

**COUNTY GOVERNMENT REFORM**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

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

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**LONG TITLE**

**General Description:**

This bill modifies county government provisions.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the election of county officers on a nonpartisan basis;
- ▶ authorizes voters to petition for and then vote on a repeal of a previously adopted optional plan to return the county's form of government to the form the county operated under before the optional plan was adopted; and
- ▶ eliminates the council-manager form of county government.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 17-52-102**, as last amended by Chapter 241, Laws of Utah 2001
- 17-52-203**, as last amended by Chapter 241, Laws of Utah 2001
- 17-52-401**, as last amended by Chapter 131, Laws of Utah 2003
- 17-52-402**, as last amended by Chapter 241, Laws of Utah 2001
- 17-53-101**, as renumbered and amended by Chapter 133, Laws of Utah 2000



28 ENACTS:

29 **17-52-405**, Utah Code Annotated 1953



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

32 Section 1. Section **17-52-102** is amended to read:

33 **17-52-102. Forms of county government -- County commission form required**  
34 **unless another is adopted.**

35 (1) Each county shall operate under one of the following forms of county government:

36 (a) the county commission form under Section 17-52-501;

37 (b) the expanded county commission form under Section 17-52-502; or

38 (c) the county [~~executive and council~~] executive-council form under Section

39 17-52-504[~~; or~~].

40 [~~(d) the council-manager form under Section 17-52-505.~~]

41 (2) Unless it adopts another form of government as provided in this chapter, each

42 county shall operate under the county commission form of government under Section

43 17-52-501.

44 Section 2. Section **17-52-203** is amended to read:

45 **17-52-203. Registered voter initiation of adoption of optional plan -- Procedure.**

46 (1) Registered voters of a county may initiate the process of adopting an optional plan

47 by filing a petition for the establishment of a study committee as provided in Section

48 17-52-301.

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

50 (a) be signed by registered voters residing in the county equal in number to at least

51 10% of the total number of votes cast in the county at the most recent election for governor;

52 (b) designate up to five of the petition signers as sponsors, one of whom shall be

53 designated as the contact sponsor, with the mailing address and telephone number of each; and

54 (c) be filed in the office of the clerk of the county in which the petition signers reside.

55 (3) (a) Within 30 days of the filing of a petition under Subsection (1) or an amended or

56 supplemental petition under Subsection [~~(2)~~] (3)(b), the county clerk shall:

57 (i) determine whether the petition or amended or supplemental petition has been signed

58 by the required number of registered voters; and

59 (ii) (A) if so:  
60 (I) certify the petition or amended or supplemental petition and deliver it to the county  
61 legislative body; and

62 (II) notify in writing the contact sponsor of the certification; or

63 (B) if not, reject the petition or the amended or supplemental petition and notify in  
64 writing the county legislative body and the contact sponsor of the rejection and the reasons for  
65 the rejection.

66 (b) If a county clerk rejects a petition or an amended or supplemental petition under  
67 Subsection (3)(a)(ii)(B), the petition may be amended or supplemented or an amended or  
68 supplemental petition may be further amended or supplemented with additional signatures and  
69 refiled within 20 days of the date of rejection.

70 (4) With the unanimous approval of petition sponsors, a petition filed under Subsection  
71 (1) may be withdrawn at any time within 90 days after petition certification but no later than 45  
72 days before an election under Section 17-52-206 if:

73 (a) the petition notified signers in conspicuous language that the petition sponsors are  
74 authorized to withdraw the petition; and

75 (b) there are at least three sponsors of the petition.

76 Section 3. Section **17-52-401** is amended to read:

77 **17-52-401. Contents of proposed optional plan.**

78 (1) Each optional plan proposed under this chapter:

79 (a) shall propose the adoption of one of the forms of county government listed in  
80 Subsection 17-52-402(1)(a);

81 (b) shall contain detailed provisions relating to the transition from the existing form of  
82 county government to the form proposed in the optional plan, including provisions relating to  
83 the:

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

86 (ii) retention, elimination, or combining of existing offices and, if an office is  
87 eliminated, the division or department of county government responsible for performing the  
88 duties of the eliminated office;

89 (iii) continuity of existing ordinances and regulations;

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

91 (v) making of interim and temporary appointments; and

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

93 (c) shall specify the date it is to become effective if adopted, which shall not be earlier

94 than the first day of January next following the election of officers under the new plan; and

95 (d) notwithstanding any other provision of this title and except with respect to an

96 optional plan that proposes the adoption of the county commission or expanded county

97 commission form of government, with respect to the county budget:

98 (i) may provide that the county auditor's role is to be the budget officer, to project

99 county revenues, and to prepare a tentative budget to present to the county executive; and

100 (ii) shall provide that the county executive's role is to prepare and present a proposed

101 budget to the county legislative body, and the county legislative body's role is to adopt a final

102 budget.

103 (2) Subject to Subsection (3), an optional plan may include provisions that are

104 considered necessary or advisable to the effective operation of the proposed optional plan.

105 (3) An optional plan may not include any provision that is inconsistent with or

106 prohibited by the Utah Constitution or any statute.

107 (4) Each optional plan proposing to change the form of government to a form under

108 Section 17-52-504 [~~or 17-52-505~~] shall:

109 (a) provide for the same executive and legislative officers as are specified in [~~the~~

110 ~~applicable section for the form of government being proposed by the optional plan~~] Section

111 17-52-504;

112 (b) provide for the election of the county council;

113 (c) specify the number of county council members, which shall be an odd number from

114 three to nine;

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

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

117 (e) specify county council members' qualifications and terms and whether the terms are

118 to be staggered;

119 (f) contain procedures for filling vacancies on the county council, consistent with the

120 provisions of Section 20A-1-508; and

121 (g) state the initial compensation, if any, of county council members and procedures for  
122 prescribing and changing compensation.

123 (5) Each optional plan proposing to change the form of government to the county  
124 commission form under Section 17-52-501 or the expanded county commission form under  
125 Section 17-52-502 shall specify:

126 (a) (i) for the county commission form of government, that the county commission  
127 shall have three members; or

128 (ii) for the expanded county commission form of government, whether the county  
129 commission shall have five or seven members;

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

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

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

136 Section 4. Section **17-52-402** is amended to read:

137 **17-52-402. Plan may propose changing forms of county government -- Plan may**  
138 **propose change of structural form.**

139 (1) (a) Each optional plan shall propose changing the form of county government to:

140 (i) the county commission form under Section 17-52-501;

141 (ii) the expanded county commission form under Section 17-52-502; or

142 (iii) the county [~~executive and council~~] executive-council form under Section  
143 17-52-504[~~; or~~].

144 [~~(iv) the council-manager form under Section 17-52-505;~~]

145 (b) An optional plan adopted after May 1, 2000 may not:

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

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

149 (iii) impose a limit on the number of terms or years that an elected officer may serve;

150 or

151 (iv) provide for elected officers to be subject to a recall election.

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

156 Section 5. Section **17-52-405** is enacted to read:

157 **17-52-405. Repeal of optional plan.**

158 (1) An optional plan adopted under this chapter may be repealed as provided in this  
159 section.

160 (2) (a) Registered voters of a county that has adopted an optional plan may initiate the  
161 process of repealing an optional plan by filing a petition for the repeal of the optional plan.

162 (b) Subsections 17-52-203(2) and (3) apply to each petition under Subsection (2)(a).

163 (3) A petition to repeal an optional plan may not be filed within two years after the  
164 election of county officers under Section 17-52-207.

165 (4) If a petition under Subsection (2)(a) is certified, the county legislative body shall  
166 hold an election at the next regular general or municipal general election date that is at least  
167 two months after petition certification.

168 (5) If a majority of voters voting on the proposal to repeal the optional plan vote in  
169 favor of repealing:

170 (a) the optional plan is repealed, effective January 1 of the year following the election  
171 of county officers under Subsection (5)(c);

172 (b) upon the effective date of the repeal under Subsection (5)(a), the form of  
173 government under which the county operates reverts to the form it had before the optional plan  
174 was adopted; and

175 (c) the county officers under the form of government to which the county reverts, who  
176 are different than the county officers under the repealed optional plan, shall be elected at the  
177 next regular general election following the election under Subsection (4).

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

179 **17-53-101. County officers enumerated.**

180 (1) The elected officers of a county are:

181 (a) (i) in a county operating under a county commission or expanded county  
182 commission form of government, county commission members; or

183 (ii) in a county operating under [~~one of the other forms~~] the county executive-council  
184 form of county government [~~under Subsection 17-52-402(1)(a)~~], county legislative body  
185 members and the county executive;

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

189 (c) any others provided by law.

190 (2) Notwithstanding Subsection (1), in counties having a taxable value of less than  
191 \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the  
192 duties of the office without extra compensation.

193 (3) Elected county officers may not be elected in a nonpartisan election.

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**Legislative Review Note**  
as of 1-18-07 8:30 AM

**Office of Legislative Research and General Counsel**

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**H.B. 348 - County Government Reform**

**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. There could be increased costs for counties impacted by the provisions of this bill.

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