

1 **CHANGES IN COUNTY GOVERNMENT**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Richard L. Walsh**

5 AN ACT RELATING TO COUNTIES; MODIFYING THE RESTRICTION AGAINST  
 6 INITIATING A NEW PROCESS TO ADOPT AN OPTIONAL PLAN; RESTRICTING  
 7 REGISTERED VOTERS FROM INITIATING A PROCESS TO ADOPT AN OPTIONAL PLAN  
 8 UNDER CERTAIN CIRCUMSTANCES; AND MODIFYING THE TIME FOR  
 9 WITHDRAWING A PETITION PROPOSING AN OPTIONAL PLAN.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **17-35a-201**, as enacted by Chapter 369, Laws of Utah 1998

13 **17-35a-203**, as enacted by Chapter 369, Laws of Utah 1998

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

15 Section 1. Section **17-35a-201** is amended to read:

16 **17-35a-201. Procedure for initiating adoption of optional plan -- Limitations --**  
 17 **Pending proceedings.**

18 (1) An optional plan proposing an alternate form of government for a county may be  
 19 adopted as provided in this chapter.

20 (2) The process to adopt an optional plan establishing an alternate form of county  
 21 government may be initiated by:

22 (a) the county legislative body as provided in Section 17-35a-202; or

23 (b) registered voters of the county as provided in Section 17-35a-203.

24 (3) (a) If the process to adopt an optional plan has been initiated under Chapter 26, Laws  
 25 of Utah 1973, Section 3, 4, or 5, or Section 17-35a-202 or 17-35a-203, the county legislative body  
 26 may not initiate the process again under Section 17-35a-202 unless the earlier proceeding:

27 (i) has been concluded by the county legislative body rejecting the optional plan;

28 (ii) has been concluded by an affirmative or negative vote of registered voters; or  
29 (iii) has not been concluded but has been pending for at least two years.

30 (b) [~~A county legislative body may not initiate the~~] The process to adopt an optional plan  
31 under Section 17-35a-202 or 17-35a-203 may not be initiated within four years of an election at  
32 which voters approved [~~or rejected~~] an optional plan [~~proposed as a result of a process initiated by~~  
33 ~~the county legislative body~~].

34 [~~(c) Registered voters of a county may not initiate the process to adopt an optional plan~~  
35 ~~under Section 17-35a-203 within four years of an election at which voters approved or rejected an~~  
36 ~~optional plan proposed as a result of a process initiated by registered voters.~~]

37 (4) (a) A proceeding to adopt an optional form of county government commenced under  
38 Chapter 26, Laws of Utah 1973, as amended, and pending on the effective date of this section may  
39 continue under the applicable provisions of this chapter.

40 (b) No part of a proceeding to adopt an optional form of county government commenced  
41 under Chapter 26, Laws of Utah 1973, as amended, and pending on the effective date of this  
42 section, may be considered invalid because of a failure to meet a requirement of this chapter that  
43 was not included in Chapter 26, Laws of Utah 1973, as amended.

44 (5) The process to adopt an optional plan may not be initiated by registered voters under  
45 Section 17-35a-203 while another proceeding to adopt an optional plan initiated by registered  
46 voters is pending.

47 Section 2. Section **17-35a-203** is amended to read:

48 **17-35a-203. Registered voter initiation of adoption of optional plan -- Procedure.**

49 (1) Registered voters of a county may initiate the process of adopting an optional plan by:

50 (a) filing copies of a proposed optional plan, as provided in Subsection (2)(c), in  
51 anticipation of filing a petition under Subsection (2)(a); or

52 (b) filing a petition under Subsection (3).

53 (2) (a) Registered voters of a county may file a petition requiring the county legislative  
54 body to submit a proposed optional plan to the registered voters of the county.

55 (b) Each petition under Subsection (2)(a) shall:

56 (i) be signed by registered voters residing in the county equal in number to at least 15%  
57 of the total number of votes cast in the county at the most recent election for governor;

58 (ii) contain a general description of the proposed optional plan;

59 (iii) indicate that a complete copy of the proposed optional plan is available for inspection  
60 and copying at the county clerk's office;

61 (iv) designate up to five of the petition signers as sponsors, one of whom shall be  
62 designated as the contact sponsor, with the mailing address and telephone number of each; and

63 (v) be filed in the office of the clerk of the county in which the petition signers reside.

64 (c) Before circulating a petition under Subsection (2)(a) for signature, the petition sponsors  
65 shall file with the county clerk at least three complete copies of the proposed optional plan that is  
66 the subject of the petition.

67 (d) A county legislative body may not alter an optional plan proposed under this  
68 Subsection (2).

69 (e) Within 30 days after certification of a petition under Subsection (4)(a)(ii)(A), each  
70 county legislative body shall establish the date for an election to be held as provided under Section  
71 17-35a-204.

72 (3) (a) Registered voters of a county may file a petition requiring the county legislative  
73 body to adopt a resolution for the establishment of a study committee.

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

75 (i) request the county legislative body to choose between:

76 (A) adopting a resolution that establishes a study committee with members appointed  
77 under Section 17-35a-301; or

78 (B) adopting a resolution submitting to the county's registered voters the question of  
79 whether a study committee should be established;

80 (ii) be signed by registered voters residing in the county equal in number to at least 10%  
81 of the total number of votes cast in the county at the most recent election for governor;

82 (iii) designate up to five of the petition signers as sponsors, one of whom shall be  
83 designated as the contact sponsor, with the mailing address and telephone number of each; and

84 (iv) be filed in the office of the clerk of the county in which the petition signers reside.

85 (c) (i) Within 90 days of the certification of the petition under Subsection (4)(a)(ii)(A), the  
86 county legislative body shall hold a public hearing or series of public hearings, as the county  
87 legislative body determines, on the petition.

88 (ii) The county legislative body shall give reasonable notice of the public hearing or series  
89 of public hearings under Subsection (3)(c)(i).

90 (d) (i) At the conclusion of the public hearing or series of public hearings required under  
91 Subsection (3)(c)(i), the county legislative body shall:

92 (A) adopt a resolution approving the establishment of a study committee with members  
93 appointed under Section 17-35a-301 and specifying the number of members to be appointed,  
94 subject to Subsection 17-35a-303(1)(a); or

95 (B) adopt a resolution submitting to the county's registered voters the question of whether  
96 a study committee under Section 17-35a-301 should be established.

97 (ii) Each resolution under Subsection (3)(d)(i)(B) shall comply with the requirements of  
98 Subsection 17-35a-202(3)(b).

99 (4) (a) Within 30 days of the filing of a petition under Subsection (2)(a) or (3)(a) or an  
100 amended or supplemental petition under Subsection (4)(b), the county clerk shall:

101 (i) determine whether the petition or amended or supplemental petition has been signed  
102 by the required number of registered voters; and

103 (ii) (A) if so:

104 (I) certify the petition or amended or supplemental petition and deliver it to the county  
105 legislative body; and

106 (II) notify in writing the contact sponsor of the certification; or

107 (B) if not, reject the petition or the amended or supplemental petition and notify in writing  
108 the county legislative body and the contact sponsor of the rejection and the reasons for the  
109 rejection.

110 (b) If a county clerk rejects a petition or an amended or supplemental petition under  
111 Subsection (4)(a)(ii)(B), the petition may be amended or supplemented or an amended or  
112 supplemental petition may be further amended or supplemented with additional signatures and  
113 refiled within 20 days of the date of rejection.

114 (5) With the unanimous approval of petition sponsors, a petition filed under Subsection  
115 (2)(a) or (3) may be withdrawn at any time [~~within 90 days after~~] before petition certification [~~but~~  
116 ~~no later than 45 days before an election under Section 17-35a-204 or Subsection~~  
117 ~~17-35a-203(3)(d)(i)(B)] if:~~

118 (a) the petition notified signers in conspicuous language that the petition sponsors are  
119 authorized to withdraw the petition; and

120 (b) there are at least three sponsors of the petition.

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**Legislative Review Note**  
**as of 12-29-98 11:25 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**