

**COMMISSION AND COUNCIL SEATS IN
COUNTIES OF THE FIRST AND SECOND
CLASS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: _____

Cosponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies provisions relating to the election of county legislative body members in counties of the first and second class.

Highlighted Provisions:

This bill:

- requires members of a county commission or council in a county of the first or second class to be elected by district, beginning the 2012 election;
- requires a person filing a declaration of candidacy for an office elected by district to have been a resident in the district for one year; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



27 **17-16-1**, as last amended by Chapter 206, Laws of Utah 1999

28 **17-52-401**, as last amended by Chapter 131, Laws of Utah 2003

29 **17-52-501**, as renumbered and amended by Chapter 133, Laws of Utah 2000

30 **17-52-502**, as last amended by Chapter 42, Laws of Utah 2005

31 **17-52-504**, as renumbered and amended by Chapter 133, Laws of Utah 2000

32 **17-52-505**, as renumbered and amended by Chapter 133, Laws of Utah 2000

33

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

35 Section 1. Section **17-16-1** is amended to read:

36 **17-16-1. Eligibility and residency requirements for county, district, precinct, or**
37 **prosecution district office.**

38 (1) A person filing a declaration of candidacy for a county, district, precinct, or
39 prosecution district office shall:

40 (a) be a United States citizen;

41 (b) except as provided in Subsection 17-18-5(1)(d)(ii) with respect to the office of
42 county attorney or district attorney, as of the date of the election have been a resident of the
43 county, district, precinct, or prosecution district in which the person seeks office for at least one
44 year; ~~and~~

45 (c) be a registered voter in the county, district, precinct, or prosecution district in which
46 the person seeks office~~[-]; and~~

47 (d) if filing a declaration of candidacy for an office elected by district, have been a
48 resident of the district for which the person is seeking election for at least one year.

49 (2) (a) A county, district, precinct, or prosecution district officer shall maintain
50 residency within the county, district, precinct, or prosecution district in which he was elected
51 during his term of office.

52 (b) If a county, district, precinct, or prosecution district officer establishes his principal
53 place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or
54 prosecution district in which he was elected, the office is automatically vacant.

55 Section 2. Section **17-52-401** is amended to read:

56 **17-52-401. Contents of proposed optional plan.**

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

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

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

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

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

68 (iii) continuity of existing ordinances and regulations;

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

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

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

72 (c) shall specify the date it is to become effective if adopted, which shall not be earlier
73 than the first day of January next following the election of officers under the new plan; and

74 (d) notwithstanding any other provision of this title and except with respect to an
75 optional plan that proposes the adoption of the county commission or expanded county
76 commission form of government, with respect to the county budget:

77 (i) may provide that the county auditor's role is to be the budget officer, to project
78 county revenues, and to prepare a tentative budget to present to the county executive; and

79 (ii) shall provide that the county executive's role is to prepare and present a proposed
80 budget to the county legislative body, and the county legislative body's role is to adopt a final
81 budget.

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

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

86 (4) Each optional plan proposing to change the form of government to a form under
87 Section 17-52-504 or 17-52-505 shall:

88 (a) provide for the same executive and legislative officers as are specified in the

applicable section for the form of government being proposed by the optional plan;

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

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

(d) in a county of the third, fourth, fifth, or sixth class, specify whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

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

(f) contain procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and

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

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

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

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

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

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

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

Section 3. Section **17-52-501** is amended to read:

17-52-501. County commission form of government.

(1) Each county operating under the county commission form of government shall be governed by a county commission consisting of three members.

(2) A county commission under a county commission form of government is both the

county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

(3) (a) Beginning the 2012 election, each county commission member in a county of the first or second class shall be elected by district.

~~[(3)]~~ (b) Except as otherwise provided in an optional plan adopted under this chapter:

~~[(a)]~~ (i) the term of office of each county commission member is four years;

~~[(b)]~~ (ii) the terms of county commission members shall be staggered so that two members are elected at a regular general election date that alternates with the regular general election date of the other member; and

~~[(c)]~~ (iii) in a county of the third, fourth, fifth, or sixth class, each county commission member shall be elected at large, unless otherwise required by court order.

(4) (a) If two county commission positions are vacant for an election in a county of the third, fourth, fifth, or sixth class, the positions shall be designated "county commission seat A" and "county commission seat B."

(b) Each candidate who files a declaration of candidacy when two positions are vacant in a county of the third, fourth, fifth, or sixth class shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B.

(c) No person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

Section 4. Section **17-52-502** is amended to read:

17-52-502. Expanded county commission form of government.

(1) Each county operating under an expanded county commission form of government shall be governed by a county commission consisting of five or seven members.

(2) A county commission under the expanded county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

(3) (a) Beginning the 2012 election, each county commission member in a county of the first or second class shall be elected by district.

151 ~~[(3)]~~ (b) Except as otherwise provided in an optional plan adopted under this chapter:
152 ~~[(a)]~~ (i) the term of office of each county commission member is four years;
153 ~~[(b)]~~ (ii) the terms of county commission members shall be staggered so that
154 approximately half the members are elected at alternating regular general election dates; and
155 ~~[(c)]~~ (iii) in a county of the third, fourth, fifth, and sixth class, each county commission
156 member shall be elected at large, unless otherwise required by court order.

157 (4) (a) If multiple at-large county commission positions are vacant for an election in a
158 county of the third, fourth, fifth, and sixth class, the positions shall be designated "county
159 commission seat A," "county commission seat B," and so on as necessary for the number of
160 vacant positions.

161 (b) Each candidate who files a declaration of candidacy when multiple positions are
162 vacant shall designate the letter of the county commission seat for which the candidate is a
163 candidate.

164 (c) No person may file a declaration of candidacy for, be a candidate for, or be elected
165 to two county commission positions in the same election.

166 Section 5. Section **17-52-504** is amended to read:

167 **17-52-504. County executive-council form of county government.**

168 (1) (a) A county operating under the form of government known as the "county
169 executive-council" form shall be governed by an elected county council, an elected county
170 executive, and such other officers and employees as are authorized by law.

171 (b) The optional plan shall provide for the qualifications, time, and manner of election,
172 term of office and compensation of the county executive.

173 (2) The county executive shall be the chief executive officer or body of the county.

174 (3) In the county executive-council form of county government:

175 (a) the county council is the county legislative body and shall have the powers, duties,
176 and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body;
177 and

178 (b) the county executive shall have the powers, duties, and functions of a county
179 executive under Chapter 53, Part 3, County Executive.

180 (4) References in any statute or state rule to the "governing body" or the "board of
181 county commissioners" of the county, in the county executive-council form of county

government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

(5) Beginning the 2012 election, each member of a county council under the county executive-council form of government in a county of the first or second class shall be elected by district.

Section 6. Section **17-52-505** is amended to read:

17-52-505. Council-manager form of county government.

(1) A county operating under the form of government known as the "council-manager" form shall be governed by an elected county council, a county manager appointed by the council, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of appointment, term of office, compensation, and removal of the county manager.

(2) The county manager shall be the administrative head of the county government and shall have the powers, functions, and duties of a county executive, except:

(a) as the county legislative body otherwise provides by ordinance; and

(b) that the county manager may not veto any ordinances enacted by the council.

(3) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies, attempt to exact any promise relative to any appointment from any candidate for manager, or discuss directly or indirectly with him the matter of specific appointments to any county office or employment. A violation of the foregoing provisions of this Subsection (3) shall forfeit the office of the offending member of the council. Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county. Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office. The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be

213 vested in the county manager.

214 (5) A reference in statute or state rule to the "governing body" or the "board of county
215 commissioners" of the county, in the council-manager form of county government, means:

216 (a) the county council, with respect to legislative functions, duties, and powers; and

217 (b) the county manager, with respect to executive functions, duties, and powers.

218 (6) Beginning the 2012 election, each member of a county council under the county
219 council-manager form of government in a county of the first or second class shall be elected by
220 district.

Legislative Review Note
as of 1-16-07 6:48 AM

Office of Legislative Research and General Counsel

S.B. 141 - Commission and Council Seats in Counties of the First and Second Class

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/24/2007, 9:51:34 AM, Lead Analyst: Wardrop, T.

Office of the Legislative Fiscal Analyst