

Effective 3/15/2018

**Part 2
Forms of County Government**

17-52a-201 County commission form of government -- Commission member elections.

- (1) As used in this section:
 - (a) "Midterm vacancy" means a county commission position that is being filled at an election for less than the position's full term as established in:
 - (i) Subsection (4)(a); or
 - (ii) a county's optional plan under Subsection 17-52a-404(5)(b).
 - (b) "Open position" means a county commission position that is being filled at a regular general election for the position's full term as established in:
 - (i) Subsection (4)(a); or
 - (ii) a county's optional plan under Subsection 17-52a-404(5)(b).
 - (c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).
- (2) A county commission consisting of three members shall govern each county operating under the county commission form of government.
- (3) A county commission under a county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.
- (4) Except as otherwise provided in an optional plan adopted under this chapter:
 - (a) the term of office of each county commission member is four years;
 - (b) the terms of county commission members shall be staggered so that two members are elected at a regular general election date that alternates with the regular general election date of the other member; and
 - (c) each county commission member shall be elected:
 - (i) at large, unless otherwise required by court order; and
 - (ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.
- (5) Except as provided in Subsection (6):
 - (a) if two county commission positions are vacant for an election, the positions shall be designated "county commission seat A" and "county commission seat B";
 - (b) each candidate who files a declaration of candidacy when two positions are vacant shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B; and
 - (c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.
- (6)
 - (a) A county of the first or second class may, through an optional plan as described in Subsection 17-52a-404(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).
 - (b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:
 - (i) each open position as "open position"; and
 - (ii) each midterm vacancy as "midterm vacancy."

- (c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:
 - (i) if there is more than one open position, is not required to indicate which open position the individual is running for;
 - (ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and
 - (iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.
- (d) If there is an open position and a midterm vacancy being voted upon in the same election in an opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.
- (e) In an opt-in county:
 - (i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:
 - (A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and
 - (B) for the purposes of a regular general election, elected to fill the open positions; and
 - (ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:
 - (A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and
 - (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Renumbered and Amended by Chapter 68, 2018 General Session

17-52a-202 Expanded county commission form of government -- Commission member elections.

- (1) As used in this section:
 - (a) "Midterm vacancy" means the same as that term is defined in Section 17-52a-201.
 - (b) "Open position" means the same as that term is defined in Section 17-52a-201.
 - (c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).
- (2) A county commission consisting of five or seven members shall govern each county operating under an expanded county commission form of government.
- (3) A county commission under the expanded county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.
- (4) Except as otherwise provided in an optional plan adopted under this chapter:
 - (a) the term of office of each county commission member is four years;
 - (b) the terms of county commission members shall be staggered so that approximately half the members are elected at alternating regular general election dates; and
 - (c) each county commission member shall be elected:
 - (i) at large, unless otherwise required by court order; and
 - (ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.
- (5) Except as provided in Subsection (6):

- (a) if multiple at-large county commission positions are vacant for an election, the positions shall be designated "county commission seat A," "county commission seat B," and so on as necessary for the number of vacant positions;
 - (b) each candidate who files a declaration of candidacy when multiple positions are vacant shall designate the letter of the county commission seat for which the candidate is a candidate; and
 - (c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.
- (6)
- (a) A county of the first or second class may, through an optional plan as described in Subsection 17-52a-404(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).
 - (b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:
 - (i) each open position as "open position"; and
 - (ii) each midterm vacancy as "midterm vacancy."
 - (c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:
 - (i) if there is more than one open position, is not required to indicate which open position the individual is running for;
 - (ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and
 - (iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.
 - (d) If there is an open position and a midterm vacancy being voted upon in the same election in an opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.
 - (e) In an opt-in county:
 - (i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:
 - (A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and
 - (B) for the purposes of a regular general election, elected to fill the open positions; and
 - (ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:
 - (A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and
 - (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Renumbered and Amended by Chapter 68, 2018 General Session

17-52a-203 County executive-council form of county government.

- (1)
- (a) The following shall govern a county operating under the form of government known as the "county executive-council" form:
 - (i) an elected county council;
 - (ii) an elected county executive; and

- (iii) other officers and employees authorized by law.
- (b) The optional plan shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.
- (2) The county executive is the chief executive officer or body of the county.
- (3) In the county executive-council form of county government:
 - (a) the county council is the county legislative body and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body; and
 - (b) the county executive has the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.
- (4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:
 - (a) the county council, with respect to legislative functions, duties, and powers; and
 - (b) the county executive, with respect to executive functions, duties, and powers.

Renumbered and Amended by Chapter 68, 2018 General Session

17-52a-204 Council-manager form of county government.

- (1)
 - (a) The following shall govern a county operating under the form of government known as the "council-manager" form:
 - (i) an elected county council;
 - (ii) a county manager appointed by the council; and
 - (iii) other officers and employees authorized by law.
 - (b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.
- (2) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:
 - (a) as the county legislative body otherwise provides by ordinance; and
 - (b) that the county manager may not veto any ordinances enacted by the council.
- (3)
 - (a) An individual member of the council may not directly or indirectly, by suggestion or otherwise:
 - (i) attempt to influence or coerce the manager in:
 - (A) making any appointment;
 - (B) removing any officer or employee; or
 - (C) purchasing supplies;
 - (ii) attempt to exact any promise relative to any appointment from any candidate for manager; or
 - (iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.
 - (b)
 - (i) A member of the county council who violates the provisions of this Subsection (3) shall forfeit the member's county council office.
 - (ii) Nothing in this section shall be construed, however, as prohibiting the council from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.
 - (iii) The county manager may not take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

- (iv) The optional plan may provide procedures for implementing this Subsection (3).
- (4) In the council-manager form of county government:
 - (a) the legislative powers of the county are vested in the county council; and
 - (b) the executive powers of the county are vested in the county manager.
- (5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:
 - (a) the county council, with respect to legislative functions, duties, and powers; and
 - (b) the county manager, with respect to executive functions, duties, and powers.
- (6)
 - (a) As used in this Subsection (6), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member's term.
 - (b)
 - (i) The county council may not appoint a county manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (6)(b)(i):
 - (A) the county council may appoint an interim county manager during an interim vacancy period; and
 - (B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.
 - (c) Subsection (6)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (7) A county council that appoints a county manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the county manager.

Amended by Chapter 67, 2020 General Session