
 - (d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget shall provide that the county executive's role is to prepare and present a proposed budget to the county legislative body, and the county legislative body's role is to adopt a final budget.
- (2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.
- (3) An optional plan may not include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute.
- (4) Each optional plan proposing to change the form of government to a form under Section 17-52-504 or 17-52-505 shall:
 - (a) provide for the same executive and legislative officers as are specified in the applicable section for the form of government being proposed by the optional plan;
 - (b) provide for the election of the county council;
 - (c) specify the number of county council members, which shall be an odd number from three to nine;
 - (d) specify whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;
 - (e) specify county council members' qualifications and terms and whether the terms are to be staggered;
 - (f) contain procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and
 - (g) state the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.
- (5) Each optional plan proposing to change the form of government to the county commission form under Section 17-52-501 or the expanded county commission form under Section 17-52-502 shall specify:

- (a)
 - (i) for the county commission form of government, that the county commission shall have three members; or
 - (ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;
- (b) the terms of office for county commission members and whether the terms are to be staggered;
- (c) whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts; and
- (d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members.

Amended by Chapter 17, 2012 General Session

17-52-402 Plan may propose changing forms of county government -- Plan may propose change of structural form -- Partisan elections.

- (1)
 - (a) Each optional plan shall propose changing the form of county government to:
 - (i) the county commission form under Section 17-52-501;
 - (ii) the expanded county commission form under Section 17-52-502;
 - (iii) the county executive and council form under Section 17-52-504; or
 - (iv) the council-manager form under Section 17-52-505.
 - (b) An optional plan adopted after May 1, 2000, may not:
 - (i) propose changing the form of government to a form not included in Subsection (1)(a);
 - (ii) provide for the nonpartisan election of elected officers;
 - (iii) impose a limit on the number of terms or years that an elected officer may serve; or
 - (iv) provide for elected officers to be subject to a recall election.
- (2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.
- (3) A county that provided for the election of the county's elected officers through a partisan election in or after the 2000 general election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

Amended by Chapter 216, 2015 General Session

17-52-403 Adoption of optional plan -- Effect of adoption.

- (1) If a proposed optional plan is approved at an election held under Section 17-52-206:
 - (a) the proposed optional plan becomes effective according to its terms and, subject to Subsection 17-52-401(1)(c), at the time specified in it, is public record open to inspection by the public, and is judicially noticeable by all courts;
 - (b) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;
 - (c) all public officers and employees shall cooperate fully in making the transition between forms of county government; and
 - (d) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records,

documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

- (2) Adoption of an optional plan changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:
 - (a) school district;
 - (b) justice court;
 - (c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;
 - (d) special service district under Title 17D, Chapter 1, Special Service District Act;
 - (e) city or town; or
 - (f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.
- (3) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Amended by Chapter 17, 2012 General Session

17-52-404 Amendment of optional plan.

- (1) Subject to Subsection (2), an optional plan, after going into effect following an election held under Section 17-52-206, may be amended by an affirmative vote of two-thirds of the county legislative body.
- (2) Notwithstanding Subsection (1), an amendment to an optional plan in effect may not take effect until approved by a majority of registered voters voting in a general or special election at which the amendment is proposed, if the amendment changes:
 - (a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;
 - (b) the distribution of powers between the executive and legislative branches of county government; or
 - (c) the status of the county executive or legislative body from full-time to part-time or vice versa.

Renumbered and Amended by Chapter 133, 2000 General Session

17-52-405 Repeal of optional plan.

- (1) An optional plan adopted under this chapter may be repealed as provided in this section.
- (2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.
- (3)
 - (a) A petition to repeal an optional plan may not be filed sooner than four years after the election of county officers under Section 17-52-207.
 - (b)
 - (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in Subsection (8), the voters may not circulate or file a subsequent petition to repeal until at least four years after the certification of the original petition.
 - (ii) If, after four years, the voters file a subsequent petition as described in Subsection (3)(b)(i), the voters:
 - (A) may not circulate or file another petition to repeal until at least four years after certification of the subsequent petition; and

- (B) shall wait an additional four years after the date of certification of the previous petition for each petition filed thereafter.
- (4) Each petition under Subsection (2) shall:
- (a) be signed by registered voters residing in the county:
 - (i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) at the most recent election for president of the United States; and
 - (ii) who represent at least 85% of the voting precincts located within the county;
 - (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.
- (5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:
- (a) determine whether the petition or amended petition has been signed by the required number of registered voters; and
 - (b)
 - (i) if so, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or
 - (ii) if not, reject the petition or the amended petition and notify in writing the county legislative body and the contact sponsor of the rejection and the reasons for the rejection.
- (6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection.
- (7)
- (a) If a petition under Subsection (2) is certified, the county legislative body shall within 60 days after petition certification adopt a resolution granting the petition and deciding to hold an election on the proposal to repeal the optional plan.
 - (b) The county legislative body shall hold the election at the next regular general election date that is at least two months after the legislative body's decision.
- (8) If, at an election held under Subsection (7)(b), a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:
- (a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection (8)(c);
 - (b) upon the effective date of the repeal under Subsection (8)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and
 - (c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next regular general election following the election under Subsection (7)(b).

Enacted by Chapter 134, 2013 General Session