

1                                   **MUNICIPAL GOVERNMENT AMENDMENTS**

2   2004 GENERAL SESSION

3   STATE OF UTAH

4                                   **Sponsor: Wayne A. Harper**

5 

---

---

**LONG TITLE**

6 **General Description:**

7                   This bill modifies provisions relating to municipal government.

8 **Highlighted Provisions:**

9                   This bill:

- 10                   ▶ changes "city recorder" to "city clerk";
- 11                   ▶ reduces the number of copies of an ordinance, code, or book relating to building or
- 12 safety standards, municipal functions, administration, control, or regulations that a
- 13 city clerk is required to maintain from three to one;
- 14                   ▶ eliminates provisions that specify the type of governing body that a city or town
- 15 must have;
- 16                   ▶ eliminates some optional forms of municipal government and related provisions and
- 17 makes conforming changes;
- 18                   ▶ modifies optional forms of municipal government and makes conforming changes;
- 19                   ▶ narrows the application of moderate income housing plan requirements to cities of
- 20 the first, second, and third class; and
- 21                   ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23                   None

24 **Other Special Clauses:**

25                   None

26 **Utah Code Sections Affected:**



28 AMENDS:

- 29 **8-5-6**, as last amended by Chapter 123, Laws of Utah 2002
- 30 **10-1-104**, as last amended by Chapter 292, Laws of Utah 2003
- 31 **10-2-112**, as last amended by Chapter 292, Laws of Utah 2003
- 32 **10-2-114**, as last amended by Chapter 292, Laws of Utah 2003
- 33 **10-2-303**, as last amended by Chapter 17, Laws of Utah 1999
- 34 **10-2-403**, as last amended by Chapter 294, Laws of Utah 2003
- 35 **10-2-405**, as last amended by Chapters 211 and 292, Laws of Utah 2003
- 36 **10-2-406**, as last amended by Chapters 211 and 257, Laws of Utah 2003
- 37 **10-2-407**, as last amended by Chapter 211, Laws of Utah 2003
- 38 **10-2-411**, as last amended by Chapter 206, Laws of Utah 2001
- 39 **10-2-414**, as last amended by Chapter 211, Laws of Utah 2003
- 40 **10-2-418**, as last amended by Chapter 227, Laws of Utah 2003
- 41 **10-2-419**, as last amended by Chapter 257, Laws of Utah 2003
- 42 **10-3-204**, as last amended by Chapter 278, Laws of Utah 1997
- 43 **10-3-205**, as last amended by Chapter 292, Laws of Utah 2003
- 44 **10-3-208**, as last amended by Chapters 215 and 292, Laws of Utah 2003
- 45 **10-3-401**, as enacted by Chapter 48, Laws of Utah 1977
- 46 **10-3-402**, as last amended by Chapter 292, Laws of Utah 2003
- 47 **10-3-501**, as last amended by Chapter 30, Laws of Utah 1979
- 48 **10-3-502**, as last amended by Chapter 292, Laws of Utah 2003
- 49 **10-3-504**, as last amended by Chapter 292, Laws of Utah 2003
- 50 **10-3-507**, as last amended by Chapter 292, Laws of Utah 2003
- 51 **10-3-603**, as enacted by Chapter 48, Laws of Utah 1977
- 52 **10-3-604**, as last amended by Chapter 49, Laws of Utah 1981
- 53 **10-3-704**, as enacted by Chapter 48, Laws of Utah 1977
- 54 **10-3-708**, as enacted by Chapter 48, Laws of Utah 1977
- 55 **10-3-711**, as last amended by Chapter 84, Laws of Utah 1997
- 56 **10-3-713**, as enacted by Chapter 48, Laws of Utah 1977
- 57 **10-3-714**, as last amended by Chapter 4, Laws of Utah 1993
- 58 **10-3-803**, as enacted by Chapter 48, Laws of Utah 1977

- 59           **10-3-810**, as last amended by Chapter 292, Laws of Utah 2003
- 60           **10-3-825**, as enacted by Chapter 48, Laws of Utah 1977
- 61           **10-3-828**, as last amended by Chapter 59, Laws of Utah 1990
- 62           **10-3-902**, as enacted by Chapter 48, Laws of Utah 1977
- 63           **10-3-916**, as last amended by Chapter 292, Laws of Utah 2003
- 64           **10-3-1106**, as enacted by Chapter 48, Laws of Utah 1977
- 65           **10-3-1203**, as last amended by Chapter 178, Laws of Utah 2001
- 66           **10-3-1208**, as last amended by Chapter 292, Laws of Utah 2003
- 67           **10-3-1209**, as last amended by Chapter 178, Laws of Utah 2001
- 68           **10-3-1212**, as last amended by Chapter 292, Laws of Utah 2003
- 69           **10-3-1219**, as last amended by Chapter 194, Laws of Utah 1996
- 70           **10-3-1226**, as enacted by Chapter 48, Laws of Utah 1977
- 71           **10-6-112**, as enacted by Chapter 26, Laws of Utah 1979
- 72           **10-6-119**, as last amended by Chapter 300, Laws of Utah 1999
- 73           **10-6-134**, as last amended by Chapter 71, Laws of Utah 1982
- 74           **10-6-135**, as last amended by Chapter 292, Laws of Utah 2003
- 75           **10-6-137**, as enacted by Chapter 26, Laws of Utah 1979
- 76           **10-6-138**, as enacted by Chapter 26, Laws of Utah 1979
- 77           **10-6-139**, as last amended by Chapter 292, Laws of Utah 2003
- 78           **10-6-140**, as enacted by Chapter 26, Laws of Utah 1979
- 79           **10-6-142**, as enacted by Chapter 26, Laws of Utah 1979
- 80           **10-6-143**, as enacted by Chapter 26, Laws of Utah 1979
- 81           **10-6-148**, as last amended by Chapter 292, Laws of Utah 2003
- 82           **10-6-150**, as last amended by Chapter 300, Laws of Utah 1999
- 83           **10-6-152**, as last amended by Chapter 4, Laws of Utah 1993
- 84           **10-6-157**, as last amended by Chapter 292, Laws of Utah 2003
- 85           **10-9-307**, as last amended by Chapter 292, Laws of Utah 2003
- 86           **11-14-3**, as last amended by Chapter 292, Laws of Utah 2003
- 87           **17A-2-1307**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 88           **17A-2-1308**, as last amended by Chapter 292, Laws of Utah 2003
- 89           **17A-3-305**, as renumbered and amended by Chapter 186 and last amended by Chapter

- 90 214, Laws of Utah 1990
- 91 **17A-3-317**, as last amended by Chapter 292, Laws of Utah 2003
- 92 **17A-3-406**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 93 **17A-3-407**, as last amended by Chapter 292, Laws of Utah 2003
- 94 **17B-2-201**, as last amended by Chapter 90, Laws of Utah 2001
- 95 **17B-2-204**, as enacted by Chapter 368, Laws of Utah 1998
- 96 **17B-2-205**, as enacted by Chapter 368, Laws of Utah 1998
- 97 **17B-2-206**, as enacted by Chapter 368, Laws of Utah 1998
- 98 **17B-2-209**, as enacted by Chapter 368, Laws of Utah 1998
- 99 **17B-2-213**, as last amended by Chapter 257, Laws of Utah 2003
- 100 **17B-2-214**, as last amended by Chapter 6, Laws of Utah 2003, Second Special Session
- 101 **17B-2-701**, as enacted by Chapter 90, Laws of Utah 2001
- 102 **17B-4-1401**, as enacted by Chapter 133, Laws of Utah 2001
- 103 **20A-4-102**, as last amended by Chapter 177, Laws of Utah 2002
- 104 **20A-7-101**, as last amended by Chapters 21 and 272, Laws of Utah 1994
- 105 **20A-7-501**, as renumbered and amended by Chapter 272, Laws of Utah 1994
- 106 **20A-7-503**, as last amended by Chapter 3, Laws of Utah 2000
- 107 **20A-7-603**, as last amended by Chapters 3 and 75, Laws of Utah 2000
- 108 **20A-7-609**, as last amended by Chapter 340, Laws of Utah 1995
- 109 **20A-9-203**, as last amended by Chapter 127, Laws of Utah 2003
- 110 **20A-9-404**, as last amended by Chapter 292, Laws of Utah 2003
- 111 **52-1-4**, Utah Code Annotated 1953
- 112 **54-8-22**, as last amended by Chapter 227, Laws of Utah 1993
- 113 **63-30-11**, as last amended by Chapter 157, Laws of Utah 2000
- 114 **67-1a-2**, as last amended by Chapters 133 and 176, Laws of Utah 2002
- 115 **78-5-135**, as last amended by Chapter 308, Laws of Utah 2001
- 116 **78-27-4**, as last amended by Chapter 22, Laws of Utah 2002
- 117 REPEALS:
- 118 **10-3-103**, as last amended by Chapter 17, Laws of Utah 1999
- 119 **10-3-104**, as last amended by Chapter 17, Laws of Utah 1999
- 120 **10-3-105**, as last amended by Chapter 292, Laws of Utah 2003

121           **10-3-106**, as last amended by Chapter 1, Laws of Utah 2000  
 122           **10-3-203**, as last amended by Chapter 278, Laws of Utah 1997  
 123           **10-3-206**, as enacted by Chapter 48, Laws of Utah 1977

---

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

126           Section 1. Section **8-5-6** is amended to read:

127           **8-5-6. Alternative council or board procedures for notice -- Termination of**  
 128 **rights.**

129           (1) As an alternative to the procedures set forth in Sections 8-5-1 through 8-5-4, a  
 130 municipal council or cemetery maintenance district board may pass a resolution demanding  
 131 that the owner of a lot, site, or portion of the cemetery, which has been unused for burial  
 132 purposes for more than 60 years, file with the county recorder[;] or city [~~recorder,~~] or town  
 133 clerk notice of any claim to the lot, site, or portion of the cemetery.

134           (2) The municipal council or cemetery maintenance district board shall then cause a  
 135 copy of the resolution to be personally served on the owner in the same manner as personal  
 136 service of process in a civil action. The resolution shall notify the owner that the owner shall,  
 137 within 60 days after service of the resolution on the owner, express interest in maintaining the  
 138 cemetery lot, site, or portion of the cemetery and submit satisfactory evidence of an intention to  
 139 use the lot, site, or portion of the cemetery for a burial.

140           (3) If the owner cannot be personally served with the resolution of the municipal  
 141 council or cemetery maintenance district board as required in Subsection (2), the municipal  
 142 council or cemetery maintenance district board shall publish its resolution for three successive  
 143 weeks in a newspaper of general circulation within the county and mail a copy of the resolution  
 144 within 14 days after the publication to the owner's last known address, if available.

145           (4) If, for 30 days after the last date of service or publication of the municipal council's  
 146 or cemetery maintenance district board's resolution, the owner or person with a legal interest in  
 147 the cemetery lot fails to state a valid interest in the use of the cemetery lot, site, or portion of  
 148 the cemetery for burial purposes, the owner's rights are terminated and that portion of the  
 149 cemetery shall be vested in the municipality or cemetery maintenance district.

150           Section 2. Section **10-1-104** is amended to read:

151           **10-1-104. Definitions.**

152 As used in this title:

153 (1) "City" means a municipality that is classified by population as a city of the first  
154 class, a city of the second class, a city of the third class, a city of the fourth class, or a city of  
155 the fifth class, under Section 10-2-301.

156 (2) "Contiguous" means:

157 (a) if used to described an area, continuous, uninterrupted, and without an island of  
158 territory not included as part of the area; and

159 (b) if used to describe an area's relationship to another area, sharing a common  
160 boundary.

161 (3) "Governing body" means collectively the legislative body and the executive of any  
162 municipality. Unless otherwise provided:

163 (a) in a city of the first or second class, the governing body is the city commission;

164 (b) in a city of the third, fourth, or fifth class, the governing body is the city council;

165 and

166 (c) in a town, the governing body is the town council.

167 (4) "Municipal" means of or relating to a municipality.

168 (5) "Municipality" means a city of the first class, city of the second class, city of the  
169 third class, city of the fourth class, city of the fifth class, or a town, as classified in Section  
170 10-2-301.

171 (6) "Peninsula," when used to describe an unincorporated area, means an area  
172 surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated  
173 territory and situated so that the length of a line drawn across the unincorporated area from an  
174 incorporated area to an incorporated area on the opposite side shall be less than 25% of the  
175 total aggregate boundaries of the unincorporated area.

176 (7) "Person" means an individual, corporation, partnership, organization, association,  
177 trust, governmental agency, or any other legal entity.

178 (8) "Provisions of law" shall include other statutes of the state [~~of Utah~~] and  
179 ordinances, rules, and regulations properly adopted by any municipality unless the construction  
180 is clearly contrary to the intent of state law.

181 [~~(9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.~~]

182 [~~(10)~~ (9) "Town" means a municipality classified by population as a town under

183 Section 10-2-301.

184 [(H)] (10) "Unincorporated" means not within a municipality.

185 Section 3. Section 10-2-112 is amended to read:

186 **10-2-112. Ballot used at the incorporation election.**

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

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

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

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

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

197 City [~~insert "Commission" for a city of the first or second class or "Council" for a~~  
198 ~~city of the third, fourth, or fifth class~~] form

199 City Council form

200 Council-Mayor form

201 Council-Manager form.

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

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

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

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

210 Section 4. Section 10-2-114 is amended to read:

211 **10-2-114. Determination of number of commission or council members --**  
212 **Determination of election districts -- Hearings and notice.**

213 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of

214 the canvass of the election under Section 10-2-111:

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

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

222 (c) determine the initial terms of the mayor and members of the city commission or  
223 council so that:

224 (i) the mayor and approximately half the members of the city commission or council  
225 are elected to serve an initial term, of no less than one year, that allows their successors to serve  
226 a full four-year term that coincides with the schedule established in [~~Subsection 10-3-203(1)~~  
227 ~~for a first class city,~~] Subsection 10-3-204(1) [~~for a second class city, and Subsection~~] or  
228 10-3-205(1) [~~for a third, fourth, or fifth class city~~], as applicable; and

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

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

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

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

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

244 (c) (i) If there is no newspaper of general circulation within the future city, the petition

245 sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous  
246 places within the future city that are most likely to give notice of the hearing to the residents of  
247 the future city.

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

250 Section 5. Section **10-2-303** is amended to read:

251 **10-2-303. Effect of change in class.**

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

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

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

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

260 (d) the change shall not affect the identity of the municipality;

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

263 (f) [~~notwithstanding Sections 10-3-103, 10-3-104, and 10-3-105;~~] the municipality  
264 maintains after the change in class the same form of government that it had immediately before  
265 the change.

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

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

273 Section 6. Section **10-2-403** is amended to read:

274 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

275 (1) Except as provided in Section 10-2-418, the process to annex an unincorporated

276 area to a municipality is initiated by a petition as provided in this section.

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

278 (a) be filed with the city [~~recorder~~] or town clerk, as the case may be, of the proposed  
279 annexing municipality;

280 (b) contain the signatures of:

281 (i) the owners of private real property that:

282 (A) is located within the area proposed for annexation;

283 (B) (I) subject to Subsection (2)(b)(i)(B)(II), covers a majority of the private land area  
284 within the area proposed for annexation; and

285 (II) covers 100% of the private land area within the area proposed for annexation, if the  
286 area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture  
287 Protection Area; and

288 (C) is equal in value to at least 1/3 of the value of all private real property within the  
289 area proposed for annexation; or

290 (ii) if all the real property within the area proposed for annexation is owned by a public  
291 entity other than the federal government, the owner of all the publicly owned real property;

292 (c) be accompanied by:

293 (i) an accurate and recordable map, prepared by a licensed surveyor, of the area  
294 proposed for annexation; and

295 (ii) a copy of the notice sent to affected entities as required under Subsection (6) and a  
296 list of the affected entities to which notice was sent;

297 (d) if the petition proposes the annexation of an area located in a county that is not the  
298 county in which the proposed annexing municipality is located, be accompanied by a copy of  
299 the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in  
300 which the area is located; and

301 (e) designate up to five of the signers of the petition as sponsors, one of whom shall be  
302 designated as the contact sponsor, and indicate the mailing address of each sponsor.

303 (3) A petition under Subsection (1) may not propose the annexation of all or part of an  
304 area proposed for annexation to a municipality in a previously filed petition that has not been  
305 denied, rejected, or granted.

306 (4) A petition under Subsection (1) proposing the annexation of an area located in a

307 county of the first class may not propose the annexation of an area that includes some or all of  
308 an area proposed to be incorporated in a request for a feasibility study under Section 10-2-103  
309 or a petition under Section 10-2-125 if:

310 (a) the request or petition was filed before the filing of the annexation petition; and

311 (b) the request, a petition under Section 10-2-109 based on that request, or a petition  
312 under Section 10-2-125 is still pending on the date the annexation petition is filed.

313 (5) If practicable and feasible, the boundaries of an area proposed for annexation shall  
314 be drawn:

315 (a) along the boundaries of existing special districts for sewer, water, and other  
316 services, along the boundaries of school districts whose boundaries follow city boundaries or  
317 school districts adjacent to school districts whose boundaries follow city boundaries, and along  
318 the boundaries of other taxing entities;

319 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type  
320 services;

321 (c) to facilitate the consolidation of overlapping functions of local government;

322 (d) to promote the efficient delivery of services; and

323 (e) to encourage the equitable distribution of community resources and obligations.

324 (6) Before filing a petition with the city recorder or town clerk, the petition sponsors  
325 shall send written notice to each affected entity of their intent to file a petition.

326 (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the  
327 petition to:

328 (a) the clerk of the county in which the area proposed for annexation is located; and

329 (b) the chair of the planning commission of each township in which any part of the area  
330 proposed for annexation is located.

331 Section 7. Section **10-2-405** is amended to read:

332 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

333 (1) (a) (i) (A) A municipal legislative body may:

334 (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny  
335 a petition filed under Section 10-2-403; or

336 (II) accept the petition for further consideration under this part.

337 (B) A petition shall be considered to have been accepted for further consideration

338 under this part if a municipal legislative body fails to act to deny or accept the petition under  
339 Subsection (1)(a)(i)(A):

340 (I) in the case of a city of the first or second class, within 14 days after the filing of the  
341 petition; or

342 (II) in the case of a city of the third, fourth, or fifth class or a town, at the next regularly  
343 scheduled meeting of the municipal legislative body that is at least 14 days after the date the  
344 petition was filed.

345 (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it  
346 shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the  
347 clerk of the county in which the area proposed for annexation is located, and the chair of the  
348 planning commission of each township in which any part of the area proposed for annexation is  
349 located.

350 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403  
351 proposing to annex an area located in a county of the first class if:

352 (i) the petition contains the signatures of the owners of private real property that:

353 (A) is located within the area proposed for annexation;

354 (B) covers a majority of the private land area within the area proposed for annexation;

355 and

356 (C) is equal in value to at least 1/2 of the value of all private real property within the  
357 area proposed for annexation;

358 (ii) the population in the area proposed for annexation does not exceed 10% of the  
359 population of the proposed annexing municipality;

360 (iii) the property tax rate for municipal services in the area proposed to be annexed is  
361 higher than the property tax rate of the proposed annexing municipality; and

362 (iv) all annexations by the proposed annexing municipality during the year that the  
363 petition was filed have not increased the municipality's population by more than 20%.

364 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or  
365 is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city [~~recorder~~] or  
366 town clerk, as the case may be, shall, within 30 days of that acceptance:

367 (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the  
368 area proposed for annexation is located the records the city [~~recorder~~] or town clerk needs to

369 determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4);

370 (b) with the assistance of the municipal attorney, determine whether the petition meets  
371 the requirements of Subsections 10-2-403(2), (3), and (4); and

372 (c) (i) if the city [recorder] or town clerk determines that the petition meets those  
373 requirements, certify the petition and mail or deliver written notification of the certification to  
374 the municipal legislative body, the contact sponsor, the county legislative body, and the chair of  
375 the planning commission of each township in which any part of the area proposed for  
376 annexation is located; or

377 (ii) if the city [recorder] or town clerk determines that the petition fails to meet any of  
378 those requirements, reject the petition and mail or deliver written notification of the rejection  
379 and the reasons for the rejection to the municipal legislative body, the contact sponsor, the  
380 county legislative body, and the chair of the planning commission of each township in which  
381 any part of the area proposed for annexation is located.

382 (3) (a) (i) If the city [recorder] or town clerk rejects a petition under Subsection  
383 (2)[(b)](c)(ii), the petition may be modified to correct the deficiencies for which it was rejected  
384 and then refiled with the city [recorder] or town clerk, as the case may be.

385 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used  
386 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as  
387 modified under Subsection (3)(a)(i).

388 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city  
389 [recorder] or town clerk under Subsection (2)[(b)](c)(ii), the refiled petition shall be treated as  
390 a newly filed petition under Subsection 10-2-403(1).

391 (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records  
392 that a city [recorder] or town clerk requests under Subsection (2)(a).

393 Section 8. Section **10-2-406** is amended to read:

394 **10-2-406. Notice of certification -- Publishing and providing notice of petition.**

395 (1) After receipt of the notice of certification from the city [recorder] or town clerk  
396 under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall:

397 (a) (i) publish a notice at least once a week for three successive weeks, beginning no  
398 later than ten days after receipt of the notice of certification, in a newspaper of general  
399 circulation within:

- 400 (A) the area proposed for annexation; and
- 401 (B) the unincorporated area within 1/2 mile of the area proposed for annexation; or
- 402 (ii) if there is no newspaper of general circulation within those areas, post written
- 403 notices in conspicuous places within those areas that are most likely to give notice to residents
- 404 within those areas; and
- 405 (b) within 20 days of receipt of the notice of certification under Subsection
- 406 10-2-405(2)(c)(i), mail written notice to each affected entity.
- 407 (2) (a) The notice under Subsections (1)(a) and (b) shall:
- 408 (i) state that a petition has been filed with the municipality proposing the annexation of
- 409 an area to the municipality;
- 410 (ii) state the date of the municipal legislative body's receipt of the notice of certification
- 411 under Subsection 10-2-405(2)(c)(i);
- 412 (iii) describe the area proposed for annexation in the annexation petition;
- 413 (iv) state that the complete annexation petition is available for inspection and copying
- 414 at the office of the city recorder or town clerk;
- 415 (v) state in conspicuous and plain terms that the municipality may grant the petition
- 416 and annex the area described in the petition unless, within the time required under Subsection
- 417 10-2-407(2)(a)(i)(A), a written protest to the annexation petition is filed with the commission
- 418 and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing
- 419 municipality;
- 420 (vi) state the address of the commission or, if a commission has not yet been created in
- 421 the county, the county clerk, where a protest to the annexation petition may be filed;
- 422 (vii) state that the area proposed for annexation to the municipality will also
- 423 automatically be annexed to a local district providing fire protection, paramedic, and
- 424 emergency services, as provided in Section 17B-2-515.5, if:
- 425 (A) the proposed annexing municipality is entirely within the boundaries of a local
- 426 district:
- 427 (I) that provides fire protection, paramedic, and emergency services; and
- 428 (II) in the creation of which an election was not required because of Subsection
- 429 17B-2-214(3)(c); and
- 430 (B) the area proposed to be annexed to the municipality is not already within the

431 boundaries of the local district; and

432 (viii) state that the area proposed for annexation to the municipality will be  
433 automatically withdrawn from a local district providing fire protection, paramedic, and  
434 emergency services, as provided in Subsection 17B-2-601(2), if:

435 (A) the petition proposes the annexation of an area that is within the boundaries of a  
436 local district:

437 (I) that provides fire protection, paramedic, and emergency services; and

438 (II) in the creation of which an election was not required because of Subsection  
439 17B-2-214(3)(c); and

440 (B) the proposed annexing municipality is not within the boundaries of the local  
441 district.

442 (b) The statement required by Subsection (2)(a)(v) shall state the deadline for filing a  
443 written protest in terms of the actual date rather than by reference to the statutory citation.

444 (c) In addition to the requirements under Subsection (2)(a), a notice under Subsection  
445 (1)(a) for a proposed annexation of an area within a county of the first class shall include a  
446 statement that a protest to the annexation petition may be filed with the commission by  
447 property owners if it contains the signatures of the owners of private real property that:

448 (i) is located in the unincorporated area within 1/2 mile of the area proposed for  
449 annexation;

450 (ii) covers at least 25% of the private land area located in the unincorporated area  
451 within 1/2 mile of the area proposed for annexation; and

452 (iii) is equal in value to at least 15% of all real property located in the unincorporated  
453 area within 1/2 mile of the area proposed for annexation.

454 Section 9. Section **10-2-407** is amended to read:

455 **10-2-407. Protest to annexation petition -- Township planning commission**  
456 **recommendation -- Petition requirements -- Disposition of petition if no protest filed.**

457 (1) (a) A protest to an annexation petition under Section 10-2-403 may be filed by:

458 (i) the legislative body or governing board of an affected entity; or

459 (ii) for a proposed annexation of an area within a county of the first class, the owners  
460 of private real property that:

461 (A) is located in the unincorporated area within 1/2 mile of the area proposed for

462 annexation;

463 (B) covers at least 25% of the private land area located in the unincorporated area  
464 within 1/2 mile of the area proposed for annexation; and

465 (C) is equal in value to at least 15% of all real property located in the unincorporated  
466 area within 1/2 mile of the area proposed for annexation.

467 (b) (i) A planning commission of a township located in a county of the first class may  
468 recommend to the legislative body of the county in which the township is located that the  
469 county legislative body file a protest against a proposed annexation under this part of an area  
470 located within the township.

471 (ii) (A) The township planning commission shall communicate each recommendation  
472 under Subsection (1)(b)(i) in writing to the county legislative body within 30 days of the city  
473 [recorder] or town clerk's certification of the annexation petition under Subsection 10-2-405(2)  
474 (c)(i).

475 (B) At the time the recommendation is communicated to the county legislative body  
476 under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy  
477 of the recommendation to the legislative body of the proposed annexing municipality and to the  
478 contact sponsor.

479 (2) (a) Each protest under Subsection (1)(a) shall:

480 (i) be filed:

481 (A) no later than 30 days after the municipal legislative body's receipt of the notice of  
482 certification under Subsection 10-2-405(2)(c)(i); and

483 (B) (I) in a county that has already created a commission under Section 10-2-409, with  
484 the commission; or

485 (II) in a county that has not yet created a commission under Section 10-2-409, with the  
486 clerk of the county in which the area proposed for annexation is located; [and]

487 (ii) state each reason for the protest of the annexation petition and, if the area proposed  
488 to be annexed is located in a specified county, justification for the protest under the standards  
489 established in this chapter;

490 (iii) if the area proposed to be annexed is located in a specified county, contain other  
491 information that the commission by rule requires or that the party filing the protest considers  
492 pertinent; and

493 (iv) the name and address of a contact person who is to receive notices sent by the  
494 commission with respect to the protest proceedings.

495 (b) The party filing a protest under this section shall on the same date deliver or mail a  
496 copy of the protest to the city [~~recorder~~] or town clerk of the proposed annexing municipality.

497 (c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall  
498 immediately notify the county legislative body of the protest and shall deliver the protest to the  
499 boundary commission within five days of its creation under Subsection 10-2-409(1)(b).

500 (d) Each protest of a proposed annexation of an area located in a county of the first  
501 class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and  
502 (b):

503 (i) indicate the typed or printed name and current residence address of each owner  
504 signing the protest; and

505 (ii) designate one of the signers of the protest as the contact person and state the  
506 mailing address of the contact person.

507 (3) (a) (i) If a protest is filed under this section:

508 (A) the municipal legislative body may, at its next regular meeting after expiration of  
509 the deadline under Subsection (2)(a)(i)(A) and, for a proposed annexation of an area located in  
510 a county of the first class, except as provided in Subsection (3)(a)(iii), deny the annexation  
511 petition; or

512 (B) if the municipal legislative body does not deny the annexation petition under  
513 Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the  
514 annexation petition until after receipt of the commission's notice of its decision on the protest  
515 under Section 10-2-416.

516 (ii) If a municipal legislative body denies an annexation petition under Subsection  
517 (3)(a)(i)(A), the municipal legislative body shall, within five days of the denial, send notice of  
518 the denial in writing to:

519 (A) the contact sponsor of the annexation petition;

520 (B) the commission;

521 (C) each entity that filed a protest; and

522 (D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an  
523 area located in a county of the first class, the contact person.

524 (iii) A municipal legislative body may not deny an annexation petition proposing to  
525 annex an area located in a county of the first class if:

526 (A) the petition contains the signatures of the owners of private real property that:

527 (I) is located within the area proposed for annexation;

528 (II) covers a majority of the private land area within the area proposed for annexation;

529 and

530 (III) is equal in value to at least 1/2 of the value of all private real property within the  
531 area proposed for annexation;

532 (B) the population in the area proposed for annexation does not exceed 10% of the  
533 population of the proposed annexing municipality;

534 (C) the property tax rate for municipal services in the area proposed to be annexed is  
535 higher than the property tax rate of the proposed annexing municipality; and

536 (D) all annexations by the proposed annexing municipality during the year that the  
537 petition was filed have not increased the municipality's population by more than 20%.

538 (b) (i) If no timely protest is filed under this section, the municipal legislative body  
539 may, subject to Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is  
540 the subject of the annexation petition.

541 (ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal  
542 legislative body shall:

543 (A) hold a public hearing; and

544 (B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

545 (I) publish notice of the hearing in a newspaper of general circulation within the  
546 municipality and the area proposed for annexation; or

547 (II) if there is no newspaper of general circulation in those areas, post written notices of  
548 the hearing in conspicuous places within those areas that are most likely to give notice to  
549 residents within those areas.

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

551 **10-2-411. Disqualification of commission member -- Alternate member.**

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

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

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

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

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

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

565 Section 11. Section **10-2-414** is amended to read:

566 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

567 (1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of  
568 an area located in a county of the first class do not meet the requirements of Subsection  
569 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility  
570 consultant's submission of the results of the study, file with the city [recorder] or town clerk of  
571 the proposed annexing municipality a modified annexation petition altering the boundaries of  
572 the proposed annexation.

573 (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the  
574 sponsors of the annexation petition shall deliver or mail a copy of the modified annexation  
575 petition to the clerk of the county in which the area proposed for annexation is located.

576 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the  
577 requirements of Subsections 10-2-403(2), (3), and (4).

578 (2) (a) Within 20 days of the city [recorder] or town clerk's receipt of the modified  
579 annexation petition, the city [recorder] or town clerk, as the case may be, shall follow the same  
580 procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and  
581 (3)(a) for an original annexation petition.

582 (b) If the city [recorder] or town clerk certifies the modified annexation petition under  
583 Subsection 10-2-405(2)(c)(i), the city [recorder] or town clerk, as the case may be, shall send  
584 written notice of the certification to:

585 (i) the commission;

586 (ii) each entity that filed a protest to the annexation petition; and  
587 (iii) if a protest was filed under Subsection 10-2-407(1)(a)(ii), the contact person.  
588 (c) (i) If the modified annexation petition proposes the annexation of an area that  
589 includes part or all of a special district or school district that was not included in the area  
590 proposed for annexation in the original petition, the city [recorder] or town clerk, as the case  
591 may be, shall also send notice of the certification of the modified annexation petition to the  
592 board of the special district or school district.

593 (ii) If the area proposed for annexation in the modified annexation petition is within  
594 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the  
595 area proposed for annexation in the original annexation petition, the city [recorder] or town  
596 clerk, as the case may be, shall also send notice of the certification of the modified annexation  
597 petition to the legislative body of that municipality.

598 (3) Within ten days of the commission's receipt of the notice under Subsection (2)(b),  
599 the commission shall engage the feasibility consultant that conducted the feasibility study to  
600 supplement the feasibility study to take into account the information in the modified  
601 annexation petition that was not included in the original annexation petition.

602 (4) The commission shall require the feasibility consultant to complete the  
603 supplemental feasibility study and to submit written results of the supplemental study to the  
604 commission no later than 30 days after the feasibility consultant is engaged to conduct the  
605 supplemental feasibility study.

606 Section 12. Section **10-2-418** is amended to read:

607 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**  
608 **Hearing.**

609 (1) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an  
610 unincorporated area under this section without an annexation petition if:

611 (i) (A) the area to be annexed consists of one or more unincorporated islands within or  
612 unincorporated peninsulas contiguous to the municipality;

613 (B) the majority of each island or peninsula consists of residential or commercial  
614 development;

615 (C) the area proposed for annexation requires the delivery of municipal-type services;  
616 and

617 (D) the municipality has provided most or all of the municipal-type services to the area  
618 for more than one year; or

619 (ii) (A) the area to be annexed consists of one or more unincorporated islands within  
620 the municipality, each of which has fewer than 500 residents; and

621 (B) the municipality has provided one or more municipal-type services to the area for  
622 at least one year.

623 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a  
624 portion of an island or peninsula under this section, leaving unincorporated the remainder of  
625 the unincorporated island or peninsula, if:

626 (i) in adopting the resolution under Subsection (2)(a)(i), the municipal legislative body  
627 determines that not annexing the entire unincorporated island or peninsula is in the  
628 municipality's best interest; and

629 (ii) for an annexation of one or more unincorporated islands under Subsection  
630 (1)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed,  
631 complies with the requirement of Subsection (1)(a)(ii)(A) relating to the number of residents.

632 (2) (a) The legislative body of each municipality intending to annex an area under this  
633 section shall:

634 (i) adopt a resolution indicating the municipal legislative body's intent to annex the  
635 area, describing the area proposed to be annexed;

636 (ii) (A) publish notice at least once a week for three successive weeks in a newspaper  
637 of general circulation within the municipality and the area proposed for annexation; or

638 (B) if there is no newspaper of general circulation in the areas described in Subsection  
639 (2)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are  
640 most likely to give notice to the residents of those areas;

641 (iii) send written notice to the board of each special district whose boundaries contain  
642 some or all of the area proposed for annexation and to the legislative body of the county in  
643 which the area proposed for annexation is located; and

644 (iv) hold a public hearing on the proposed annexation no earlier than 60 days after the  
645 adoption of the resolution under Subsection (2)(a)(i).

646 (b) Each notice under Subsections (2)(a)(ii) and (iii) shall:

647 (i) state that the municipal legislative body has adopted a resolution indicating its intent

648 to annex the area proposed for annexation;

649 (ii) state the date, time, and place of the public hearing under Subsection (2)(a)(iv);

650 (iii) describe the area proposed for annexation; and

651 (iv) state in conspicuous and plain terms that the municipal legislative body will annex

652 the area unless, at or before the public hearing under Subsection (2)(a)(iv), written protests to

653 the annexation are filed by the owners of private real property that:

654 (A) is located within the area proposed for annexation;

655 (B) covers a majority of the total private land area within the entire area proposed for

656 annexation; and

657 (C) is equal in value to at least 1/2 the value of all private real property within the

658 entire area proposed for annexation.

659 (c) The first publication of the notice required under Subsection (2)(a)(ii)(A) shall be

660 within 14 days of the municipal legislative body's adoption of a resolution under Subsection

661 (2)(a)(i).

662 (3) (a) Upon conclusion of the public hearing under Subsection (2)(a)(iv) and subject

663 to Subsection (3)(b), the municipal legislative body may adopt an ordinance annexing the area

664 proposed for annexation under this section unless, at or before the hearing, written protests to

665 the annexation have been filed with the city [~~recorder~~] or town clerk, as the case may be, by the

666 owners of private real property that:

667 (i) is located within the area proposed for annexation;

668 (ii) covers:

669 (A) for a proposed annexation under Subsection (1)(a)(i), a majority of the total private

670 land area within the entire area proposed for annexation; or

671 (B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the total private land

672 area within the island of unincorporated area that is proposed for annexation; and

673 (iii) is equal in value to at least:

674 (A) for a proposed annexation under Subsection (1)(a)(i), 1/2 the value of all private

675 real property within the entire area proposed for annexation; or

676 (B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the value of all

677 private real property within the island of unincorporated area that is proposed for annexation.

678 (b) A municipal legislative body may not adopt an ordinance annexing an area

679 proposed for annexation under Subsection (1)(a)(ii) unless the legislative body of the county in  
680 which the area proposed for annexation has previously adopted a resolution approving the  
681 annexation.

682 (4) (a) If protests are timely filed that comply with Subsection (3), the municipal  
683 legislative body may not adopt an ordinance annexing the area proposed for annexation, and  
684 the annexation proceedings under this section shall be considered terminated.

685 (b) Subsection (4)(a) may not be construed to prohibit the municipal legislative body  
686 from excluding from a proposed annexation under Subsection (1)(a)(ii) the property within an  
687 unincorporated island regarding which protests have been filed and proceeding under  
688 Subsection (1)(b) to annex some or all of the remaining portion of the unincorporated island.

689 Section 13. Section **10-2-419** is amended to read:

690 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

691 (1) The legislative bodies of two or more municipalities having common boundaries  
692 may adjust their common boundaries as provided in this section.

693 (2) (a) The legislative body of each municipality intending to adjust a boundary that is  
694 common with another municipality shall:

695 (i) adopt a resolution indicating the intent of the municipal legislative body to adjust a  
696 common boundary;

697 (ii) hold a public hearing on the proposed adjustment no less than 60 days after the  
698 adoption of the resolution under Subsection (2)(a)(i); and

699 (iii) (A) publish notice at least once a week for three successive weeks in a newspaper  
700 of general circulation within the municipality; or

701 (B) if there is no newspaper of general circulation within the municipality, post at least  
702 one notice per 1,000 population in places within the municipality that are most likely to give  
703 notice to residents of the municipality.

704 (b) The notice required under Subsection (2)(a)(iii) shall:

705 (i) state that the municipal legislative body has adopted a resolution indicating the  
706 municipal legislative body's intent to adjust a boundary that the municipality has in common  
707 with another municipality;

708 (ii) describe the area proposed to be adjusted;

709 (iii) state the date, time, and place of the public hearing required under Subsection

710 (2)(a)(ii);  
711 (iv) state in conspicuous and plain terms that the municipal legislative body will adjust  
712 the boundaries unless, at or before the public hearing under Subsection (2)(a)(ii), written  
713 protests to the adjustment are filed by the owners of private real property that:  
714 (A) is located within the area proposed for adjustment;  
715 (B) covers at least 25% of the total private land area within the area proposed for  
716 adjustment; and  
717 (C) is equal in value to at least 15% of the value of all private real property within the  
718 area proposed for adjustment; and  
719 (v) state that the area that is the subject of the boundary adjustment will, because of the  
720 boundary adjustment, be automatically annexed to a local district providing fire protection,  
721 paramedic, and emergency services, as provided in Section 17B-2-515.5, if:  
722 (A) the municipality to which the area is being added because of the boundary  
723 adjustment is entirely within the boundaries of a local district:  
724 (I) that provides fire protection, paramedic, and emergency services; and  
725 (II) in the creation of which an election was not required because of Subsection  
726 17B-2-214(3)(c); and  
727 (B) the municipality from which the area is being taken because of the boundary  
728 adjustment is not within the boundaries of the local district; and  
729 (vi) state that the area proposed for annexation to the municipality will be  
730 automatically withdrawn from a local district providing fire protection, paramedic, and  
731 emergency services, as provided in Subsection 17B-2-601(2), if:  
732 (A) the municipality to which the area is being added because of the boundary  
733 adjustment is not within the boundaries of a local district:  
734 (I) that provides fire protection, paramedic, and emergency services; and  
735 (II) in the creation of which an election was not required because of Subsection  
736 17B-2-214(3)(c); and  
737 (B) the municipality from which the area is being taken because of the boundary  
738 adjustment is entirely within the boundaries of the local district.  
739 (c) The first publication of the notice required under Subsection (2)(a)(iii)(A) shall be  
740 within 14 days of the municipal legislative body's adoption of a resolution under Subsection

741 (2)(a)(i).

742 (3) Upon conclusion of the public hearing under Subsection (2)(a)(ii), the municipal  
743 legislative body may adopt an ordinance adjusting the common boundary unless, at or before  
744 the hearing under Subsection (2)(a)(ii), written protests to the adjustment have been filed with  
745 the city [~~recorder~~] or town clerk, as the case may be, by the owners of private real property that:

746 (a) is located within the area proposed for adjustment;

747 (b) covers at least 25% of the total private land area within the area proposed for  
748 adjustment; and

749 (c) is equal in value to at least 15% of the value of all private real property within the  
750 area proposed for adjustment.

751 (4) An ordinance adopted under Subsection (3) becomes effective when each  
752 municipality involved in the boundary adjustment has adopted an ordinance under Subsection  
753 (3).

754 Section 14. Section **10-3-204** is amended to read:

755 **10-3-204. Election of officers in municipalities operating under a city commission**  
756 **form of government.**

757 In [~~cities of the second class~~] each municipality operating under a city commission form  
758 of government, the election and terms of office of the officers shall be as follows:

759 (1) The offices of mayor and [~~one commissioner~~] two commissioners shall be filled in  
760 a municipal election held in 1977. The terms shall be for four years. The offices shall be filled  
761 every four years thereafter in municipal elections.

762 (2) The offices of the other [~~commissioner~~] two commissioners and the city auditor  
763 shall be filled in municipal elections held in 1979. The terms shall be for four years. These  
764 offices shall be filled in municipal elections held every four years.

765 Section 15. Section **10-3-205** is amended to read:

766 **10-3-205. Election of officers in municipalities operating under a city council**  
767 **form of government.**

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

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

772 four years in municipal elections.

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

776 Section 16. Section **10-3-208** is amended to read:

777 **10-3-208. Campaign financial disclosure in municipal elections.**

778 (1) (a) (i) Each first, second, third, and fourth class city shall adopt an ordinance  
779 establishing campaign finance disclosure requirements for candidates for city office.

780 (ii) Each fifth class city and town shall adopt an ordinance establishing campaign  
781 finance disclosure requirements for candidates for city or town office who:

782 (A) receive more than \$750 in campaign contributions; or

783 (B) spend more than \$750 on their campaign for city or town office.

784 (b) The ordinance required under Subsection (1)(a) shall include:

785 (i) a requirement that each candidate for municipal office to whom the ordinance  
786 applies report the candidate's itemized and total campaign contributions and expenditures at  
787 least once seven days before the municipal general election and at least once 30 days after the  
788 municipal general election;

789 (ii) a definition of "contribution" and "expenditure" that requires reporting of  
790 nonmonetary contributions such as in-kind contributions and contributions of tangible things;  
791 and

792 (iii) a requirement that the financial reports identify:

793 (A) for each contribution of more than \$50, the name of the donor of the contribution  
794 and the amount of the contribution; and

795 (B) for each expenditure, the name of the recipient and the amount of the expenditure.

796 (2) (a) Except as provided in Subsection (2)(b), if a city or town fails to adopt a  
797 campaign finance disclosure ordinance as required under Subsection (1), candidates for office  
798 in that city or town shall comply with the financial reporting requirements contained in  
799 Subsections (3) through (6).

800 (b) (i) If a city or town adopts a campaign finance disclosure ordinance that meets the  
801 requirements of Subsection (1), that city or town need not comply with the requirements of  
802 Subsections (3) through (6).

- 803 (ii) Subsection (2)(a) and the financial reporting requirements of Subsections (3)  
804 through (6) do not apply to a candidate for municipal office who:
- 805 (A) is a candidate for municipal office in a fifth class city or a town; and  
806 (B) (I) receives \$750 or less in campaign contributions; and  
807 (II) spends \$750 or less on the candidate's campaign for municipal office.
- 808 (3) If there is no municipal ordinance meeting the requirements of this section upon the  
809 dates specified in Subsection (1), each candidate for elective municipal office shall file a signed  
810 campaign financial statement with the city [~~recorder~~] clerk:
- 811 (a) seven days before the date of the municipal general election, reporting each  
812 contribution of more than \$50 and each expenditure as of ten days before the date of the  
813 municipal general election; and
- 814 (b) no later than 30 days after the date of the municipal general election.
- 815 (4) (a) The statement filed seven days before the municipal general election shall  
816 include:
- 817 (i) a list of each contribution of more than \$50 received by the candidate, and the name  
818 of the donor;
- 819 (ii) an aggregate total of all contributions of \$50 or less received by the candidate; and  
820 (iii) a list of each expenditure for political purposes made during the campaign period,  
821 and the recipient of each expenditure.
- 822 (b) The statement filed 30 days after the municipal general election shall include:
- 823 (i) a list of each contribution of more than \$50 received after the cutoff date for the  
824 statement filed seven days before the election, and the name of the donor;
- 825 (ii) an aggregate total of all contributions of \$50 or less received by the candidate after  
826 the cutoff date for the statement filed seven days before the election; and
- 827 (iii) a list of all expenditures for political purposes made by the candidate after the  
828 cutoff date for the statement filed seven days before the election, and the recipient of each  
829 expenditure.
- 830 (5) Candidates for elective municipal office who are eliminated at a primary election  
831 shall file a signed campaign financial statement containing the information required by this  
832 section not later than 30 days after the primary election.
- 833 (6) Any person who fails to comply with this section is guilty of an infraction.

834 (7) A city or town may, by ordinance, enact requirements that:  
835 (a) require greater disclosure of campaign contributions and expenditures; and  
836 (b) impose additional penalties.

837 (8) (a) If a candidate fails to file an interim report due before the municipal general  
838 election, the city [~~recorder~~] clerk shall, after making a reasonable attempt to discover if the  
839 report was timely mailed, inform the appropriate election officials who:

840 (i) shall, if practicable, remove the name of the candidate by blacking out the  
841 candidate's name before the ballots are delivered to voters; or

842 (ii) shall, if removing the candidate's name from the ballot is not practicable, inform  
843 the voters by any practicable method that the candidate has been disqualified and that votes  
844 cast for the candidate will not be counted; and

845 (iii) may not count any votes for that candidate.

846 (b) Notwithstanding Subsection (8)(a), a candidate is not disqualified if:

847 (i) the candidate files the reports required by this section;

848 (ii) those reports are completed, detailing accurately and completely the information  
849 required by this section except for inadvertent omissions or insignificant errors or inaccuracies;  
850 and

851 (iii) those omissions, errors, or inaccuracies are corrected in an amended report or in  
852 the next scheduled report.

853 (c) A report is considered filed if:

854 (i) it is received in the municipal [~~recorder's~~] clerk's office no later than 5 p.m. on the  
855 date that it is due;

856 (ii) it is received in the municipal [~~recorder's~~] clerk's office with a postmark three days  
857 or more before the date that the report was due; or

858 (iii) the candidate has proof that the report was mailed, with appropriate postage and  
859 addressing, three days before the report was due.

860 (9) (a) Any private party in interest may bring a civil action in district court to enforce  
861 the provisions of this section or any ordinance adopted under this section.

862 (b) In a civil action filed under Subsection (9)(a), the court may award costs and  
863 attorney's fees to the prevailing party.

864 Section 17. Section **10-3-401** is amended to read:

865 **10-3-401. Mayor as a voting member of governing body.**

866 In [~~cities of the first and second class, and towns~~] municipalities operating under a city  
867 commission form of government, the mayor shall vote as a member of the governing body.

868 Any member of the governing body appointed to act as mayor pro tempore shall cast only one  
869 vote.

870 Section 18. Section **10-3-402** is amended to read:

871 **10-3-402. Mayor in a municipality operating under a city council form of**  
872 **government -- Mayor may not vote -- Exceptions.**

873 The mayor in a [~~city of the third, fourth, or fifth class~~] municipality operating under a  
874 city council form of government may not vote, except in case of a tie vote of the council or in  
875 the appointment or dismissal of a city manager under Section 10-3-830.

876 Section 19. Section **10-3-501** is amended to read:

877 **10-3-501. Meetings in cities of the first and second class.**

878 In cities of the first and second class the board of commissioners shall by ordinance  
879 prescribe the time and place of holding its regular public meetings which, for cities of the first  
880 class shall be held at least three times each week, and, for cities of the second class shall be  
881 held at least twice each week. If at any time the business of the city requires a special meeting  
882 of the board of commissioners, such meeting may be ordered by a majority of the board or by  
883 the mayor or mayor pro tempore. The order must be signed by the members, mayor or mayor  
884 pro tempore calling the meeting, and must be entered in the minutes of the board. Notice of the  
885 special meeting must be served by the city [~~recorder~~] clerk on each member not joining in the  
886 order, at least three hours prior to the meeting, personally or left at such member's usual place  
887 of abode. The personal appearance by a member at any specially called meeting constitutes a  
888 waiver of the notice required in this section.

889 Section 20. Section **10-3-502** is amended to read:

890 **10-3-502. Meetings in cities of the third, fourth, or fifth class and towns.**

891 In each city of the third, fourth, or fifth class and each town, the governing body shall  
892 by ordinance prescribe the time and place for holding its regular meeting which shall be held at  
893 least once each month. If at any time the business of such city or town requires a special  
894 meeting of the governing body, such meeting may be ordered by the mayor or any two  
895 members of the governing body. The order shall be entered in the minutes of the governing

896 body. The order shall provide at least three hours' notice of the special meeting and notice  
897 thereof shall be served by the ~~recorder or~~ clerk on each member who did not sign the order by  
898 delivering the notice personally or by leaving it at the member's usual place of abode. The  
899 personal appearance by a member at any specially called meeting constitutes a waiver of the  
900 notice required in this section.

901 Section 21. Section **10-3-504** is amended to read:

902 **10-3-504. Quorum defined.**

903 The number of members of the governing body necessary to constitute a quorum ~~is;~~  
904 ~~in~~ ~~:(1) a city of the first class;~~ a municipality operating under a city commission or city  
905 council form of government is three or more ~~;~~.

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

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

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

909 Section 22. Section **10-3-507** is amended to read:

910 **10-3-507. Minimum vote required.**

911 (1) The minimum number of yes votes required to pass any ordinance, resolution, or to  
912 take any action by the governing body of a municipality operating under a city commission or  
913 city council form of government, unless otherwise prescribed by law, shall be a majority of the  
914 members of the quorum, but shall never be less than ~~:(a)~~ three ~~[in a city of the first class;]~~.

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

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

917 ~~[(d) three in a town.]~~

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

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

924 Section 23. Section **10-3-603** is amended to read:

925 **10-3-603. Public records.**

926 The governing body of each municipality shall keep a journal of its proceedings. The

927 books, records, accounts and documents of each municipality shall be kept at the office of the  
928 [recorder] clerk and approved copies shall be open and available to the public during regular  
929 business hours for examination and copying. The governing body may by resolution establish  
930 reasonable charges for providing copies of its public records to individuals, except when by  
931 law the municipality must provide the records without cost to the public.

932 Section 24. Section **10-3-604** is amended to read:

933 **10-3-604. Annual examination of municipal finances -- Publication of results.**

934 At the end of each fiscal year, the governing body of each city of the first and second  
935 class shall cause a full and complete examination of all books and accounts of the city to be  
936 made by certified public accountants, and shall publish the results of the examination and a  
937 detailed and itemized statement of all receipts and disbursements of the city in a summary of  
938 their proceedings and expenses during the fiscal year. The city shall then provide printed copies  
939 to the newspapers of the city and to the city [recorder] clerk who shall provide one copy of it to  
940 any person on request.

941 Section 25. Section **10-3-704** is amended to read:

942 **10-3-704. Form of ordinance.**

943 Any ordinance passed by the governing body, after the effective date of this act, shall  
944 contain and be in substantially the following order and form:

- 945 (1) a number;
- 946 (2) a title which indicates the nature of the subject matter of the ordinance;
- 947 (3) a preamble which states the need or reason for the ordinance;
- 948 (4) an ordaining clause which states "Be it ordained by the \_\_\_\_ (name of the  
949 governing body and municipality):";
- 950 (5) the body or subject of the ordinance;
- 951 (6) when applicable, a statement indicating the penalty for violation of the ordinance or  
952 a reference that the punishment is covered by an ordinance which prescribes the fines and  
953 terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish  
954 a classification of penalties and refer to such ordinance in which the penalty for such violation  
955 is established;
- 956 (7) a statement indicating the effective date of the ordinance or the date when the  
957 ordinance shall become effective after publication or posting as required by this chapter;

- 958 (8) a line for the signature of the mayor or acting mayor to sign the ordinance;
- 959 (9) a place for the municipal [~~recorder~~] clerk to attest the ordinance and fix the seal of
- 960 the municipality; and
- 961 (10) in municipalities where the mayor may disapprove an ordinance passed by the
- 962 legislative body, the ordinance must show, that it was passed with the mayor's approval or that
- 963 if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor
- 964 neither approves, or disapproves an ordinance, the ordinance should show that it became
- 965 effective without the approval or disapproval of the mayor.

966 Section 26. Section **10-3-708** is amended to read:

967 **10-3-708. Arrangement of ordinances.**

968 The ordinances in the revision, codification, and compilation shall be arranged in such  
969 order as the governing body may decide and may exclude the titles, enacting clauses, signatures  
970 of a mayor or mayor pro tempore of the governing board, attestations, and other formal parts,  
971 except the attestation of the [~~recorder~~] clerk.

972 Section 27. Section **10-3-711** is amended to read:

973 **10-3-711. Publication and posting of ordinances.**

974 (1) Before an ordinance may take effect, the legislative body of each municipality  
975 adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707,  
976 10-3-708, 10-3-709, or 10-3-710, shall:

977 (a) deposit a copy of the ordinance in the office of the municipal [~~recorder~~] clerk; and

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

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

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

982 (ii) post a complete copy of the ordinance:

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

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

985 (2) (a) Any ordinance, code, or book, other than the state code, relating to building or  
986 safety standards, municipal functions, administration, control, or regulations, may be adopted  
987 and shall take effect without further publication or posting, if reference is made to the code or  
988 book and at least [~~three copies for cities or at least~~] one copy [~~for towns have~~] has been filed

989 for use and examination by the public in the office of the [~~recorder or clerk of the~~] city or town  
990 clerk prior to the adoption of the ordinance by the governing body.

991 (b) Any state law relating to building or safety standards, municipal functions,  
992 administration, control, or regulations, may be adopted and shall take effect without further  
993 publication or posting if reference is made to the state code.

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

996 Section 28. Section **10-3-713** is amended to read:

997 **10-3-713. Recording, numbering, and certification of passage.**

998 The municipal [~~recorder~~] clerk shall record, in a book used exclusively for that purpose,  
999 all ordinances passed by the governing body. The [~~recorder~~] clerk shall give each ordinance a  
1000 number, if the governing body has not already so done. Immediately following each ordinance,  
1001 or codification of ordinances, the [~~recorder~~] clerk shall make or cause to be made a certificate  
1002 stating the date of passage and of the date of publication or posting, as required. The record and  
1003 memorandum, or a certified copy thereof, shall be prima facie evidence of the contents,  
1004 passage, and publication or posting of the ordinance or codification.

1005 Section 29. Section **10-3-714** is amended to read:

1006 **10-3-714. Contents, dates, publication proved under seal.**

1007 The contents of all municipal ordinances, the dates of passage, and the date of  
1008 publication or posting may be proved by the certification of the municipal [~~recorder~~] clerk  
1009 under the seal of the municipality.

1010 Section 30. Section **10-3-803** is amended to read:

1011 **10-3-803. Officers limited to one office -- Exceptions.**

1012 In cities of the first class, the mayor, commissioners, [~~recorder~~] clerk, and treasurer  
1013 shall administer only one office under the city government, except that the offices of city  
1014 [~~recorder~~] clerk and auditor may be held by one person.

1015 Section 31. Section **10-3-810** is amended to read:

1016 **10-3-810. Additional powers and duties of elected officials in a city of the third,  
1017 fourth, or fifth class or a town.**

1018 A city of the third, fourth, or fifth class or a town may by resolution prescribe additional  
1019 duties, powers, and responsibilities for any elected or appointed official which are not

1020 prohibited by any specific statute, except that the mayor may not serve as [recorder] clerk and  
1021 neither the mayor nor the [recorder] clerk may serve as treasurer. A justice court judge may not  
1022 hold any other municipal office or position of employment with the municipality.

1023 Section 32. Section **10-3-825** is amended to read:

1024 **10-3-825. Additional bonds.**

1025 The governing body of any municipality may at any time require further and additional  
1026 bonds of any or all officers elected or appointed. All bonds given by the officers of any  
1027 municipality, except as otherwise provided by law, shall be filed with the [recorder] clerk,  
1028 except that the bond of the [recorder] clerk shall be filed with the treasurer.

1029 Section 33. Section **10-3-828** is amended to read:

1030 **10-3-828. Oath -- Filing.**

1031 The oath of office required under this part shall be administered by any judge, notary  
1032 public, or by the [recorder] clerk of the municipality. Elected officials shall take their oath of  
1033 office at [~~12:00~~] 12 noon on the first Monday in January following their election or as soon  
1034 thereafter as is practical. Appointed officers shall take their oath at any time before entering on  
1035 their duties. All oaths of office shall be filed with the [recorder] clerk of the respective  
1036 municipality.

1037 Section 34. Section **10-3-902** is amended to read:

1038 **10-3-902. Appointment of clerk, treasurer, engineer, attorney in cities of the first  
1039 and second class.**

1040 In cities of the first and second class the board of commissioners shall appoint a  
1041 qualified person to each of the offices of [recorder] clerk, treasurer, engineer and attorney, and  
1042 may create any other office that may be deemed necessary for the government of the city, and  
1043 regulate and prescribe the powers, duties and compensation of all officers of the city, except as  
1044 otherwise provided by law. The person so appointed as city engineer shall be a registered  
1045 professional engineer under Title 58, Chapter 22, Professional Engineers and Professional Land  
1046 Surveyors Licensing Act. The board of commissioners may appoint all officers and agents as  
1047 may be provided for by law or ordinances, and fill all vacancies occurring therein.

1048 Section 35. Section **10-3-916** is amended to read:

1049 **10-3-916. Appointment of clerk and treasurer in a city of third, fourth, or fifth  
1050 class or a town -- Vacancies in office.**

1051 (1) In each city of the third, fourth, or fifth class and in each town, on or before the first  
1052 Monday in February following a municipal election, the mayor, with the advice and consent of  
1053 the city council, shall appoint a qualified person to each of the offices of city [recorder] clerk  
1054 and city treasurer.

1055 (2) The city [recorder] clerk is ex officio the city auditor and shall perform the duties of  
1056 that office.

1057 (3) The mayor, with the advice and consent of the council, may also appoint and fill  
1058 vacancies in all offices provided for by law or ordinance.

1059 (4) All appointed officers shall continue in office until their successors are appointed  
1060 and qualified.

1061 Section 36. Section **10-3-1106** is amended to read:

1062 **10-3-1106. Discharge or transfer -- Appeals -- Board -- Procedure.**

1063 (1) No officer or employee covered by Section 10-3-1105 shall be discharged or  
1064 transferred to a position with less remuneration because of his politics or religious belief, or  
1065 incident to, or through changes, either in the elective officers, governing body, or heads of  
1066 departments. In all cases where any officer or employee is discharged or transferred from one  
1067 position to another for any reason, he shall have the right to appeal the discharge or transfer to  
1068 a board to be known as the appeal board which shall consist of five members, three of whom  
1069 shall be chosen by and from the appointive officers and employees, and two of whom shall be  
1070 members of the governing body.

1071 (2) The appeal shall be taken by filing written notice of the appeal with the [recorder]  
1072 clerk within ten days after the discharge or transfer. Upon the filing of the appeal, the city  
1073 [recorder] clerk shall forthwith refer a copy of the same to the appeal board. Upon receipt of  
1074 the referral from the municipal [recorder] clerk, the appeal board shall forthwith commence its  
1075 investigation, take and receive evidence and fully hear and determine the matter which relates  
1076 to the cause for the discharge or transfer.

1077 (3) The employee shall be entitled to appear in person and to be represented by  
1078 counsel, to have a public hearing, to confront the witness whose testimony is to be considered,  
1079 and to examine the evidence to be considered by the appeal board.

1080 (4) In the event the appeal board upholds the discharge or transfer, the officer or  
1081 employee may have 14 days thereafter to appeal to the governing body whose decision shall be

1082 final. In the event the appeal board does not uphold the discharge or transfer the case shall be  
1083 closed and no further proceedings shall be had.

1084 (5) The decision of the appeal board shall be by secret ballot, and shall be certified to  
1085 the recorder with 15 days from the date the matter is referred to it. The board may, in its  
1086 decision, provide that an employee shall receive his salary for the period of time during which  
1087 he is discharged, or any deficiency in salary for the period he was transferred to a position of  
1088 less remuneration but not to exceed a 15 day period. In no case shall the appointive officer or  
1089 employee be discharged or transferred, where an appeal is taken, except upon a concurrence of  
1090 at least a majority of the membership of the governing body of the municipality.

1091 (6) In the event that the appeal board does not uphold the discharge, or transfer, the  
1092 ~~recorder~~ clerk shall certify the decision to the employee affected, and also to the head of the  
1093 department from whose order the appeal was taken. The employee shall be paid his salary,  
1094 commencing with the next working day following the certification by the ~~recorder~~ clerk of  
1095 the appeal board's decision, provided that the employee, or officer, concerned reports for his  
1096 assigned duties during that next working day.

1097 (7) The method and manner of choosing the members of the appeal board, and the  
1098 designation of their terms of office shall be prescribed by the governing body of each  
1099 municipality by ordinance, but the provisions for choosing the three members from the  
1100 appointed officers and employees shall in no way restrict a free selection of members by the  
1101 appointive officers and employees of the municipality.

1102 Section 37. Section **10-3-1203** is amended to read:

1103 **10-3-1203. Election requirements and procedure for organization under optional**  
1104 **form of government.**

1105 (1) Each municipality retains the form of government under which it is operating  
1106 unless it changes its form as provided in this part.

1107 ~~(1)~~ (2) A municipality may reorganize under any form of municipal government  
1108 provided for in this part ~~[or under Section 10-3-103, 10-3-104, 10-3-105, or 10-3-106],~~  
1109 regardless of the city's class under Section 10-2-301.

1110 ~~(2)~~ (3) Reorganization under Subsection (1) shall be by approval of a majority of  
1111 registered voters of the municipality voting in a special election held for that purpose.

1112 ~~(3)~~ (4) (a) The proposal may be entered on the ballot by resolution passed by the

1113 governing body of the municipality or by initiative as provided for in Title 20A, Chapter 7, Part  
1114 5, Local Initiatives - Procedures.

1115 (b) The resolution or petition shall state the number, method of election, and initial  
1116 terms of council members and shall specify the boundaries of districts substantially equal in  
1117 population if some or all council members are to be chosen from these districts.

1118 [~~4~~] (5) (a) The proposal shall be voted upon at a special election to be held not more  
1119 than twelve months after the resolution is passed or after receipt of a valid initiative petition.

1120 (b) The special election shall be held at least 90 days before or after regular municipal  
1121 elections.

1122 (c) The ballot for the special election to adopt or reject one of the forms of municipal  
1123 government shall be in substantially the following form:

---

1124		
1125	Shall (name of municipality), Utah, adopt	Yes
1126	the (council-mayor) (council-manager)	
1127	(five-member commission) [ <del>(three-member commission)</del> ]	
1128	(six-member council) [ <del>(five-member council)</del> ] form of	
1129	municipal government?	No
1130		

1131 Section 38. Section **10-3-1208** is amended to read:

1132 **10-3-1208. Election of officers -- When new government operative --**

1133 **Compensation of officials without position in new government.**

1134 Upon approval of an optional form of government by a municipality pursuant to this  
1135 part, election of officers shall be held in the municipality on the Tuesday next following the  
1136 first Monday in November following approval of the optional form, or on the same day in the  
1137 year next following, whichever day falls in an odd-numbered year. The new government shall  
1138 become effective at 12 noon on the first Monday of January following the election of officers.  
1139 Elected officials of the municipality whose positions would no longer exist as a result of the  
1140 adoption of a form of government provided for in this part shall be paid at the same rate until  
1141 the date on which their terms would have expired, if they hold no municipal office in the new  
1142 government for which they are regularly compensated. At their option, former commissioners  
1143 [~~of a first and second class city;~~] or council members [~~of third, fourth, or fifth class city, or~~

1144 ~~board members of a town]~~ may serve as one of the commission or council members for the  
1145 remainder of their term.

1146 Section 39. Section **10-3-1209** is amended to read:

1147 **10-3-1209. Optional forms defined.**

1148 (1) ~~[(a)]~~ The optional form of government known as the council-mayor form vests the  
1149 government of a municipality that adopts this form in two separate, independent, and equal  
1150 branches of municipal government: the executive branch, consisting of a mayor and the  
1151 administrative departments and officers; and the legislative branch, consisting of a municipal  
1152 council.

1153 ~~[(b)]~~ (2) The optional form known as the council-manager form vests the government  
1154 of the municipality in a municipal council, which is considered to be the governing body of the  
1155 municipality, and a manager appointed by the council.

1156 ~~[(c)]~~ (3) The optional form known as the five-member commission ~~[is as described in~~  
1157 Section 10-3-103] vests the government of the municipality in a commission of five members  
1158 of which one is the mayor, who also exercises ceremonial and administrative functions, and the  
1159 remaining four are commissioners.

1160 ~~[(d)]~~ The optional form known as the three-member commission is as described in  
1161 ~~Section 10-3-104.]~~

1162 ~~[(e)]~~ (4) The optional form known as the six-member council ~~[is as described in~~  
1163 Section 10-3-105] vests the government of the municipality in a council composed of six  
1164 members of which one is the mayor and the remaining five are council members.

1165 ~~[(f)]~~ The optional form known as the five-member council is as described in Section  
1166 ~~10-3-106.]~~

1167 ~~[(2)]~~ Notwithstanding language contained in Sections 10-3-103, 10-3-104, 10-3-105,  
1168 and 10-3-106 indicating that those forms of municipal government are only for the class of  
1169 municipality specified in those sections, any of those forms may be chosen by any class of  
1170 municipality as an optional form under this part.]

1171 ~~[(3)]~~ All provisions of this chapter that apply to the form of government specified in  
1172 Sections 10-3-103, 10-3-104, 10-3-105, and 10-3-106 shall apply equally to a municipality  
1173 choosing one of those forms of government as an optional form under this part.]

1174 Section 40. Section **10-3-1212** is amended to read:

1175           **10-3-1212. Meetings of council -- Access to records.**

1176           (1) In municipalities organized under an optional form of government provided for in  
1177 this part, the council shall prescribe by ordinance the time and place of its regular meetings  
1178 provided that the council shall hold at least two public meetings each month in a city of the  
1179 first, second, third, or fourth class and at least one meeting each month in a city of the fifth  
1180 class or town. All meetings of the council shall be held in compliance with the provisions of  
1181 Title 52, Chapter 4, Open and Public Meetings.

1182           (2) The books, records, and accounts of the council shall be kept at the office of the  
1183 city [recorder] or town clerk. Individual citizens or citizen groups may have access to all public  
1184 records with the exception of personnel records, which have not been classified as confidential  
1185 for public policy purposes.

1186           Section 41. Section **10-3-1219** is amended to read:

1187           **10-3-1219. Council-mayor form -- Powers and duties of mayor.**

1188           (1) In the optional form of government known as the council-mayor form, the mayor  
1189 shall be a registered voter of the municipality from which he is elected and shall be elected for  
1190 a term of four years.

1191           (2) The mayor shall be the chief executive and administrative officer of the  
1192 municipality and shall:

1193           (a) enforce the laws and ordinances of the municipality;

1194           (b) execute the policies adopted by the council;

1195           (c) appoint and remove administrative assistants, including a chief administrative  
1196 officer; and

1197           (d) with the advice and consent of the council, appoint department heads and all  
1198 statutory officers, commissions, boards, and committees of the municipality, except as may  
1199 otherwise be specifically limited by law;

1200           (e) remove department heads and officers and employees, commissions, boards, and  
1201 committees;

1202           (f) exercise control of all departments, divisions, and bureaus within the municipal  
1203 government;

1204           (g) attend all meetings of the council with the right to take part in all discussions and  
1205 the responsibility to inform the council of the condition and needs of the municipality and

1206 make recommendations and freely give advice to the council, except that the mayor may not  
1207 vote in council meetings;

1208 (h) appoint a budget officer to serve in place of the mayor for the purpose of  
1209 conforming with the requirements of the Uniform Municipal Fiscal Procedures Act and in all  
1210 other respects fulfill the requirements of that act;

1211 (i) appoint, with the advice and consent of the council, a qualified person to each of the  
1212 offices in cities of [recorder] clerk, treasurer, engineer, and attorney and, in towns, town  
1213 treasurer and clerk;

1214 (j) create any other offices that are considered necessary for the good government of  
1215 the municipality, and make appointments to them;

1216 (k) regulate and prescribe the powers and duties of all other officers of the  
1217 municipality, within the general provisions of law and ordinance;

1218 (l) furnish the municipal council with a report periodically, as determined by  
1219 ordinance, that is available for public inspection and sets forth:

1220 (i) the amounts of all budget appropriations;

1221 (ii) the total disbursements to date from these appropriations;

1222 (iii) the amount of indebtedness incurred or contracted against each appropriation,  
1223 including disbursements and indebtedness incurred and not paid; and

1224 (iv) the percentage of the appropriations encumbered to date;

1225 (m) execute agreements within certified budget appropriations on behalf of the  
1226 municipality, or delegate, by written executive order, the power to execute such agreements to  
1227 executive officials, subject to the procedure described in Section 10-6-138; and

1228 (n) perform other duties as may be prescribed by this part or may be required by  
1229 ordinance not inconsistent with this part.

1230 ~~[(3) Notwithstanding Subsection 63A-7-107(4), the mayor may appoint a commission,~~  
1231 ~~board, or committee of a public sports entity as defined in Section 63A-7-103 pursuant to the~~  
1232 ~~bylaws of that public sports entity, if authorized or required by the legal documents creating or~~  
1233 ~~governing the public sports entity.]~~

1234 Section 42. Section **10-3-1226** is amended to read:

1235 **10-3-1226. Manager -- Powers and duties.**

1236 The manager shall have the power, and it shall be his duty to:

1237 (1) faithfully execute and enforce all applicable laws, ordinances, rules and regulations,  
1238 and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the  
1239 municipality are observed;

1240 (2) carry out the policies and programs established by the council;

1241 (3) organize and direct the management of the executive affairs of the municipality in a  
1242 manner consistent with this act and with municipal ordinances;

1243 (4) appoint a budget officer for the purpose of complying with the requirements of the  
1244 uniform municipal fiscal procedures act;

1245 (5) appoint, with the advice and consent of the council, a qualified person to each of  
1246 the offices in cities of [~~recorder~~] clerk, treasurer, engineer, and attorney, and, in towns, town  
1247 treasurer and clerk; create any other offices as may be deemed necessary for the good  
1248 government of the municipality; and regulate and prescribe the powers and duties of all other  
1249 officers of the municipality, except as provided by law or by ordinance;

1250 (6) examine and inspect the books, records, and official papers of any office,  
1251 department, agency, board, or commission of the municipality, and make investigations and  
1252 require reports from personnel;

1253 (7) appoint, subject to the provisions of this act and of the municipal administrative  
1254 code, and with the advice and consent of the council, suspend, and remove heads of municipal  
1255 offices, departments, and agencies, and all appointive officers of boards and commissions;

1256 (8) establish standards, qualifications, criteria, and procedures to govern the  
1257 appointments, by heads of offices, departments, and agencies, or by other authorized officers,  
1258 of divisional officers, assistants, deputies, and employees within their respective organizational  
1259 units, subject to any applicable provisions of the merit system and municipal administrative  
1260 code;

1261 (9) submit to the council plans and programs relating to the development and needs of  
1262 the municipality, and annual and special reports concerning the financial, administrative, and  
1263 operational activities of municipal offices, departments, agencies, boards, and commissions,  
1264 together with his evaluation and recommendations relating to them;

1265 (10) attend all meetings of the council and take part in its discussions and  
1266 deliberations, but without the right to vote;

1267 (11) appoint, with approval by majority vote of the full membership of the council, an

1268 acting municipal manager to serve in his absence or temporary incapacity to perform the  
1269 powers and duties provided for in this part; and

1270 (12) discharge any other duties specified by statute or imposed by the council.

1271 Section 43. Section **10-6-112** is amended to read:

1272 **10-6-112. Tentative budget and data -- Availability for public inspection.**

1273 Each tentative budget adopted by the governing body and all supporting schedules and  
1274 data shall be a public record in the office of the city auditor or the city [recorder] clerk,  
1275 available for public inspection for a period of at least [~~10~~] ten days prior to the adoption of a  
1276 final budget, as hereinafter provided.

1277 Section 44. Section **10-6-119** is amended to read:

1278 **10-6-119. Budgets in effect for budget period -- Amendment -- Filing for public**  
1279 **inspection.**

1280 Upon final adoption, the budgets shall be in effect for the budget period, subject to later  
1281 amendment. A certified copy of the adopted budgets shall be filed in the office of the city  
1282 auditor or city [recorder] clerk and shall be available to the public during regular business  
1283 hours.

1284 Section 45. Section **10-6-134** is amended to read:

1285 **10-6-134. Certification of ordinance or resolution setting levy.**

1286 The city [recorder] clerk shall certify the ordinance or resolution setting the levy to the  
1287 county auditor, or auditors if the municipality is located in more than one county, before [~~the~~  
1288 ~~fifteenth day of~~] June 15 of each year.

1289 Section 46. Section **10-6-135** is amended to read:

1290 **10-6-135. Operating and capital budgets.**

1291 (1) On or before the time the governing body adopts budgets for the funds set forth in  
1292 Section 10-6-109, it shall adopt for the ensuing fiscal period an "operating and capital budget"  
1293 for each enterprise fund and shall adopt the type of budget for other special funds as required  
1294 by the Uniform Accounting Manual for Utah Cities.

1295 (2) An "operating and capital budget," for purposes of this section, means a plan of  
1296 financial operation for an enterprise or other required special fund, embodying estimates of  
1297 operating resources and expenses and other outlays for a fiscal period. Except as otherwise  
1298 expressly provided, the reference to "budget" or "budgets" and the procedures and controls

1299 relating to them in other sections of this chapter do not apply or refer to the "operating and  
1300 capital budgets" provided for in this section.

1301 (3) "Operating and capital budgets" shall be adopted and administered in the following  
1302 manner:

1303 (a) On or before the first regularly scheduled meeting of the governing body in the last  
1304 May of the current period, the budget officer shall prepare for the ensuing fiscal period and file  
1305 with the governing body a tentative operating and capital budget for each enterprise fund and  
1306 for other required special funds, together with specific work programs as submitted by the  
1307 department head and any other supporting data required by the governing body.

1308 (b) Each city of the first or second class shall, and a city of the third, fourth, or fifth  
1309 class may, submit a supplementary estimate of all capital projects which the department head  
1310 believes should be undertaken within the three next succeeding fiscal periods.

1311 (c) The budget officer shall prepare estimates in cooperation with the appropriate  
1312 department heads. Each department head shall be heard by the budget officer prior to making  
1313 final estimates, but thereafter the officer may revise any department's estimate for the purpose  
1314 of presenting the budget to the governing body.

1315 (d) If within any enterprise fund, allocations or transfers which cannot be defined as a  
1316 reasonable allocation of costs between funds are included in a tentative budget, a written notice  
1317 as to date, time, place, and purpose of the hearing is to be mailed to utility fund customers at  
1318 least seven days prior to the hearing.

1319 (4) The tentative budget or budgets shall be reviewed and considered by the governing  
1320 body at any regular meeting or special meeting called for that purpose. The governing body  
1321 may make changes in the tentative budgets.

1322 (5) Budgets for enterprise or other required special funds shall comply with the public  
1323 hearing requirements established in Sections 10-6-113 and 10-6-114.

1324 (6) Before the last June 30 of each fiscal period, or, in the case of a property tax  
1325 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a  
1326 property tax increase is proposed, the governing body shall adopt an operating and capital  
1327 budget for each applicable fund for the ensuing fiscal period. A copy of the budget as finally  
1328 adopted for each fund shall be:

1329 (a) certified by the budget officer;

1330 (b) filed by the officer in the office of the city auditor or city [recorder] clerk;

1331 (c) available to the public during regular business hours; and

1332 (d) filed with the state auditor within 30 days after adoption.

1333 (7) Upon final adoption, the operating and capital budget shall be in effect for the  
1334 budget period, subject to later amendment. During the budget period the governing body may,  
1335 in any regular meeting or special meeting called for that purpose, review any one or more of the  
1336 operating and capital budgets for the purpose of determining if the total of any of them should  
1337 be increased. If the governing body decides that the budget total of one or more of these funds  
1338 should be increased, the procedures set forth in Section 10-6-136 shall be followed.

1339 (8) Expenditures from operating and capital budgets shall conform to the requirements  
1340 relating to budgets specified in Sections 10-6-121 through 10-6-126.

1341 Section 47. Section **10-6-137** is amended to read:

1342 **10-6-137. City clerk -- Office -- Meetings and records -- Certified records as**  
1343 **evidence.**

1344 The office of the city [recorder] clerk shall be located at the place of the governing body  
1345 or at some other place convenient thereto as the governing body may direct. The city [recorder]  
1346 clerk or deputy city [recorder] clerk shall attend the meetings and keep the record of the  
1347 proceedings of the governing body. Copies of all papers filed in the recorder's office and  
1348 transcripts from all records of the governing body, if certified by the recorder under the  
1349 corporate seal, are admissible in all courts as originals.

1350 Section 48. Section **10-6-138** is amended to read:

1351 **10-6-138. City clerk to countersign contracts -- Indexed record of contracts.**

1352 The city [recorder] clerk shall countersign all contracts made on behalf of the city and  
1353 shall maintain a properly indexed record of all such contracts.

1354 Section 49. Section **10-6-139** is amended to read:

1355 **10-6-139. City auditor or clerk -- Bookkeeping duties -- Duties with respect to**  
1356 **payment of claims.**

1357 (1) The city auditor in each city of the first and second class, and the city [recorder]  
1358 clerk in each city of the third, fourth, or fifth class shall maintain the general books for each  
1359 fund of the city and all subsidiary records relating thereto, including a list of the outstanding  
1360 bonds, their purpose, amount, terms, date, and place payable.

1361 (2) (a) The city auditor or [~~city recorder~~] clerk, as appropriate, shall keep accounts with  
1362 all receiving and disbursing officers of the city, shall preaudit all claims and demands against  
1363 the city before they are allowed, and shall prepare the necessary checks in payment.

1364 (b) Those checks shall include an appropriate certification pursuant to Section 11-1-1,  
1365 examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.

1366 (c) The city auditor or [~~city recorder~~] clerk shall also certify on the voucher or check  
1367 copy, as appropriate, that:

1368 (i) the claim has been preaudited and documented;

1369 (ii) the claim has been approved in one of the following ways:

1370 (A) purchase order directly approved by the mayor in the council-mayor optional form  
1371 of government, or the governing body or its delegate in other cities;

1372 (B) claim directly approved by the governing body; or

1373 (C) claim approved by the financial officer;

1374 (iii) the claim is within the lawful debt limit of the city; and

1375 (iv) the claim does not overexpend the appropriate departmental budget established by  
1376 the governing body.

1377 Section 50. Section **10-6-140** is amended to read:

1378 **10-6-140. Warrants for payment of claims.**

1379 In the event the city is without funds on deposit in one of its appropriate bank accounts  
1380 with which to pay any lawfully approved claim, the city auditor or [~~recorder~~] clerk shall draw  
1381 and sign a warrant upon the treasurer of the city for payment of the claim, the warrant to be  
1382 tendered to the payee named thereon.

1383 Section 51. Section **10-6-142** is amended to read:

1384 **10-6-142. City treasurer -- Receipts for payment.**

1385 The city treasurer shall give or cause to be given to every person paying money to the  
1386 city treasury, a receipt or other evidence of payment therefor, specifying, as appropriate, the  
1387 date of payment and upon which account paid and shall file the duplicate of the receipt, a  
1388 summary report, or other evidence of payment in the office of the auditor or [~~recorder~~] clerk.

1389 Section 52. Section **10-6-143** is amended to read:

1390 **10-6-143. City treasurer or deputy -- Duties with respect to issuance of checks.**

1391 The treasurer, or in his absence a deputy treasurer appointed by the governing body,

1392 shall sign all checks prepared by the auditor or [recorder] clerk. Prior to affixing the signature,  
1393 the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the  
1394 appropriate bank account of the city to honor the check. The governing body may also  
1395 designate a person, other than the city auditor or [~~the city recorder~~] clerk, to countersign  
1396 checks.

1397 Section 53. Section **10-6-148** is amended to read:

1398 **10-6-148. Monthly and quarterly financial reports -- Cities of the third, fourth,**  
1399 **and fifth class.**

1400 The city [recorder] clerk or other delegated person in each city of the third, fourth, or  
1401 fifth class shall prepare and present to the governing body monthly summary financial reports  
1402 and quarterly detail financial reports, prepared in the manner prescribed in the Uniform  
1403 Accounting Manual for Utah Cities.

1404 Section 54. Section **10-6-150** is amended to read:

1405 **10-6-150. Annual financial reports -- Independent audit reports.**

1406 Within 180 days after the close of each fiscal period or, for a city that has adopted a  
1407 fiscal period that is a biennial period, within 180 days after both the mid-point and the close of  
1408 the fiscal period, the city [recorder] clerk or other delegated person shall present to the  
1409 governing body an annual financial report prepared in conformity with generally accepted  
1410 accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities. This  
1411 requirement may be satisfied by presentation of the audit report furnished by the independent  
1412 auditor, if the financial statements included are appropriately prepared and reviewed with the  
1413 governing body. Notwithstanding the acceptability of the audit report furnished by the  
1414 independent auditor in substitution for financial statements prepared by an officer of the city,  
1415 the governing body has the responsibility for those financial statements. The independent  
1416 auditor has the responsibility of reporting whether the governing body's financial statements are  
1417 prepared in conformity with generally accepted accounting principles. Copies of the annual  
1418 financial report or the audit report furnished by the independent auditor shall be filed with the  
1419 state auditor and shall be filed as a public document in the office of the city [recorder] clerk.

1420 Section 55. Section **10-6-152** is amended to read:

1421 **10-6-152. Notice that audit completed and available for inspection.**

1422 Within ten days following the receipt of the audit report furnished by the independent

1423 auditor, the city auditor in cities having an auditor and the city [recorder] clerk in all other  
1424 cities shall prepare and publish at least twice in a newspaper of general circulation published  
1425 within the county, a notice to the public that the audit of the city has been completed and a  
1426 copy thereof may be inspected at the office of the city auditor or [recorder] clerk. If a  
1427 newspaper of general circulation is not published within the county, the notice required by this  
1428 section may be posted in three public places.

1429 Section 56. Section **10-6-157** is amended to read:

1430 **10-6-157. Director of finance in certain cities.**

1431 The governing body of a city of the third, fourth, or fifth class may, and the cities under  
1432 an optional form of city government shall, by resolution or ordinance, create a director of  
1433 finance position to perform the financial duties and responsibilities of the city [recorder] clerk  
1434 in third, fourth, and fifth class cities or the city auditor in first and second class cities, as  
1435 established by this chapter. The director of finance shall be a qualified person appointed and  
1436 removed with the advice and consent of the governing body, and may not assume the duties of  
1437 the city treasurer. The governing body may also adopt the financial administrative duties of the  
1438 director of finance prescribed in the Uniform Accounting Manual for Utah Cities.

1439 Section 57. Section **10-9-307** is amended to read:

1440 **10-9-307. Plans for moderate income housing.**

1441 (1) The availability of moderate income housing is an issue of statewide concern. To  
1442 this end:

1443 (a) municipalities should afford a reasonable opportunity for a variety of housing,  
1444 including moderate income housing, to meet the needs of people desiring to live there; and

1445 (b) moderate income housing should be encouraged to allow persons with moderate  
1446 incomes to benefit from and to fully participate in all aspects of neighborhood and community  
1447 life.

1448 (2) As used in this section:

1449 (a) "Moderate income housing" means housing occupied or reserved for occupancy by  
1450 households with a gross household income equal to or less than 80% of the median gross  
1451 income of the metropolitan statistical area for households of the same size.

1452 (b) "Plan for moderate income housing" or "plan" means a written document adopted  
1453 by a municipal legislative body that includes:

1454 (i) an estimate of the existing supply of moderate income housing located within the  
1455 municipality;

1456 (ii) an estimate of the need for moderate income housing in the municipality for the  
1457 next five years as revised annually;

1458 (iii) a survey of total residential zoning;

1459 (iv) an evaluation of how existing zoning densities affect opportunities for moderate  
1460 income housing; and

1461 (v) a description of the municipality's program to encourage an adequate supply of  
1462 moderate income housing.

1463 (3) ~~[Before December 31, 1998, each municipal]~~ The legislative body of each city of  
1464 the first, second, or third class shall, as part of its general plan, adopt a plan for moderate  
1465 income housing within that municipality.

1466 (4) A plan may provide moderate income housing by any means or combination of  
1467 techniques which provide a realistic opportunity to meet estimated needs. The plan may include  
1468 an analysis of why the means or techniques selected provide a realistic opportunity to meet the  
1469 objectives of this section. Such techniques may include:

1470 (a) rezoning for densities necessary to assure the economic viability of inclusionary  
1471 developments, either through mandatory set asides or density bonuses;

1472 (b) infrastructure expansion and rehabilitation that will facilitate the construction of  
1473 moderate income housing;

1474 (c) rehabilitation of existing uninhabitable housing stock;

1475 (d) consideration of waiving construction related fees generally imposed by the  
1476 municipality;

1477 (e) utilization of state or federal funds or tax incentives to promote the construction of  
1478 moderate income housing;

1479 (f) utilization of programs offered by the Utah Housing Corporation within that  
1480 agency's funding capacity; and

1481 (g) utilization of affordable housing programs administered by the Department of  
1482 Community and Economic Development.

1483 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the  
1484 legislative body of each city ~~[that is located within a county of the first or second class and of~~

1485 ~~each other city~~] of the first, second, or third~~[-, or fourth]~~ class shall annually:

1486 (i) review the plan and its implementation; and

1487 (ii) prepare a report setting forth the findings of the review.

1488 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

1489 (i) efforts made by the municipality to reduce, mitigate, or eliminate local regulatory  
1490 barriers to moderate income housing;

1491 (ii) actions taken by the municipality to encourage preservation of existing moderate  
1492 income housing and development of new moderate income housing;

1493 (iii) progress made within the municipality to provide moderate income housing, as  
1494 measured by permits issued for new units of moderate income housing; and

1495 (iv) efforts made by the municipality to coordinate moderate income housing plans and  
1496 actions with neighboring municipalities.

1497 (c) The legislative body of each city [~~that is located within a county of the first or~~  
1498 ~~second class and of each other city~~] of the first, second, or third~~[-, or fourth]~~ class shall send a  
1499 copy of the report under Subsection (5)(a)(ii) to the Department of Community and Economic  
1500 Development and the association of governments in which the municipality is located.

1501 Section 58. Section **11-14-3** is amended to read:

1502 **11-14-3. Notice of election -- Contents -- Publication -- Mailing.**

1503 (1) (a) Notice of the election shall be published once a week during three consecutive  
1504 weeks in a newspaper designated in accordance with Section 11-14-21, the first publication to  
1505 be not less than 21 nor more than 35 days before the election.

1506 (b) If no official newspaper is designated, the notices shall be published in a newspaper  
1507 published in the municipality, or if no newspaper is published in the municipality, the notices  
1508 shall be published in a newspaper having general circulation in the municipality.

1509 (2) When the debt service on the bonds to be issued will increase the property tax  
1510 imposed upon the average value of a residence by an amount that is greater than or equal to \$15  
1511 per year, the governing body shall, at least seven days but not more than 30 days before the  
1512 bond election, if the bond election is not held on the date of a regular primary election, a  
1513 municipal primary election, a regular general election, or a municipal general election, either  
1514 mail:

1515 (a) written notice of the bond election on a minimum three inch by five inch postcard

1516 to every household containing a registered voter who is eligible to vote on the bonds; or

1517 (b) a voter information pamphlet prepared by the governing body, if one is prepared,  
1518 that includes the information required by Subsection (4).

1519 (3) (a) Except as provided in Subsection (3)(b), election notice given for any bond  
1520 election held in this state need not be posted by any persons.

1521 (b) (i) In a city of the third, fourth, or fifth class or a town where no newspaper is  
1522 published, the governing body may require that notice of a bond election be given by posting in  
1523 lieu of the publication requirements of Subsection (1).

1524 (ii) When the governing body imposes a posting requirement, the city [~~recorder;~~] or  
1525 town clerk, or other officer designated by the governing body, shall post notice of the bond  
1526 election in at least five public places in the city or town at least 21 days before the election.

1527 (4) The printed, posted, and mailed notice required by this section shall identify:

1528 (a) the date and place of the election;

1529 (b) the hours during which the polls will be open; and

1530 (c) the purpose for which the bonds are to be issued, the maximum amount of bonds to  
1531 be issued, and the maximum number of years to maturity of the bonds.

1532 (5) The governing body shall pay the costs associated with the printed, posted, and  
1533 mailed notice required by this section.

1534 Section 59. Section **17A-2-1307** is amended to read:

1535 **17A-2-1307. Notice of intention to establish district -- Hearing.**

1536 Before a service district may be established, the county clerk[;] or city [~~recorder;~~] or  
1537 town clerk, as the case may be, shall give notice of the intention of the county or municipality  
1538 to establish the service district. The notice of intention shall describe the boundaries of the  
1539 service district, shall generally describe the type or types of services proposed to be provided  
1540 within the service district, shall state that taxes may be annually levied upon all taxable  
1541 property within the service district and that fees and charges may be imposed to pay for all or a  
1542 part of the services to be provided by the service district, and shall designate a time and place  
1543 for a public hearing on the establishment of the service district. The notice of intention may  
1544 contain such other information concerning the proposed service district as the governing  
1545 authority [~~deems~~] considers necessary or appropriate.

1546 Section 60. Section **17A-2-1308** is amended to read:

1547 **17A-2-1308. Publication of notice.**

1548 The notice of intention to establish a service district shall be published at least once a  
1549 week during three consecutive weeks, the first publication to be not less than 21 days nor more  
1550 than 35 days before the hearing, in a newspaper having general circulation in the county or  
1551 municipality proposing the establishment of the service district; except for service districts  
1552 located entirely within a city of the third, fourth, or fifth class or a town where there is no  
1553 newspaper published in the city or town, the governing authority of that city or town may  
1554 provide that the notice of intention may be given by posting in lieu of publication of the notice.  
1555 In this event the notice of intention shall be posted by the city [~~recorder;~~] or town clerk, or  
1556 other officer designated by the governing authority, in at least five public places in the city or  
1557 town at least 21 days before the hearing. If the service district proposed to be established by a  
1558 county includes any part of another county or counties or improvement district or if proposed  
1559 by a municipality includes any part of another municipality or improvement district, the notice  
1560 of intention shall also be published or posted in each such other county or counties,  
1561 municipality or municipalities, or improvement district, as the case may be.

1562 Section 61. Section **17A-3-305** is amended to read:

1563 **17A-3-305. Notice of intent to create special improvement district - Contents.**

1564 (1) Before a special improvement district is created, the governing body shall give  
1565 notice of its intention to make the improvements and to levy assessments to pay all or a part of  
1566 the cost of the improvements.

1567 (a) The notice shall state the purpose for which the assessments are to be levied.

1568 (b) The notice shall state the method or methods under which the assessments are  
1569 proposed to be levied, that is, according to frontage, according to area, according to taxable  
1570 value, according to lot, according to number of connections, or by any combination of these  
1571 methods.

1572 (c) The notice shall describe the district. The description may be by metes and bounds,  
1573 by reference to streets or extensions of streets, or by any other means reasonably describing the  
1574 district so as to permit owners of property in the district to ascertain that their property is within  
1575 the district. All property to be assessed shall be included within the district, but it is not a defect  
1576 if property which is not to be assessed is included. Different areas that are not connected or  
1577 contiguous may be included in a single special improvement district and separate boundaries

1578 for each of these areas may be established, or all or one or more of these areas may be included  
1579 within a single boundary.

1580 (d) In a general way, the notice shall describe the improvements proposed to be made  
1581 showing the places the improvements are proposed to be made and the general nature of the  
1582 improvements. The improvements may be described by type or kind and the places these  
1583 improvements are proposed to be made may be described by reference to streets or portions of  
1584 streets or extensions of streets or by any other means the governing body may choose that  
1585 reasonably describes the improvements proposed to be made.

1586 (e) The notice shall state the estimated cost of the improvements as determined by the  
1587 engineer of the municipality. If the actual cost of the improvements exceeds the estimated cost,  
1588 the governing body shall nevertheless have the right to levy assessments in excess of the  
1589 estimated cost.

1590 (f) The notice shall state that it is proposed to levy assessments on property in the  
1591 district to pay all or a portion of the cost of the improvements according to the benefits to be  
1592 derived by the property.

1593 (g) The notice shall designate the time within which and the place where protests shall  
1594 be filed and the time and place at which the governing body will conduct a public hearing to  
1595 consider these protests.

1596 (h) The notice shall state the method for determining the necessary number of protests  
1597 required to be filed under Subsection 17A-3-307(3).

1598 (i) If the governing body elects to create and fund from assessments a separate reserve  
1599 fund for the proposed bond issue as provided in Section 17A-3-335, the notice shall describe  
1600 how the reserve fund would be funded and how the remaining moneys on deposit in the reserve  
1601 fund would be disbursed with payment in full of the bonds.

1602 (j) If the governing body desires to create a special improvement district wherein only  
1603 properties are assessed, the owners of which voluntarily consent to an assessment, the notice  
1604 shall include a consent form to be used to obtain the consent of each owner of property to be  
1605 assessed that:

1606 (i) estimates the total assessment to be levied against the particular piece of property;

1607 (ii) describes the additional benefits, if any, to be received from the improvements by  
1608 the owners of properties to be assessed; and

1609 (iii) designates a time and date by which the fully executed consent form shall be  
1610 received by the [~~recorder~~] clerk of the governing body.

1611 (2) The notice may contain other information the governing body determines to be  
1612 appropriate, including the amount or proportion of the cost of the improvements to be paid for  
1613 by the municipality or from sources other than assessments, the estimated amount of each type  
1614 of assessment for the various improvements to be made according to the method of assessment  
1615 chosen by the governing body, and provisions for any optional improvements. The failure to  
1616 include this information may not be [~~deemed~~] considered jurisdictional or a defect preventing  
1617 the municipality from proceeding with the special improvement district. The inclusion of any  
1618 permitted information is not considered a limitation on the municipality from subsequently  
1619 changing its plans in regard to any of the information.

1620 Section 62. Section **17A-3-317** is amended to read:

1621 **17A-3-317. Assessment list -- Board of equalization and review -- Hearings --**  
1622 **Appeal -- Corrections -- Report -- Waiver of objections.**

1623 (1) Before an assessment is levied, an assessment list shall be prepared designating  
1624 each parcel of property proposed to be assessed and the amount of the assessment apportioned  
1625 to this property as provided in this part.

1626 (2) (a) Upon completion of the assessment list, the governing body shall:

1627 (i) appoint a board of equalization and review consisting of three or more of the  
1628 members of the governing body or, at the option of the governing body of any municipality,  
1629 consisting of the municipal [~~recorder~~] clerk or a designee, the municipal engineer or public  
1630 works director or a designee, or the municipal attorney or a designee; and

1631 (ii) give public notice of the completion of the assessment list and of the time and place  
1632 of the holding of public hearings relating to the proposed assessments.

1633 (b) If the board of equalization and review consists of other than members of the  
1634 governing body of the municipality, appeal from a decision of the board of equalization and  
1635 review shall be taken to the governing body of the municipality by filing a written notice of  
1636 appeal in the offices of the city or town [~~recorder~~] clerk within 15 days from the date the  
1637 board's final report to the governing body is mailed to the affected property owners as provided  
1638 in Subsection (7).

1639 (3) (a) The notice shall be published in a newspaper published in the municipality or, if

1640 there is no newspaper published in the municipality, in a newspaper having general circulation  
1641 in the municipality. In a city of the third, fourth, or fifth class or a town where there is no  
1642 newspaper published, the governing body may provide that the notice be given by posting in  
1643 lieu of publication.

1644 (b) The notice shall be published at least one time or, if posted, shall be posted in at  
1645 least three public places in the municipality. In either case, the first publication or posting shall  
1646 be at least 20 and not more than 35 days prior to the date the board will begin its hearings.

1647 (4) Not later than ten days after the first publication or posting of the notice, the notice  
1648 shall be mailed, postage prepaid:

1649 (a) addressed to each owner of property to be assessed within the special improvement  
1650 district at the last-known address of the owner, using for this purpose the names and addresses  
1651 appearing on the last completed real property assessment rolls of the county in which the  
1652 property is located; and

1653 (b) addressed to "owner" at the street number of each piece of improved property to be  
1654 assessed. If a street number has not been assigned, then the post office box, rural route  
1655 number, or any other mailing address of the improved property shall be used for the mailing of  
1656 the notice.

1657 (5) The board of equalization and review shall convene at the time and place specified  
1658 in the notice. Hearings shall be held on not less than three consecutive days for at least one  
1659 hour between 9 a.m. and 9 p.m. as specified in the notice. The hearings may be adjourned or  
1660 recessed from time to time to a specific place and a specific hour and day until the work of the  
1661 board shall have been completed. At each hearing the board shall hear arguments from any  
1662 person who believes himself to be aggrieved, including arguments relating to the benefits  
1663 accruing to any tract, block, lot, or parcel of property in the district or relating to the amount of  
1664 the proposed assessment against that tract, block, lot, or parcel.

1665 (6) (a) After the hearings have been completed, the board shall consider all facts and  
1666 arguments presented and shall make those corrections in any proposed assessment as it may  
1667 consider just and equitable. These corrections may eliminate one or more pieces of property or  
1668 may increase or decrease the amount of the assessment proposed to be levied against any piece  
1669 of property.

1670 (b) If the corrections result in an increase of any proposed assessment, before

1671 approving the corrected assessment list, the board shall cause to be mailed, to each owner of  
1672 property whose assessment is to be increased, a notice stating that the assessment will be  
1673 increased, the amount of the proposed new assessment, that a hearing will be held at which the  
1674 owner may appear and make any objections to the increase, and the time and place of the  
1675 hearing. The notice shall be mailed to the last known address of the owner, using for this  
1676 purpose the names and addresses appearing on the last completed real property assessment rolls  
1677 of the county where the affected property is located. A copy of the notice shall be addressed to  
1678 "owner" and shall be so mailed addressed to the street number of each piece of improved  
1679 property to be affected by the increased assessment. If a street number has not been assigned,  
1680 then the post office box, rural route number, or any other mailing address of the improved  
1681 property shall be used for the mailing of the notice. The notice shall be mailed at least 15 days  
1682 prior to the date stated in the notice for the holding of the new hearing.

1683 (7) (a) After all corrections have been made and all hearings, including hearings under  
1684 Subsection (6), have been held, the board shall report to the governing body its findings that  
1685 each piece of property within the special improvement district will be benefited in an amount  
1686 not less than the assessment to be levied against the property, and that no piece of property  
1687 listed on the assessment will bear more than its proportionate share of the cost of the  
1688 improvement.

1689 (b) The board shall cause to be mailed a copy of the board's final report to each owner  
1690 of property who objected at the hearings of the board to the assessment proposed to be levied  
1691 against his property.

1692 (c) The findings of the board, when approved by the governing body or after passage of  
1693 time for appeal and review by the governing body of the city, shall be final and, except as  
1694 provided in Subsection (2)(b), no appeal may be taken from them.

1695 (d) After receipt of the report from the board and the running of the appeal period  
1696 provided in Subsection (2)(b), if applicable, the governing body may proceed with the levy of  
1697 the assessments.

1698 (8) Each person whose property is subject to assessment and who fails to appear before  
1699 the board of equalization and review to raise his objections to the levy of the assessment shall  
1700 be ~~deemed~~ considered to have waived all objections to the levy except the objection that the  
1701 governing body failed to obtain jurisdiction to order the making of the improvements which the

1702 assessment is intended to pay.

1703 Section 63. Section **17A-3-406** is amended to read:

1704 **17A-3-406. Notice of intention to establish district -- Contents.**

1705 Before a district may be established, the county clerk[;] or city [~~recorder;~~] or town clerk,  
1706 as the case may be, shall give notice of the intention of the county or municipality to establish  
1707 the district. The notice of intention shall describe the boundaries of the district, shall state that  
1708 taxes may be annually levied upon all businesses within the district and shall designate a time  
1709 and place for a public hearing on the establishment of the district. The notice of intention may  
1710 contain such other information concerning the proposed district as the governing authority  
1711 [~~deems~~] considers necessary or appropriate.

1712 Section 64. Section **17A-3-407** is amended to read:

1713 **17A-3-407. Publication or posting of notice.**

1714 (1) The notice of intention to establish a district shall be published at least once a week  
1715 during three consecutive weeks, the first publication to be not less than 21 days nor more than  
1716 35 days before the hearing, in a newspaper published or of general circulation in the county or  
1717 municipality proposing the establishment of the district.

1718 (2) (a) If a district is located entirely within a city of the third, fourth, or fifth class or  
1719 town where there is no newspaper published or of general circulation in the city or town, the  
1720 governing authority of that city or town may provide that the notice of intention may be given  
1721 by posting in lieu of publication of the notice.

1722 (b) The notice of intention under Subsection (2)(a) shall be posted by the city  
1723 [~~recorder;~~] or town clerk, or other officer designated by the governing authority, in at least five  
1724 public places in the city or town at least 21 days before the hearing.

1725 Section 65. Section **17B-2-201** is amended to read:

1726 **17B-2-201. Definitions.**

1727 As used in this part:

1728 (1) "Applicable area" means:

1729 (a) for a county, the unincorporated area of the county that is included within the  
1730 proposed local district; or

1731 (b) for a municipality, the area of the municipality that is included within the proposed  
1732 local district.

- 1733 (2) "Petition" means a petition under Subsection 17B-2-203(1)(a) or (b).
- 1734 (3) "Property owner petition" means a petition under Subsection 17B-2-203(1)(a).
- 1735 (4) "Property owner request" means a request under Section 17B-2-204 that is signed  
1736 by owners of real property as provided in Subsection 17B-2-204(2)(b)(i).
- 1737 (5) "Registered voter request" means a request under Section 17B-2-204 that is signed  
1738 by registered voters as provided in Subsection 17B-2-204(2)(b)(ii).
- 1739 (6) "Registered voter petition" means a petition under Subsection 17B-2-203(1)(b).
- 1740 (7) "Request" means a request as described in Section 17B-2-204.
- 1741 (8) "Responsible body" means the legislative body of:
- 1742 (a) the municipality in which the proposed local district is located, if the petition  
1743 proposes the creation of a local district located entirely within a single municipality;
- 1744 (b) the county in which the proposed local district is located, if the petition proposes the  
1745 creation of a local district located entirely within a single county and all or part of the proposed  
1746 local district is located within:
- 1747 (i) the unincorporated part of the county; or
- 1748 (ii) more than one municipality within the county; or
- 1749 (c) if the petition proposes the creation of a local district located within more than one  
1750 county, the county whose boundaries include more of the area of the proposed local district  
1751 than is included within the boundaries of any other county.
- 1752 (9) "Responsible clerk" means the clerk of the county or ~~[the clerk or recorder of the]~~  
1753 municipality whose legislative body is the responsible body.
- 1754 Section 66. Section **17B-2-204** is amended to read:
- 1755 **17B-2-204. Request for service required before filing of petition -- Request**  
1756 **requirements.**
- 1757 (1) A petition may not be filed until after:
- 1758 (a) a request has been filed with:
- 1759 (i) the clerk of each county in whose unincorporated area any part of the proposed local  
1760 district is located; and
- 1761 (ii) the clerk ~~[or recorder]~~ of each municipality in which any part of the proposed local  
1762 district is located; and
- 1763 (b) each county and municipality with which a request under Subsection (1)(a) is filed:

1764 (i) has adopted a resolution under Subsection 17B-2-212(1) indicating whether it will  
1765 provide the requested service; or

1766 (ii) is considered to have declined to provide the requested service under Subsection  
1767 17B-2-212(2) or (3).

1768 (2) Each request under Subsection (1)(a) shall:

1769 (a) ask the county or municipality to provide the service proposed to be provided by the  
1770 proposed local district within the applicable area; and

1771 (b) be signed by:

1772 (i) the owners of private real property that:

1773 (A) is located within the proposed local district;

1774 (B) covers at least 10% of the total private land area within the applicable area; and

1775 (C) is equal in value to at least 7% of the value of all private real property within the  
1776 applicable area; or

1777 (ii) registered voters residing within the applicable area equal in number to at least 10%  
1778 of the number of votes cast in the applicable area for the office of governor at the last general  
1779 election prior to the filing of the request.

1780 (3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a  
1781 municipality in a petition under Section 10-2-403 filed before and still pending at the time of  
1782 filing of a petition shall be considered to be part of that municipality.

1783 Section 67. Section **17B-2-205** is amended to read:

1784 **17B-2-205. Petition and request requirements -- Withdrawal of signature.**

1785 (1) Each petition and request shall:

1786 (a) indicate the typed or printed name and current residence address of each property  
1787 owner or registered voter signing the petition;

1788 (b) if it is a property owner request or petition, indicate the address of the property as to  
1789 which the owner is signing the request or petition;

1790 (c) describe the entire area of the proposed local district;

1791 (d) be accompanied by a map showing the boundaries of the entire proposed local  
1792 district;

1793 (e) specify the service proposed to be provided by the proposed local district; and

1794 (f) designate up to five signers of the petition or request as sponsors, one of whom shall

1795 be designated as the contact sponsor, with the mailing address and telephone number of each.

1796 (2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the  
1797 signer's signature at any time before the filing of the request or petition by filing a written  
1798 withdrawal or reinstatement with:

1799 (a) in the case of a request:

1800 (i) the clerk of the county or [~~the clerk or recorder of the~~] municipality in whose  
1801 applicable area the signer's property is located, if the request is a property owner request; or

1802 (ii) the clerk of the county or [~~the clerk or recorder of the~~] municipality in whose  
1803 applicable area the signer resides, if the request is a registered voter request; or

1804 (b) in the case of a petition, the responsible clerk.

1805 Section 68. Section **17B-2-206** is amended to read:

1806 **17B-2-206. Request certification -- Amended request.**

1807 (1) Within 30 days after the filing of a request, the clerk of each county [~~and the clerk~~  
1808 ~~or recorder of each~~] or municipality with which a request was filed shall:

1809 (a) with the assistance of other county or municipal officers from whom the clerk [~~or~~  
1810 ~~recorder~~] requests assistance, determine, for the [~~clerk or recorder's~~] clerk's respective county  
1811 or municipality, whether the request complies with the requirements of Subsections  
1812 17B-2-204(2) and 17B-2-205(1); and

1813 (b) (i) if the clerk [~~or recorder~~] determines that the request complies with the  
1814 requirements:

1815 (A) certify the request and deliver it to the legislative body of the county or  
1816 municipality, as the case may be; and

1817 (B) mail or deliver written notification of the certification to the contact sponsor; or

1818 (ii) if the clerk [~~or recorder~~] determines that the request fails to comply with any of the  
1819 applicable requirements, reject the request and notify the contact sponsor in writing of the  
1820 rejection and the reasons for the rejection.

1821 (2) If the clerk [~~or recorder~~] fails to certify or reject a request within 30 days after its  
1822 filing, the request shall be considered to be certified.

1823 (3) Each county [~~clerk~~] or municipal clerk [~~or recorder~~] shall certify or reject requests  
1824 in the order in which they are filed.

1825 (4) (a) If the county [~~clerk~~] or municipal clerk [~~or recorder~~] rejects a request under

1826 Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was  
1827 rejected and then refiled.

1828 (b) A valid signature on a request that was rejected under Subsection (1)(b)(ii) may be  
1829 used toward fulfilling the applicable signature requirement of the request as amended under  
1830 Subsection (4)(a).

1831 (5) Each county [~~clerk~~] and municipal clerk [~~or recorder~~] shall act in good faith in  
1832 making the determinations under this section.

1833 Section 69. Section **17B-2-209** is amended to read:

1834 **17B-2-209. Petition certification -- Amended petition.**

1835 (1) Within five days after the filing of a petition, the responsible clerk shall mail a copy  
1836 of the petition to the clerk of each other county and [~~the clerk or recorder of each~~] municipality  
1837 in which any part of the proposed local district is located.

1838 (2) (a) Within 35 days after the filing of a petition, the clerk of each county whose  
1839 unincorporated area includes and the clerk [~~or recorder~~] of each municipality whose boundaries  
1840 include part of the proposed local district shall:

1841 (i) with the assistance of other county or municipal officers from whom the county  
1842 [~~clerk~~] or municipal clerk [~~or recorder~~] requests assistance, determine, for the [~~clerk or~~  
1843 ~~recorder's~~] clerk's respective county or municipality, whether the petition complies with the  
1844 requirements of Subsection 17B-2-203(1)(a) or (b), as the case may be, and Subsections  
1845 17B-2-208(2), (3), and (4); and

1846 (ii) notify the responsible clerk in writing of the [~~clerk or recorder's~~] clerk's  
1847 determination under Subsection (2)(a)(i).

1848 (b) The responsible clerk may rely on the determinations of other county [~~clerk~~s] or  
1849 municipal clerks [~~or recorders~~] under Subsection (2)(a) in making the responsible clerk's  
1850 determinations and certification or rejection under Subsection (3).

1851 (3) Within 45 days after the filing of a petition, the responsible clerk shall:

1852 (a) determine whether the petition complies with Subsection 17B-2-203(1)(a) or (b), as  
1853 the case may be, Subsection 17B-2-205(1), and Section 17B-2-208; and

1854 (b) (i) if the responsible clerk determines that the petition complies with the applicable  
1855 requirements:

1856 (A) certify the petition and deliver the certified petition to the responsible body;

1857 (B) mail or deliver written notification of the certification to the contact sponsor; or  
1858 (ii) if the responsible clerk determines that the petition fails to comply with any of the  
1859 applicable requirements, reject the petition and notify the contact sponsor in writing of the  
1860 rejection and the reasons for the rejection.

1861 (4) If the responsible clerk fails to certify or reject a petition within 45 days after its  
1862 filing, the petition shall be considered to be certified.

1863 (5) The responsible clerk shall certify or reject petitions in the order in which they are  
1864 filed.

1865 (6) (a) If the responsible clerk rejects a petition under Subsection (3)(b)(ii), the petition  
1866 may be amended to correct the deficiencies for which it was rejected and then refiled.

1867 (b) A valid signature on a petition that was rejected under Subsection (3)(b)(ii) may be  
1868 used toward fulfilling the applicable signature requirement of the petition as amended under  
1869 Subsection (6)(a).

1870 (c) If a petition is amended and refiled under Subsection (6)(a) after having been  
1871 rejected by the responsible clerk under Subsection (3)(b)(ii), the amended petition shall be  
1872 considered as newly filed, and its processing priority shall be determined by the date on which  
1873 it is refiled.

1874 (7) The responsible clerk and each county [~~clerk~~] and municipal clerk [~~or recorder~~]  
1875 shall act in good faith in making the determinations under this section.

1876 Section 70. Section **17B-2-213** is amended to read:

1877 **17B-2-213. Protest after adoption of resolution -- Adoption of resolution**  
1878 **approving creation for certain districts.**

1879 (1) For purposes of this section, "adequate protests" means protests that are:

1880 (a) filed with the county [~~clerk~~] or municipal clerk [~~or recorder~~], as the case may be,  
1881 within 60 days after the last public hearing required under Section 17B-2-210; and

1882 (b) signed by:

1883 (i) the owners of private real property that:

1884 (A) is located within the proposed local district;

1885 (B) covers at least 25% of the total private land area within the applicable area; and

1886 (C) is equal in value to at least 15% of the value of all private real property within the  
1887 applicable area; or

1888           (ii) registered voters residing within the applicable area equal in number to at least 25%  
1889 of the number of votes cast in the applicable area for the office of governor at the last general  
1890 election prior to the adoption of the resolution.

1891           (2) If adequate protests are filed, the county or municipal legislative body that adopted  
1892 a resolution under Subsection 17B-2-203(1)(c):

1893           (a) may not:

1894           (i) hold or participate in an election under Subsection 17B-2-214(1) with respect to the  
1895 applicable area;

1896           (ii) take any further action under the protested resolution to create a local district or  
1897 include the applicable area in a local district; or

1898           (iii) for a period of two years, adopt a resolution under Subsection 17B-2-203(1)(c)  
1899 proposing the creation of a local district including substantially the same area as the applicable  
1900 area and providing the same service as the proposed local district in the protested resolution;  
1901 and

1902           (b) shall, within five days of receiving adequate protests, mail or deliver written  
1903 notification of the adequate protests to the responsible body.

1904           (3) Subsection (2)(a) may not be construed to prevent an election from being held for a  
1905 proposed local district whose boundaries do not include an applicable area that is the subject of  
1906 adequate protests.

1907           (4) (a) If adequate protests are not filed with respect to a resolution proposing the  
1908 creation of a local district for which an election is not required under Subsection  
1909 17B-2-214(3)(c), a resolution approving the creation of the local district may be adopted by:

1910           (i) the legislative body of a county whose unincorporated area is included within the  
1911 proposed local district; and

1912           (ii) the legislative body of a municipality whose area is included within the proposed  
1913 local district.

1914           (b) Each resolution adopted under Subsection (4)(a) shall:

1915           (i) describe the area included in the local district;

1916           (ii) be accompanied by a map that shows the boundaries of the local district;

1917           (iii) describe the service to be provided by the local district;

1918           (iv) state the name of the local district; and

1919 (v) provide a process for the appointment of the members of the initial board of  
1920 trustees.

1921 Section 71. Section **17B-2-214** is amended to read:

1922 **17B-2-214. Election -- Exceptions.**

1923 (1) (a) Except as provided in Subsection (3) and in Subsection 17B-2-213(2)(a), an  
1924 election on the question of whether the local district should be created shall be held by:

1925 (i) if the proposed local district is located entirely within a single county, the  
1926 responsible clerk; or

1927 (ii) except as provided under Subsection (1)(b), if the proposed local district is located  
1928 within more than one county, the clerk of each county in which part of the proposed local  
1929 district is located, in cooperation with the responsible clerk.

1930 (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located  
1931 within more than one county and the only area of a county that is included within the proposed  
1932 local district is located within a single municipality, the election for that area shall be held by  
1933 the municipal clerk [~~or recorder~~], in cooperation with the responsible clerk.

1934 (2) Each election under Subsection (1) shall be held at the next special or regular  
1935 general election date that is:

1936 (a) for an election pursuant to a property owner or registered voter petition, more than  
1937 45 days after certification of the petition under Subsection 17B-2-209(3)(b)(i); or

1938 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing  
1939 required under Section 17B-2-210.

1940 (3) The election requirement of Subsection (1) does not apply:

1941 (a) to a petition filed under Subsection 17B-2-203(1)(a) if it contains the signatures of  
1942 the owners of private real property that:

1943 (i) is located within the proposed local district;

1944 (ii) covers at least 67% of the total private land area within the proposed local district  
1945 as a whole and within each applicable area; and

1946 (iii) is equal in value to at least 50% of the value of all private real property within the  
1947 proposed local district as a whole and within each applicable area;

1948 (b) to a petition filed under Subsection 17B-2-203(1)(b) if it contains the signatures of  
1949 registered voters residing within the proposed local district as a whole and within each

1950 applicable area, equal in number to at least 67% of the number of votes cast in the proposed  
1951 local district as a whole and in each applicable area, respectively, for the office of governor at  
1952 the last general election prior to the filing of the petition; or

1953 (c) to a resolution adopted under Subsection 17B-2-203(1)(c) on or after May 5, 2003  
1954 that proposes the creation of a local district to provide fire protection, paramedic, and  
1955 emergency services, if the proposed local district includes a majority of the unincorporated area  
1956 of one or more counties.

1957 (4) (a) If the proposed local district is located in more than one county, the responsible  
1958 clerk shall coordinate with the clerk of each other county and the clerk [~~or recorder~~] of each  
1959 municipality involved in an election under Subsection (1) so that the election is held on the  
1960 same date and in a consistent manner in each jurisdiction.

1961 (b) The clerk of each county and [~~the clerk or recorder of each~~] municipality involved  
1962 in an election under Subsection (1) shall cooperate with the responsible clerk in holding the  
1963 election.

1964 (c) Except as otherwise provided in this part, each election under Subsection (1) shall  
1965 be governed by Title 20A, Election Code.

1966 Section 72. Section **17B-2-701** is amended to read:

1967 **17B-2-701. Definitions.**

1968 For purposes of this part:

1969 (1) "Active" means, with respect to a local district, that the district is not inactive.

1970 (2) "Administrative body" means:

1971 (a) if the local district proposed to be dissolved has a duly constituted board of trustees  
1972 in sufficient numbers to form a quorum, the board of trustees; or

1973 (b) except as provided in Subsection (2)(a):

1974 (i) for a local district located entirely within a single municipality, the legislative body  
1975 of that municipality;

1976 (ii) for a local district located in multiple municipalities within the same county or at  
1977 least partly within the unincorporated area of a county, the legislative body of that county; or

1978 (iii) for a local district located within multiple counties, the legislative body of the  
1979 county whose boundaries include more of the local district than is included within the  
1980 boundaries of any other county.

1981 (3) "Clerk" means:  
 1982 (a) the board of trustees if the board is also the administrative body under Subsection  
 1983 (2)(a);  
 1984 (b) the clerk [~~or recorder~~] of the municipality whose legislative body is the  
 1985 administrative body under Subsection (2)(b)(i); or  
 1986 (c) the clerk of the county whose legislative body is the administrative body under  
 1987 Subsection (2)(b)(ii) or (iii).

1988 (4) "Inactive" means, with respect to a local district, that during the preceding three  
 1989 years the district has not:  
 1990 (a) provided any service or otherwise operated;  
 1991 (b) received property taxes or user or other fees; and  
 1992 (c) expended any funds.

1993 Section 73. Section **17B-4-1401** is amended to read:

1994 **17B-4-1401. Dissolution by ordinance -- Restrictions -- Filing copy of ordinance --**  
 1995 **Agency records -- Dissolution expenses.**

1996 (1) (a) Subject to Subsection (1)(b), the legislative body of the community that created  
 1997 an agency may, by ordinance, deactivate and dissolve the agency.

1998 (b) An ordinance dissolving an agency may not be adopted unless the agency has no  
 1999 outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally  
 2000 binding contractual obligations with persons or entities other than the community.

2001 (2) The legislative body of each community that adopts an ordinance under Subsection  
 2002 (1) shall:

2003 (a) file a certified copy of the ordinance with the State Tax Commission, county  
 2004 assessor, county auditor, the State Board of Education, and each taxing entity; and

2005 (b) cause a notice of dissolution to be published in a newspaper of general circulation  
 2006 in the county in which the dissolved agency is located.

2007 (3) The books, documents, records, papers, and seal of each dissolved agency shall be  
 2008 deposited for safekeeping and reference with the recorder of the [~~community~~] county or clerk  
 2009 of the municipality that dissolved the agency.

2010 (4) The agency shall pay all expenses of the deactivation and dissolution.

2011 Section 74. Section **20A-4-102** is amended to read:

2012           **20A-4-102. Counting paper ballots after the polls close.**

2013           (1) (a) Except as provided in Subsection (2), as soon as the polls have been closed and  
2014 the last qualified voter has voted, the election judges shall count the ballots by performing the  
2015 tasks specified in this section in the order that they are specified.

2016           (b) The election judges shall apply the standards and requirements of Section  
2017 20A-4-105 to resolve any questions that arise as they count the ballots.

2018           (2) (a) First, the election judges shall count the number of ballots in the ballot box.

2019           (b) (i) If there are more ballots in the ballot box than there are names entered in the  
2020 pollbook, the judges shall examine the official endorsements on the ballots.

2021           (ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper  
2022 official endorsement, the judges shall put those ballots in an excess ballot file and not count  
2023 them.

2024           (c) (i) If, after examining the official endorsements, there are still more ballots in the  
2025 ballot box than there are names entered in the pollbook, the judges shall place the remaining  
2026 ballots back in the ballot box.

2027           (ii) One of the judges, without looking, shall draw a number of ballots equal to the  
2028 excess from the ballot box.

2029           (iii) The judges shall put those excess ballots into the excess ballot envelope and not  
2030 count them.

2031           (d) When the ballots in the ballot box equal the number of names entered in the  
2032 pollbook, the judges shall count the votes.

2033           (3) The judges shall:

2034           (a) place all unused ballots in the envelope or container provided for return to the  
2035 county or city clerk [~~or city recorder~~]; and

2036           (b) seal that envelope or container.

2037           (4) The judges shall:

2038           (a) place all of the provisional ballot envelopes in the envelope provided for them for  
2039 return to the election officer; and

2040           (b) seal that envelope or container.

2041           (5) (a) In counting the votes, the election judges shall read and count each ballot  
2042 separately.

- 2043 (b) In regular primary elections the judges shall:
- 2044 (i) count the number of ballots cast for each party;
- 2045 (ii) place the ballots cast for each party in separate piles; and
- 2046 (iii) count all the ballots for one party before beginning to count the ballots cast for
- 2047 other parties.
- 2048 (6) (a) In all elections, the counting judges shall:
- 2049 (i) count one vote for each candidate designated by the marks in the squares next to the
- 2050 candidate's name;
- 2051 (ii) count one vote for each candidate on the ticket beneath a marked circle, excluding
- 2052 any candidate for an office for which a vote has been cast for a candidate for the same office
- 2053 upon another ticket by the placing of a mark in the square opposite the name of that candidate
- 2054 on the other ticket;
- 2055 (iii) count each vote for each write-in candidate who has qualified by filing a
- 2056 declaration of candidacy under Section 20A-9-601;
- 2057 (iv) read every name marked on the ballot and mark every name upon the tally sheets
- 2058 before another ballot is counted;
- 2059 (v) evaluate each ballot and each vote based on the standards and requirements of
- 2060 Section 20A-4-105;
- 2061 (vi) write the word "spoiled" on the back of each ballot that lacks the official
- 2062 endorsement and deposit it in the spoiled ballot envelope; and
- 2063 (vii) read, count, and record upon the tally sheets the votes that each candidate and
- 2064 ballot proposition received from all ballots, except excess or spoiled ballots.
- 2065 (b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or
- 2066 persons clearly not eligible to qualify for office.
- 2067 (c) The judges shall certify to the accuracy and completeness of the tally list in the
- 2068 space provided on the tally list.
- 2069 (d) When the judges have counted all of the voted ballots, they shall record the results
- 2070 on the total votes cast form.
- 2071 (7) Only election judges and counting poll watchers may be present at the place where
- 2072 counting is conducted until the count is completed.
- 2073 Section 75. Section **20A-7-101** is amended to read:

2074           **20A-7-101. Definitions.**

2075           As used in this chapter:

2076           (1) "Certified" means that the county clerk has acknowledged a signature as being the  
2077 signature of a registered voter.

2078           (2) "Circulation" means the process of submitting an initiative or referendum petition  
2079 to legal voters for their signature.

2080           (3) "Initiative" means a new law proposed for adoption by the public as provided in  
2081 this chapter.

2082           (4) "Initiative packet" means a copy of the initiative petition, a copy of the proposed  
2083 law, and the signature sheets, all of which have been bound together as a unit.

2084           (5) "Legal signatures" means the number of signatures of legal voters that:

2085           (a) meet the numerical requirements of this chapter; and

2086           (b) have been certified and verified as provided in this chapter.

2087           (6) "Legal voter" means a person who:

2088           (a) is registered to vote; or

2089           (b) becomes registered to vote before the county clerk certifies the signatures on an  
2090 initiative or referendum petition.

2091           (7) (a) "Local law" includes an ordinance, resolution, master plan, and any  
2092 comprehensive zoning regulations adopted by ordinance or resolution.

2093           (b) "Local law" does not include individual property zoning decisions.

2094           (8) "Local attorney" means the county attorney, city attorney, or town attorney in  
2095 whose jurisdiction a local initiative or referendum petition is circulated.

2096           (9) "Local clerk" means the county clerk[;] or city [~~recorder,~~] or town clerk in whose  
2097 jurisdiction a local initiative or referendum petition is circulated.

2098           (10) "Local legislative body" means the legislative body of a county, city, or town.

2099           (11) "Measure" means an initiative or referendum.

2100           (12) "Referendum" means a law passed by the Legislature or by a local legislative body  
2101 that is being submitted to the voters for their approval or rejection.

2102           (13) "Referendum packet" means a copy of the referendum petition, a copy of the law  
2103 being submitted to the voters for their approval or rejection, and the signature sheets, all of  
2104 which have been bound together as a unit.

2105 (14) "Signature sheets" means sheets in the form required by this chapter that are used  
2106 to collect signatures in support of an initiative or referendum.

2107 (15) "Sponsors" means the legal voters who support the initiative or referendum and  
2108 who sign the application for petition copies.

2109 (16) "Sufficient" means that the signatures submitted in support of an initiative or  
2110 referendum petition have been certified and verified as required by this chapter.

2111 (17) "Verified" means acknowledged by the person circulating the petition as required  
2112 in Sections 20A-7-205 and 20A-7-305.

2113 Section 76. Section **20A-7-501** is amended to read:

2114 **20A-7-501. Initiatives.**

2115 (1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative  
2116 submitted to a local legislative body or to a vote of the people for approval or rejection shall  
2117 obtain legal signatures equal to:

2118 (i) 10% of all the votes cast in the county, city, or town for all candidates for governor  
2119 at the last election at which a governor was elected if the total number of votes exceeds 25,000;

2120 (ii) 12-1/2% of all the votes cast in the county, city, or town for all candidates for  
2121 governor at the last election at which a governor was elected if the total number of votes does  
2122 not exceed 25,000 but is more than 10,000;

2123 (iii) 15% of all the votes cast in the county, city, or town for all candidates for governor  
2124 at the last election at which a governor was elected if the total number of votes does not exceed  
2125 10,000 but is more than 2,500;

2126 (iv) 20% of all the votes cast in the county, city, or town for all candidates for governor  
2127 at the last election at which a governor was elected if the total number of votes does not exceed  
2128 2,500 but is more than 500;

2129 (v) 25% of all the votes cast in the county, city, or town for all candidates for governor  
2130 at the last election at which a governor was elected if the total number of votes does not exceed  
2131 500 but is more than 250; and

2132 (vi) 30% of all the votes cast in the county, city, or town for all candidates for governor  
2133 at the last election at which a governor was elected if the total number of votes does not exceed  
2134 250.

2135 (b) In addition to the signature requirements of Subsection (1)(a), a person seeking to

2136 have an initiative submitted to a local legislative body or to a vote of the people for approval or  
2137 rejection in a county, city, or town where the local legislative body is elected from council  
2138 districts shall obtain, from each of a majority of council districts, legal signatures equal to the  
2139 percentages established in Subsection (1)(a).

2140 (2) If the total number of certified names from each verified signature sheet equals or  
2141 exceeds the number of names required by this section, the clerk [~~or recorder~~] shall deliver the  
2142 proposed law to the local legislative body at its next meeting.

2143 (3) (a) The local legislative body shall either adopt or reject the proposed law without  
2144 change or amendment within 30 days of receipt of the proposed law.

2145 (b) The local legislative body may:

2146 (i) adopt the proposed law and refer it to the people;

2147 (ii) adopt the proposed law without referring it to the people; or

2148 (iii) reject the proposed law.

2149 (c) If the local legislative body adopts the proposed law but does not refer it to the  
2150 people, it is subject to referendum as with other local laws.

2151 (d) (i) If a county legislative body rejects a proposed county ordinance or amendment,  
2152 or takes no action on it, the county clerk shall submit it to the voters of the county at the next  
2153 regular general election.

2154 (ii) If a local legislative body rejects a proposed municipal ordinance or amendment, or  
2155 takes no action on it, the municipal [~~recorder or~~] clerk shall submit it to the voters of the  
2156 municipality at the next municipal general election.

2157 (e) (i) If the local legislative body rejects the proposed ordinance or amendment, or  
2158 takes no action on it, the local legislative body may adopt a competing local law.

2159 (ii) The local legislative body shall prepare and adopt the competing local law within  
2160 the 30 days allowed for its action on the measure proposed by initiative petition.

2161 (iii) If the local legislative body adopts a competing local law, the clerk [~~or recorder~~]  
2162 shall submit it to the voters of the county or municipality at the same election at which the  
2163 initiative proposal is submitted.

2164 (f) If conflicting local laws are submitted to the people at the same election and two or  
2165 more of the conflicting measures are approved by the people, then the measure that receives the  
2166 greatest number of affirmative votes shall control all conflicts.

2167 Section 77. Section **20A-7-503** is amended to read:

2168 **20A-7-503. Form of initiative petitions and signature sheets.**

2169 (1) (a) Each proposed initiative petition shall be printed in substantially the following  
2170 form:

2171 "INITIATIVE PETITION To the Honorable \_\_\_\_, County Clerk/City [~~Recorder~~] or  
2172 Town Clerk:

2173 We, the undersigned citizens of Utah, respectfully demand that the following proposed  
2174 law be submitted to: the legislative body for its approval or rejection at its next meeting; and  
2175 the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes  
2176 no action on it.

2177 Each signer says:

2178 I have personally signed this petition;

2179 I am registered to vote in Utah or intend to become registered to vote in Utah before the  
2180 certification of the petition names by the county clerk; and

2181 My residence and post office address are written correctly after my name."

2182 (b) The sponsors of an initiative shall attach a copy of the proposed law to each  
2183 initiative petition.

2184 (2) Each signature sheet shall:

2185 (a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

2186 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line  
2187 blank for the purpose of binding;

2188 (c) contain the title of the initiative printed below the horizontal line;

2189 (d) contain the word "Warning" printed or typed at the top of each signature sheet  
2190 under the title of the initiative;

2191 (e) contain, to the right of the word "Warning," the following statement printed or  
2192 typed in not less than eight-point, single leaded type:

2193 "It is a class A misdemeanor for anyone to sign any initiative petition with any other  
2194 name than his own, or knowingly to sign his name more than once for the same measure, or to  
2195 sign an initiative petition when he knows he is not a registered voter and knows that he does  
2196 not intend to become registered to vote before the certification of the petition names by the  
2197 county clerk.";

2198 (f) contain horizontally ruled lines, 3/8 inch apart under the "Warning" statement  
2199 required by this section;

2200 (g) be vertically divided into columns as follows:

2201 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be  
2202 headed with "For Office Use Only", and be subdivided with a light vertical line down the  
2203 middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

2204 (ii) the next column shall be three inches wide, headed "Registered Voter's Printed  
2205 Name (must be legible to be counted)";

2206 (iii) the next column shall be three inches wide, headed "Signature of Registered  
2207 Voter"; and

2208 (iv) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
2209 Code"; and

2210 (h) contain the following statement, printed or typed upon the back of each sheet:

2211 "Verification

2212 State of Utah, County of \_\_\_\_\_

2213 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

2214 I am a resident of Utah and am at least 18 years old;

2215 All the names that appear on this sheet were signed by persons who professed to be the  
2216 persons whose names appear in it, and each of them signed his name on it in my presence;

2217 I believe that each has printed and signed his name and written his post office address  
2218 and residence correctly, and that each signer is registered to vote in Utah or intends to become  
2219 registered to vote before the certification of the petition names by the county clerk.

2220 \_\_\_\_\_"

2221 (3) The forms prescribed in this section are not mandatory, and, if substantially  
2222 followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical  
2223 errors.

2224 Section 78. Section **20A-7-603** is amended to read:

2225 **20A-7-603. Form of referendum petition and signature sheets.**

2226 (1) (a) Each proposed referendum petition shall be printed in substantially the  
2227 following form:

2228 "REFERENDUM PETITION To the Honorable \_\_\_\_\_, County Clerk/City [~~Recorder~~] or

2229 Town Clerk:

2230 We, the undersigned citizens of Utah, respectfully order that Ordinance No. \_\_\_\_\_,  
2231 entitled (title of ordinance, and, if the petition is against less than the whole ordinance, set forth  
2232 here the part or parts on which the referendum is sought), passed by the \_\_\_\_\_ be referred to the  
2233 voters for their approval or rejection at the regular/municipal general election to be held on  
2234 \_\_\_\_\_(month\day\year);

2235 Each signer says:

2236 I have personally signed this petition;

2237 I am registered to vote in Utah or intend to become registered to vote in Utah before the  
2238 certification of the petition names by the county clerk; and

2239 My residence and post office address are written correctly after my name."

2240 (b) The sponsors of a referendum shall attach a copy of the law that is the subject of the  
2241 referendum to each referendum petition.

2242 (2) Each signature sheet shall:

2243 (a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

2244 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line  
2245 blank for the purpose of binding;

2246 (c) contain the title of the referendum printed below the horizontal line;

2247 (d) contain the word "Warning" printed or typed at the top of each signature sheet  
2248 under the title of the referendum;

2249 (e) contain, to the right of the word "Warning," the following statement printed or  
2250 typed in not less than eight-point, single leaded type:

2251 "It is a class A misdemeanor for anyone to sign any referendum petition with any other  
2252 name than his own, or knowingly to sign his name more than once for the same measure, or to  
2253 sign a referendum petition when he knows he is not a registered voter and knows that he does  
2254 not intend to become registered to vote before the certification of the petition names by the  
2255 county clerk.";

2256 (f) contain horizontally ruled lines, 3/8 inch apart under the "Warning" statement  
2257 required by this section;

2258 (g) be vertically divided into columns as follows:

2259 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be

2260 headed with "For Office Use Only," and be subdivided with a light vertical line down the  
2261 middle;

2262 (ii) the next column shall be three inches wide, headed "Registered Voter's Printed  
2263 Name (must be legible to be counted)";

2264 (iii) the next column shall be three inches wide, headed "Signature of Registered  
2265 Voter"; and

2266 (iv) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
2267 Code"; and

2268 (h) contain the following statement, printed or typed upon the back of each sheet:

2269 "Verification

2270 State of Utah, County of \_\_\_\_\_

2271 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

2272 I am a resident of Utah and am at least 18 years old;

2273 All the names that appear on this sheet were signed by persons who professed to be the  
2274 persons whose names appear in it, and each of them signed his name on it in my presence;

2275 I believe that each has printed and signed his name and written his post office address  
2276 and residence correctly, and that each signer is registered to vote in Utah or intends to become  
2277 registered to vote before the certification of the petition names by the county clerk.

2278 \_\_\_\_\_"

2279 (3) The forms prescribed in this section are not mandatory, and, if substantially  
2280 followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical  
2281 errors.

2282 Section 79. Section **20A-7-609** is amended to read:

2283 **20A-7-609. Form of ballot -- Manner of voting.**

2284 (1) The local clerk shall ensure that the number and ballot title are printed upon the  
2285 official ballot with, immediately to the right of them, the words "For" and "Against," each word  
2286 followed by a square in which the elector may indicate his vote.

2287 (2) (a) Unless the county legislative body calls a special election, the county clerk shall  
2288 ensure that referenda that have qualified for the ballot appear on the next regular general  
2289 election ballot.

2290 (b) Unless the municipal legislative body calls a special election, the municipal

2291 [~~recorder or~~] clerk shall ensure that referenda that have qualified for the ballot appear on the  
2292 next regular municipal election ballot.

2293 (3) Voters desiring to vote in favor of enacting the law proposed by the referendum  
2294 petition shall mark the square following the word "For," and those desiring to vote against  
2295 enacting the law proposed by the referendum petition shall mark the square following the word  
2296 "Against."

2297 Section 80. Section **20A-9-203** is amended to read:

2298 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

2299 (1) (a) A person may become a candidate for any municipal office if the person is a  
2300 registered voter and:

2301 (i) the person has resided within the municipality in which that person seeks to hold  
2302 elective office for the 12 consecutive months immediately before the date of the election; or

2303 (ii) if the territory in which the person resides was annexed into the municipality, the  
2304 person has resided within the annexed territory or the municipality for 12 months.

2305 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal  
2306 council position under the council-mayor or council-manager alternative forms of municipal  
2307 government shall, if elected from districts, be residents of the council district from which they  
2308 are elected.

2309 (c) Pursuant to Utah Constitution Article IV, Section 6, any mentally incompetent  
2310 person, any person convicted of a felony, or any person convicted of treason or a crime against  
2311 the elective franchise may not hold office in this state until the right to vote or hold elective  
2312 office is restored as provided by statute.

2313 (2) (a) Each person seeking to become a candidate for a municipal office shall file a  
2314 declaration of candidacy in person with the city [~~recorder~~] or town clerk during office hours  
2315 and not later than 5 p.m. between July 15 and August 15 of any odd numbered year and pay  
2316 the filing fee, if one is required by municipal ordinance.

2317 (b) Any resident of a municipality may nominate a candidate for a municipal office by  
2318 filing a nomination petition with the city [~~recorder~~] or town clerk during office hours but not  
2319 later than 5 p.m. between July 15 and August 15 of any odd numbered year and pay the filing  
2320 fee, if one is required by municipal ordinance.

2321 (c) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5

2322 p.m. on the following Monday.

2323 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination  
2324 petition, the filing officer shall:

2325 (i) read to the prospective candidate or person filing the petition the constitutional and  
2326 statutory qualification requirements for the office that the candidate is seeking; and

2327 (ii) require the candidate or person filing the petition to state whether or not the  
2328 candidate meets those requirements.

2329 (b) If the prospective candidate does not meet the qualification requirements for the  
2330 office, the filing officer may not accept the declaration of candidacy or nomination petition.

2331 (c) If it appears that the prospective candidate meets the requirements of candidacy, the  
2332 filing officer shall accept the declaration of candidacy or nomination petition.

2333 (4) The declaration of candidacy shall substantially comply with the following form:

2334 "I, (print name) \_\_\_\_, being first sworn, say that I reside at \_\_\_\_ Street, City of \_\_\_\_,  
2335 County of \_\_\_\_, state of Utah, Zip Code \_\_\_\_, Telephone Number (if any) \_\_\_\_; that I am a  
2336 registered voter; and that I am a candidate for the office of \_\_\_\_ (stating the term). I request  
2337 that my name be printed upon the applicable official ballots. (Signed) \_\_\_\_\_

2338 Subscribed and sworn to (or affirmed) before me by \_\_\_\_ on this  
2339 \_\_\_\_\_(month\day\year).

2340 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)"

2341 (5) (a) Any registered voter may be nominated for municipal office by submitting a  
2342 petition signed by:

2343 (i) 25 residents of the municipality who are at least 18 years old; or

2344 (ii) 20% of the residents of the municipality who are at least 18 years old.

2345 (b) (i) The petition shall substantially conform to the following form:

2346 "NOMINATION PETITION

2347 The undersigned residents of (name of municipality) being 18 years old or older  
2348 nominate (name of nominee) to the office of \_\_\_\_ for the (two or four-year term, whichever is  
2349 applicable)."

2350 (ii) The remainder of the petition shall contain lines and columns for the signatures of  
2351 persons signing the petition and their addresses and telephone numbers.

2352 (c) If the declaration of candidacy or nomination petition fails to state whether the

2353 nomination is for the two or four-year term, the clerk shall consider the nomination to be for  
2354 the four-year term.

2355 (d) (i) The clerk shall verify with the county clerk that all candidates are registered  
2356 voters.

2357 (ii) Any candidate who is not registered to vote is disqualified and the clerk may not  
2358 print the candidate's name on the ballot.

2359 (6) Immediately after expiration of the period for filing a declaration of candidacy, the  
2360 clerk shall:

2361 (a) cause the names of the candidates as they will appear on the ballot to be published  
2362 in at least two successive publications of a newspaper with general circulation in the  
2363 municipality; and

2364 (b) notify the lieutenant governor of the names of the candidates as they will appear on  
2365 the ballot.

2366 (7) (a) A declaration of candidacy or nomination petition filed under this section is  
2367 valid unless a written objection is filed with the clerk within five days after the last day for  
2368 filing.

2369 (b) If an objection is made, the clerk shall:

2370 (i) mail or personally deliver notice of the objection to the affected candidate  
2371 immediately; and

2372 (ii) decide any objection within 48 hours after it is filed.

2373 (c) If the clerk sustains the objection, the candidate may correct the problem by  
2374 amending the declaration or petition within three days after the objection is sustained or by  
2375 filing a new declaration within three days after the objection is sustained.

2376 (d) (i) The clerk's decision upon objections to form is final.

2377 (ii) The clerk's decision upon substantive matters is reviewable by a district court if  
2378 prompt application is made to the district court.

2379 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
2380 of its discretion, agrees to review the lower court decision.

2381 (8) Any person who filed a declaration of candidacy and was nominated, and any  
2382 person who was nominated by a nomination petition, may, any time up to 23 days before the  
2383 election, withdraw the nomination by filing a written affidavit with the clerk.

2384 Section 81. Section **20A-9-404** is amended to read:

2385 **20A-9-404. Municipal primary elections.**

2386 (1) (a) Except as otherwise provided in this section, candidates for municipal office in  
2387 all municipalities shall be nominated at a municipal primary election.

2388 (b) Municipal primary elections shall be held:

2389 (i) on the Tuesday following the first Monday in the October before the regular  
2390 municipal election; and

2391 (ii) whenever possible, at the same polling places as the regular municipal election.

2392 (2) If the number of candidates for a particular municipal office does not exceed twice  
2393 the number of persons needed to fill that office, a primary election for that office may not be  
2394 held and the candidates are considered nominated.

2395 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly  
2396 of voters or delegates.

2397 (b) (i) By ordinance adopted before the June 1 before a regular municipal election, any  
2398 third, fourth, or fifth class city or town may exempt itself from a primary election by providing  
2399 that the nomination of candidates for municipal office to be voted upon at a municipal election  
2400 be nominated by a political party convention or committee.

2401 (ii) Any primary election exemption ordinance adopted under the authority of this  
2402 subsection remains in effect until repealed by ordinance.

2403 (c) (i) A convention or committee may not nominate more than one group of  
2404 candidates or have placed on the ballot more than one group of candidates for the municipal  
2405 offices to be voted upon at the municipal election.

2406 (ii) A convention or committee may nominate a person who has been nominated by a  
2407 different convention or committee.

2408 (iii) A political party may not have more than one group of candidates placed upon the  
2409 ballot and may not group the same candidates on different tickets by the same party under a  
2410 different name or emblem.

2411 (d) (i) The convention or committee shall prepare a certificate of nomination for each  
2412 person nominated.

2413 (ii) The certificate of nomination shall:

2414 (A) contain the name of the office for which each person is nominated, the name, post

2415 office address, and, if in a city, the street number of residence and place of business, if any, of  
2416 each person nominated;

2417 (B) designate in not more than five words the political party that the convention or  
2418 committee represents;

2419 (C) contain a copy of the resolution passed at the convention that authorized the  
2420 committee to make the nomination;

2421 (D) contain a statement certifying that the name of the candidate nominated by the  
2422 political party will not appear on the ballot as a candidate for any other political party;

2423 (E) be signed by the presiding officer and secretary of the convention or committee;  
2424 and

2425 (F) contain a statement identifying the residence and post office address of the  
2426 presiding officer and secretary and certifying that the presiding officer and secretary were  
2427 officers of the convention or committee and that the certificates are true to the best of their  
2428 knowledge and belief.

2429 (iii) Certificates of nomination shall be filed with the clerk not later than the sixth  
2430 Tuesday before the November municipal election.

2431 (e) A committee appointed at a convention, if authorized by an enabling resolution,  
2432 may also make nominations or fill vacancies in nominations made at a convention.

2433 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,  
2434 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall  
2435 be included with the candidate's name.

2436 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the July 1  
2437 before the regular municipal election that:

2438 (i) exempts the city from the other methods of nominating candidates to municipal  
2439 office provided in this section; and

2440 (ii) provides for a partisan primary election method of nominating candidates as  
2441 provided in this Subsection (4).

2442 (b) (i) Any party that was a registered political party at the last regular general election  
2443 or regular municipal election is a municipal political party under this section.

2444 (ii) Any political party may qualify as a municipal political party by presenting a  
2445 petition to the city [~~recorder~~] clerk that:

2446 (A) is signed by registered voters within the municipality equal to at least 20% of the  
2447 number of votes cast for all candidates for mayor in the last municipal election at which a  
2448 mayor was elected;

2449 (B) is filed with the city [~~recorder~~] clerk by the seventh Tuesday before the date of the  
2450 municipal primary election;

2451 (C) is substantially similar to the form of the signature sheets described in Section  
2452 20A-7-303; and

2453 (D) contains the name of the municipal political party using not more than five words.

2454 (c) (i) If the number of candidates for a particular office does not exceed twice the  
2455 number of offices to be filled at the regular municipal election, no partisan primary election for  
2456 that office shall be held and the candidates are considered to be nominated.

2457 (ii) If the number of candidates for a particular office exceeds twice the number of  
2458 offices to be filled at the regular municipal election, those candidates for municipal office shall  
2459 be nominated at a partisan primary election.

2460 (d) The clerk shall ensure that:

2461 (i) the partisan municipal primary ballot is similar to the ballot forms required by  
2462 Sections 20A-6-401 and 20A-6-401.1;

2463 (ii) the candidates for each municipal political party are listed in one or more columns  
2464 under their party name and emblem;

2465 (iii) the names of candidates of all parties are printed on the same ballot, but under  
2466 their party designation;

2467 (iv) every ballot is folded and perforated so as to separate the candidates of one party  
2468 from those of the other parties and so as to enable the elector to separate the part of the ballot  
2469 containing the names of the party of his choice from the remainder of the ballot; and

2470 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,  
2471 when detached, are similar in appearance to inside sections when detached.

2472 (e) After marking a municipal primary ballot, the voter shall:

2473 (i) detach the part of the ballot containing the names of the candidates of the party he  
2474 has voted from the rest of the ballot;

2475 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;  
2476 and

2477 (iii) fold the remainder of the ballot containing the names of the candidates of the  
2478 parties for whom the elector did not vote and deposit it in the blank ballot box.

2479 (f) Immediately after the canvass, the election judges shall, without examination,  
2480 destroy the tickets deposited in the blank ballot box.

2481 Section 82. Section **52-1-4** is amended to read:

2482 **52-1-4. City officers -- Where filed.**

2483 Official oaths and bonds of city officers shall be filed with the city [~~recorder~~] clerk,  
2484 except those of the city [~~recorder~~] clerk which shall be filed with the city treasurer.

2485 Section 83. Section **54-8-22** is amended to read:

2486 **54-8-22. Bonds -- Issuance authorized -- Amount -- Interest -- Additional**  
2487 **requirements.**

2488 After the expiration of 30 days from the date of the adoption of the resolution levying  
2489 the assessments, the county legislative body may issue negotiable interest-bearing bonds in a  
2490 principal amount not exceeding the unpaid balance of the assessments levied. The bonds shall  
2491 bear interest at not exceeding 7% per annum, payable semiannually or annually, and shall  
2492 mature serially over a period not exceeding [~~twenty~~] 20 years, but in no event shall such bonds  
2493 extend over a longer period of time than the period of time over which such installments of  
2494 special assessments are due and payable and 90 days thereafter. The bonds shall be of such  
2495 form and denomination and shall be payable in principal and interest at such times and place,  
2496 and shall be sold, authorized, and issued in such manner as the county legislative body may  
2497 determine. The bonds shall be dated no earlier than the date on which the special assessment  
2498 shall begin to bear interest, and shall be secured by and payable from the irrevocable pledge  
2499 and dedication of the funds derived from the levy and collection of the special assessments in  
2500 anticipation of the collection of which they are issued. Any premium received on the sale of  
2501 the bonds may be applied as other bond proceeds or if not so applied the same shall be placed  
2502 in the fund for the payment of principal of and interest on the bonds. The bonds shall be  
2503 callable for redemption from the proceeds of any property sold for the nonpayment of special  
2504 assessments but not otherwise unless the bonds on the face thereof provide for redemption  
2505 prior to maturity, and the county legislative body may provide that the bonds shall be  
2506 redeemable on any interest payment date or dates prior to maturity pursuant to such notice and  
2507 at such premiums as it [~~deems~~] considers advisable. The bonds shall be signed by the county

2508 executive and the chair of the county legislative body and shall be countersigned by the city  
 2509 [~~recorder~~] clerk or the clerk of the board of the town trustees or the clerk of the county  
 2510 legislative body, whichever is applicable, and one of such signatures may be a facsimile  
 2511 signature. Interest may be evidenced by interest coupons attached to such bonds and signed by  
 2512 a facsimile signature of one of the individuals who signed the bond.

2513 Section 84. Section **63-30-11** is amended to read:

2514 **63-30-11. Claim for injury -- Notice -- Contents -- Service -- Legal disability --**  
 2515 **Appointment of guardian ad litem.**

2516 (1) A claim arises when the statute of limitations that would apply if the claim were  
 2517 against a private person begins to run.

2518 (2) Any person having a claim for injury against a governmental entity, or against its  
 2519 employee for an act or omission occurring during the performance of the employee's duties,  
 2520 within the scope of employment, or under color of authority shall file a written notice of claim  
 2521 with the entity before maintaining an action, regardless of whether or not the function giving  
 2522 rise to the claim is characterized as governmental.

2523 (3) (a) The notice of claim shall set forth:

- 2524 (i) a brief statement of the facts;
- 2525 (ii) the nature of the claim asserted; and
- 2526 (iii) the damages incurred by the claimant so far as they are known.

2527 (b) The notice of claim shall be:

2528 (i) signed by the person making the claim or that person's agent, attorney, parent, or  
 2529 legal guardian; and

2530 (ii) directed and delivered to:

2531 (A) the city or town [~~recorder~~] clerk, when the claim is against an incorporated city or  
 2532 town;

2533 (B) the county clerk, when the claim is against a county;

2534 (C) the superintendent or business administrator of the board, when the claim is against  
 2535 a school district or board of education;

2536 (D) the president or secretary of the board, when the claim is against a special district;

2537 (E) the attorney general, when the claim is against the state [~~of Utah~~]; or

2538 (F) a member of the governing board, the executive director, or executive secretary,

2539 when the claim is against any other public board, commission, or body.

2540 (4) (a) If the claimant is under the age of majority, or mentally incompetent and  
2541 without a legal guardian at the time the claim arises, the claimant may apply to the court to  
2542 extend the time for service of notice of claim.

2543 (b) (i) After hearing and notice to the governmental entity, the court may extend the  
2544 time for service of notice of claim.

2545 (ii) The court may not grant an extension that exceeds the applicable statute of  
2546 limitations.

2547 (c) In determining whether or not to grant an extension, the court shall consider  
2548 whether the delay in serving the notice of claim will substantially prejudice the governmental  
2549 entity in maintaining its defense on the merits.

2550 (d) (i) If an injury that may reasonably be expected to result in a claim against a  
2551 governmental entity is sustained by a potential claimant described in Subsection (4)(a), that  
2552 government entity may file a request with the court for the appointment of a guardian ad litem  
2553 for the potential claimant.

2554 (ii) If a guardian ad litem is appointed under this Subsection (4)(d), the time for filing a  
2555 claim under Sections 63-30-12 and 63-30-13 begins when the order appointing the guardian is  
2556 issued.

2557 Section 85. Section **67-1a-2** is amended to read:

2558 **67-1a-2. Duties enumerated.**

2559 (1) The lieutenant governor shall:

2560 (a) perform duties delegated by the governor, including assignments to serve in any of  
2561 the following capacities:

2562 (i) as the head of any one department, if so qualified, with the consent of the Senate,  
2563 and, upon appointment at the pleasure of the governor and without additional compensation;

2564 (ii) as the chairperson of any cabinet group organized by the governor or authorized by  
2565 law for the purpose of advising the governor or coordinating intergovernmental or  
2566 interdepartmental policies or programs;

2567 (iii) as liaison between the governor and the state Legislature to coordinate and  
2568 facilitate the governor's programs and budget requests;

2569 (iv) as liaison between the governor and other officials of local, state, federal, and

2570 international governments or any other political entities to coordinate, facilitate, and protect the  
2571 interests of the state;

2572 (v) as personal advisor to the governor, including advice on policies, programs,  
2573 administrative and personnel matters, and fiscal or budgetary matters; and

2574 (vi) as chairperson or member of any temporary or permanent boards, councils,  
2575 commissions, committees, task forces, or other group appointed by the governor;

2576 (b) serve on all boards and commissions in lieu of the governor, whenever so  
2577 designated by the governor;

2578 (c) serve as the chief election officer of the state as required by Subsection (2);

2579 (d) keep custody of the Great Seal of Utah;

2580 (e) keep a register of, and attest, the official acts of the governor;

2581 (f) affix the Great Seal, with an attestation, to all official documents and instruments to  
2582 which the official signature of the governor is required; and

2583 (g) furnish a certified copy of all or any part of any law, record, or other instrument  
2584 filed, deposited, or recorded in the office of the lieutenant governor to any person who requests  
2585 it and pays the fee.

2586 (2) (a) As the chief election officer, the lieutenant governor shall:

2587 (i) exercise general supervisory authority over all elections;

2588 (ii) exercise direct authority over the conduct of elections for federal, state, and  
2589 multicounty officers and statewide or multicounty ballot propositions and any recounts  
2590 involving those races;

2591 (iii) assist county clerks in unifying the election ballot;

2592 (iv) prepare election information for the public and make that information available to  
2593 the news media;

2594 (v) receive and answer election questions and maintain an election file on opinions  
2595 received from the attorney general;

2596 (vi) maintain election returns and statistics;

2597 (vii) certify to the governor the names of those persons who have received the highest  
2598 number of votes for any office; and

2599 (viii) perform other election duties as provided in Title 20A, Election Code.

2600 (b) As chief election officer, the lieutenant governor may not assume the

2601 responsibilities assigned to the county clerks, city [~~recorders,~~] or town clerks, or other local  
2602 election officials by Title 20A, Election Code.

2603 Section 86. Section **78-5-135** is amended to read:

2604 **78-5-135. Funds collected -- Deposits and reports -- Special account --**  
2605 **Accounting.**

2606 (1) (a) Municipal justice courts shall deposit public funds in accordance with Section  
2607 51-4-2.

2608 (b) The treasurer shall report to the city [~~recorder~~] clerk the sums collected and  
2609 deposited. The [~~recorder~~] clerk shall then apportion and remit the collected proceeds as  
2610 provided in Section 78-5-116.

2611 (c) The municipality shall retain all small claims filing fees including the governmental  
2612 filing fee for actions filed by the municipality as provided in Section 78-6-14.

2613 (2) (a) County justice courts shall deposit public funds in accordance with Section  
2614 51-4-2.

2615 (b) The treasurer shall report to the county auditor the sums collected and deposited.  
2616 The auditor shall then apportion and remit the collected proceeds as provided in Section  
2617 78-5-116.

2618 (c) The county shall retain all small claims filing fees including the governmental filing  
2619 fee for actions filed by the county as provided in Section 78-6-14.

2620 (3) Money received or collected on any civil process or order issued from a justice  
2621 court shall be paid within seven days to the party entitled or authorized to receive it.

2622 (4) (a) With the approval of the governing body a trust or revolving account may be  
2623 established in the name of the justice court and the treasurer for the deposit of money collected  
2624 including bail, restitution, unidentified receipts, and other money that requires special  
2625 accounting.

2626 (b) Disbursements from this account do not require the approval of the auditor,  
2627 recorder, or governing body.

2628 (c) The account shall be reconciled at least quarterly by the auditor of the governing  
2629 body.

2630 Section 87. Section **78-27-4** is amended to read:

2631 **78-27-4. Money deposited in court.**

2632 (1) (a) Any person depositing money in court, to be held in trust, shall pay it to the  
2633 court clerk.

2634 (b) The clerk shall deposit the money in a court trust fund or with the county treasurer  
2635 or city [~~recorder~~] clerk to be held subject to the order of the court.

2636 (2) The Judicial Council shall adopt rules governing the maintenance of court trust  
2637 funds and the disposition of interest earnings on those trust funds.

2638 (3) (a) Any interest earned on trust funds in the courts of record that is not required to  
2639 accrue to the litigants by Judicial Council rule or court order shall be deposited in a restricted  
2640 account. Any interest earned on trust funds in the courts not of record that is not required to  
2641 accrue to the litigants by Judicial Council rule or court order shall be deposited in the general  
2642 fund of the county or municipality.

2643 (b) The Legislature shall appropriate funds from the restricted account of the courts of  
2644 record to the Judicial Council to:

2645 (i) offset costs to the courts for collection and maintenance of court trust funds; and

2646 (ii) provide accounting and auditing of all court revenue and trust accounts.

2647 **Section 88. Repealer.**

2648 This bill repeals:

2649 **Section 10-3-103, Governing body in cities of the first class.**

2650 **Section 10-3-104, Governing body in cities of the second class.**

2651 **Section 10-3-105, Governing body in cities of the third, fourth, and fifth class.**

2652 **Section 10-3-106, Governing body in towns.**

2653 **Section 10-3-203, Election of officers in cities of the first class.**

2654 **Section 10-3-206, Election of officers in towns.**

---

---

**Legislative Review Note**  
**as of 1-20-04 4:13 PM**

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

**Office of Legislative Research and General Counsel**

---

---

**Fiscal Note**  
**Bill Number HB0111**

**Municipal Government Amendments**

*29-Jan-04*

*11:43 AM*

---

---

**State Impact**

No fiscal impact.

---

**Individual and Business Impact**

No fiscal impact.

---

**Office of the Legislative Fiscal Analyst**