

LOCAL GOVERNMENT AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to municipal and county government.

Highlighted Provisions:

This bill:

- ▶ reduces the number of copies of an ordinance, code, or book relating to building or safety standards, municipal functions, administration, control, or regulations that a city clerk is required to maintain from three to one;
- ▶ eliminates provisions that specify the type of governing body that a city or town must have;
- ▶ eliminates some optional forms of municipal government and related provisions and makes conforming changes;
- ▶ modifies optional forms of municipal government and makes conforming changes;
- ▶ narrows the application of municipal moderate income housing plan requirements to cities;
- ▶ modifies the definition of moderate income housing for purposes of moderate income housing plan provisions;
- ▶ changes a requirement to update a moderate income housing plan from annual to biennial;
- ▶ prohibits the awarding of damages in an action seeking enforcement or claiming a violation of moderate income housing provisions and limits the type of relief that may be granted; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

H.B. 111

Enrolled Copy

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-2-112**, as last amended by Chapter 292, Laws of Utah 2003
- 10-2-114**, as last amended by Chapter 292, Laws of Utah 2003
- 10-2-303**, as last amended by Chapter 17, Laws of Utah 1999
- 10-2-411**, as last amended by Chapter 206, Laws of Utah 2001
- 10-3-101**, as enacted by Chapter 48, Laws of Utah 1977
- 10-3-106**, as last amended by Chapter 1, Laws of Utah 2000
- 10-3-205**, as last amended by Chapter 292, Laws of Utah 2003
- 10-3-206**, as enacted by Chapter 48, Laws of Utah 1977
- 10-3-504**, as last amended by Chapter 292, Laws of Utah 2003
- 10-3-507**, as last amended by Chapter 292, Laws of Utah 2003
- 10-3-711**, as last amended by Chapter 84, Laws of Utah 1997
- 10-3-1203**, as last amended by Chapter 178, Laws of Utah 2001
- 10-3-1208**, as last amended by Chapter 292, Laws of Utah 2003
- 10-9-307**, as last amended by Chapter 292, Laws of Utah 2003
- 17-27-307**, as last amended by Chapter 159, Laws of Utah 2002

REPEALS:

- 10-3-103**, as last amended by Chapter 17, Laws of Utah 1999
- 10-3-104**, as last amended by Chapter 17, Laws of Utah 1999
- 10-3-105**, as last amended by Chapter 292, Laws of Utah 2003
- 10-3-203**, as last amended by Chapter 278, Laws of Utah 1997
- 10-3-204**, as last amended by Chapter 278, Laws of Utah 1997
- 10-3-401**, as enacted by Chapter 48, Laws of Utah 1977
- 10-3-402**, as last amended by Chapter 292, Laws of Utah 2003

10-3-1209, as last amended by Chapter 178, Laws of Utah 2001

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

Section 1. Section **10-2-112** is amended to read:

10-2-112. Ballot used at the incorporation election.

(1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed city) be incorporated as the city of (insert the proposed name of the proposed city)?

(2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).

(3) (a) The ballot at the incorporation election shall also pose the question relating to the form of government substantially as follows:

If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:

Five-member City [~~(insert "Commission" for a city of the first or second class or "Council" for a city of the third, fourth, or fifth class)~~] form

Six-member City Council form

Council-Mayor form

Council-Manager form.

(b) The ballot shall provide a space for the voter to vote for one form of government.

(4) (a) The ballot at the incorporation election shall also pose the question of whether to elect city [~~commission or~~] council members by district substantially as follows:

If the above incorporation proposal passes, shall members of the city [~~(insert "commission" or "council," as the case may be)~~] of (insert the name of the proposed city) be elected by district?

(b) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (4)(a).

Section 2. Section **10-2-114** is amended to read:

10-2-114. Determination of number of commission or council members --

Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2-111:

(a) if the voters at the incorporation election choose either the council-mayor or the council-manager form of government, determine the number of [~~commission or~~] council members that will constitute the [~~commission or~~] council of the future city;

(b) if the voters at the incorporation election vote to elect [~~commission or~~] council members by district, determine the number of [~~commission or~~] council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;

(c) determine the initial terms of the mayor and members of the city [~~commission or~~] council so that:

(i) the mayor and approximately half the members of the city [~~commission or~~] council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in [~~Subsection 10-3-203(1) for a first class city, Subsection 10-3-204(1) for a second class city, and~~] Subsection 10-3-205(1) [~~for a third, fourth, or fifth class city~~]; and

(ii) the remaining members of the city [~~commission or~~] council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in [~~Subsection 10-3-203(2) for a first class city, Subsection 10-3-204(2) for a second class city, and~~] Subsection 10-3-205(2) [~~for a third, fourth, or fifth class city~~]; and

(d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).

(2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing.

(ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days before the public hearing under Subsection (2)(a).

(c) (i) If there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.

(ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).

Section 3. Section **10-2-303** is amended to read:

10-2-303. Effect of change in class.

(1) (a) If a municipality changes from one class to another:

~~[(a)]~~ (i) all property, property rights, and other rights that belonged to or were vested in the municipality at the time of the change shall belong to and be vested in it after the change;

~~[(b)]~~ (ii) no contract, claim, or right of the municipality or demand or liability against it shall be altered or affected in any way by the change;

~~[(c)]~~ (iii) each ordinance, order, and resolution in force in the municipality when it changes classes shall, to the extent that it is not inconsistent with law, not be affected by the change and shall remain in effect until repealed or amended;

~~[(d)]~~ (iv) the change shall not affect the identity of the municipality;

~~[(e)]~~ (v) each municipal officer in office at the time of the change shall continue as an officer until that officer's term expires and a successor is duly elected and qualified; and

~~[(f)]~~ (vi) ~~[notwithstanding Sections 10-3-103, 10-3-104, and 10-3-105,]~~ except as provided in Subsection (1)(b), the municipality maintains after the change in class the same form of government that it had immediately before the change.

(b) (i) If a town operating under a five-member council form of government changes

classes to a fifth class city, its form of government shall, upon issuance of the lieutenant governor's certificate under Section 10-2-302, change to a six-member council form.

(ii) As soon as practicable after the change in form of government under Subsection (1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is elected at the next municipal general election at which the mayor is not subject to election.

(2) (a) A change in class does not affect an action at law, prosecution, business, or work of the municipality changing classes, and proceedings shall continue and may be conducted and proceed as if no change in class had occurred.

(b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the new class provides the municipality a different remedy with respect to a right that it possessed at the time of the change, the remedy shall be cumulative to the remedy applicable before the change in class.

Section 4. Section **10-2-411** is amended to read:

10-2-411. Disqualification of commission member -- Alternate member.

(1) A member of the boundary commission is disqualified with respect to a protest before the commission if that member owns property:

(a) for a proposed annexation of an area located within a county of the first class:

(i) within the area proposed for annexation in a petition that is the subject of the protest;

or

(ii) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(a)[~~(i)(D)~~] (ii); or

(b) for a proposed annexation of an area located in a specified county, within the area proposed for annexation.

(2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Section 5. Section **10-3-101** is amended to read:

10-3-101. Governing body -- Legislative and executive powers.

(1) (a) Each municipality, except a municipality operating under a council-mayor form of government, shall have a governing body [which] that consists of:

(i) in a five-member council form of government, five council members, of which one is a mayor, who shall vote as a member of the governing body and who exercises ceremonial and administrative functions, and four are council members;

(ii) in a six-member council form of government, six council members, of which one is a mayor, who shall vote only in the case of a tie or in the appointment or dismissal of a city manager under Section 10-3-830 and who exercises ceremonial and administrative functions, and five are council members; and

(iii) in a council-manager form of government, a council of five or seven members, who shall appoint a manager.

(b) Each governing body under Subsection (1)(a) shall exercise the legislative and executive powers of the municipality [unless the municipality is organized with separate executive and legislative branches of municipal government].

(2) The government of a municipality operating under the council-mayor form of government is vested in two separate, independent, and equal branches of municipal government consisting of:

(a) the mayor, who exercises executive powers and, under the mayor's supervision, the administrative departments and officers; and

(b) a council of five or seven members, who exercise the legislative powers.

Section 6. Section **10-3-106** is amended to read:

10-3-106. Governing body in towns.

[The governing body of] Unless it has adopted another form of government under Part 12, Alternate Forms of Municipal Government Act, each town [that has not adopted an optional form of government under Part 12, Alternative Forms of Municipal Government Act, shall be a council of five persons one of whom shall be the mayor and the remaining four shall be council members] shall operate under a five-member council form of government.

Section 7. Section **10-3-205** is amended to read:

10-3-205. Election of officers in municipalities operating under a city council form of government.

In each [~~city of the third, fourth, or fifth class~~] municipality operating under a five-member or six-member city council form of government, the election and terms of office shall be as follows:

(1) The offices of mayor and [~~two~~] approximately half the council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

(2) The offices of the [~~other three~~] remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

Section 8. Section **10-3-206** is amended to read:

10-3-206. Election of officers in towns operating under a five-member council form of government.

In [~~towns~~] a town operating under the five-member council form of government, the election and terms of office of the officers shall be as follows:

(1) The offices of mayor and two [~~councilmen~~] council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

(2) The offices of the other two [~~councilmen~~] council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

(3) The offices shall be filled in at-large elections which shall be held at the time and in the manner provided for electing municipal officers.

Section 9. Section **10-3-504** is amended to read:

10-3-504. Quorum defined.

(1) The number of members of the governing body necessary to constitute a quorum is[~~7~~]:

(a) in[~~:(1) a city of the first class,~~] a municipality operating under a five-member or

six-member city council form of government or a five-member council-manager form of government, three or more; or

(b) in a seven-member council-manager form of government, four or more.

(2) The number of members of the legislative body of a municipality operating under a council-mayor form of government necessary to constitute a quorum is:

(a) for a five-member council-mayor form, three; and

(b) for a seven-member council-mayor form, four.

~~[(2) a city of the second class, two or more;]~~

~~[(3) a city of the third, fourth, or fifth class, three or more;]~~

~~[(4) a town, three or more.]~~

Section 10. Section **10-3-507** is amended to read:

10-3-507. Minimum vote required.

(1) (a) The minimum number of yes votes required to pass any ordinance[;] or resolution, or to take any action by the governing body, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but ~~[shall]~~ may never be less than:

~~[(a)]~~ (i) for a municipality operating under a five-member or six-member council form of government or a five-member council-manager form of government, three [in a city of the first class]; or

(ii) for a municipality operating under a seven-member council-manager form of government, four.

(b) The minimum number of yes votes requires to pass an ordinance or resolution or to take an action by the legislative body of a municipality operating under a council-mayor form of government, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but may never be less than:

(i) for a five-member council-mayor form, three; and

(ii) for a seven-member council-mayor form, four.

~~[(b) two in a city of the second class;]~~

~~[(c) three in a city of the third, fourth, or fifth class; and]~~

~~[(d) three in a town:]~~

(2) Any ordinance, resolution, or motion of the governing body having fewer favorable votes than required in this section shall be considered defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the governing body even though such majority vote is less than that required in this section.

(3) A majority of the members of the governing body, regardless of number, may fill any vacancy in the governing body.

Section 11. Section **10-3-711** is amended to read:

10-3-711. Publication and posting of ordinances.

(1) Before an ordinance may take effect, the legislative body of each municipality adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707, 10-3-708, 10-3-709, or 10-3-710, shall:

(a) deposit a copy of the ordinance in the office of the municipal recorder; and

(b) (i) publish a short summary of the ordinance at least once:

(A) in a newspaper published within the municipality; or

(B) if there is no newspaper published within the municipality, in a newspaper of general circulation within the municipality; or

(ii) post a complete copy of the ordinance:

(A) for a city of the first class, in nine public places within the city; or

(B) for any other municipality, in three public places within the municipality.

(2) (a) Any ordinance, code, or book, other than the state code, relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least ~~[three copies for cities or at least]~~ one copy ~~[for towns have]~~ has been filed for use and examination by the public in the office of the recorder or clerk of the city or town prior to the adoption of the ordinance by the governing body.

(b) Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further

publication or posting if reference is made to the state code.

(c) The ordinance adopting the code or book shall be published in the manner provided in this section.

Section 12. Section **10-3-1203** is amended to read:

10-3-1203. Election requirements and procedure for organization under different form of government.

(1) Except as provided in Subsection 10-2-303(1)(b), each municipality retains the form of government under which it is operating unless it changes its form as provided in this part.

~~[(1)]~~ (2) [A] Regardless of its class under Section 10-2-301, a municipality may reorganize [under any form of municipal government] as provided [for] in this part [or under Section 10-3-103, 10-3-104, 10-3-105, or 10-3-106, regardless of the city's class under Section 10-2-301.] and may choose as a form of government:

(a) a five-member council form;

(b) a six-member council form;

(c) a council-mayor form; or

(d) a council-manager form.

~~[(2)]~~ (3) Reorganization under Subsection ~~[(1)]~~ (2) shall be by approval of a majority of registered voters of the municipality voting in a special election held for that purpose.

~~[(3)]~~ (4) (a) The proposal may be entered on the ballot by resolution passed by the governing body of the municipality or by initiative as provided for in Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures.

(b) The resolution or petition shall state the number, method of election, and initial terms of council members and shall specify the boundaries of districts substantially equal in population if some or all council members are to be chosen from these districts.

~~[(4)]~~ (5) (a) The proposal shall be voted upon at a special election to be held not more than twelve months after the resolution is passed or after receipt of a valid initiative petition.

(b) The special election shall be held at least 90 days before or after regular municipal elections.

(c) The ballot for the special election to adopt or reject one of the forms of municipal government shall be in substantially the following form:

Shall (name of municipality), Utah, adopt	Yes
the (council-mayor) (council-manager)	
(five-member [commission] <u>council</u>) [(three-member commission)	
(six-member council) [(five-member council)] form of	
municipal government?	No

Section 13. Section **10-3-1208** is amended to read:

10-3-1208. Election of officers -- When new government operative -- Compensation of officials without position in new government.

Upon approval of an optional form of government by a municipality pursuant to this part, election of officers shall be held in the municipality on the Tuesday next following the first Monday in November following approval of the optional form, or on the same day in the year next following, whichever day falls in an odd-numbered year. The new government shall become effective at 12 noon on the first Monday of January following the election of officers. Elected officials of the municipality whose positions would no longer exist as a result of the adoption of a form of government provided for in this part shall be paid at the same rate until the date on which their terms would have expired, if they hold no municipal office in the new government for which they are regularly compensated. At their option, former [~~commissioners of a first and second class city,~~] council members [~~of third, fourth, or fifth class city, or board members of a town~~] may serve as one of the council members for the remainder of their term.

Section 14. Section **10-9-307** is amended to read:

10-9-307. Plans for moderate income housing.

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) [~~municipalities~~] cities should afford a reasonable opportunity for a variety of housing,

including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be encouraged to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income ~~[of the metropolitan statistical area]~~ for households of the same size in the county in which the city is located.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a ~~[municipal]~~ city legislative body that includes:

(i) an estimate of the existing supply of moderate income housing located within the ~~[municipality]~~ city;

(ii) an estimate of the need for moderate income housing in the ~~[municipality]~~ city for the next five years as revised ~~[annually]~~ biennially;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the ~~[municipality's]~~ city's program to encourage an adequate supply of moderate income housing.

(3) ~~[Before December 31, 1998, each municipal]~~ The legislative body of each city shall, as part of its general plan, adopt a plan for moderate income housing within that ~~[municipality]~~ city.

(4) A plan may provide moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of

moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction related fees generally imposed by the [municipality] city;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each city ~~[that is located within a county of the first or second class and of each other city of the first, second, third, or fourth class shall annually]~~ shall biennially:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the [municipality] city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the [municipality] city to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the [municipality] city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the [municipality] city to coordinate moderate income housing plans and actions with neighboring municipalities.

(c) The legislative body of each city ~~[that is located within a county of the first or second class and of each other city of the first, second, third, or fourth class]~~ shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic Development and the association of governments in which the [municipality] city is located.

(6) In a civil action seeking enforcement or claiming a violation of this section, a plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

Section 15. Section **17-27-307** is amended to read:

17-27-307. Plans for moderate income housing.

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) counties should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be located in all areas of a community to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the county statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a county legislative body that includes, but is not limited to:

(i) an estimate of the existing supply of moderate income housing located within the county;

(ii) an estimate of the need for moderate income housing in that county for the next five years as revised [~~annually~~] biennially;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the county's program to encourage an adequate supply of moderate income housing.

(3) Before December 31, 1998, each county legislative body shall, as part of its general plan, adopt a plan for moderate income housing within the unincorporated areas of that county.

(4) A plan may provide for moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

- (a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;
- (b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;
- (c) rehabilitation of existing uninhabitable housing stock;
- (d) consideration of waiving construction related fees generally imposed by the county;
- (e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;
- (f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and
- (g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each county with a population over 25,000 shall [~~annually~~] biennially:

- (i) review the plan and its implementation; and
 - (ii) prepare a report setting forth the findings of the review.
- (b) Each report under Subsection (5)(a)(ii) shall include a description of:
- (i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
 - (ii) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;
 - (iii) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
 - (iv) efforts made by the county to coordinate moderate income housing plans and actions

with neighboring counties.

(c) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic Development and the association of governments in which the county is located.

(6) In a civil action seeking enforcement or claiming a violation of this section, a plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

Section 16. Repealer.

This bill repeals:

Section 10-3-103, Governing body in cities of the first class.

Section 10-3-104, Governing body in cities of the second class.

Section 10-3-105, Governing body in cities of the third, fourth, and fifth class.

Section 10-3-203, Election of officers in cities of the first class.

Section 10-3-204, Election of officers in cities of the second class.

Section 10-3-401, Mayor as a voting member of governing body.

Section 10-3-402, Mayor in third, fourth, or fifth class city -- Mayor may not vote --

Exceptions.

Section 10-3-1209, Optional forms defined.