

**COUNTY APPOINTED OFFICERS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keith Grover**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies provisions relating to county officers.

**Highlighted Provisions:**

This bill:

- ▶ makes the county offices of treasurer, sheriff, clerk, auditor, recorder, surveyor, and assessor appointed rather than elected;
- ▶ requires those officers to be appointed by:
  - the county executive, with the consent of the county legislative body, in a county operating under a county executive-council form of government; and
  - the county commission or council, in a county operating under another form of government; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**17-16-3**, as last amended by Chapter 3, Laws of Utah 2006

**17-16-4**, Utah Code Annotated 1953



17-17-2, as last amended by Chapter 214, Laws of Utah 2001

17-22-1.5, as last amended by Chapter 140, Laws of Utah 2003

17-23-1, as last amended by Chapter 241, Laws of Utah 2001

17-53-101, as renumbered and amended by Chapter 133, Laws of Utah 2000

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

Section 1. Section 17-16-3 is amended to read:

**17-16-3. Consolidation of offices.**

(1) A county legislative body may, unless prohibited by Subsection (2), pass an ordinance that:

(a) consolidates county offices and establishes the duties of those consolidated offices;

(b) separates any previously consolidated offices and reconsolidates them; or

(c) separates any previously consolidated offices without reconsolidating them.

(2) A county legislative body may not:

(a) consolidate the offices of county commissioner, county council member, or county treasurer with the office of county auditor;

(b) consolidate the office of county executive with the office of county auditor, unless a referendum approving that consolidation passes; or

(c) consolidate the offices of county commissioner, county council member, county executive, county assessor, or county auditor with the office of county treasurer.

(3) Each county legislative body shall ensure that any ordinance consolidating or separating county offices:

(a) is enacted before the February 1 of the year in which county officers are elected; and

(b) takes effect on the first Monday in January after the year in which county officers are elected.

(4) (a) Each county legislative body shall~~[(+)]~~ enact an ordinance by February 1, 2010, separating any county offices that are prohibited from consolidation by this section~~[, and]~~.

~~[(ii) publish, by February 15, 2010, a notice once in a newspaper of general circulation in the county identifying the county offices that will be filled in the November 2010 election.]~~

(b) ~~[(+)]~~ If a county legislative body has, by February 1, 2006, enacted an ordinance, in

compliance with this Subsection (4) then in effect, separating county offices that are prohibited from consolidation by this section, the county legislative body may repeal that ordinance.

~~[(ii) If a county legislative body has published notice in a newspaper identifying the county offices that will be filled in the November 2006 election, and that notice, because of a repeal of an ordinance under Subsection (4)(b)(i), is incorrect, the county legislative body shall publish notice once in a newspaper of general circulation in the county indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.]~~

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

**17-16-4. Officer in a consolidated office.**

~~[When] If offices are [united and] consolidated [but one person shall be elected to fill the offices so united and consolidated, and he must], the person filling the offices that have been consolidated shall~~ take the oath and give the bond required for, and discharge all the duties pertaining to, each.

Section 3. Section **17-17-2** is amended to read:

**17-17-2. Assessor to be state qualified -- Vacancy -- Filling vacancy.**

(1) In addition to the requirements of Section 17-16-1, any person ~~[elected]~~ appointed to the office of county assessor after ~~[November 1, 1993]~~ April 30, 2007, shall be a state-licensed or state-certified appraiser as defined in Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification Act, prior to the expiration of 36 months from the day on which his term of office begins.

(2) (a) If an assessor fails to meet the requirement of this section, the assessor's office is automatically vacant.

(b) (i) In the event of a vacancy under this section, the county executive shall fill the vacancy in the manner provided for in Sections 17-53-104 and 20A-1-508. However, a person selected to fill the vacancy must be a state-licensed or state-certified appraiser within six months after assuming the office of county assessor.

(ii) If a state-licensed or state-certified appraiser cannot be found to fill a vacancy which resulted from the requirements of this section, the county executive may contract with a state-licensed or state-certified appraiser from outside the county to fill the remainder of the term in the office of county assessor.

Section 4. Section **17-22-1.5** is amended to read:

**17-22-1.5. County sheriff qualifications.**

(1) Each person [~~filing a declaration of candidacy for~~] appointed to the office of county sheriff shall:

(a) (i) have successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(ii) have passed a certification examination as provided in Section 53-6-206; and

(b) be qualified to be certified as a law enforcement officer, as defined in Section 53-13-103.

(2) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff shall:

(a) at the time of taking office:

(i) (A) have successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) have passed a certification examination as provided in Section 53-6-206; and

(ii) be qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; [~~and~~]

(b) satisfactorily complete annual certified training as required in Section 53-13-103; and

(c) after certification as provided in Subsection (2)(a), remain certified as a law enforcement officer during the sheriff's term of office.

(3) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection (2).

Section 5. Section **17-23-1** is amended to read:

**17-23-1. County surveyor to be appointed -- Requirement to be licensed land surveyor -- Authority to contract with licensed land surveyor -- County surveyor duties.**

(1) (a) The office of the county surveyor in each county shall be filled by [~~election~~] appointment, as provided in Section 17-53-101, and, except as provided in Subsection (1)(b), the county surveyor shall be a licensed professional land surveyor in the state.

(b) In a county where the office of county surveyor is consolidated with another [elected] office, all county surveying work shall be performed by a licensed professional land surveyor.

~~[(c) In a county where there is no elected county surveyor:]~~

(c) (i) ~~[the]~~ The county executive ~~[or legislative body]~~ may, with the consent of the county legislative body and consistent with Section 17-53-313, contract with a licensed professional land surveyor to perform ~~[those]~~ the county surveyor duties[:].

(ii) In a county where the county executive contracts with a licensed professional land surveyor to perform county surveyor duties:

~~[(ii)]~~ (A) all county survey work shall be done by a licensed land surveyor;

~~[(iii)]~~ (B) the county recorder shall assume and perform all statutory functions and duties of the county surveyor related to the retention and maintenance of survey records;

~~[(iv)]~~ (C) the recorder's office shall act as the county surveyor's office only for the purpose of accepting, retaining, and managing county survey records;

~~[(v)]~~ (D) the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill its functions and duties under Subsection (1)(c)~~[(iv)]~~(ii)(C); and

~~[(vi)]~~ (E) for purposes of this chapter, "county surveyor" means:

~~[(A)]~~ (I) for purposes of the retention and management of county survey records, the county recorder; and

~~[(B)]~~ (II) except as provided in Subsection (1)(c)~~[(vi)]~~(A)](ii)(E)(I), the licensed land surveyor under contract with the county to perform county surveyor duties.

(2) The county surveyor shall execute:

(a) all orders directed to the surveyor by any court; and

(b) all orders of survey required by the county executive or county legislative body.

(3) (a) The surveyor of each county shall:

(i) advise the county executive and county legislative body regarding all surveying work;

(ii) perform or arrange for the performance of all surveying work for the county;

(iii) permanently keep at county government offices at the county seat a fair and accurate record of all surveys made, including legal descriptions and geographic coordinates,

all surveys received pursuant to Section 17-23-17, and all corner files received pursuant to Section 17-23-17.5;

(iv) number progressively all surveys received and state by whom and for whom the surveys were made;

(v) deliver a copy of any survey to any person or court requiring the survey after the payment of the fee established by the county legislative body;

(vi) ensure that all surveys of legal subdivisions of sections are made according to the United States Manual of Surveying Instructions in effect at the time the survey is completed;

(vii) verify the correctness of or establish correct coordinates for all survey reference monuments set in place and shown on all subdivision maps and plats which have a spatial relationship with any section or quarter section corner; and

(viii) perform other duties required by law.

(b) In arranging for the performance of surveying work for the county under Subsection (3)(a)(ii), a surveyor may comply with Section 17-53-313.

(4) (a) The county surveyor or his designee shall establish all corners of government surveys and reestablish all corners of government surveys where corners have been destroyed and where witness markers or other evidences of the government corners remain so that the corners established by government survey can be positively located.

(b) The corners shall be reestablished in the manner provided in Section 17-23-13 for establishing corners.

(c) The county surveyor shall keep a separate record of the established and reestablished corners of government surveys, giving the date and names of persons present and shall provide those records to his successor when he vacates his office.

(d) Established or reestablished corners shall be recognized as the legal and permanent corners.

(5) The county executive or legislative body may direct the county surveyor or his staff to perform engineering and architectural work if the county surveyor or his staff is qualified and licensed to perform that work.

Section 6. Section **17-53-101** is amended to read:

**17-53-101. County officers enumerated.**

(1) The elected officers of a county are:

183 (a) (i) in a county operating under a county commission or expanded county  
184 commission form of government, county commission members; or  
185 (ii) in a county operating under one of the other forms of county government under  
186 Subsection 17-52-402(1)(a), county legislative body members and the county executive;  
187 (b) ~~[a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder,] a~~  
188 ~~county attorney[, a district attorney]~~ and, in a county which is part of a prosecution district, a  
189 ~~[county surveyor, and a county assessor]~~ district attorney; and  
190 (c) any others provided by law.  
191 ~~[(2) Notwithstanding Subsection (1), in counties]~~  
192 (2) (a) The appointed officers of a county are a county treasurer, a sheriff, a county  
193 clerk, a county auditor, a county recorder, a county surveyor, and a county assessor.  
194 (b) Each officer listed in Subsection (2)(a) shall be appointed by:  
195 (i) the county executive, with the consent of the county legislative body, if the county  
196 operates under a county executive-council form of government; or  
197 (ii) the county commission or council, as the case may be, if the county operates under  
198 a county commission, expanded county commission, or council-manager form of government.  
199 (3) In a county having a taxable value of less than \$100,000,000, the county clerk shall  
200 be ex officio auditor of the county and shall perform the duties of the office without extra  
201 compensation.

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Legislative Review Note  
as of 1-16-07 10:04 AM

Office of Legislative Research and General Counsel

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**H.B. 305 - County Appointed Officers**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. However local governments may experience some minor savings in election costs.

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*1/24/2007, 4:02:55 PM, Lead Analyst: Wardrop, T.*

**Office of the Legislative Fiscal Analyst**