

1 **OPTIONAL FORMS OF COUNTY GOVERNMENT**

2 **AMENDMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: R. Mont Evans**

6 AN ACT RELATING TO COUNTIES; MODIFYING THE PROCEDURE FOR ADOPTING AN
7 OPTIONAL FORM OF COUNTY GOVERNMENT; ADDING AN ADDITIONAL OPTIONAL
8 FORM; CLARIFYING OPTIONAL PLAN REQUIREMENTS; PROHIBITING AN OPTIONAL
9 PLAN FROM INCLUDING CERTAIN FEATURES; MAKING CONFORMING CHANGES;
10 AND MAKING TECHNICAL CHANGES.

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

12 AMENDS:

13 **17-5-101**, as renumbered and amended by Chapter 147, Laws of Utah 1994

14 **17-5-103**, as renumbered and amended by Chapter 147, Laws of Utah 1994

15 **17-5-201**, as renumbered and amended by Chapters 146 and 147, Laws of Utah 1994

16 **17-16-2**, as last amended by Chapter 38, Laws of Utah 1993

17 **17-35a-204**, as last amended by Chapter 265, Laws of Utah 1999

18 **17-35a-401**, as enacted by Chapter 369, Laws of Utah 1998

19 **17-35a-402**, as enacted by Chapter 369, Laws of Utah 1998

20 ENACTS:

21 **17-35a-205**, Utah Code Annotated 1953

22 **17-35a-505**, Utah Code Annotated 1953

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

24 Section 1. Section **17-5-101** is amended to read:

25 **17-5-101. County commissioners -- Number.**

26 [Each] Unless it has adopted the expanded county commission form of government under
27 Section 17-35a-505, each county that operates under a county commissioner form of government

28 shall have a board of county commissioners consisting of three members.

29 Section 2. Section 17-5-103 is amended to read:

30 **17-5-103. Term of office -- Multiple vacancies in same election.**

31 (1) County commissioners shall:

32 (a) be elected for a four-year term in each county at the general election before the
33 expiration of the term of office of incumbents; and

34 (b) hold office for the term for which elected and until a successor is elected and has
35 qualified.

36 (2) (a) ~~Whenever two~~ If multiple county commission positions are vacant for a general
37 election, they are designated "county commissioner A," ~~and~~ "county commissioner B[...]" and so
38 on as necessary for the number of vacant positions.

39 (b) At the time a candidate for the county commission files a declaration of candidacy for
40 a county commission position when there are ~~two~~ multiple positions vacant, ~~he~~ the candidate
41 shall designate on the declaration of candidacy form ~~whether he~~ the letter of the county
42 commissioner seat for which the candidate is a candidate ~~for county commissioner A or county~~
43 ~~commissioner B~~.

44 (c) No person may file a declaration of candidacy for, be a candidate for, or be elected to
45 ~~two~~ more than one county commission ~~positions~~ position in one general election.

46 (3) County commissioners-elect shall take office on the first Monday in January following
47 their election.

48 Section 3. Section 17-5-201 is amended to read:

49 **17-5-201. Chair -- Oaths -- Quorum.**

50 Each county legislative body shall elect one of their number chair. The chair shall preside
51 at all meetings of the county legislative body, and in case of ~~his~~ the chair's absence or inability
52 to act the members present ~~must~~ shall, by an order entered in their minutes, select one of their
53 number to act as chair temporarily. Any member of the county legislative body may administer
54 oaths to any person when necessary in the performance of ~~his~~ the member's official duties. Not
55 less than ~~two~~ a majority of all members shall constitute a quorum for the transaction of business,
56 and no act of the county legislative body shall be valid or binding unless ~~two~~ a majority of all
57 members present when a quorum is present concur therein.

58 Section 4. Section 17-16-2 is amended to read:

59 **17-16-2. County officers enumerated.**60 (1) The **§ ELECTED** § officers of a county are: [~~three~~]61 (a) (i) in a county operating under a county commission form of government under Chapter
62 5, Part 1, County Commission Form of Government, or the expanded county commission form of
63 government under Section 17-35a-505, county commissioners[;]; or64 (ii) in a county operating under one of the optional forms of county government under
65 Chapter 35a, Optional Forms of County Government Act, other than the expanded county
66 commission form of government, county legislative body members and the county executive;67 (b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a
68 county attorney, a district attorney in a county which is part of a prosecution district, a county
69 surveyor, and a county assessor[;]; and70 (c) any others provided by law[; ~~but~~].71 (2) Notwithstanding Subsection (1), in counties having a taxable value of less than
72 \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties
73 of the office without extra compensation.74 Section 5. Section **17-35a-204** is amended to read:75 **17-35a-204. Election on proposed optional plan -- Procedure.**76 (1) Subject to Section 17-35a-203.5, the county legislative body shall hold an election if
77 an optional plan is proposed:

78 (a) by a resolution adopted under Subsection 17-35a-202(2)(e);

79 (b) in a petition filed under Subsection 17-35a-203(2)(a) that is certified under Subsection
80 17-35a-203(4)(a)(ii)(A); or

81 (c) in a study committee report filed under Subsection 17-35a-303(3)(d).

82 (2) Each election under Subsection (1) shall be held at the next regular general or
83 municipal general election that is no less than two months after the county clerk's receipt of the
84 attorney general statement under Section 17-35a-203.5.85 (3) The county legislative body shall prepare the ballot for each election under Subsection
86 (1) so that the question on the ballot:

87 (a) clearly, accurately, and impartially presents the proposition to be voted on; and

88 (b) does not constitute an argument or create prejudice for or against the proposition.

89 (4) The county legislative body shall:

90 (a) cause the complete text of the proposed optional plan to be published in a newspaper
91 of general circulation within the county at least once during two different calendar weeks within
92 the 30-day period immediately before the date of the election under Subsection (1);

93 (b) make a complete copy of the optional plan available free of charge to any member of
94 the public who requests a copy; and

95 (c) if the optional plan is proposed by a study committee report filed under Subsection
96 17-35a-303(3)(d), make a complete copy of the study committee's report available free of charge
97 to any member of the public who requests a copy.

98 (5) If an optional plan proposed as a result of a process initiated by the county legislative
99 body and an optional plan proposed as a result of a process initiated by registered voters are both
100 scheduled for the same election:

101 (a) both proposals shall appear on the same ballot;

102 (b) a voter may vote for or against each proposal; and

103 (c) if both proposals receive a majority vote of those voting, the proposal with more votes
104 shall prevail and the other shall be considered rejected.

105 Section 6. Section **17-35a-205** is enacted to read:

106 **17-35a-205. Election of officers under optional plan.**

107 If an optional plan is adopted by voters at an election under Section 17-35a-204 held on
108 or after May 1, 2000, the elected county officers specified in the plan shall be elected according
109 to the regular primary election and regular general election procedure and schedule established
110 under Title 20A, Election Code, for the election of county officers.

111 Section 7. Section **17-35a-401** is amended to read:

112 **17-35a-401. Contents of proposed optional plan.**

113 (1) (a) [Each] Except as provided in Subsection (1)(b), each optional plan proposed under
114 this chapter shall:

115 ~~[(a)]~~ (i) ~~[specify the]~~ propose the adoption of one of the optional ~~[form]~~ forms of county
116 government ~~[that is being proposed]~~ listed in Subsection 17-35a-402(1)(a);

117 ~~[(b)]~~ (ii) contain detailed provisions relating to the transition from the existing form of
118 county government to the form proposed in the optional plan, including provisions relating to the:

119 ~~[(i)]~~ (A) election or appointment of officers specified in the optional plan for the new form
120 of county government;

121 ~~[(ii)]~~ (B) continuity of existing offices and officers;
 122 ~~[(iii)]~~ (C) continuity of existing ordinances and regulations;
 123 ~~[(iv)]~~ (D) continuation of pending legislative, administrative, or judicial proceedings;
 124 ~~[(v)]~~ (E) making of interim and temporary appointments; and
 125 ~~[(vi)]~~ (F) preparation, approval, and adjustment of necessary budget appropriations; and
 126 ~~[(e)]~~ (iii) notwithstanding any other provision of this title, provide that, with respect to the
 127 county budget, the county auditor's role is to be the budget officer and to project county revenues,
 128 the county executive's role is to propose the budget, and the county legislative body's role is to
 129 adopt the budget.

130 (b) Subsection (1)(a)(iii) does not apply to an optional plan that proposes the adoption of
 131 the expanded county commission form of government under Section 17-35a-505.

132 (2) Subject to Subsection (3), an optional plan may include provisions that are considered
 133 necessary or advisable to the effective operation of the proposed optional plan.

134 (3) An optional plan may not include any provision that is inconsistent with or prohibited
 135 by the Utah Constitution or any statute.

136 (4) Each optional plan proposing to change the form of government to a form under
 137 Section 17-35a-501, 17-35a-502, 17-35a-503, or 17-35a-504 shall:

138 (a) provide for the same executive and legislative officers as are specified in the applicable
 139 section for the form of government being proposed by the optional plan;

140 ~~[(a)]~~ (b) provide for the election of the county council;

141 (c) specify the number of county council members, which shall be an odd number from
 142 three to nine;

143 ~~[(b)]~~ (d) specify whether the members of the county council are to be elected from
 144 districts, at large, or by a combination of at large and by district;

145 ~~[(c)]~~ (e) specify county council members' qualifications and terms and whether the terms
 146 are to be staggered;

147 ~~[(d)] state the grounds for and methods of removal of county council members from office;~~

148 ~~[(e)]~~ (f) contain procedures for filling vacancies on the county council, consistent with the
 149 provisions of Sections 17-5-104 and 20A-1-508; and

150 ~~[(f)]~~ (g) state the **§ INITIAL §** compensation, if any, of county council members and
 150a procedures for
 151 prescribing and changing compensation.

152 (5) Each optional plan proposing to change the form of government to the expanded
 153 county commission form under Section 17-35a-505 shall specify:

154 (a) the number of county commission members, which shall be § [an odd number from
 155 three] FIVE OR

[to] § seven;

156 (b) the terms of office for county commission members and whether the terms are to be
 157 staggered;

158 (c) whether members of the county commission are to be elected from districts, at large,
 159 or by a combination of at large and from districts; and

160 (d) if any members of the county commission are to be elected from districts, the district
 161 residency requirements for those commission members.

162 Section 8. Section **17-35a-402** is amended to read:

163 **17-35a-402. Plan shall propose adoption of one of specified optional forms of county**
 164 **government -- County executive -- Plan may propose change of structural form.**

165 (1) ~~Ann~~ (a) Each optional plan ~~may~~ shall propose changing the form of county
 166 government to:

167 ~~(a)~~ (i) the county ~~commissioner~~ commission form under Title 17, Chapter 5, Part 1,
 168 County ~~Commissioner~~ Commission Form of Government;

169 ~~(b)~~ (ii) executive and chief administrative officer-council form under Section
 170 17-35a-501;

171 ~~(c)~~ (iii) the county executive and council form under Section 17-35a-502;

172 ~~(d)~~ (iv) the council-manager form under Section 17-35a-503; ~~or~~

173 ~~(e)~~ (v) the council and county administrative officer form under Section 17-35a-504[-];

174 or

175 (vi) the expanded county commission form under Section 17-35a-505.

176 (b) An optional plan may not:

177 (i) propose changing the form of county government to a form of government not included
 178 in Subsection (1)(a);

179 (ii) provide for the nonpartisan election of elected officers; or

180 (iii) impose a limit on the number of terms or years an elected official may serve.

181 (2) (a) If an optional plan proposes changing the form of county government to a form that
 182 has a § **SEPARATE** § county executive, the county executive may be:

- 183 (i) an individual elected at large in the county; or
- 184 (ii) a county executive body consisting of at least three members, elected at large or by
- 185 district or a combination of both, as provided in the optional plan.
- 186 (b) An optional plan that proposes changing to a form of government with an executive
- 187 body, as provided in Subsection (2)(a)(ii), may divide the executive duties among the members of
- 188 the executive body.
- 189 (3) In addition to proposing the adoption of any one of the optional forms of county
- 190 government under Subsection (1), an optional plan may also propose the adoption of any one of
- 191 the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms
- 192 of County Government.

193 Section 9. Section **17-35a-505** is enacted to read:

194 **17-35a-505. Expanded county commission form of county government.**

195 A county operating under the form of government known as the "expanded county
 196 commission" form shall be governed by a county commission, as provided under Chapter 5, Part
 197 1, County Commission Form of Government, except that the number of commissioners may be
 198 § [~~any odd number from three to~~] FIVE OR § seven.

Legislative Review Note
as of 1-11-00 1:57 PM

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

Office of Legislative Research and General Counsel