

MUNICIPAL GOVERNMENT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Aaron Tilton

LONG TITLE

Committee Note:

The Political Subdivisions Interim Committee recommended this bill.

The Local Issues Task Force recommended this bill.

General Description:

This bill modifies provisions of the Utah Municipal Code.

Highlighted Provisions:

This bill:

- ▶ rewrites and reorganizes provisions relating to forms of municipal government;
- ▶ repeals provisions relating to forms of municipal government that have been rewritten or made obsolete by the rewritten provisions;
- ▶ clarifies the forms of government under which a municipality may operate;
- ▶ clarifies provisions relating to the council-mayor, six-member council, and five-member council forms of municipal government;
- ▶ repeals provisions relating to the council-manager form of municipal government;
- ▶ provides for municipalities operating under the former council-manager form of government to operate in the future under the five-member council form of government, but allowing them to retain the same number of council members;
- ▶ provides for managers appointed under a former council-manager form of government before the effective date of this bill to be paid severance payment upon the dismissal of the manager; and



28 ▶ makes technical and conforming changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 **AMENDS:**

35 **10-2-303**, as last amended by Laws of Utah 2004, Chapter 202

36 **10-3-504**, as last amended by Laws of Utah 2004, Chapter 202

37 **10-3-507**, as last amended by Laws of Utah 2004, Chapter 202

38 **10-3-820**, as enacted by Laws of Utah 1977, Chapter 48

39 **10-3-902**, as enacted by Laws of Utah 1977, Chapter 48

40 **ENACTS:**

41 **10-3a-101**, Utah Code Annotated 1953

42 **10-3a-102**, Utah Code Annotated 1953

43 **10-3a-103**, Utah Code Annotated 1953

44 **10-3a-104**, Utah Code Annotated 1953

45 **10-3a-201**, Utah Code Annotated 1953

46 **10-3a-202**, Utah Code Annotated 1953

47 **10-3a-203**, Utah Code Annotated 1953

48 **10-3a-204**, Utah Code Annotated 1953

49 **10-3a-301**, Utah Code Annotated 1953

50 **10-3a-302**, Utah Code Annotated 1953

51 **10-3a-303**, Utah Code Annotated 1953

52 **10-3a-401**, Utah Code Annotated 1953

53 **10-3a-402**, Utah Code Annotated 1953

54 **10-3a-403**, Utah Code Annotated 1953

55 **10-3a-501**, Utah Code Annotated 1953

56 **10-3a-502**, Utah Code Annotated 1953

57 **REPEALS:**

58 **10-3-101**, as last amended by Laws of Utah 2004, Chapter 202

- 59 **10-3-102**, as enacted by Laws of Utah 1977, Chapter 48
- 60 **10-3-106**, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 61 **10-3-207**, as enacted by Laws of Utah 1977, Chapter 48
- 62 **10-3-403**, as enacted by Laws of Utah 1977, Chapter 48
- 63 **10-3-404**, as enacted by Laws of Utah 1977, Chapter 48
- 64 **10-3-503**, as last amended by Laws of Utah 1987, Chapter 92
- 65 **10-3-801**, as enacted by Laws of Utah 1977, Chapter 48
- 66 **10-3-802**, as last amended by Laws of Utah 1987, Chapter 92
- 67 **10-3-803**, as enacted by Laws of Utah 1977, Chapter 48
- 68 **10-3-804**, as last amended by Laws of Utah 1977, Chapter 39
- 69 **10-3-805**, as enacted by Laws of Utah 1977, Chapter 48
- 70 **10-3-806**, as last amended by Laws of Utah 1993, Chapter 4
- 71 **10-3-807**, as last amended by Laws of Utah 1977, Chapter 39
- 72 **10-3-808**, as last amended by Laws of Utah 2003, Chapter 292
- 73 **10-3-809**, as last amended by Laws of Utah 2003, Chapter 292
- 74 **10-3-811**, as last amended by Laws of Utah 2003, Chapter 292
- 75 **10-3-812**, as last amended by Laws of Utah 2003, Chapter 292
- 76 **10-3-813**, as enacted by Laws of Utah 1977, Chapter 48
- 77 **10-3-814**, as enacted by Laws of Utah 1977, Chapter 48
- 78 **10-3-815**, as enacted by Laws of Utah 1977, Chapter 48
- 79 **10-3-816**, as enacted by Laws of Utah 1977, Chapter 48
- 80 **10-3-817**, as enacted by Laws of Utah 1977, Chapter 48
- 81 **10-3-830**, as last amended by Laws of Utah 2007, Chapter 266
- 82 **10-3-901**, as enacted by Laws of Utah 1977, Chapter 48
- 83 **10-3-1201**, as enacted by Laws of Utah 1977, Chapter 48
- 84 **10-3-1202**, as enacted by Laws of Utah 1977, Chapter 48
- 85 **10-3-1203**, as last amended by Laws of Utah 2004, Chapters 202 and 371
- 86 **10-3-1204**, as enacted by Laws of Utah 1977, Chapter 48
- 87 **10-3-1205**, as enacted by Laws of Utah 1977, Chapter 48
- 88 **10-3-1206**, as last amended by Laws of Utah 1985, Chapter 222
- 89 **10-3-1207**, as enacted by Laws of Utah 1977, Chapter 48

- 90 **10-3-1208**, as last amended by Laws of Utah 2004, Chapter 202
- 91 **10-3-1210**, as enacted by Laws of Utah 1977, Chapter 48
- 92 **10-3-1211**, as enacted by Laws of Utah 1977, Chapter 48
- 93 **10-3-1212**, as last amended by Laws of Utah 2006, Chapter 14
- 94 **10-3-1213**, as enacted by Laws of Utah 1977, Chapter 48
- 95 **10-3-1214**, as enacted by Laws of Utah 1977, Chapter 48
- 96 **10-3-1215**, as enacted by Laws of Utah 1977, Chapter 48
- 97 **10-3-1216**, as last amended by Laws of Utah 1991, Chapter 54
- 98 **10-3-1217**, as last amended by Laws of Utah 1981, Chapter 47
- 99 **10-3-1218**, as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 100 **10-3-1219**, as last amended by Laws of Utah 2004, Chapter 156
- 101 **10-3-1219.5**, as enacted by Laws of Utah 1979, Chapter 39
- 102 **10-3-1220**, as enacted by Laws of Utah 1977, Chapter 48
- 103 **10-3-1221**, as enacted by Laws of Utah 1977, Chapter 48
- 104 **10-3-1222**, as last amended by Laws of Utah 1993, Chapter 231
- 105 **10-3-1223**, as enacted by Laws of Utah 1977, Chapter 48
- 106 **10-3-1224**, as enacted by Laws of Utah 1977, Chapter 48
- 107 **10-3-1225**, as enacted by Laws of Utah 1977, Chapter 48
- 108 **10-3-1226**, as enacted by Laws of Utah 1977, Chapter 48
- 109 **10-3-1227**, as enacted by Laws of Utah 1977, Chapter 48
- 110 **10-3-1228**, as enacted by Laws of Utah 1977, Chapter 48

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

113 Section 1. Section **10-2-303** is amended to read:

114 **10-2-303. Effect of change in class.**

115 (1) [~~(a)~~] If a municipality changes from one class to another:

116 [~~(i)~~] (a) all property, property rights, and other rights that belonged to or were vested in
 117 the municipality at the time of the change shall belong to and be vested in it after the change;

118 [~~(ii)~~] (b) no contract, claim, or right of the municipality or demand or liability against it
 119 shall be altered or affected in any way by the change;

120 [~~(iii)~~] (c) each ordinance, order, and resolution in force in the municipality when it

121 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the
 122 change and shall remain in effect until repealed or amended;

123 ~~[(iv)]~~ (d) the change shall not affect the identity of the municipality;

124 ~~[(v)]~~ (e) each municipal officer in office at the time of the change shall continue as an
 125 officer until that officer's term expires and a successor is duly elected and qualified; and

126 ~~[(vi)]~~ (f) except as provided in Subsection (1)(b), the municipality maintains after the
 127 change in class the same form of government that it had immediately before the change.

128 ~~[(b)(i) If a town operating under a five-member council form of government changes~~
 129 ~~classes to a fifth class city, its form of government shall, upon issuance of the lieutenant~~
 130 ~~governor's certificate under Section 10-2-302, change to a six-member council form.]~~

131 ~~[(ii) As soon as practicable after the change in form of government under Subsection~~
 132 ~~(1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is~~
 133 ~~elected at the next municipal general election at which the mayor is not subject to election.]~~

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

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

141 Section 2. Section **10-3-504** is amended to read:

142 **10-3-504. Quorum defined.**

143 ~~[(1)]~~ The number of members of the ~~[governing]~~ legislative body necessary to
 144 constitute a quorum is:

145 ~~[(a)]~~ (1) in a municipality operating under a five-member council-mayor form or a
 146 six-member ~~[city]~~ or five-member council form of government ~~[or a five-member~~
 147 ~~council-manager form of government]~~, three or more; or

148 ~~[(b)]~~ (2) in a seven-member ~~[council-manager]~~ council-mayor form of government,
 149 four or more.

150 ~~[(2) The number of members of the legislative body of a municipality operating under~~
 151 ~~a council-mayor form of government necessary to constitute a quorum is:]~~

152 ~~[(a) for a five-member council-mayor form, three; and]~~

153 ~~[(b) for a seven-member council-mayor form, four.]~~

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

155 **10-3-507. Minimum vote required.**

156 (1) ~~[(a)]~~ The minimum number of yes votes required to pass any ordinance or
157 resolution, or to take any action by the ~~[governing]~~ legislative body, unless otherwise
158 prescribed by law, ~~[shall be a majority of the members of the quorum, but may never be less~~
159 ~~than:]~~ is the minimum number required for a quorum.

160 ~~[(i) for a municipality operating under a five-member or six-member council form of~~
161 ~~government or a five-member council-manager form of government, three; or]~~

162 ~~[(ii) for a municipality operating under a seven-member council-manager form of~~
163 ~~government, four:]~~

164 ~~[(b) The minimum number of yes votes requires to pass an ordinance or resolution or~~
165 ~~to take an action by the legislative body of a municipality operating under a council-mayor~~
166 ~~form of government, unless otherwise prescribed by law, shall be a majority of the members of~~
167 ~~the quorum, but may never be less than:]~~

168 ~~[(i) for a five-member council-mayor form, three; and]~~

169 ~~[(ii) for a seven-member council-mayor form, four.]~~

170 (2) (a) Any ordinance, resolution, or motion of the ~~[governing]~~ legislative body having
171 fewer favorable votes than required in this section shall be considered defeated and invalid[;
172 ~~except].~~

173 ~~(b) Notwithstanding Subsection (2)(a),~~ a meeting may be adjourned to a specific time
174 by a majority vote of the ~~[governing]~~ legislative body even though ~~[such]~~ the majority vote is
175 less than that required in this section.

176 (3) A majority of the members of the ~~[governing]~~ legislative body, regardless of
177 number, may fill any vacancy in the ~~[governing]~~ legislative body.

178 Section 4. Section **10-3-820** is amended to read:

179 **10-3-820. Cities of the first and second class.**

180 In cities of the first and second class, the mayor and each ~~[commissioner]~~ council
181 member shall give a penal bond, with approved corporate surety, in the amount of not less than
182 \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of

183 not less than \$20,000 conditioned for the faithful performance of the duties of their offices and
184 payment of all monies received by them according to law and the ordinances of the city.

185 Section 5. Section **10-3-902** is amended to read:

186 **10-3-902. City engineer required to be licensed.**

187 ~~[In cities of the first and second class the board of commissioners shall appoint a~~
188 ~~qualified person to each of the offices of recorder, treasurer, engineer and attorney, and may~~
189 ~~create any other office that may be deemed necessary for the government of the city, and~~
190 ~~regulate and prescribe the powers, duties and compensation of all officers of the city, except as~~
191 ~~otherwise provided by law. The]~~

192 Each person [sø] appointed as city engineer shall be a registered professional engineer
193 under Title 58, Chapter 22~~[- The board of commissioners may appoint all officers and agents as~~
194 ~~may be provided for by law or ordinances, and fill all vacancies occurring therein],~~
195 Professional Engineers and Professional Land Surveyors Licensing Act.

196 Section 6. Section **10-3a-101** is enacted to read:

197 **CHAPTER 3a. FORMS OF MUNICIPAL GOVERNMENT**

198 **Part 1. General Provisions**

199 **10-3a-101. Title.**

200 This chapter is known as "Forms of Municipal Government."

201 Section 7. Section **10-3a-102** is enacted to read:

202 **10-3a-102. Definitions.**

203 As used in this chapter:

204 (1) "Council-mayor form of government" means the form of municipal government
205 described in Part 2, Council-Mayor Form of Municipal Government.

206 (2) "Five-member council form of government" means the form of municipal
207 government described in Part 4, Five-Member Council Form of Municipal Government.

208 (3) "Six-member council form of government" means the form of municipal
209 government described in Part 3, Six-Member Council Form of Municipal Government.

210 Section 8. Section **10-3a-103** is enacted to read:

211 **10-3a-103. Forms of municipal government -- Form of government for towns --**
212 **Former council-manager form.**

213 (1) Subject to Subsection (2), each municipality shall operate under:

214 (a) the council-mayor form of government, with a five-member or seven-member
215 council;

216 (b) the six-member council form of government; or

217 (c) the five-member council form of government.

218 (2) Unless it changes to another form of government under Part 5, Changing to
219 Another Form of Municipal Government, each town shall operate under a five-member council
220 form of government.

221 (3) A municipality retains the form of government under which it is operating unless it
222 changes its form as provided in Part 5, Changing to Another Form of Municipal Government.

223 (4) (a) A municipality operating on May 4, 2008 under the council-manager form of
224 government, as provided under the law then in effect:

225 (i) shall, on and after May 5, 2008, operate under the five-member council form of
226 government; and

227 (ii) notwithstanding Section 10-3a-401 regarding the number of council members in a
228 five-member council form of government, may continue to operate on and after May 5, 2008
229 with the same number of council members as before May 5, 2008.

230 (b) Subsection (4)(a) may not be construed to prevent a municipality described in that
231 subsection from changing to another form of government as provided in Part 5, Changing to
232 Another Form of Municipal Government.

233 Section 9. Section **10-3a-104** is enacted to read:

234 **10-3a-104. Municipal council.**

235 Under each form of municipal government, the council:

236 (1) is the legislative body of the municipality and exercises the legislative powers and
237 performs the legislative duties and functions of the municipality; and

238 (2) may:

239 (a) adopt rules and regulations, not inconsistent with statute, for the efficient
240 administration, organization, operation, conduct, and business of the municipality;

241 (b) require by ordinance that any or all appointed officers reside in the municipality;

242 (c) create any office that the council considers necessary for the government of the
243 municipality;

244 (d) provide for filling a vacancy in an elective or appointive office; and

245 (e) perform any function specifically provided for by statute or necessarily implied by
246 law.

247 Section 10. Section **10-3a-201** is enacted to read:

248 **Part 2. Council-Mayor Form of Municipal Government**

249 **10-3a-201. Separate branches of government under a council-mayor form of**
250 **government.**

251 The powers of municipal government in a municipality operating under the
252 council-mayor form of government are vested in two separate, independent, and equal branches
253 of municipal government consisting of:

254 (1) a council composed of five or seven members; and

255 (2) a mayor and, under the mayor's supervision, any executive or administrative
256 departments, divisions, and offices and any executive or administrative officers provided for by
257 municipal ordinance.

258 Section 11. Section **10-3a-202** is enacted to read:

259 **10-3a-202. Mayor in council-mayor form of government.**

260 The mayor in a municipality operating under the council-mayor form of government:

261 (1) is the chief executive and administrative officer of the municipality;

262 (2) exercises the executive and administrative powers and performs or supervises the
263 performance of the executive and administrative duties and functions of the municipality;

264 (3) shall:

265 (a) keep the peace and enforce the laws and ordinances of the municipality;

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

267 (c) appoint, with the council's advice and consent, a qualified person for each of the
268 following positions:

269 (i) recorder;

270 (ii) treasurer;

271 (iii) engineer; and

272 (iv) attorney;

273 (d) provide to the council, at intervals provided by ordinance, a written report to the
274 council setting forth:

275 (i) the amount of budget appropriations;

- 276 (ii) total disbursements from the appropriations;
277 (iii) the amount of indebtedness incurred or contracted against each appropriation,
278 including disbursements and indebtedness incurred and not paid; and
279 (iv) the percentage of the appropriations encumbered;
280 (e) inform the council of the condition and needs of the municipality;
281 (f) remit fines and forfeitures to the council at the council's next regular meeting after
282 the fines and forfeitures are collected;
283 (g) report to the council any release that the mayor grants under Subsection (4)(k); and
284 (h) perform each other duty:
285 (i) prescribed by this chapter; or
286 (ii) required by a municipal ordinance that is not inconsistent with this chapter;
287 (4) may:
288 (a) subject to budget constraints, appoint one or more administrative assistants to the
289 mayor;
290 (b) with the council's advice and consent and except as otherwise specifically limited
291 by statute, appoint:
292 (i) each department head of the municipality;
293 (ii) each statutory officer of the municipality; and
294 (iii) each member of a statutory commission, board, or committee of the municipality;
295 (c) dismiss any person appointed by the mayor;
296 (d) as provided in Section 10-3a-204, veto an ordinance, tax levy, or appropriation
297 passed by the council;
298 (e) exercise control of and supervise each executive or administrative department,
299 division, or office of the municipality;
300 (f) within the general provisions of statute and ordinance, regulate and prescribe the
301 powers and duties of each other executive or administrative officer or employee of the
302 municipality;
303 (g) attend each council meeting, take part in discussions, and freely give advice to the
304 council;
305 (h) appoint a budget officer to serve in place of the mayor to comply with Title 10,
306 Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Chapter 6, Uniform Fiscal

307 Procedures Act for Utah Cities, as the case may be;

308 (i) if necessary, call on residents of the municipality over the age of 21 years to assist in
309 enforcing state laws and municipal ordinances;

310 (j) at any reasonable time, examine and inspect the official books, papers, records, or
311 documents of the municipality or of any officer, employee, or agent of the municipality;

312 (k) release a person imprisoned for a violation of a municipal ordinance; and

313 (l) execute an agreement on behalf of the municipality, or delegate, by written
314 executive order, the authority to execute an agreement on behalf of the municipality;

315 (i) if the obligation under the agreement is within certified budget appropriations; and

316 (ii) subject to Section 10-6-138; and

317 (5) may not vote on any matter before the council.

318 Section 12. Section **10-3a-203** is enacted to read:

319 **10-3a-203. Council may elect chair.**

320 The council in a municipality operating under a council-mayor form of government may
321 elect one of its members to be the chair of the council.

322 Section 13. Section **10-3a-204** is enacted to read:

323 **10-3a-204. Presenting council action to mayor -- Veto -- Reconsideration -- When**
324 **ordinance, tax levy, or appropriation takes effect.**

325 (1) The council in each municipality operating under a council-mayor form of
326 municipal government shall present to the mayor each ordinance, tax levy, and appropriation
327 passed by the council.

328 (2) (a) The mayor in a municipality operating under a council-mayor form of municipal
329 government may veto an ordinance or tax levy or all or any part of an appropriation passed by
330 the council.

331 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the
332 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after
333 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement
334 explaining the mayor's objections.

335 (3) At its next meeting following a mayor's veto under Subsection (2), the council shall
336 reconsider the vetoed ordinance, tax levy, or appropriation.

337 (4) Each ordinance, tax levy, and appropriation passed by the council shall take effect

338 after it has been recorded if:

339 (a) before it is recorded the mayor signs the ordinance, tax levy, or appropriation,
340 approving it;

341 (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after
342 the council presents the ordinance, tax levy, or appropriation to the mayor; or

343 (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation
344 and passes it by a vote of at least two-thirds of all council members.

345 Section 14. Section **10-3a-301** is enacted to read:

346 **Part 3. Six-Member Council Form of Municipal Government**

347 **10-3a-301. Municipal government powers vested in a six-member council.**

348 The powers of municipal government in a municipality operating under the six-member
349 council form of government are vested in a council consisting of six members, one of which is
350 a mayor.

351 Section 15. Section **10-3a-302** is enacted to read:

352 **10-3a-302. Mayor in six-member council form of government -- Mayor pro**
353 **tempore.**

354 (1) The mayor in a municipality operating under a six-member council form of
355 municipal government:

356 (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

357 (b) votes as a voting member of the council;

358 (i) on each matter for which there is a tie vote of the other council members present at a
359 council meeting; or

360 (ii) when the council is voting on:

361 (A) whether to appoint or dismiss a municipal manager; or

362 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;

363 (c) is the chair of the council and presides at all council meetings;

364 (d) exercises ceremonial functions for the municipality;

365 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;

366 (f) exercises the executive and administrative powers and performs or supervises the
367 performance of executive and administrative duties and functions of the municipality, if and to
368 the extent provided by municipal ordinance; and

369 (g) if delegated executive or administrative powers, duties, or functions, may, within
370 budget constraints, appoint one or more administrative assistants to the mayor.

371 (2) (a) If the mayor is absent from a council meeting or is unable or refuses to act as
372 chair at a council meeting, the council may elect a member of the council as mayor pro tempore
373 to preside at the council meeting and to perform the duties and functions of mayor at the
374 meeting.

375 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
376 the election of a council member as mayor pro tempore under Subsection (2)(a).

377 Section 16. Section **10-3a-303** is enacted to read:

378 **10-3a-303. Council in six-member form of government.**

379 The council in a municipality operating under a six-member council form of
380 government:

381 (1) exercises the executive and administrative powers and performs or supervises the
382 performance of the executive and administrative duties and functions of the municipality,
383 including the powers, duties, and functions stated in Section 10-3a-202, except:

384 (a) to the extent that those powers, duties, or functions are delegated to the mayor by
385 municipal ordinance; and

386 (b) the power to veto under Subsection 10-3a-202(4)(d);

387 (2) may:

388 (a) subject to Subsection 10-3a-302(1)(b)(ii)(B), adopt an ordinance:

389 (i) delegating to the mayor any of the powers, duties, or functions of a mayor under a
390 council-mayor form of municipal government under Section 10-3a-202, except the power to
391 veto an ordinance, tax levy, or appropriation passed by the council; or

392 (ii) removing from the mayor any power, duty, or function previously delegated to the
393 mayor by municipal ordinance;

394 (b) subject to Subsection 10-3a-302(1)(b)(ii)(A):

395 (i) appoint a manager to perform executive and administrative duties or functions that
396 the council by ordinance delegates to the manager, subject to Subsection (3); and

397 (ii) dismiss a manager appointed under Subsection (2)(b)(i); and

398 (c) assign any or all council members, including the mayor, to supervise one or more
399 administrative departments of the municipality; and

400 (3) may not delegate to a manager appointed by the council:

401 (a) any of the mayor's legislative or judicial powers or ceremonial functions;

402 (b) the mayor's position as chair of the council; or

403 (c) any ex officio position that the mayor holds.

404 Section 17. Section **10-3a-401** is enacted to read:

405 **Part 4. Five-Member Council Form of Municipal Government**

406 **10-3a-401. Municipal government powers vested in a five-member council.**

407 The powers of municipal government in a municipality operating under the
408 five-member council form of municipal government are vested in a council consisting of five
409 members, one of which is a mayor.

410 Section 18. Section **10-3a-402** is enacted to read:

411 **10-3a-402. Mayor in a five-member council form of government.**

412 (1) The mayor in a municipality operating under a five-member council form of
413 municipal government:

414 (a) is a regular and voting member of the council;

415 (b) is the chair of the council and presides at all council meetings;

416 (c) exercises ceremonial functions for the municipality; and

417 (d) may not veto any ordinance, tax levy, or appropriation passed by the council.

418 (2) (a) If the mayor is absent from a council meeting or is unable or refuses to act as
419 chair at a council meeting, the council may elect another member of the council as mayor pro
420 tempore to preside at the council meeting and to perform the duties and functions of mayor at
421 the meeting.

422 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting
423 the election of a council member as mayor pro tempore under Subsection (2)(a).

424 Section 19. Section **10-3a-403** is enacted to read:

425 **10-3a-403. Council in a five-member form of government.**

426 (1) The council in a municipality operating under a five-member council form of
427 municipal government:

428 (a) exercises the executive and administrative powers and performs or supervises the
429 performance of the executive and administrative duties and functions of the municipality,
430 including the powers, duties, and functions stated in Section 10-3a-202, except the power to

431 veto under Subsection 10-3a-202(4)(d);

432 (b) may:

433 (i) appoint a manager to perform executive and administrative duties or functions that
434 the council by ordinance delegates to the manager, subject to Subsection (1)(c); and

435 (ii) subject to Subsection (2), dismiss a manager appointed under Subsection (1)(b)(i);
436 and

437 (iii) assign any or all council members, including the mayor, to supervise one or more
438 administrative departments of the municipality; and

439 (c) may not delegate to a manager appointed by the council:

440 (i) any of the mayor's legislative or judicial powers or ceremonial functions;

441 (ii) the mayor's position as chair of the council; or

442 (iii) any ex officio position that the mayor holds.

443 (2) If the legislative body of a municipality operating under a five-member council
444 form of government because of Subsection 10-3a-103(4) dismisses a manager hired before
445 May 5, 2008, the council shall cause the manager to be paid, upon dismissal:

446 (a) any unpaid balance of the manager's salary due to the date of the dismissal; and

447 (b) the manager's salary at the same rate for the next six calendar months following the
448 dismissal.

449 Section 20. Section **10-3a-501** is enacted to read:

450 **Part 5. Changing to Another Form of Municipal Government**

451 **10-3a-501. Authority to change to another form of municipal government.**

452 As provided in this part, a municipality may change from the form of government under
453 which it operates to:

454 (1) the council-mayor form of government with a five-member council;

455 (2) the council-mayor form of government with a seven-member council;

456 (3) the six-member form of government; or

457 (4) the five-member form of government.

458 Section 21. Section **10-3a-502** is enacted to read:

459 **10-3a-502. Voter approval required -- Election following resolution or petition --**
460 **Limitation on resolution and petition -- Ballot.**

461 (1) A municipality may not change its form of government under this part unless voters

462 of the municipality approve the change at an election held for that purpose.

463 (2) (a) Subject to Subsection (3), the legislative body of a municipality shall hold an
464 election on a proposal to change the municipality's form of government under this part:

465 (i) if:

466 (A) the municipal legislative body adopts a resolution proposing a change; or

467 (B) a petition is filed, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives -
468 Procedures, proposing a change; and

469 (ii) within 12 months after:

470 (A) for a resolution adopted under Subsection (2)(a)(i)(A), adoption of a resolution; or

471 (B) for an initiative petition filed under Subsection (2)(a)(i)(B), the petition is declared
472 sufficient under Section 20A-7-507.

473 (b) Each resolution adopted under Subsection (2)(a)(i)(A) or petition filed under
474 Subsection (2)(a)(i)(B) shall:

475 (i) state the number, method of election, and initial terms of council members; and

476 (ii) specify the boundaries of districts substantially equal in population, if some or all
477 council members are to be elected by district.

478 (3) A resolution may not be adopted under Subsection (2)(a)(i)(A) and a petition may
479 not be filed under Subsection (2)(a)(i)(B) within:

480 (a) two years after an election at which voters reject a proposal to change the
481 municipality's form of government, if the resolution or petition proposes changing to the same
482 form of government that voters rejected at the election; or

483 (b) four years after the effective date of a change in the form of municipal government.

484 (4) The ballot at an election on a proposal to change the municipality's form of
485 government shall:

486 (a) state the ballot question substantially as follows: "Shall (state the municipality's
487 name), Utah change its form of government to the (state "council-mayor form, with a
488 five-member council," "council-mayor form, with a seven-member council," "six-member
489 council form," or "five-member council form," as applicable)?"; and

490 (b) provide a space or method for the voter to vote "yes" or "no."

491 **Section 22. Repealer.**

492 This bill repeals:

- 493 Section **10-3-101, Governing body -- Legislative and executive powers.**
- 494 Section **10-3-102, Governing body -- Other functions.**
- 495 Section **10-3-106, Governing body in towns.**
- 496 Section **10-3-207, Determining two and four year terms.**
- 497 Section **10-3-403, Mayor as presiding officer -- Mayor pro tempore.**
- 498 Section **10-3-404, No veto.**
- 499 Section **10-3-503, Quorum necessary to do business.**
- 500 Section **10-3-801, Administrative powers in cities of the first class.**
- 501 Section **10-3-802, Designation of department head in cities of the first class.**
- 502 Section **10-3-803, Officers limited to one office -- Exceptions.**
- 503 Section **10-3-804, Change in names, functions and superintendents of departments.**
- 504 Section **10-3-805, Administrative powers in cities of the second class.**
- 505 Section **10-3-806, Designation of department head in cities of the second class.**
- 506 Section **10-3-807, Commissioners may administer two departments -- Change in**
- 507 **names, functions and superintendents.**
- 508 Section **10-3-808, Administration vested in mayor.**
- 509 Section **10-3-809, Powers of mayors in a city of third, fourth, or fifth class or a**
- 510 **town.**
- 511 Section **10-3-811, Members of the governing body may be appointed to**
- 512 **administration in a city of the third, fourth, or fifth class or a town.**
- 513 Section **10-3-812, Change of duties in a city of the third, fourth, or fifth class or a**
- 514 **town.**
- 515 Section **10-3-813, General administrative powers of all municipalities.**
- 516 Section **10-3-814, Personnel assigned to one or more departments.**
- 517 Section **10-3-815, Rules and regulations for administration of municipality.**
- 518 Section **10-3-816, Appointed officers -- Residency requirement authorized.**
- 519 Section **10-3-817, Elected executives to appoint their deputies.**
- 520 Section **10-3-830, Appointment of city or town manager.**
- 521 Section **10-3-901, Creating offices -- Filling vacancies.**
- 522 Section **10-3-1201, Citation of act.**
- 523 Section **10-3-1202, Legislative finding.**

524 Section 10-3-1203, Election requirements and procedure for organization under
525 **different form of government.**

526 Section 10-3-1204, Application of act.

527 Section 10-3-1205, Rights, powers, and duties of municipality operating under
528 **optional form.**

529 Section 10-3-1206, Limitation on changing form of government.

530 Section 10-3-1207, Disapproval of optional form by voters -- Limitation on
531 **resubmission.**

532 Section 10-3-1208, Election of officers -- When new government operative --
533 **Compensation of officials without position in new government.**

534 Section 10-3-1210, Functions of the council.

535 Section 10-3-1211, Council members -- Qualifications -- Terms of office.

536 Section 10-3-1212, Meetings of council -- Access to records.

537 Section 10-3-1213, Chairmen of councils -- Power to call witnesses and administer
538 **oath -- Quorum -- Voting procedure.**

539 Section 10-3-1214, Ordinance adoption under council-mayor form -- Powers of
540 **mayor.**

541 Section 10-3-1215, Rules and regulations for government of council.

542 Section 10-3-1216, Council members elected from districts -- Boundary --
543 **Adjustments.**

544 Section 10-3-1217, Limitations on actions and authority of council members --
545 **Investigatory committees.**

546 Section 10-3-1218, Vacancy in council.

547 Section 10-3-1219, Council-mayor form -- Powers and duties of mayor.

548 Section 10-3-1219.5, Council-mayor form -- Ordinances on transfer of municipal
549 **property and regulation of subdivisions or annexations.**

550 Section 10-3-1220, Council-mayor form -- Appointment of chief administrative
551 **officer.**

552 Section 10-3-1221, Municipal administrative code in council-mayor form.

553 Section 10-3-1222, Council-mayor form -- Vacancy in office of mayor.

554 Section 10-3-1223, Council-manager form -- Election and powers and duties of

- 555 mayor.
- 556 Section 10-3-1224, Council-manager form -- Appointment of municipal manager.
- 557 Section 10-3-1225, Manager -- Removal from office.
- 558 Section 10-3-1226, Manager -- Powers and duties.
- 559 Section 10-3-1227, Municipal administrative code in council-manager form.
- 560 Section 10-3-1228, Manager -- Working time and compensation.
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Legislative Review Note
as of 11-14-07 2:05 PM

Office of Legislative Research and General Counsel

S.B. 20 - Municipal Government 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.
