

OPTIONAL FORMS OF COUNTY GOVERNMENT AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

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

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

AMENDS:

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

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

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

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

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

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

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

ENACTS:

17-35a-205, Utah Code Annotated 1953

17-35a-505, Utah Code Annotated 1953

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

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

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

[Each] Unless it has adopted the expanded county commission form of government under Section 17-35a-505, each county that operates under a county commissioner form of government shall have a board of county commissioners consisting of three members.

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

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

(1) County commissioners shall:

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

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

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

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

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

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

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

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

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

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

17-16-2. County officers enumerated.

(1) The elected officers of a county are: [~~three~~]

(a) (i) in a county operating under a county commission form of government under Chapter 5, Part 1, County Commission Form of Government, or the expanded county commission form of government under Section 17-35a-505, county commissioners[;]; or

(ii) in a county operating under one of the optional forms of county government under Chapter 35a, Optional Forms of County Government Act, other than the expanded county commission form of government, county legislative body members and the county executive;

(b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a county attorney, a district attorney in a county which is part of a prosecution district, a county surveyor, and a county assessor[;]; and

(c) any others provided by law[; ~~but~~].

(2) Notwithstanding Subsection (1), in counties having a taxable value of less than \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties of the office without extra compensation.

Section 5. Section **17-35a-204** is amended to read:

17-35a-204. Election on proposed optional plan -- Procedure.

(1) Subject to Section 17-35a-203.5, the county legislative body shall hold an election if an optional plan is proposed:

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

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

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

(2) Each election under Subsection (1) shall be held at the next regular general or municipal general election that is no less than two months after the county clerk's receipt of the attorney general statement under Section 17-35a-203.5.

(3) The county legislative body shall prepare the ballot for each election under Subsection (1) so that the question on the ballot:

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

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

(4) The county legislative body shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(a)]~~ (i) ~~[specify the]~~ propose the adoption of one of the optional [form] forms of county

government [~~that is being proposed~~] listed in Subsection 17-35a-402(1)(a);

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

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

~~(ii)~~ (B) continuity of existing offices and officers;

~~(iii)~~ (C) continuity of existing ordinances and regulations;

~~(iv)~~ (D) continuation of pending legislative, administrative, or judicial proceedings;

~~(v)~~ (E) making of interim and temporary appointments; and

~~(vi)~~ (F) preparation, approval, and adjustment of necessary budget appropriations; and

~~(e)~~ (iii) notwithstanding any other provision of this title, provide that, with respect to the county budget, the county auditor's role is to be the budget officer and to project county revenues, the county executive's role is to propose the budget, and the county legislative body's role is to adopt the budget.

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

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

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

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

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

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

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

~~(b)~~ (d) specify whether the members of the county council are to be elected from districts,

at large, or by a combination of at large and by district;

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

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

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

~~[(f)]~~ (g) state the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.

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

(a) the number of county commission members, which shall be five or seven;

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

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

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

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

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

(1) ~~[(a)]~~ (a) Each optional plan ~~[(may)]~~ shall propose changing the form of county government to:

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

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

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

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

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

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

(b) An optional plan may not:

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

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

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

(2) (a) If an optional plan proposes changing the form of county government to a form that has a separate county executive, the county executive may be:

(i) an individual elected at large in the county; or

(ii) a county executive body consisting of at least three members, elected at large or by district or a combination of both, as provided in the optional plan.

(b) An optional plan that proposes changing to a form of government with an executive body, as provided in Subsection (2)(a)(ii), may divide the executive duties among the members of the executive body.

(3) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.

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

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

A county operating under the form of government known as the "expanded county commission" form shall be governed by a county commission, as provided under Chapter 5, Part 1, County Commission Form of Government, except that the number of commissioners may be five or seven.