

Representative Melvin R. Brown proposes the following substitute bill:

TOWN INCORPORATION PROCESS

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the incorporation of a town.

Highlighted Provisions:

This bill:

- ▶ modifies the process of incorporating a town;
- ▶ requires at least five sponsors to be designated on a petition to incorporate an area as a town;
- ▶ prohibits the filing of a petition to incorporate an area as a town if the petition sponsors own more than 40% of the total area proposed to be incorporated;
- ▶ eliminates definitions of "base petition" and "qualifying petition";
- ▶ modifies a requirement regarding county legislative body approval of a petition for the incorporation of a town if the petition meets certain signature requirements;
- ▶ clarifies that the value of property for purposes of determining incorporation petition requirements is assessed value;
- ▶ establishes a process for a public hearing on a proposed incorporation of a town before a petition to incorporate may be filed;
- ▶ requires a majority of registered voters to sign a petition to incorporate as a town;



- 26 ▶ allows a county legislative body ~~H~~→ [in a first or second class county] ←~~H~~ the
 26a option whether
 27 to commission a financial feasibility study with respect to a proposed incorporation
 28 of a town and provides a process for commissioning a financial feasibility study;
 29 ▶ establishes financial feasibility study criteria;
 30 ▶ requires the initial officers of a newly incorporated town to be elected rather than
 31 appointed by the county legislative body;
 32 ▶ modifies election provisions to allow the election of officers of a newly
 33 incorporated town to be conducted as a special election;
 34 ▶ provides for when newly elected town officers in a new town take office;
 35 ▶ provides that a previously filed petition is subject to the law in effect when the
 36 petition was filed; and
 37 ▶ modifies the date upon which a town is incorporated.

38 **Monies Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 This bill provides an immediate effective date.

42 This bill provides revisor instructions.

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **10-2-109**, as last amended by Laws of Utah 1997, Second Special Session, Chapter 3

46 **10-2-125**, as last amended by Laws of Utah 2007, Chapter 212

47 **20A-1-203**, as last amended by Laws of Utah 2007, Chapter 215

48 **20A-1-204**, as last amended by Laws of Utah 2004, Chapter 371

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

51 Section 1. Section **10-2-109** is amended to read:

52 **10-2-109. Incorporation petition -- Requirements and form.**

53 (1) At any time within 18 months of the completion of the public hearings required
 54 under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be
 55 incorporated as a city may be filed in the office of the clerk of the county in which the area is
 56 located.

57 (2) Each petition under Subsection (1) shall:
58 (a) be signed by the owners of private real property that:
59 (i) is located within the area proposed to be incorporated;
60 (ii) covers at least 1/3 of the total private land area within the area; and
61 (iii) is equal in value to at least 1/3 of the value of all private real property within the
62 area;
63 (b) indicate the typed or printed name and current residence address of each owner
64 signing the petition;
65 (c) describe the area proposed to be incorporated as a city, as described in the
66 feasibility study request or modified request that meets the requirements of Subsection (3);
67 (d) state the proposed name for the proposed city;
68 (e) designate five signers of the petition as petition sponsors, one of whom shall be
69 designated as the contact sponsor, with the mailing address and telephone number of each;
70 (f) state that the signers of the petition appoint the sponsors, if the incorporation
71 measure passes, to represent the signers in the process of:
72 (i) selecting the number of commission or council members the new city should have;
73 and
74 (ii) drawing district boundaries for the election of commission or council members, if
75 the voters decide to elect commission or council members by district;
76 (g) be accompanied by and circulated with an accurate plat or map, prepared by a
77 licensed surveyor, showing the boundaries of the proposed city; and
78 (h) substantially comply with and be circulated in the following form:
79 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
80 city)
81 To the Honorable County Legislative Body of (insert the name of the county in which
82 the proposed city is located) County, Utah:
83 We, the undersigned owners of real property within the area described in this petition,
84 respectfully petition the county legislative body to submit to the registered voters residing
85 within the area described in this petition, at a special election held for that purpose, the
86 question of whether the area should incorporate as a city. Each of the undersigned affirms that
87 each has personally signed this petition and is an owner of real property within the described

88 area, and that the current residence address of each is correctly written after the signer's name.
89 The area proposed to be incorporated as a city is described as follows: (insert an accurate
90 description of the area proposed to be incorporated).

91 (3) A petition for incorporation of a city under Subsection (1) may not be filed unless
92 the results of the feasibility study or supplemental feasibility study show that the average
93 annual amount of revenue under Subsection 10-2-106(4)(a)(ix) does not exceed the average
94 annual amount of cost under Subsection 10-2-106(4)(a)(viii) by more than 5%.

95 (4) A signature on a request under Section 10-2-103 or a modified request under
96 Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):

97 (a) if the request under Section 10-2-103 or modified request under Section 10-2-107
98 notified the signer in conspicuous language that the signature, unless withdrawn, would also be
99 used for purposes of a petition for incorporation under this section; and

100 (b) unless the signer files with the county clerk a written withdrawal of the signature
101 before the petition under this section is filed with the clerk.

102 Section 2. Section **10-2-125** is amended to read:

103 **10-2-125. Incorporation of a town.**

104 [~~(1) As used in this section:~~]

105 [~~(a) "Base petition" means a petition under this section proposing the incorporation of a
106 town and signed by the owners of private real property that:~~]

107 [~~(i) is located within the area proposed to be incorporated;~~]

108 [~~(ii) covers at least a majority of the total private land area within the area proposed to
109 be incorporated; and]~~

110 [~~(iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private
111 real property within the area proposed to be incorporated.]~~]

112 [~~(b) "Qualifying petition" means a petition under this section proposing the
113 incorporation of a town and signed by the owners of private real property that:~~]

114 [~~(i) is located within the area proposed to be incorporated;~~]

115 [~~(ii) covers at least a majority of the total private land area within the area proposed to
116 be incorporated; and]~~

117 [~~(iii) is equal in value to more than 1/2 of the value of all private real property within
118 the area proposed to be incorporated.]~~]

119 (1) As used in this section:

120 (a) "Assessed value," with respect to agricultural land, means the value at which the
 121 land would be assessed without regard to a valuation for agricultural use under Section
 122 59-2-503.

123 (b) "Financial feasibility study" means a study to determine:

124 (i) the projected revenues for the proposed town during the first three years after
 125 incorporation; and

126 (ii) the projected costs, including overhead, that the proposed town will incur in
 127 providing governmental services during the first three years after incorporation.

128 (2) (a) A contiguous area of a county not within a municipality, with a population of at
 129 least 100 but less than 1,000, may incorporate as a town as provided in this section.

130 (b) ~~(f)~~ The population figure under Subsection (2)(a) shall be ~~[derived from the most~~
 131 ~~recent official census or census estimate of the United States Bureau of the Census. (ii) If the~~
 132 ~~population figure is not available from the United States Bureau of the Census, the population~~
 133 ~~figure shall be derived from the estimate from] determined:~~

134 (i) as of the date the incorporation petition is filed; and

135 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
 136 certification under Subsection ~~H~~→ ~~(5)~~ (6) ←~~H~~ of a petition filed under Subsection (4).

137 (3) (a) The process to incorporate an area as a town is initiated by filing a ~~[petition]~~
 138 request for a public hearing with the clerk of the county in which the area is located.

139 (b) Each request for a public hearing under Subsection (3)(a) shall:

140 (i) be signed by the owners of at least five separate parcels of private real property,
 141 each owned by a different owner, located within the area proposed to be incorporated; and

142 (ii) be accompanied by an accurate map or plat depicting the boundary of the proposed
 143 town.

144 (c) Within ten days after a request for a public hearing is filed under Subsection (3)(a),
 145 the county clerk shall, with the assistance of other county officers from whom the clerk
 146 requests assistance, determine whether the petition complies with the requirements of
 147 Subsection (3)(b).

148 (d) If the clerk determines that a request under Subsection (3)(a) fails to comply with
 149 the requirements of Subsection (3)(b), the clerk shall reject the request and deliver written

150 notice of the rejection to the signers of the request.

151 (e) (i) If the clerk determines that a request under Subsection (3)(a) complies with the
152 requirements of Subsection (3)(b), the clerk shall:

153 (A) schedule and arrange for a public hearing to be held:

154 (I) (Aa) at a public facility located within the boundary of the proposed town; or

155 (Bb) if there is no public facility within the boundary of the proposed town, at another
156 nearby public facility or at the county seat; and

157 (II) within 20 days after the clerk provides the last notice required under Subsection
158 (3)(e)(i)(B); and

159 (B) subject to Subsection (3)(e)(ii), give notice of the public hearing on the proposed
160 incorporation by:

161 (I) posting notice of the public hearing on the county's Internet web site, if the county
162 has an Internet web site; and

163 (II) (Aa) publishing notice of the public hearing at least once a week for two
164 consecutive weeks in a newspaper of general circulation within the proposed town; or

165 (Bb) if there is no newspaper of general circulation within the proposed town, posting
166 notice of the public hearing in at least five conspicuous public places within the proposed town.

167 (ii) The posting of notice required under Subsection (3)(e)(i)(B)(I) and, if applicable,
168 Subsection (3)(e)(i)(B)(II)(Bb) and the first publishing of notice required under Subsection
169 (3)(e)(i)(B)(II)(Aa), if applicable, shall occur no later than ten days after the clerk determines
170 that a request complies with the requirements of Subsection (3)(b).

171 (iii) Each public hearing under Subsection (3)(e)(i)(A) shall be conducted by the chair
172 of the county commission or council, or the chair's designee; to:

173 (A) introduce the concept of the proposed incorporation to the public;

174 (B) allow the public to review the map or plat of the boundary of the proposed town;

175 (C) allow the public to ask questions and become informed about the proposed
176 incorporation; and

177 (D) allow the public to express their views about the proposed incorporation, including
178 their views about the boundary of the area proposed to be incorporated.

179 (4) (a) At any time within three months after the public hearing under Subsection
180 (3)(e), a petition to incorporate the area as a town may be filed with the clerk of the county in

181 which the area is located.

182 (b) Each petition under Subsection [~~(3)~~] (4)(a) shall:

183 (i) be signed by:

184 (A) the owners of private real property that:

185 [~~(A)~~] (I) is located within the area proposed to be incorporated;

186 [~~(B)~~] (II) covers a majority of the total private land area within the area; [~~and~~]

187 [~~(C)~~] (III) is equal in assessed value to [~~at least 1/3~~] more than 1/2 of the assessed value
188 of all private real property within the area; and

189 [~~(ii) state the legal description of the boundaries of the area proposed to be
190 incorporated as a town;~~]

191 (IV) consists, in number of parcels, of at least 1/3 of the number of all parcels of
192 private real property within the area proposed to be incorporated; and

193 (B) a majority of all registered voters within the area proposed to be incorporated as a
194 town, according to the official voter registration list maintained by the county on the date the
195 petition is filed;

196 [~~(iii)~~] (ii) designate [~~up to~~] as sponsors at least five [~~signers~~] of the property owners
197 who have signed the petition [~~as sponsors~~], one of whom shall be designated as the contact
198 sponsor, with the mailing address of each owner signing as a sponsor;

199 [~~(iv)~~] (iii) be accompanied by and circulated with an accurate map or plat, prepared by
200 a licensed surveyor, showing a legal description of the [~~boundaries~~] boundary of the proposed
201 town; and

202 [~~(v)~~] (iv) substantially comply with and be circulated in the following form:

203 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
204 town)

205 To the Honorable County Legislative Body of (insert the name of the county in which
206 the proposed town is located) County, Utah:

207 We, the undersigned owners of real property and registered voters within the area
208 described in this petition, respectfully petition the county legislative body for the area described
209 in this petition to be incorporated as a town. Each of the undersigned affirms that each has
210 personally signed this petition and is an owner of real property or a registered voter residing
211 within the described area, and that the current residence address of each is correctly written

212 after the signer's name. The area proposed to be incorporated as a town is described as follows:
 213 (insert an accurate description of the area proposed to be incorporated).

214 (c) A petition under this ~~[section]~~ Subsection (4) may not describe an area that includes
 215 some or all of an area proposed for annexation in an annexation petition under Section
 216 10-2-403 that:

217 (i) was filed before the filing of the petition; and
 218 (ii) is still pending on the date the petition is filed.

219 ~~[(4) Section 10-2-104 applies to a petition for incorporation as a town in any county,~~
 220 ~~except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days~~
 221 ~~after the filing of a petition under Subsection (3).]~~

222 (d) A petition may not be filed under this section if the private real property owned by
 223 the petition sponsors, designated under Subsection (4)(b)(ii), cumulatively exceeds 40% of the
 224 total private land area within the area proposed to be incorporated as a town.

225 (e) A signer of a petition under this Subsection (4) may withdraw or, after withdrawn,
 226 reinstate the signer's signature on the petition:

227 (i) at any time until the county clerk certifies the petition under Subsection ~~H→ [(5)] (6) ←H~~
 227a ; and

228 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

228a **H→ (5)(a) If a petition is filed under Subsection (4)(a) proposing to incorporate as a**
 228b **town an area located within a county of the first class, the county clerk shall deliver written**
 228c **notice of the proposed incorporation:**

228d **(i) to each owner of private real property owning more than 1% of the assessed value**
 228e **of all private real property within the area proposed to be incorporated as a town; and**

228f **(ii) within seven calendar days after the date on which the petition is filed.**

228g **(b) A private real property owner described in Subsection (5)(a)(i) may exclude all or**
 228h **part of the owner's property from the area proposed to be incorporated as a town by filing a**
 228i **notice of exclusion:**

228j **(i) with the county clerk; and**

228k **(ii) within ten calendar days after receiving the clerk's notice under Subsection (5)(a).**

228l **(c) The county legislative body shall exclude from the area proposed to be incorporated**
 228m **as a town the property identified in the notice of exclusion under Subsection (5)(b) if exclusion**
 228n **will not leave an unincorporated island within the proposed town.**

228o **(d) If the county legislative body excludes property from the area proposed to be**
 228p **incorporated as a town, the county legislative body shall send written notice of the exclusion**

228q **to the contact sponsor within five days after the exclusion.**

229 ~~[(5)]~~ (6) ←H Within 20 days after the filing of a petition under Subsection (4), the county

229a clerk

230 shall:

231 (a) with the assistance of other county officers from whom the clerk requests

232 assistance, determine whether the petition complies with the requirements of Subsection (4);

233 and

234 (b) (i) if the clerk determines that the petition complies with those requirements:

235 (A) certify the petition and deliver the certified petition to the county legislative body;

236 and

237 (B) mail or deliver written notification of the certification to:

238 (I) the contact sponsor;

239 (II) if applicable, the chair of the planning commission of each township in which any

240 part of the area proposed for incorporation is located; and

241 (III) the Utah Population Estimates Committee; or

242 (ii) if the clerk determines that the petition fails to comply with any of those

243 requirements, reject the petition and notify the contact sponsor in writing of the rejection and
 244 the reasons for the rejection.

245 ~~H→ [(6)] (7) ←H~~ (a) (i) A petition that is rejected under Subsection H→ [(5)] (6) ←H (b)(ii)
 245a may be amended to
 246 correct a deficiency for which it was rejected and then refiled with the county clerk.

247 (ii) A valid signature on a petition filed under Subsection (4)(a) may be used toward
 248 fulfilling the signature requirement of Subsection (4)(b) for the same petition that is amended
 249 under Subsection H→ [(6)] (7) ←H (a)(i) and then refiled with the county clerk.

250 (b) If a petition is amended and refiled under Subsection H→ [(6)] (7) ←H (a)(i) after
 250a having been
 251 rejected by the county clerk under Subsection H→ [(5)] (6) ←H (b)(ii):

252 (i) the amended petition shall be considered as a newly filed petition; and

253 (ii) the amended petition's processing priority is determined by the date on which it is
 254 refiled.

255 ~~[(5)] H→ [(7)] (8) ←H~~ (a) (i) The legislative body of [each] a county H→ [of the first or
 255a second class] ←H with
 256 which a [base] petition is filed under [this section shall] Subsection (4) may, at its option and
 257 upon the petition being certified under Subsection H→ [(5)] (6) ←H , commission and pay for a
 257a financial
 258 feasibility study [as provided in Section 10-2-103].

259 (ii) If the legislative body H→ [of a county of the first or second class] ←H chooses to
 260 commission a financial feasibility study, the county legislative body shall:

261 (A) within 20 days after the incorporation petition is certified, select and engage a
 262 feasibility consultant; and

263 (B) require the feasibility consultant to complete the financial feasibility study and
 264 submit written results of the study to the county legislative body no later than 30 days after the
 265 feasibility consultant is engaged to conduct the financial feasibility study.

266 ~~[(ii) If]~~ (b) The county legislative body shall approve a petition proposing the
 267 incorporation of a town and hold an election for town officers, as provided in Subsection H→ [(8)]
 267a (9) ←H ,
 268 if:

269 ~~H→ [(i) in a county of the first or second class:]~~

270 ~~— (A) (i) ←H~~ (A) (i) ←H the county clerk has certified the petition under Subsection H→ [(5)] (4) ←H ;
 270a and

271 ~~H→ [(B) (I) (Aa)] (ii)(A)(I) ←H~~ H→ [(Bb)] (II) ←H the county legislative body has commissioned a financial
 271a feasibility study

272 under Subsection H→ [(7)] (8) ←H (a); and

273 ~~H→ [(Bb)] (II) ←H~~ H→ [(Bb)] (II) ←H the results of the financial feasibility [study under Subsection (5)(a)(i)]
 273a meet the

274 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.]
 275 show that the average annual amount of revenues described in Subsection (1)(b)(i) does not
 276 exceed the average amount of costs described in Subsection (1)(b)(ii) by more than 10%; or
 277 ~~H→ [(H)] (B) ←H~~ the county legislative body chooses not to commission a feasibility
 277a study ~~H→ [; or~~
 278 ~~—— (ii) in a county of the third, fourth, fifth, or sixth class, the county clerk has certified~~
 279 ~~the petition under Subsection (5)] ←H~~ .
 280 [(iii) If] (c) (i) If the legislative body ~~H→ [of a county of the first or second class] ←H~~
 281 commissions a financial feasibility study under Subsection ~~H→ [(7)] (8) ←H~~ (a) and the results of
 281a the
 282 financial feasibility study [~~under Subsection (5)(a)(i) do not meet the requirements of~~
 283 ~~Subsection 10-2-109(3)] show that the average annual amount of revenues described in
 284 Subsection (1)(b)(i) exceeds the average annual amount of costs described in Subsection
 285 (1)(b)(ii) by more than 10%, the county legislative body may:
 286 (A) deny the petition, subject to Subsection ~~H→ [(7)] (8) ←H~~ (c)(ii);
 287 [~~(B) grant the petition; or~~
 288 (B) approve the petition and hold an election for town officers, as provided in
 289 Subsection ~~H→ [(8)] (9) ←H~~ ; or
 290 (C) (I) with the consent of the petition sponsors [~~, grant the petition, after~~]:
 291 [~~(F) imposing~~] (Aa) impose conditions to mitigate the fiscal inequities identified in the
 292 financial feasibility study; or
 293 [~~(H) altering~~] (Bb) alter the boundaries of the area proposed to be incorporated as a
 294 town to approximate the boundaries necessary to [~~meet the requirements of Subsection~~
 295 ~~10-2-109(3):] prevent the average annual amount of revenues described in Subsection (1)(b)(i)
 296 from exceeding the average annual amount of costs described in Subsection (1)(b)(ii); and
 297 (II) approve the incorporation petition and hold an election for town officers, as
 298 provided in Subsection ~~H→ [(8)] (9) ←H~~ .
 299 (ii) A county legislative body intending to deny a petition under Subsection
 299a ~~H→ [(7)] (8) ←H~~ (c)(i)(A)
 300 shall deny the petition within 20 days after the feasibility consultant submits the written results
 301 of the financial feasibility study.
 302 [(iv)] (d) Each town that incorporates pursuant to a petition [~~granted~~] approved after
 303 the county legislative body imposes conditions under Subsection [~~(5)(a)(iii)(C)(F)]
 304 ~~H→ [(7)] (8) ←H~~ (c)(i)(C)(I) shall comply with those conditions.~~~~~~

305 ~~[(b) The legislative body of each county of the second, third, fourth, fifth, or sixth class~~
 306 ~~with which a qualifying petition is filed shall grant the petition.]~~

307 ~~[(6) (a) Upon the granting of a petition filed under this section, the]~~

308 ~~H→ [(8)] (9) ←H~~ (a) The legislative body of the county in which the proposed new town is
 308a located

309 ~~shall [appoint a mayor and members of the town council from a list of qualified individuals~~
 310 ~~approved by the petition sponsors] hold the election for town officers provided for in~~

311 Subsection ~~H→ [(7)] (8) ←H~~ within:

312 (i) 45 days after the petition is certified, for an election under Subsection

313 ~~H→ [(7)] (8) ←H~~ (b) ~~H→ [(i)] (ii) ←H~~ (B) ~~H→ [(H) or (7)(b)(ii)] ←H~~ ;

314 (ii) 45 days after the feasibility consultant submits the written results of the financial

315 feasibility study, for an election under Subsection ~~H→ [(7)] (8) ←H~~ (b) ~~H→ [(i)(B)(F)] (ii)(A) ←H~~ ;

315a or

316 (iii) 60 days after the feasibility consultant submits the written results of the financial

317 feasibility study, for an election under Subsection ~~H→ [(7)] (8) ←H~~ (c).

318 (b) The officers elected at an election under Subsection ~~H→ [(8)] (9) ←H~~ (a) shall take
 318a office:

319 (i) at noon on the first Monday in January next following the election, if the election is
 320 held on a regular general or municipal general election date; or

321 (ii) at noon on the first day of the month next following the effective date of the
 322 incorporation under Subsection ~~H→ [(11)] (12) ←H~~ , if the election of officers is held on
 322a any other date.

323 ~~[(b) The officers appointed under Subsection (6)(a) shall hold office until the next~~
 324 ~~regular municipal election and until their successors are elected and qualified.]~~

325 ~~[(7)] ~~H→ [(9)] (10) ←H~~ Each newly incorporated town shall operate under the [six-member]~~
 326 ~~five-member~~ council form of government as described in Section 10-3-101.

327 ~~[(8)] ~~H→ [(10)] (11) ←H~~ (a) [Each mayor appointed under Subsection (6) shall, within]~~
 327a Within seven

328 days [of appointment, file] after the canvass of the election of town officers under Subsection

329 ~~H→ [(8)] (9) ←H~~ , the mayor-elect of the new town shall file at least three copies of the articles of
 330 incorporation of the new town with the lieutenant governor.

331 (b) The articles of incorporation shall meet the requirements of Subsection
 332 10-2-119(2).

333 ~~[(9) A town is incorporated upon the lieutenant governor's issuance of a certificate of~~
 334 ~~entity creation under Section 67-1a-6.5.]~~

335 ~~[(10) The legislative body of the new town shall comply with the notice requirements~~

336 of Section 10-1-116.]

337 ~~H~~→ [(11)] (12) ←~~H~~ A new town is incorporated:

338 (a) on December 31 of the year in which the lieutenant governor issues a certificate of

339 entity creation for the town under Section 67-1a-6.5, if the election of town officers under

340 Subsection ~~H~~→ [(8)] (9) ←~~H~~ is held on a regular general or municipal general election date; or

341 (b) on the last day of the month during which the lieutenant governor issues a

342 certificate of entity creation for the town under Section 67-1a-6.5, if the election of town

343 officers under Subsection ~~H~~→ [(8)] (9) ←~~H~~ is held on any other date.

344 ~~H~~→ [(12)] (13) ←~~H~~ For each petition filed before the effective date of this section:

345 (a) the petition is subject to and governed by the law in effect at the time the petition

346 was filed; and

347 (b) the law in effect at the time the petition was filed governs in all administrative and

348 judicial proceedings relating to the petition.

349 Section 3. Section 20A-1-203 is amended to read:

350 **20A-1-203. Calling and purpose of special elections.**

351 (1) Statewide and local special elections may be held for any purpose authorized by

352 law.

353 (2) (a) Statewide special elections shall be conducted using the procedure for regular

354 general elections.

355 (b) Except as otherwise provided in this title, local special elections shall be conducted

356 using the procedures for regular municipal elections.

357 (3) The governor may call a statewide special election by issuing an executive order

358 that designates:

359 (a) the date for the statewide special election; and

360 (b) the purpose for the statewide special election.

361 (4) The Legislature may call a statewide special election by passing a joint or

362 concurrent resolution that designates:

363 (a) the date for the statewide special election; and

364 (b) the purpose for the statewide special election.

365 (5) (a) The legislative body of a local political subdivision may call a local special

366 election only for:

- 367 (i) a vote on a bond or debt issue;
- 368 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or
- 369 53A-17a-134;
- 370 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedure;
- 371 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- 372 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
- 373 legal boundaries should be changed;
- 374 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act; ~~or~~
- 375 (vii) a vote to elect members to school district boards for a new school district and a
- 376 remaining school district, as defined in Section 53A-2-117, following the creation of a new
- 377 school district under Section 53A-2-118.1~~[-];~~or
- 378 (viii) an election of town officers of a newly incorporated town under Subsection
- 379 10-2-125 ~~H~~→ [(8)] (9) ←H .
- 380 (b) The legislative body of a local political subdivision may call a local special election
- 381 by adopting an ordinance or resolution that designates:
- 382 (i) the date for the local special election; and
- 383 (ii) the purpose for the local special election.
- 384 Section 4. Section **20A-1-204** is amended to read:
- 385 **20A-1-204. Date of special election -- Legal effect.**
- 386 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
- 387 calling a statewide special election or local special election under Section 20A-1-203 shall
- 388 schedule the special election to be held on:
- 389 (i) the fourth Tuesday in June; ~~or~~
- 390 (ii) the first Tuesday after the first Monday in November~~[-];~~or
- 391 (iii) for an election of town officers of a newly incorporated town under Subsection
- 392 10-2-125 ~~H~~→ [(8)] (9) ←H . on any date that complies with the requirements of that subsection.
- 393 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
- 394 body of a local political subdivision calling a statewide special election or local special election
- 395 under Section 20A-1-203 may not schedule a special election to be held on any other date.
- 396 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
- 397 local political subdivision may call a local special election on a date other than those specified

398 in this section if the legislative body:

399 (A) determines and declares that there is a disaster, as defined in Section 63-5-2,
400 requiring that a special election be held on a date other than the ones authorized in statute;

401 (B) identifies specifically the nature of the disaster, as defined in Section 63-5-2, and
402 the reasons for holding the special election on that other date; and

403 (C) votes unanimously to hold the special election on that other date.

404 (ii) The legislative body of a local political subdivision may not call a local special
405 election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential
406 Primary, for Utah's Western States Presidential Primary.

407 (d) Nothing in this section prohibits:

408 (i) the governor or Legislature from submitting a matter to the voters at the regular
409 general election if authorized by law; or

410 (ii) a local government from submitting a matter to the voters at the regular municipal
411 election if authorized by law.

412 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
413 special election within a county on the same day as:

414 (i) another special election;

415 (ii) a regular general election; or

416 (iii) a municipal general election.

417 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

418 (i) polling places;

419 (ii) ballots;

420 (iii) election officials; and

421 (iv) other administrative and procedural matters connected with the election.

422 **Section 5. Effective date.**

423 If approved by two-thirds of all the members elected to each house, this bill takes effect
424 upon approval by the governor, or the day following the constitutional time limit of Utah
425 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
426 the date of veto override.

427 **Section 6. Revisor instructions.**

428 It is the intent of the Legislature that the Office of Legislative Research and General

429 Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective
430 date of this section" in Subsection 10-2-125 ~~H~~→ [(12)] (13) ←~~H~~ of this bill with the actual effective
430a date of this
431 bill.

H.B. 164 4th Sub. (Green) - Town Incorporation Process Amendments

Fiscal Note

2008 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. Enactment of this bill could increase the cost to petitioners looking to incorporate.
