

1 **CREATING OR CONSOLIDATING COUNTIES**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lloyd W. Frandsen**

5 AN ACT RELATING TO COUNTIES; REPEALING PROVISIONS RELATING TO THE
6 CREATION OF A NEW COUNTY; REENACTING AND MODIFYING PROVISIONS
7 RELATING TO THE CREATION OF A NEW COUNTY; AND PROVIDING FOR THE
8 CONSOLIDATION OF COUNTIES.

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

10 ENACTS:

11 **17-3-201**, Utah Code Annotated 1953

12 **17-3-202**, Utah Code Annotated 1953

13 **17-3-203**, Utah Code Annotated 1953

14 **17-3-204**, Utah Code Annotated 1953

15 **17-3-205**, Utah Code Annotated 1953

16 **17-3-206**, Utah Code Annotated 1953

17 **17-3-207**, Utah Code Annotated 1953

18 **17-3-208**, Utah Code Annotated 1953

19 **17-3-209**, Utah Code Annotated 1953

20 **17-3-210**, Utah Code Annotated 1953

21 **17-3-211**, Utah Code Annotated 1953

22 **17-3-212**, Utah Code Annotated 1953

23 **17-3-301**, Utah Code Annotated 1953

24 **17-3-302**, Utah Code Annotated 1953

25 **17-3-303**, Utah Code Annotated 1953

26 **17-3-304**, Utah Code Annotated 1953

27 **17-3-305**, Utah Code Annotated 1953

28 17-3-306, Utah Code Annotated 1953

29 17-3-307, Utah Code Annotated 1953

30 17-3-308, Utah Code Annotated 1953

31 REPEALS:

32 17-3-1, as last amended by Chapter 227, Laws of Utah 1993

33 17-3-2, as last amended by Chapter 68, Laws of Utah 1984

34 17-3-3, as last amended by Chapter 68, Laws of Utah 1984

35 17-3-4, as last amended by Chapter 227, Laws of Utah 1993

36 17-3-5, as last amended by Chapter 227, Laws of Utah 1993

37 17-3-6, as last amended by Chapter 227, Laws of Utah 1993

38 17-3-7, Utah Code Annotated 1953

39 17-3-8, Utah Code Annotated 1953

40 17-3-9, Utah Code Annotated 1953

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

42 Section 1. Section 17-3-201 is enacted to read:

CHAPTER 3. CREATION AND CONSOLIDATION OF COUNTIES

Part 1. Reserved

Part 2. Creating a New County

17-3-201. Definitions.

47 As used in this part, "original county" means the county from which a new county is
48 created or proposed to be created, with boundaries that do not include the new county or proposed
49 new county.

50 Section 2. Section 17-3-202 is enacted to read:

17-3-202. Creating a new county.

A new county may be created as provided in this part.

53 Section 3. Section 17-3-203 is enacted to read:

17-3-203. Creation of new county -- Petition.

55 (1) The process to create a new county is initiated by filing a petition with the clerk of the
56 county from which the new county is proposed to be created.

57 (2) Each petition under Subsection (1) shall:

58 (a) contain the signatures of:

59 (i) registered voters residing within the proposed new county equal in number to at least
60 25% of the number of votes cast within the proposed new county at the last gubernatorial election
61 before the filing of the petition; and

62 (ii) registered voters residing within the original county equal in number to at least 25%
63 of the number of votes cast within the original county at the last gubernatorial election before the
64 filing of the petition;

65 (b) state the name of the proposed new county;

66 (c) define the boundaries of the proposed new county; and

67 (d) be filed before the first Monday in May of any year.

68 Section 4. Section **17-3-204** is enacted to read:

69 **17-3-204. Creation of new county -- Election.**

70 (1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than
71 45 days after the filing of a petition under Subsection 17-3-203(1), the legislative body of the
72 county in which the proposed new county is located shall hold an election on the proposal to create
73 a new county.

74 (2) The county legislative body shall give reasonable, advance public notice of the election
75 under Subsection (1).

76 (3) The form of ballot in an election under Subsection (1) shall be:

77 For the creation of (insert the name of the proposed new county)

78 Against the creation of (insert the name of the proposed new county)

79 Section 5. Section **17-3-205** is enacted to read:

80 **17-3-205. Election returns -- Lieutenant governor certification -- Governor's**
81 **proclamation.**

82 (1) Immediately after the canvass of an election under Subsection 17-3-204(1) has been
83 completed, the county clerk shall:

84 (a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it
85 "election returns"; and

86 (b) deliver the sealed, certified abstract in person or mail it by registered mail to the
87 lieutenant governor.

88 (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify the
89 result of the election to the governor.

90 (3) If a majority of those voting from within the proposed new county and a majority of
91 those voting from within the original county vote in favor of the proposed new county, the
92 governor shall issue a written proclamation that:

93 (a) states the result of the election;

94 (b) declares the creation of the new county, to take effect at 12 noon on the first Monday
95 in January of the year following the election of officers under Section 17-3-206;

96 (c) declares the name of the new county, as stated in the petition under Subsection
97 17-3-203(2)(b);

98 (d) describes the boundaries of the new county and the boundaries of the original county
99 as altered by the creation of the new county; and

100 (e) states the judicial district to which the new county belongs.

101 (4) Within three days after issuing a proclamation under Subsection (3), the governor shall
102 mail a copy of the proclamation to the legislative body of the county from which the new county
103 will be created.

104 Section 6. Section **17-3-206** is enacted to read:

105 **17-3-206. Transition committee -- Membership -- Duties.**

106 (1) Within 45 days after the issuance of the governor's proclamation under Subsection
107 17-3-205(3), the legislative body of the original county shall convene the first meeting of a
108 transition committee consisting of:

109 (a) three residents of the original county who are registered voters, appointed by the
110 governor within 20 days after the issuance of the governor's proclamation under Subsection
111 17-3-205(3);

112 (b) three residents of the new county who are registered voters, appointed by the governor
113 within 20 days after the issuance of the governor's proclamation under Subsection 17-3-205(3);
114 and

115 (c) three persons chosen by a majority of the six committee members in Subsections (1)(a)
116 and (b).

117 (2) The transition committee shall elect a chair from its members and establish rules to
118 govern its proceedings.

119 (3) A majority of the members of the transition committee constitutes a quorum, and the
120 action of a majority of a quorum constitutes the action of the transition committee.

121 (4) All meetings of the transition committee shall comply with Title 52, Chapter 4, Open
122 and Public Meetings.

123 (5) Members of the transition committee may not be paid for their service on the
124 committee, but shall be reimbursed all reasonably necessary expenses incurred in serving on the
125 committee.

126 (6) Before the effective date of the new county's creation, the transition committee shall:

127 (a) meet as often as the committee considers necessary;

128 (b) divide and allocate between the original county and the new county the assets and
129 liabilities that existed within the county from which the new county was created at the time of the
130 new county's creation;

131 (c) determine the effect of the new county's creation on each dependent special district
132 created under Title 17A, Chapter 3, Dependent Special Districts, that is located partly within the
133 original county and partly within the new county; and

134 (d) prepare and distribute publicly a written report of the transition committee's actions
135 under Subsections (6)(b) and (c).

136 (7) In fulfilling its responsibilities under Subsection (5), each transition committee:

137 (a) shall treat both the original county and the new county fairly and equitably, giving
138 preference to neither county and proportionately dividing between the counties the assets and
139 liabilities, taking into account differences between the two counties in terms of population,
140 population density, infrastructure, geography, size, assessed value of property, and expected
141 revenues from property tax, other taxes, and other revenue sources; and

142 (b) may engage professionals the committee reasonably considers necessary to assist the
143 committee.

144 (8) The original county and the new county shall equally bear all expenses of the transition
145 committee.

146 (9) (a) Judicial review of a decision of the transition committee may be sought by:

147 (i) the legislative body of the original county; or

148 (ii) (A) before the creation of the new county, the members-elect of the legislative body
149 of the new county; or

150 (B) after the creation of the new county, the legislative body of the new county.

151 (b) Each request for judicial review under Subsection (9)(a) shall be filed:

152 (i) within the later of:
 153 (A) 30 days after the issuance of the transition committee's report under Subsection (6)(d);
 154 or
 155 (B) 30 days after the election of officers of the new county under Section 17-3-207; and
 156 (ii) with the district court that has jurisdiction in the county from which the new county
 157 is being created.
 158 (c) In an action under Subsection (9)(a), the court shall uphold the decision of the
 159 transition committee unless the court determines that the decision is arbitrary, capricious, or illegal.

160 Section 7. Section **17-3-207** is enacted to read:

161 **17-3-207. Election to select county seat and to elect officers in new county.**

162 (1) On the first Tuesday after the first Monday of November next following the issuance
 163 of the governor's proclamation under Section 17-3-205, the legislative body of each county from
 164 which a new county is created shall hold an election to select a county seat and to elect county
 165 officers for the new county.

166 (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a
 167 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration
 168 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection
 169 17-3-205(3).

170 (3) The city or town receiving the largest number of votes for county seat in an election
 171 under Subsection (1) shall be the seat of the new county.

172 Section 8. Section **17-3-208** is enacted to read:

173 **17-3-208. Election code applies -- Election expenses.**

174 (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,
 175 apply to each election under this part.

176 (2) The original county and the new county shall equally share all expenses of the elections
 177 provided for under this part.

178 Section 9. Section **17-3-209** is enacted to read:

179 **17-3-209. Transfer of records -- Expenses shared by counties.**

180 (1) On or before the effective date of the creation of a new county, the clerk and recorder
 181 of the county from which the new county is created shall deliver to the clerk-elect and
 182 recorder-elect of the new county:

- 183 (a) all original records relating to or affecting:
184 (i) title of real or personal property located entirely in the new county;
185 (ii) elections that have been held within the area of the new county;
186 (iii) the creation or operation of dependent special districts created under Title 17A,
187 Chapter 3, Dependent Special Districts, located entirely within the new county; and
188 (iv) the creation of independent special districts created under Title 17A, Chapter 2,
189 Independent Special Districts, located entirely within the new county; and
190 (b) certified copies of records relating to or affecting:
191 (i) title of real or personal property located partly in the original county and partly in the
192 new county;
193 (ii) elections held in voting precincts located partly in the original county and partly in the
194 new county;
195 (iii) the creation or operation of dependent special districts created under Title 17A,
196 Chapter 3, Dependent Special Districts, located partly in the original county and partly in the new
197 county; and
198 (iv) the creation of independent special districts created under Title 17A, Chapter 2,
199 Independent Special Districts, located partly within the original county and partly within the new
200 county.
201 (2) The new county shall pay all expenses of copying and transferring records or copies
202 of records from the original county to the new county.
203 Section 10. Section **17-3-210** is enacted to read:
204 **17-3-210. Effect on school districts, special districts, and voting precincts.**
205 (1) The creation of a new county under this part does not affect the boundaries of an
206 independent special district, created under Title 17A, Chapter 2, Independent Special Districts, or
207 a school district located within the original county or the new county.
208 (2) The creation of a new county divides each voting precinct located partly within the
209 original county and partly within the new county along the boundary separating the two counties.
210 (3) The effect of the creation of a new county on a dependent special district created under
211 Title 17A, Chapter 3, Dependent Special Districts, located partly within the original county and
212 partly within the new county, shall be determined by the transition committee under Section
213 17-3-206.

214 Section 11. Section **17-3-211** is enacted to read:

215 **17-3-211. Offenses in new county -- Civil and criminal actions.**

216 (1) Each offense committed in the area of the new county before the creation of the new
217 county that has not been prosecuted may be prosecuted to judgment and execution in the new
218 county.

219 (2) Each civil or criminal action pending in the district court to which the original county
220 belongs may continue to be prosecuted in the district court to which the new county belongs,
221 subject to a change of venue as provided by law.

222 Section 12. Section **17-3-212** is enacted to read:

223 **17-3-212. Delivery of certified tax list -- Delivery of taxes collected.**

224 Upon the effective date of the creation of the new county, the treasurer of the original
225 county shall deliver to the treasurer of the new county:

226 (1) a certified list of all taxes collected by the treasurer of the original county for the
227 preceding year upon the property located within the new county; and

228 (2) all taxes collected by the treasurer of the original county for the preceding year upon
229 property located within the new county, less the new county's pro rata share of the cost of assessing
230 and collecting the taxes and the entire cost of preparing the certified list under Subsection (1).

231 Section 13. Section **17-3-301** is enacted to read:

232 **Part 3. Consolidating Counties**

233 **17-3-301. Consolidation of multiple counties.**

234 Two or more contiguous counties may be consolidated into a single new county as provided
235 in this part.

236 Section 14. Section **17-3-302** is enacted to read:

237 **17-3-302. Consolidation of counties -- Petition.**

238 (1) The process to consolidate more than one county into a single new county is initiated
239 by filing a petition with the clerk of the most populous county of the counties proposed to be
240 consolidated.

241 (2) Each petition under Subsection (1) shall:

242 (a) contain the signatures of registered voters residing within each of the counties proposed
243 to be consolidated equal in number to at least 25% of the number of votes cast within each of the
244 respective counties at the last gubernatorial election before the filing of the petition;

245 (b) state the name of the proposed consolidated county; and

246 (c) be filed before the first Monday in May of any year.

247 (3) Within five days of the filing of a petition under Subsection (1), the clerk of the county
248 in which the petition was filed shall deliver a copy of the petition to the clerk of each other county
249 proposed to be consolidated.

250 Section 15. Section **17-3-303** is enacted to read:

251 **17-3-303. Consolidation of counties -- Election.**

252 (1) At the next special election date under Subsection 20A-1-204(1)(a) that is more than
253 45 days after the filing of a petition under Subsection 17-3-302(1), the legislative body of each of
254 the counties proposed to be consolidated shall hold an election on the proposal to consolidate
255 counties.

256 (2) The legislative body of each of the counties proposed to be consolidated shall give
257 reasonable, advance public notice in its respective county of the election under Subsection (1).

258 (3) The form of ballot in an election under Subsection (1) shall be:

259 For the consolidation of (insert the names of each of the counties proposed to be
260 consolidated) into a single new county known as (insert the proposed name of the proposed
261 consolidated county)

262 Against the consolidation of (insert the names of each of the counties proposed to be
263 consolidated) into a single new county known as (insert the proposed name of the proposed
264 consolidated county)

265 Section 16. Section **17-3-304** is enacted to read:

266 **17-3-304. Election returns -- Lieutenant governor certification -- Governor's**
267 **proclamation.**

268 (1) Immediately after the canvass of an election under Subsection 17-3-303(1) has been
269 completed, the county clerk of each county proposed to be consolidated shall:

270 (a) prepare a certified abstract of the canvass, seal the certified abstract, and endorse it
271 "election returns"; and

272 (b) deliver the sealed, certified abstract in person or mail it by registered mail to the
273 lieutenant governor.

274 (2) Upon receipt of the certified abstract, the lieutenant governor shall promptly certify the
275 result of the election to the governor.

276 (3) If a majority of those voting from each county vote in favor of consolidating the
277 counties into a single county, the governor shall issue a written proclamation that:

278 (a) states the result of the election;

279 (b) declares the consolidation of the multiple counties into a single county, to take effect
280 at 12 noon on the first Monday in January of the year following the election of officers under
281 Section 17-3-305;

282 (c) declares the name of the consolidated county, as stated in the petition under Subsection
283 17-3-302(2)(b);

284 (d) describes the boundaries of the consolidated county; and

285 (e) states the judicial district to which the new county belongs.

286 (4) Within three days after issuing a proclamation under Subsection (3), the governor shall
287 mail a copy of the proclamation to the legislative body of each of the counties to be consolidated.

288 Section 17. Section **17-3-305** is enacted to read:

289 **17-3-305. Election to select county seat and to elect officers in consolidated county.**

290 (1) On the first Tuesday after the first Monday of November next following the issuance
291 of the governor's proclamation under Subsection 17-3-304(3), the legislative body of each of the
292 counties to be consolidated shall hold an election to select a county seat and to elect county officers
293 for the new consolidated county.

294 (2) Notwithstanding Subsection 20A-9-202(1), each person intending to become a
295 candidate for a county office to be filled at the election under Subsection (1) shall file a declaration
296 of candidacy within 15 days after the issuance of the governor's proclamation under Subsection
297 17-3-304(3).

298 (3) The city or town receiving the largest number of votes for county seat in an election
299 under Subsection (1) shall be the seat of the new county.

300 Section 18. Section **17-3-306** is enacted to read:

301 **17-3-306. Election code applies -- Election expenses.**

302 (1) Except as otherwise provided in this part, the provisions of Title 20A, Election Code,
303 apply to each election under this part.

304 (2) Each of the counties proposed to be consolidated shall bear their own respective
305 expenses of the elections provided for under this part.

306 Section 19. Section **17-3-307** is enacted to read:

307 **17-3-307. Transfer of records -- Expenses -- Transition to consolidated county.**

308 (1) On or before the effective date of the consolidation, the legislative body of each of the
309 counties to be consolidated shall deliver to the members-elect of the legislative body of the
310 consolidated county all original records of the respective counties to be consolidated.

311 (2) The new county shall pay all expenses of transferring records from the counties to be
312 consolidated to the consolidated county.

313 (3) The legislative body and all officers and employees of each of the counties to be
314 consolidated shall cooperate and take all steps reasonably necessary for a smooth and orderly
315 transition from separate counties with their separate organizations and structures to a consolidated
316 county with its consolidated organization and structure.

317 Section 20. Section **17-3-308** is enacted to read:

318 **17-3-308. Effect of consolidation.**

319 (1) Upon consolidation:

320 (a) each of the counties being consolidated are dissolved and lose their separate identity;

321 (b) all assets of each of the counties being consolidated are transferred and belong to the
322 new consolidated county; and

323 (c) all liabilities of each of the counties being consolidated are transferred to and assumed
324 by the new consolidated county.

325 (2) The consolidation of multiple counties under this part does not affect the boundaries
326 of an independent special district, created under Title 17A, Chapter 2, Independent Special
327 Districts, or a school district located within the area of the consolidated county.

328 Section 21. **Repealer.**

329 This act repeals:

330 Section **17-3-1, By petition -- Election -- Ballots.**

331 Section **17-3-2, Election returns transmitted to lieutenant governor.**

332 Section **17-3-3, Certification of returns -- Governor's proclamation of creation of new**
333 **county -- Name -- Judicial district.**

334 Section **17-3-4, County seat, selection by election -- First officers -- Election.**

335 Section **17-3-5, Records to be transmitted -- Expenses for transcribing and transfer.**

336 Section **17-3-6, Effect on precincts and school and other districts -- Indebtedness.**

337 Section **17-3-7, Pending civil and criminal actions.**

338 Section **17-3-8, Prior offenses.**

339 Section **17-3-9, Division of taxes.**

Legislative Review Note
as of 12-29-98 11:21 AM

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

Office of Legislative Research and General Counsel