

**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