

Senator Carlene M. Walker proposes the following substitute bill:

MUNICIPAL GOVERNMENT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Aaron Tilton

LONG TITLE

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 and municipal administration;
- ▶ 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;
- ▶ specifies that an election on a proposed change in the form of municipal government occur on a municipal general election or regular general election date;
- ▶ requires municipalities to operate under a council-mayor, six-member council, or five-member council form of government, except those currently operating under a specified council-manager form;
- ▶ requires municipalities operating under the former council-manager form of government to continue to operate under that form of government, subject to a



26 future potential change to another form; and

27 ▶ makes technical and conforming changes.

28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill coordinates with S.B. 72 by merging technical and substantive amendments.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-2-112**, as last amended by Laws of Utah 2004, Chapter 202

35 **10-2-114**, as last amended by Laws of Utah 2004, Chapter 202

36 **10-2-125**, as last amended by Laws of Utah 2007, Chapter 212

37 **10-2-303**, as last amended by Laws of Utah 2004, Chapter 202

38 **10-3-301**, as last amended by Laws of Utah 2000, Chapter 65

39 **10-3-502**, as last amended by Laws of Utah 2003, Chapter 292

40 **10-3-504**, as last amended by Laws of Utah 2004, Chapter 202

41 **10-3-507**, as last amended by Laws of Utah 2004, Chapter 202

42 **10-3-820**, as enacted by Laws of Utah 1977, Chapter 48

43 **10-3-902**, as enacted by Laws of Utah 1977, Chapter 48

44 **10-3-1106**, as last amended by Laws of Utah 2004, Chapter 260

45 **10-6-151**, as last amended by Laws of Utah 2005, Chapter 71

46 **10-9a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329

47 **20A-1-102**, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 329

48 **20A-1-506**, as last amended by Laws of Utah 2008, Chapter 3

49 **20A-1-510**, as last amended by Laws of Utah 2000, Chapter 3

50 **20A-9-203**, as last amended by Laws of Utah 2007, Chapters 83, 97, and 256

51 **78A-7-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3

52 ENACTS:

53 **10-3b-101**, Utah Code Annotated 1953

54 **10-3b-102**, Utah Code Annotated 1953

55 **10-3b-103**, Utah Code Annotated 1953

56 **10-3b-104**, Utah Code Annotated 1953

- 57 **10-3b-105**, Utah Code Annotated 1953
- 58 **10-3b-201**, Utah Code Annotated 1953
- 59 **10-3b-202**, Utah Code Annotated 1953
- 60 **10-3b-203**, Utah Code Annotated 1953
- 61 **10-3b-204**, Utah Code Annotated 1953
- 62 **10-3b-205**, Utah Code Annotated 1953
- 63 **10-3b-301**, Utah Code Annotated 1953
- 64 **10-3b-302**, Utah Code Annotated 1953
- 65 **10-3b-303**, Utah Code Annotated 1953
- 66 **10-3b-401**, Utah Code Annotated 1953
- 67 **10-3b-402**, Utah Code Annotated 1953
- 68 **10-3b-403**, Utah Code Annotated 1953
- 69 **10-3b-501**, Utah Code Annotated 1953
- 70 **10-3b-502**, Utah Code Annotated 1953
- 71 **10-3b-503**, Utah Code Annotated 1953
- 72 **10-3b-504**, Utah Code Annotated 1953
- 73 **10-3b-505**, Utah Code Annotated 1953
- 74 **10-3b-506**, Utah Code Annotated 1953
- 75 **10-3b-507**, Utah Code Annotated 1953

76 REPEALS:

- 77 **10-3-101**, as last amended by Laws of Utah 2004, Chapter 202
- 78 **10-3-102**, as enacted by Laws of Utah 1977, Chapter 48
- 79 **10-3-106**, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 80 **10-3-206**, as last amended by Laws of Utah 2004, Chapter 202
- 81 **10-3-207**, as enacted by Laws of Utah 1977, Chapter 48
- 82 **10-3-403**, as enacted by Laws of Utah 1977, Chapter 48
- 83 **10-3-404**, as enacted by Laws of Utah 1977, Chapter 48
- 84 **10-3-501**, as last amended by Laws of Utah 1979, Chapter 30
- 85 **10-3-503**, as last amended by Laws of Utah 1987, Chapter 92
- 86 **10-3-802**, as last amended by Laws of Utah 1987, Chapter 92
- 87 **10-3-804**, as last amended by Laws of Utah 1977, Chapter 39

- 88 **10-3-806**, as last amended by Laws of Utah 1993, Chapter 4
- 89 **10-3-807**, as last amended by Laws of Utah 1977, Chapter 39
- 90 **10-3-808**, as last amended by Laws of Utah 2003, Chapter 292
- 91 **10-3-809**, as last amended by Laws of Utah 2003, Chapter 292
- 92 **10-3-810**, as last amended by Laws of Utah 2003, Chapter 292
- 93 **10-3-811**, as last amended by Laws of Utah 2003, Chapter 292
- 94 **10-3-812**, as last amended by Laws of Utah 2003, Chapter 292
- 95 **10-3-813**, as enacted by Laws of Utah 1977, Chapter 48
- 96 **10-3-814**, as enacted by Laws of Utah 1977, Chapter 48
- 97 **10-3-815**, as enacted by Laws of Utah 1977, Chapter 48
- 98 **10-3-816**, as enacted by Laws of Utah 1977, Chapter 48
- 99 **10-3-817**, as enacted by Laws of Utah 1977, Chapter 48
- 100 **10-3-830**, as last amended by Laws of Utah 2007, Chapter 266
- 101 **10-3-901**, as enacted by Laws of Utah 1977, Chapter 48
- 102 **10-3-1201**, as enacted by Laws of Utah 1977, Chapter 48
- 103 **10-3-1202**, as enacted by Laws of Utah 1977, Chapter 48
- 104 **10-3-1203**, as last amended by Laws of Utah 2004, Chapters 202 and 371
- 105 **10-3-1204**, as enacted by Laws of Utah 1977, Chapter 48
- 106 **10-3-1205**, as enacted by Laws of Utah 1977, Chapter 48
- 107 **10-3-1206**, as last amended by Laws of Utah 1985, Chapter 222
- 108 **10-3-1207**, as enacted by Laws of Utah 1977, Chapter 48
- 109 **10-3-1208**, as last amended by Laws of Utah 2004, Chapter 202
- 110 **10-3-1210**, as enacted by Laws of Utah 1977, Chapter 48
- 111 **10-3-1211**, as enacted by Laws of Utah 1977, Chapter 48
- 112 **10-3-1212**, as last amended by Laws of Utah 2006, Chapter 14
- 113 **10-3-1213**, as enacted by Laws of Utah 1977, Chapter 48
- 114 **10-3-1214**, as enacted by Laws of Utah 1977, Chapter 48
- 115 **10-3-1215**, as enacted by Laws of Utah 1977, Chapter 48
- 116 **10-3-1216**, as last amended by Laws of Utah 1991, Chapter 54
- 117 **10-3-1217**, as last amended by Laws of Utah 1981, Chapter 47
- 118 **10-3-1218**, as repealed and reenacted by Laws of Utah 1993, Chapter 1

- 119 **10-3-1219**, as last amended by Laws of Utah 2004, Chapter 156
- 120 **10-3-1219.5**, as enacted by Laws of Utah 1979, Chapter 39
- 121 **10-3-1220**, as enacted by Laws of Utah 1977, Chapter 48
- 122 **10-3-1221**, as enacted by Laws of Utah 1977, Chapter 48
- 123 **10-3-1222**, as last amended by Laws of Utah 1993, Chapter 231
- 124 **10-3-1223**, as enacted by Laws of Utah 1977, Chapter 48
- 125 **10-3-1224**, as enacted by Laws of Utah 1977, Chapter 48
- 126 **10-3-1225**, as enacted by Laws of Utah 1977, Chapter 48
- 127 **10-3-1226**, as enacted by Laws of Utah 1977, Chapter 48
- 128 **10-3-1227**, as enacted by Laws of Utah 1977, Chapter 48
- 129 **10-3-1228**, as enacted by Laws of Utah 1977, Chapter 48

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

132 Section 1. Section **10-2-112** is amended to read:

133 **10-2-112. Ballot used at the incorporation election.**

134 (1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the
 135 incorporation question substantially as follows:

136 Shall the area described as (insert a description of the proposed city) be incorporated as
 137 the city of (insert the proposed name of the proposed city)?

138 (2) The ballot shall provide a space for the voter to answer yes or no to the question in
 139 Subsection (1).

140 (3) (a) The ballot at the incorporation election shall also pose the question relating to
 141 the form of government substantially as follows:

142 If the above incorporation proposal passes, under what form of municipal government
 143 shall (insert the name of the proposed city) operate? Vote for one:

- 144 Five-member [~~City~~] Council form
- 145 Six-member [~~City~~] Council form
- 146 [~~Council-Mayor~~] Five-member council-mayor form
- 147 [~~Council-Manager form~~] Seven-member council-mayor form.

148 (b) The ballot shall provide a space for the voter to vote for one form of government.

149 (4) (a) The ballot at the incorporation election shall also pose the question of whether

150 to elect city council members by district substantially as follows:

151 If the above incorporation proposal passes, shall members of the city council of (insert
152 the name of the proposed city) be elected by district?

153 (b) The ballot shall provide a space for the voter to answer yes or no to the question in
154 Subsection (4)(a).

155 Section 2. Section **10-2-114** is amended to read:

156 **10-2-114. Determination of number of council members -- Determination of**
157 **election districts -- Hearings and notice.**

158 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of
159 the canvass of the election under Section 10-2-111:

160 (a) if the voters at the incorporation election choose [~~either~~] the council-mayor [~~or the~~
161 ~~council-manager~~] form of government, determine the number of council members that will
162 constitute the council of the future city;

163 (b) if the voters at the incorporation election vote to elect council members by district,
164 determine the number of council members to be elected by district and draw the boundaries of
165 those districts, which shall be substantially equal in population;

166 (c) determine the initial terms of the mayor and members of the city council so that:

167 (i) the mayor and approximately half the members of the city council are elected to
168 serve an initial term, of no less than one year, that allows their successors to serve a full
169 four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

170 (ii) the remaining members of the city council are elected to serve an initial term, of no
171 less than one year, that allows their successors to serve a full four-year term that coincides with
172 the schedule established in Subsection 10-3-205(2); and

173 (d) submit in writing to the county legislative body the results of the sponsors'
174 determinations under Subsections (1)(a), (b), and (c).

175 (2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition
176 sponsors shall hold a public hearing within the future city on the applicable issues under
177 Subsections (1)(a), (b), and (c).

178 (b) (i) The petition sponsors shall publish notice of the public hearing under Subsection
179 (2)(a) in a newspaper of general circulation within the future city at least once a week for two
180 successive weeks before the hearing.

181 (ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days
182 before the public hearing under Subsection (2)(a).

183 (c) (i) If there is no newspaper of general circulation within the future city, the petition
184 sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous
185 places within the future city that are most likely to give notice of the hearing to the residents of
186 the future city.

187 (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven
188 days before the hearing under Subsection (2)(a).

189 Section 3. Section **10-2-125** is amended to read:

190 **10-2-125. Incorporation of a town.**

191 (1) As used in this section:

192 (a) "Base petition" means a petition under this section proposing the incorporation of a
193 town and signed by the owners of private real property that:

194 (i) is located within the area proposed to be incorporated;

195 (ii) covers at least a majority of the total private land area within the area proposed to
196 be incorporated; and

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

199 (b) "Qualifying petition" means a petition under this section proposing the
200 incorporation of a town and signed by the owners of private real property that:

201 (i) is located within the area proposed to be incorporated;

202 (ii) covers at least a majority of the total private land area within the area proposed to
203 be incorporated; and

204 (iii) is equal in value to more than 1/2 of the value of all private real property within
205 the area proposed to be incorporated.

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

208 (b) (i) The population figure under Subsection (2)(a) shall be derived from the most
209 recent official census or census estimate of the United States Bureau of the Census.

210 (ii) If the population figure is not available from the United States Bureau of the
211 Census, the population figure shall be derived from the estimate from the Utah Population

212 Estimates Committee.

213 (3) (a) The process to incorporate an area as a town is initiated by filing a petition with
214 the clerk of the county in which the area is located.

215 (b) Each petition under Subsection (3)(a) shall:

216 (i) be signed by the owners of private real property that:

217 (A) is located within the area proposed to be incorporated;

218 (B) covers a majority of the total private land area within the area; and

219 (C) is equal in value to at least 1/3 of the value of all private real property within the
220 area;

221 (ii) state the legal description of the boundaries of the area proposed to be incorporated
222 as a town;

223 (iii) designate up to five signers of the petition as sponsors, one of whom shall be
224 designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

225 (iv) be accompanied by and circulated with an accurate map or plat, prepared by a
226 licensed surveyor, showing the boundaries of the proposed town; and

227 (v) substantially comply with and be circulated in the following form:

228 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
229 town)

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

232 We, the undersigned owners of real property within the area described in this petition,
233 respectfully petition the county legislative body for the area described in this petition to be
234 incorporated as a town. Each of the undersigned affirms that each has personally signed this
235 petition and is an owner of real property within the described area, and that the current
236 residence address of each is correctly written after the signer's name. The area proposed to be
237 incorporated as a town is described as follows: (insert an accurate description of the area
238 proposed to be incorporated).

239 (c) A petition under this section may not describe an area that includes some or all of
240 an area proposed for annexation in an annexation petition under Section 10-2-403 that:

241 (i) was filed before the filing of the petition; and

242 (ii) is still pending on the date the petition is filed.

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

246 (5) (a) (i) The legislative body of each county with which a base petition is filed under
247 this section shall commission and pay for a feasibility study as provided in Section 10-2-103.

248 (ii) If the results of the feasibility study under Subsection (5)(a)(i) meet the
249 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.

250 (iii) If the results of the feasibility study under Subsection (5)(a)(i) do not meet the
251 requirements of Subsection 10-2-109(3), the county legislative body may:

252 (A) deny the petition;

253 (B) grant the petition; or

254 (C) with the consent of the petition sponsors, grant the petition, after:

255 (I) imposing conditions to mitigate the fiscal inequities identified in the feasibility
256 study; or

257 (II) altering the boundaries of the area proposed to be incorporated as a town to
258 approximate the boundaries necessary to meet the requirements of Subsection 10-2-109(3).

259 (iv) Each town that incorporates pursuant to a petition granted after the county
260 legislative body imposes conditions under Subsection (5)(a)(iii)(C)(I) shall comply with those
261 conditions.

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

264 (6) (a) Upon the granting of a petition filed under this section, the legislative body of
265 the county in which the proposed town is located shall appoint a mayor and members of the
266 town council from a list of qualified individuals approved by the petition sponsors.

267 (b) The officers appointed under Subsection (6)(a) shall hold office until the next
268 regular municipal election and until their successors are elected and qualified.

269 (7) Each newly incorporated town shall operate under the ~~[six-member]~~ five-member
270 council form of government as ~~[described]~~ defined in Section ~~[10-3-101]~~ 10-3b-102.

271 (8) (a) Each mayor appointed under Subsection (6) shall, within seven days of
272 appointment, file articles of incorporation of the new town with the lieutenant governor.

273 (b) The articles of incorporation shall meet the requirements of Subsection

274 10-2-119(2).

275 (9) A town is incorporated upon the lieutenant governor's issuance of a certificate of
276 entity creation under Section 67-1a-6.5.

277 (10) The legislative body of the new town shall comply with the notice requirements of
278 Section 10-1-116.

279 Section 4. Section **10-2-303** is amended to read:

280 **10-2-303. Effect of change in class.**

281 (1) ~~(a)~~ If a municipality changes from one class to another:

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

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

286 ~~(iii)~~ (c) each ordinance, order, and resolution in force in the municipality when it
287 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the
288 change and shall remain in effect until repealed or amended;

289 ~~(iv)~~ (d) the change shall not affect the identity of the municipality;

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

292 ~~(vi) except as provided in Subsection (1)(b);]~~

293 (f) the municipality maintains after the change in class the same form of government
294 that it had immediately before the change.

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

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

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

304 (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the

305 new class provides the municipality a different remedy with respect to a right that it possessed
306 at the time of the change, the remedy shall be cumulative to the remedy applicable before the
307 change in class.

308 Section 5. Section **10-3-301** is amended to read:

309 **10-3-301. Eligibility and residency requirements for elected municipal office.**

310 (1) ~~[(a)]~~ A person filing a declaration of candidacy for a municipal office shall ~~[(i)~~
311 ~~have been a resident of the municipality in which the person seeks office for at least 365~~
312 ~~consecutive days immediately before the date of the election; and (ii)]~~ meet the ~~[other]~~
313 requirements of Section 20A-9-203.

314 ~~[(b) A person living in an area annexed to a municipality meets the residency~~
315 ~~requirement of this subsection if that person resided within the area annexed to the~~
316 ~~municipality for at least 365 consecutive days before the date of the election.]~~

317 ~~[(c) For purposes of determining whether a person meets the residency requirement of~~
318 ~~Subsection (1)(a)(i) in a municipality that was incorporated less than 365 days before the~~
319 ~~election, the municipality shall be considered to have been incorporated 365 days before the~~
320 ~~election.]~~

321 (2) Any person elected to municipal office shall be a registered voter in the
322 municipality in which the person was elected.

323 (3) (a) Each elected officer of a municipality shall maintain residency within the
324 boundaries of the municipality during the officer's term of office.

325 (b) If an elected officer of a municipality establishes a principal place of residence as
326 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the
327 office is automatically vacant.

328 (4) If an elected municipal officer is absent from the municipality any time during the
329 officer's term of office for a continuous period of more than 60 days without the consent of the
330 municipal legislative body, the municipal office is automatically vacant.

331 (5) (a) A mayor of a municipality may not also serve as the municipal recorder or
332 treasurer.

333 (b) The recorder of a municipality may not also serve as the municipal treasurer.

334 Section 6. Section **10-3-502** is amended to read:

335 **10-3-502. Regular and special council meetings.**

336 ~~[In each city of the third, fourth, or fifth class and each town, the governing body shall]~~

337 (1) The council of each municipality shall:

338 (a) by ordinance prescribe the time and place for holding its regular meeting ~~[which~~
339 ~~shall be held], subject to Subsection (1)(b); and~~

340 (b) hold a regular meeting at least once each month. ~~[If at any time the business of~~
341 ~~such city or town requires a special meeting of the governing body, such meeting may be~~
342 ~~ordered by the mayor or any two members of the governing body. The order shall]~~

343 (2) (a) The mayor of a municipality or two council members may order the convening
344 of a special meeting of the council.

345 (b) Each order convening a special meeting of the council shall:

346 (i) be entered in the minutes of the ~~[governing body. The order shall]~~ council; and

347 (ii) provide at least three hours' notice of the special meeting ~~[and notice thereof shall~~
348 ~~be served by the].~~

349 (c) The municipal recorder or clerk shall serve notice of the special meeting on each
350 council member who did not sign the order by delivering the notice personally or by leaving it
351 at the member's usual place of abode.

352 (d) The personal appearance by a council member at ~~[any specially called]~~ a special
353 meeting of the council constitutes a waiver of the notice required ~~[in this section]~~ under
354 Subsection (2)(c).

355 Section 7. Section **10-3-504** is amended to read:

356 **10-3-504. Quorum defined.**

357 ~~[(+)]~~ The number of council members ~~[of the governing body]~~ necessary to constitute a
358 quorum is:

359 ~~[(a) in a municipality operating under a five-member or six-member city council form~~
360 ~~of government or a five-member council-manager form of government, three or more; or]~~

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

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

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

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

366 (1) in a municipality with a seven-member council, four;

367 (2) in a municipality with a five-member council, three; and
 368 (3) in a municipality operating under a six-member council form of government, three,
 369 excluding the mayor.

370 Section 8. Section **10-3-507** is amended to read:

371 **10-3-507. Minimum vote required.**

372 (1) ~~[(a)]~~ The minimum number of yes votes required to pass any ordinance or
 373 resolution, or to take any action by the ~~[governing body]~~ council, unless otherwise prescribed
 374 by law, ~~[shall be]~~ is a majority of ~~[the]~~ all voting members of the ~~[quorum, but may never be~~
 375 ~~less than:]~~ council, without considering any vacancy in the council.

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

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

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

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

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

386 (2) (a) Any ordinance, resolution, or motion of the ~~[governing body]~~ council having
 387 fewer favorable votes than required in this section ~~[shall be considered]~~ is defeated and
 388 invalid~~[, except].~~

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

392 (3) A majority of the council members ~~[of the governing body]~~, regardless of number,
 393 may fill any vacancy in the ~~[governing body]~~ council.

394 Section 9. Section **10-3-820** is amended to read:

395 **10-3-820. Cities of the first and second class.**

396 In cities of the first and second class, the mayor and each ~~[commissioner]~~ council
 397 member shall give a penal bond, with approved corporate surety, in the amount of not less than

398 \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of
399 not less than \$20,000 conditioned for the faithful performance of the duties of their offices and
400 payment of all monies received by them according to law and the ordinances of the city.

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

402 **10-3-902. City engineer required to be licensed.**

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

408 Each person [sø] appointed as city engineer shall be a registered professional engineer
409 under Title 58, Chapter 22[. The board of commissioners may appoint all officers and agents as
410 may be provided for by law or ordinances, and fill all vacancies occurring therein].

411 Professional Engineers and Professional Land Surveyors Licensing Act.

412 Section 11. Section **10-3-1106** is amended to read:

413 **10-3-1106. Discharge, suspension without pay, or involuntary transfer -- Appeals**
414 **-- Board -- Procedure.**

415 (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended
416 without pay, or involuntarily transferred to a position with less remuneration:

417 (a) because of the employee's politics or religious belief; or

418 (b) incident to, or through changes, either in the elective officers, governing body, or
419 heads of departments.

420 (2) (a) If an employee is discharged, suspended for more than two days without pay, or
421 involuntarily transferred from one position to another with less remuneration for any reason,
422 the employee may, subject to Subsection (2)(b), appeal the discharge, suspension without pay,
423 or involuntary transfer to a board to be known as the appeal board, established under
424 Subsection (7).

425 (b) If the municipality provides an internal grievance procedure, the employee shall
426 exhaust the employee's rights under that grievance procedure before appealing to the board.

427 (3) (a) Each appeal under Subsection (2) shall be taken by filing written notice of the
428 appeal with the municipal recorder within ten days after:

429 (i) if the municipality provides an internal grievance procedure, the employee receives
430 notice of the final disposition of the municipality's internal grievance procedure; or

431 (ii) if the municipality does not provide an internal grievance procedure, the discharge,
432 suspension, or involuntary transfer.

433 (b) (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder
434 shall forthwith refer a copy of the appeal to the appeal board.

435 (ii) Upon receipt of the referral from the municipal recorder, the appeal board shall
436 forthwith commence its investigation, take and receive evidence, and fully hear and determine
437 the matter which relates to the cause for the discharge, suspension, or transfer.

438 (4) An employee who is the subject of the discharge, suspension, or transfer may:

439 (a) appear in person and be represented by counsel;

440 (b) have a public hearing;

441 (c) confront the witness whose testimony is to be considered; and

442 (d) examine the evidence to be considered by the appeal board.

443 (5) (a) (i) Each decision of the appeal board shall be by secret ballot, and shall be
444 certified to the recorder within 15 days from the date the matter is referred to it, except as
445 provided in Subsection (5)(a)(ii).

446 (ii) For good cause, the board may extend the 15-day period under Subsection (5)(a)(i)
447 to a maximum of 60 days, if the employee and municipality both consent.

448 (b) If it finds in favor of the employee, the board shall provide that the employee shall
449 receive:

450 (i) the employee's salary for the period of time during which the employee is
451 discharged or suspended without pay; or

452 (ii) any deficiency in salary for the period during which the employee was transferred
453 to a position of less remuneration.

454 (6) (a) A final action or order of the appeal board may be appealed to the Court of
455 Appeals by filing with that court a notice of appeal.

456 (b) Each notice of appeal under Subsection (6)(a) shall be filed within 30 days after the
457 issuance of the final action or order of the appeal board.

458 (c) The Court of Appeals' review shall be on the record of the appeal board and for the
459 purpose of determining if the appeal board abused its discretion or exceeded its authority.

460 (7) (a) The method and manner of choosing the members of the appeal board, the
461 number of members, the designation of their terms of office, and the procedure for conducting
462 an appeal and the standard of review shall be prescribed by the governing body of each
463 municipality by ordinance.

464 (b) For a municipality operating under a form of government other than a
465 council-mayor form under [~~Part 12, Optional Forms of Municipal Government Act~~] Chapter
466 3b, Part 2, Council-Mayor Form of Municipal Government, an ordinance adopted under
467 Subsection (7)(a) may provide that the governing body of the municipality shall serve as the
468 appeal board.

469 Section 12. Section **10-3b-101** is enacted to read:

470 **CHAPTER 3a. (RESERVED)**

471 **CHAPTER 3b. FORMS OF MUNICIPAL GOVERNMENT**

472 **Part 1. General Provisions**

473 **10-3b-101. Title.**

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

475 Section 13. Section **10-3b-102** is enacted to read:

476 **10-3b-102. Definitions.**

477 As used in this chapter:

478 (1) "Council-mayor form of government" means the form of municipal government
479 that:

480 (a) (i) is provided for in Laws of Utah 1977, Chapter 48;

481 (ii) may not be adopted without voter approval; and

482 (iii) consists of two separate, independent, and equal branches of municipal
483 government; and

484 (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal
485 Government.

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

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

490 Section 14. Section **10-3b-103** is enacted to read:

491 10-3b-103. Forms of municipal government -- Form of government for towns --
492 **Former council-manager form.**

493 (1) A municipality operating on May 4, 2008 under the council-mayor form of
494 government:

495 (a) shall, on and after May 5, 2008:

496 (i) operate under a council-mayor form of government, as defined in Section
497 10-3b-102; and

498 (ii) be subject to:

499 (A) this part;

500 (B) Part 2, Council-Mayor Form of Municipal Government;

501 (C) Part 5, Changing to Another Form of Municipal Government; and

502 (D) except as provided in Subsection (1)(b), other applicable provisions of this title;

503 and

504 (b) is not subject to:

505 (i) Part 3, Six-Member Council Form of Municipal Government; or

506 (ii) Part 4, Five-Member Council Form of Municipal Government.

507 (2) A municipality operating on May 4, 2008 under a form of government known under
508 the law then in effect as the six-member council form:

509 (a) shall, on and after May 5, 2008 and whether or not the council has adopted an
510 ordinance appointing a manager for the municipality:

511 (i) operate under a six-member council form of government, as defined in Section
512 10-3b-102;

513 (ii) be subject to:

514 (A) this part;

515 (B) Part 3, Six-Member Form of Municipal Government;

516 (C) Part 5, Changing to Another Form of Municipal Government; and

517 (D) except as provided in Subsection (2)(b), other applicable provisions of this title;

518 and

519 (b) is not subject to:

520 (i) Part 2, Council-Mayor Form of Municipal Government; or

521 (ii) Part 4, Five-Member Council Form of Municipal Government.

522 (3) A municipality operating on May 4, 2008 under a form of government known under
523 the law then in effect as the five-member council form:

524 (a) shall, on and after May 5, 2008:

525 (i) operate under a five-member council form of government, as defined in Section
526 10-3b-102;

527 (ii) be subject to:

528 (A) this part;

529 (B) Part 4, Five-Member Council Form of Municipal Government;

530 (C) Part 5, Changing to Another Form of Municipal Government; and

531 (D) except as provided in Subsection (3)(b), other applicable provisions of this title;

532 and

533 (b) is not subject to:

534 (i) Part 2, Council-Mayor Form of Municipal Government; or

535 (ii) Part 3, Six-Member Council Form of Municipal Government.

536 (4) Subject to Subsection (5), each municipality incorporated on or after the effective
537 date of this section shall operate under:

538 (a) the council-mayor form of government, with a five-member council;

539 (b) the council-mayor form of government, with a seven-member council;

540 (c) the six-member council form of government; or

541 (d) the five-member council form of government.

542 (5) Each town shall operate under a five-member council form of government unless:

543 (a) before May 5, 2008, the town has changed to another form of municipal
544 government; or

545 (b) on or after May 5, 2008, the town changes its form of government as provided in
546 Part 5, Changing to Another Form of Municipal Government.

547 (6) (a) As used in this Subsection (6), "council-manager form of government" means
548 the form of municipal government:

549 (i) provided for in Laws of Utah 1977, Chapter 48;

550 (ii) that cannot be adopted without voter approval; and

551 (iii) that provides for an appointed manager with duties and responsibilities established
552 in Laws of Utah 1977, Chapter 48.

553 (b) A municipality operating on May 4, 2008 under the council-manager form of
 554 government:

555 (i) shall:

556 (A) continue to operate, on and after May 5, 2008, under the council-manager form of
 557 government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and

558 (B) be subject to:

559 (I) this Subsection (6) and other applicable provisions of this part;

560 (II) Part 5, Changing to Another Form of Municipal Government; and

561 (III) except as provided in Subsection (6)(b)(ii), other applicable provisions of this
 562 title; and

563 (ii) is not subject to:

564 (A) Part 2, Council-Mayor Form of Municipal Government;

565 (B) Part 3, Six-Member Council form of Municipal Government; or

566 (C) Part 4, Five-Member Council Form of Municipal Government.

567 (7) Nothing in this section may be construed to prevent or limit a municipality
 568 operating under any form of municipal government from changing to another form of
 569 government as provided in Part 5, Changing to Another Form of Municipal Government.

570 Section 15. Section **10-3b-104** is enacted to read:

571 **10-3b-104. Powers and duties of mayor.**

572 (1) Except as provided in Subsection (2), the mayor in a municipality operating under a
 573 six-member council form of government or a five-member council form of government:

574 (a) is the chief executive officer of the municipality to whom all employees of the
 575 municipality report;

576 (b) shall:

577 (i) keep the peace and enforce the laws of the municipality;

578 (ii) ensure that all applicable statutes and municipal ordinances and resolutions are
 579 faithfully executed and observed;

580 (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the
 581 remittance to the council at the council's next meeting after the remittance;

582 (iv) perform all duties prescribed by statute or municipal ordinance or resolution;

583 (v) report to the council the condition and needs of the municipality; and

584 (vi) report to the council any release granted under Subsection (1)(c)(iv); and
585 (c) may:
586 (i) recommend for council consideration any measure that the mayor considers to be in
587 the best interests of the municipality;
588 (ii) remit fines and forfeitures;
589 (iii) if necessary, call on residents of the municipality over the age of 21 years to assist
590 in enforcing the laws of the state and ordinances of the municipality;
591 (iv) release a person imprisoned for a violation of a municipal ordinance;
592 (v) with the council's advice and consent:
593 (A) assign or appoint a member of the council to administer one or more departments
594 of the municipality; and
595 (B) appoint a person to fill:
596 (I) a municipal office; or
597 (II) a vacancy on a commission or committee of the municipality; and
598 (vi) at any reasonable time, examine and inspect the official books, papers, records, or
599 documents of:
600 (A) the municipality; or
601 (B) any officer, employee, or agency of the municipality.
602 (2) The powers and duties in Subsection (1) are subject to:
603 (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of
604 the mayor; and
605 (b) the council's authority to limit or expand the mayor's powers and duties under:
606 (i) Subsection 10-3b-303(2)(a), for a municipality operating under the six-member
607 form of government; and
608 (ii) Subsection 10-3b-403(2)(a), for a municipality operating under the five-member
609 form of government.
610 Section 16. Section **10-3b-105** is enacted to read:
611 **10-3b-105. Municipal council.**
612 In a municipality operating under a six-member council form of government or a
613 five-member council form of government, the council:
614 (1) is the legislative body of the municipality and exercises the legislative powers and

615 performs the legislative duties and functions of the municipality; and

616 (2) may:

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

619 (b) prescribe by resolution additional duties, powers, and responsibilities for any
620 elected or appointed municipal official, unless prohibited by statute;

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

622 (d) create any office that the council considers necessary for the government of the
623 municipality;

624 (e) provide for filling a vacancy in an elective or appointive office;

625 (f) take any action allowed under Section 10-8-84; and

626 (g) perform any function specifically provided for by statute or necessarily implied by
627 law.

628 Section 17. Section **10-3b-201** is enacted to read:

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

630 **10-3b-201. Separate branches of government under a council-mayor form of**
631 **government.**

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

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

636 (2) a mayor and, under the mayor's supervision, any executive or administrative
637 departments, divisions, and offices and any executive or administrative officers provided for by
638 statute or municipal ordinance.

639 Section 18. Section **10-3b-202** is enacted to read:

640 **10-3b-202. Mayor in council-mayor form of government.**

641 (1) The mayor in a municipality operating under the council-mayor form of
642 government:

643 (a) is the chief executive and administrative officer of the municipality;

644 (b) exercises the executive and administrative powers and performs or supervises the
645 performance of the executive and administrative duties and functions of the municipality;

- 646 (c) shall:
- 647 (i) keep the peace and enforce the laws of the municipality;
- 648 (ii) execute the policies adopted by the council;
- 649 (iii) appoint, with the council's advice and consent, a qualified person for each of the
- 650 following positions:
- 651 (A) subject to Subsection (3), chief administrative officer, if required under the
- 652 resolution or petition under Subsection 10-3b-503(1)(a) that proposed the change to a
- 653 council-mayor form of government;
- 654 (B) recorder;
- 655 (C) treasurer;
- 656 (D) engineer; and
- 657 (E) attorney;
- 658 (iv) provide to the council, at intervals provided by ordinance, a written report to the
- 659 council setting forth:
- 660 (A) the amount of budget appropriations;
- 661 (B) total disbursements from the appropriations;
- 662 (C) the amount of indebtedness incurred or contracted against each appropriation,
- 663 including disbursements and indebtedness incurred and not paid; and
- 664 (D) the percentage of the appropriations encumbered;
- 665 (v) report to the council the condition and needs of the municipality;
- 666 (vi) report to the council any release granted under Subsection (1)(d)(xiii);
- 667 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the
- 668 remittance to the council at the council's next meeting after the remittance;
- 669 (viii) perform each other duty:
- 670 (A) prescribed by statute; or
- 671 (B) required by a municipal ordinance that is not inconsistent with statute;
- 672 (d) may:
- 673 (i) subject to budget constraints:
- 674 (A) appoint:
- 675 (I) a chief administrative officer; and
- 676 (II) one or more deputies or administrative assistants to the mayor; and

677 (B) (I) create any other administrative office that the mayor considers necessary for
678 good government of the municipality; and
679 (II) appoint a person to the office;
680 (ii) with the council's advice and consent and except as otherwise specifically limited
681 by statute, appoint:
682 (A) each department head of the municipality;
683 (B) each statutory officer of the municipality; and
684 (C) each member of a statutory commission, board, or committee of the municipality;
685 (iii) dismiss any person appointed by the mayor;
686 (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation
687 passed by the council;
688 (v) exercise control of and supervise each executive or administrative department,
689 division, or office of the municipality;
690 (vi) within the general provisions of statute and ordinance, regulate and prescribe the
691 powers and duties of each other executive or administrative officer or employee of the
692 municipality;
693 (vii) attend each council meeting, take part in council meeting discussions, and freely
694 give advice to the council;
695 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill
696 in all other respects the requirements of, as the case may be:
697 (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or
698 (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, as the case may be;
699 (ix) execute an agreement on behalf of the municipality, or delegate, by written
700 executive order, the authority to execute an agreement on behalf of the municipality:
701 (A) if the obligation under the agreement is within certified budget appropriations; and
702 (B) subject to Section 10-6-138;
703 (x) at any reasonable time, examine and inspect the official books, papers, records, or
704 documents of:
705 (A) the municipality; or
706 (B) any officer, employee, or agent of the municipality;
707 (xi) remit fines and forfeitures;

708 (xii) if necessary, call on residents of the municipality over the age of 21 years to assist
709 in enforcing the laws of the state and ordinances of the municipality; and

710 (xiii) release a person imprisoned for a violation of a municipal ordinance; and
711 (e) may not vote on any matter before the council.

712 (2) (a) The first mayor elected under a newly established mayor-council form of
713 government shall, within six months after taking office, draft and submit to the council a
714 proposed ordinance:

715 (i) providing for the division of the municipality's administrative service into
716 departments, divisions, and bureaus; and

717 (ii) defining the functions and duties of each department, division, and bureau.

718 (b) Before the council adopts an ordinance on the municipality's administrative service,
719 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness
720 in the divisions of the municipal government.

721 (3) Each person appointed as chief administrative officer under Subsection
722 (1)(c)(iii)(A) shall be appointed on the basis of:

723 (a) the person's ability and prior experience in the field of public administration; and

724 (b) any other qualification prescribed by ordinance.

725 Section 19. Section **10-3b-203** is enacted to read:

726 **10-3b-203. Council in a council-mayor form of government.**

727 (1) The council in a municipality operating under a council-mayor form of government:

728 (a) shall:

729 (i) by ordinance, provide for the manner in which:

730 (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred;

731 and

732 (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;

733 (ii) pass ordinances, appropriate funds, and review municipal administration;

734 (iii) perform all duties that the law imposes on the council; and

735 (iv) elect one of its members to be the chair of the council;

736 (b) may:

737 (i) adopt an ordinance, to be known as the municipal administrative code:

738 (A) dividing the municipality's administrative service into departments, divisions, and

739 bureaus; and

740 (B) defining the functions and duties of each department, division, and bureau;

741 (ii) adopt an ordinance:

742 (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and

743 (B) defining or altering the functions and duties of each department, division, and

744 bureau;

745 (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a
746 subordinate of the mayor;

747 (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or
748 citizens to conduct an investigation into:

749 (I) an officer, department, or agency of the municipality; or

750 (II) any other matter relating to the welfare of the municipality; and

751 (B) delegate to an appointed committee powers of inquiry that the council considers
752 necessary;

753 (v) make and enforce any additional rule or regulation for the government of the
754 council, the preservation of order, and the transaction of the council's business that the council
755 considers necessary; and

756 (vi) take any action allowed under Section 10-8-84; and

757 (c) may not:

758 (i) direct or request, other than in writing, the appointment of a person to or the
759 removal of a person from an executive municipal office;

760 (ii) interfere in any way with an executive officer's performance of the officer's duties;

761 or

762 (iii) publicly or privately give orders to a subordinate of the mayor.

763 (2) A member of a council in a municipality operating under the council-mayor form of
764 government may not have any other compensated employment with the municipality.

765 Section 20. Section **10-3b-204** is enacted to read:

766 **10-3b-204. Presenting council action to mayor -- Veto -- Reconsideration -- When**
767 **ordinance, tax levy, or appropriation takes effect.**

768 (1) The council in each municipality operating under a council-mayor form of
769 municipal government shall present to the mayor each ordinance, tax levy, and appropriation

770 passed by the council.

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

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

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

780 (4) An ordinance, tax levy, or appropriation passed by the council takes effect upon
781 recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure,
782 if:

783 (a) the mayor signs the ordinance, tax levy, or appropriation;

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

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

788 Section 21. Section **10-3b-205** is enacted to read:

789 **10-3b-205. Rules and regulations by municipal officers.**

790 A municipal officer in a municipality operating under a council-mayor form of
791 government may prescribe rules and regulations, not inconsistent with statute, municipal
792 ordinance, or the merit plan.

793 Section 22. Section **10-3b-301** is enacted to read:

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

795 **10-3b-301. Municipal government powers vested in a six-member council.**

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

799 Section 23. Section **10-3b-302** is enacted to read:

800 **10-3b-302. Mayor in six-member council form of government -- Mayor pro**

801 **tempore.**

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

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

805 (b) votes as a voting member of the council:

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

808 (ii) when the council is voting on:

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

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

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

812 (d) exercises ceremonial functions for the municipality;

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

814 (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers

815 and duties described in Section 10-3b-104; and

816 (g) may, within budget constraints, appoint one or more administrative assistants to the
817 mayor.

818 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a
819 member of the council as mayor pro tempore, to:

820 (i) preside at a council meeting; and

821 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and
822 functions of mayor.

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

825 Section 24. Section **10-3b-303** is enacted to read:

826 **10-3b-303. Council in six-member council form of government.**

827 (1) The council in a municipality operating under a six-member council form of
828 government:

829 (a) exercises any executive or administrative power and performs or supervises the
830 performance of any executive or administrative duty or function that:

831 (i) has not been given to the mayor under Section 10-3b-104; or

832 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the
833 mayor under Subsection (1)(b)(i)(A);

834 (b) may:

835 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

836 (A) removing from the mayor any power, duty, or function of the mayor under Section
837 10-3b-104; or

838 (B) reinstating to the mayor any power, duty, or function previously removed under
839 Subsection (1)(b)(i)(A);

840 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,
841 duty, or function that the council has under Subsection (1)(a);

842 (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):

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

845 (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and

846 (iv) assign any or all council members, including the mayor, to supervise one or more
847 administrative departments of the municipality; and

848 (c) may not remove from the mayor or delegate to a manager appointed by the council:

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

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

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

852 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to
853 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative
854 vote of:

855 (a) the mayor and a majority of all other council members; or

856 (b) all council members except the mayor.

857 Section 25. Section **10-3b-401** is enacted to read:

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

859 **10-3b-401. Municipal government powers vested in a five-member council.**

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

863 Section 26. Section **10-3b-402** is enacted to read:

864 **10-3b-402. Mayor in a five-member council form of government.**

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

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

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

869 (c) exercises ceremonial functions for the municipality;

870 (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and

871 (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers
872 and duties described in Section 10-3b-104.

873 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a
874 member of the council as mayor pro tempore, to:

875 (i) preside at a council meeting; and

876 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and
877 functions of mayor.

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

880 Section 27. Section **10-3b-403** is enacted to read:

881 **10-3b-403. Council in a five-member council form of government.**

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

884 (a) exercises any executive or administrative power and performs or supervises the
885 performance of any executive or administrative duty or function that:

886 (i) has not been given to the mayor under Section 10-3b-104; or

887 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the
888 mayor under Subsection (1)(b)(i)(A);

889 (b) may:

890 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

891 (A) removing from the mayor any power, duty, or function of the mayor under Section
892 10-3b-104; and

893 (B) reinstating to the mayor any power, duty, or function previously removed under

894 Subsection (1)(b)(i)(A):

895 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,
896 duty, or function that the council has under Subsection (1)(a);

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

899 (iv) dismiss a manager appointed under Subsection (1)(b)(iii); and

900 (v) assign any or all council members, including the mayor, to supervise one or more
901 administrative departments of the municipality; and

902 (c) may not remove from the mayor or delegate to a manager appointed by the council:

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

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

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

906 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to
907 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative
908 vote of:

909 (a) the mayor and a majority of all other council members; or

910 (b) all council members except the mayor.

911 Section 28. Section **10-3b-501** is enacted to read:

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

913 **10-3b-501. Authority to change to another form of municipal government.**

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

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

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

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

919 (4) the five-member council form of government.

920 Section 29. Section **10-3b-502** is enacted to read:

921 **10-3b-502. Voter approval required for a change in the form of government.**

922 A municipality may not change its form of government under this part unless voters of
923 the municipality approve the change at an election held for that purpose.

924 Section 30. Section **10-3b-503** is enacted to read:

925 10-3b-503. Resolution or petition proposing a change in the form of government.

926 (1) The process to change the form of government under which a municipality operates
927 is initiated by:

928 (a) the council's adoption of a resolution proposing a change; or

929 (b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives
930 - Procedures, proposing a change.

931 (2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the
932 declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the
933 council shall hold at least two public hearings on the proposed change.

934 (3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on
935 the proposed change in the form of government at the next municipal general election or
936 regular general election that is more than 75 days after, as the case may be:

937 (i) a resolution under Subsection (1)(a) is adopted; or

938 (ii) a petition filed under Subsection (1)(b) is declared sufficient under Section
939 20A-7-507.

940 (b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of
941 government may not be held if:

942 (i) in the case of a proposed change initiated by the council's adoption of a resolution
943 under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

944 (ii) in the case of a proposed change initiated by a petition under Subsection (1)(b),
945 enough signatures are withdrawn from the petition within 60 days after the petition is declared
946 sufficient under Section 20A-7-507 that the petition is no longer sufficient.

947 (4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection
948 (1)(b) shall:

949 (a) state the method of election and initial terms of council members; and

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

952 (5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing
953 a change to a council-mayor form of government may require that, if the change is adopted, the
954 mayor appoint, with the council's advice and consent, a chief administrative officer, to exercise
955 the administrative powers and perform the duties that the mayor prescribes.

956 Section 31. Section **10-3b-504** is enacted to read:

957 **10-3b-504. Limitations on adoption of a resolution and filing of a petition.**

958 A resolution may not be adopted under Subsection 10-3b-503(1)(a) and a petition may
959 not be filed under Subsection 10-3b-503(1)(b) within:

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

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

964 Section 32. Section **10-3b-505** is enacted to read:

965 **10-3b-505. Ballot form.**

966 The ballot at an election on a proposal to change the municipality's form of government
967 shall:

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

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

973 Section 33. Section **10-3b-506** is enacted to read:

974 **10-3b-506. Election of officers after a change in the form of government.**

975 (1) If voters approve a proposal to change the municipality's form of government at an
976 election held as provided in this part, an election of officers under the new form of government
977 shall be held on the municipal general election date following the election at which voters
978 approve the proposal.

979 (2) If a municipality changes its form of government under this part resulting in the
980 elimination of an elected official's position, the municipality shall continue to pay that official
981 at the same rate until the date on which the official's term would have expired, unless under the
982 new form of government the official holds municipal office for which the official is regularly
983 compensated.

984 (3) A council member whose term has not expired at the time the municipality changes
985 its form of government under this part may, at the council member's option, continue to serve
986 as a council member under the new form of government for the remainder of the member's

987 term.

988 (4) The term of the mayor and each council member is four years or until a successor is
989 qualified, except that approximately half of the initial council members, chosen by lot, shall
990 serve a term of two years or until a successor is qualified.

991 Section 34. Section **10-3b-507** is enacted to read:

992 **10-3b-507. Effective date of change in the form of government.**

993 A change in the form of government under this chapter takes effect at noon on the first
994 Monday of January next following the election of officers under Section 10-3b-506.

995 Section 35. Section **10-6-151** is amended to read:

996 **10-6-151. Independent audits required.**

997 Independent audits of all cities are required[?] to be performed in conformity with Title
998 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
999 Other Local Entities Act. [~~In the case of a city organized under Title 10, Chapter 3, Part 12,~~
1000 ~~Optional Forms of Municipal Government Act, the council shall appoint an independent~~
1001 ~~auditor for the purpose of complying with the requirements of this section and of Title 51,~~
1002 ~~Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and~~
1003 ~~Other Local Entities Act.]~~

1004 Section 36. Section **10-9a-103** is amended to read:

1005 **10-9a-103. Definitions.**

1006 As used in this chapter:

1007 (1) "Affected entity" means a county, municipality, local district, special service
1008 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,
1009 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
1010 specified public utility, a property owner, a property owners association, or the Utah
1011 Department of Transportation, if:

1012 (a) the entity's services or facilities are likely to require expansion or significant
1013 modification because of an intended use of land;

1014 (b) the entity has filed with the municipality a copy of the entity's general or long-range
1015 plan; or

1016 (c) the entity has filed with the municipality a request for notice during the same
1017 calendar year and before the municipality provides notice to an affected entity in compliance

1018 with a requirement imposed under this chapter.

1019 (2) "Appeal authority" means the person, board, commission, agency, or other body
1020 designated by ordinance to decide an appeal of a decision of a land use application or a
1021 variance.

1022 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1023 residential property if the sign is designed or intended to direct attention to a business, product,
1024 or service that is not sold, offered, or existing on the property where the sign is located.

1025 (4) "Charter school" includes:

1026 (a) an operating charter school;

1027 (b) a charter school applicant that has its application approved by a chartering entity in
1028 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

1029 (c) an entity who is working on behalf of a charter school or approved charter applicant
1030 to develop or construct a charter school building.

1031 [~~(5) "Chief executive officer" means the:~~]

1032 [~~(a) mayor in municipalities operating under all forms of municipal government except
1033 the council-manager form; or]~~

1034 [~~(b) city manager in municipalities operating under the council-manager form of
1035 municipal government.]~~

1036 [~~(6)~~ (5) "Conditional use" means a land use that, because of its unique characteristics
1037 or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not
1038 be compatible in some areas or may be compatible only if certain conditions are required that
1039 mitigate or eliminate the detrimental impacts.

1040 [~~(7)~~ (6) "Constitutional taking" means a governmental action that results in a taking of
1041 private property so that compensation to the owner of the property is required by the:

1042 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1043 (b) Utah Constitution Article I, Section 22.

1044 [~~(8)~~ (7) "Culinary water authority" means the department, agency, or public entity with
1045 responsibility to review and approve the feasibility of the culinary water system and sources for
1046 the subject property.

1047 [~~(9)~~ (8) (a) "Disability" means a physical or mental impairment that substantially
1048 limits one or more of a person's major life activities, including a person having a record of such

1049 an impairment or being regarded as having such an impairment.

1050 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1051 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1052 802.

1053 [~~(10)~~] (9) "Elderly person" means a person who is 60 years old or older, who desires or
1054 needs to live with other elderly persons in a group setting, but who is capable of living
1055 independently.

1056 [~~(11)~~] (10) "Fire authority" means the department, agency, or public entity with
1057 responsibility to review and approve the feasibility of fire protection and suppression services
1058 for the subject property.

1059 [~~(12)~~] (11) "General plan" means a document that a municipality adopts that sets forth
1060 general guidelines for proposed future development of the land within the municipality.

1061 [~~(13)~~] (12) "Identical plans" means building plans submitted to a municipality that are
1062 substantially identical to building plans that were previously submitted to and reviewed and
1063 approved by the municipality and describe a building that is:

1064 (a) located on land zoned the same as the land on which the building described in the
1065 previously approved plans is located; and

1066 (b) subject to the same geological and meteorological conditions and the same law as
1067 the building described in the previously approved plans.

1068 [~~(14)~~] (13) "Land use application" means an application required by a municipality's
1069 land use ordinance.

1070 [~~(15)~~] (14) "Land use authority" means a person, board, commission, agency, or other
1071 body designated by the local legislative body to act upon a land use application.

1072 [~~(16)~~] (15) "Land use ordinance" means a planning, zoning, development, or
1073 subdivision ordinance of the municipality, but does not include the general plan.

1074 [~~(17)~~] (16) "Land use permit" means a permit issued by a land use authority.

1075 [~~(18)~~] (17) "Legislative body" means the municipal council.

1076 [~~(19)~~] (18) "Local district" means an entity under Title 17B, Limited Purpose Local
1077 Government Entities - Local Districts, and any other governmental or quasi-governmental
1078 entity that is not a county, municipality, school district, or unit of the state.

1079 [~~(20)~~] (19) "Lot line adjustment" means the relocation of the property boundary line in

1080 a subdivision between two adjoining lots with the consent of the owners of record.

1081 [~~(21)~~] (20) "Moderate income housing" means housing occupied or reserved for
1082 occupancy by households with a gross household income equal to or less than 80% of the
1083 median gross income for households of the same size in the county in which the city is located.

1084 [~~(22)~~] (21) "Nominal fee" means a fee that reasonably reimburses a municipality only
1085 for time spent and expenses incurred in:

1086 (a) verifying that building plans are identical plans; and

1087 (b) reviewing and approving those minor aspects of identical plans that differ from the
1088 previously reviewed and approved building plans.

1089 [~~(23)~~] (22) "Noncomplying structure" means a structure that:

1090 (a) legally existed before its current land use designation; and

1091 (b) because of one or more subsequent land use ordinance changes, does not conform
1092 to the setback, height restrictions, or other regulations, excluding those regulations, which
1093 govern the use of land.

1094 [~~(24)~~] (23) "Nonconforming use" means a use of land that:

1095 (a) legally existed before its current land use designation;

1096 (b) has been maintained continuously since the time the land use ordinance governing
1097 the land changed; and

1098 (c) because of one or more subsequent land use ordinance changes, does not conform
1099 to the regulations that now govern the use of the land.

1100 [~~(25)~~] (24) "Official map" means a map drawn by municipal authorities and recorded in
1101 a county recorder's office that:

1102 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1103 highways and other transportation facilities;

1104 (b) provides a basis for restricting development in designated rights-of-way or between
1105 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1106 the land; and

1107 (c) has been adopted as an element of the municipality's general plan.

1108 [~~(26)~~] (25) "Person" means an individual, corporation, partnership, organization,
1109 association, trust, governmental agency, or any other legal entity.

1110 [~~(27)~~] (26) "Plan for moderate income housing" means a written document adopted by

1111 a city legislative body that includes:

1112 (a) an estimate of the existing supply of moderate income housing located within the
1113 city;

1114 (b) an estimate of the need for moderate income housing in the city for the next five
1115 years as revised biennially;

1116 (c) a survey of total residential land use;

1117 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1118 income housing; and

1119 (e) a description of the city's program to encourage an adequate supply of moderate
1120 income housing.

1121 ~~[(28)]~~ (27) "Plat" means a map or other graphical representation of lands being laid out
1122 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

1123 ~~[(29)]~~ (28) "Public hearing" means a hearing at which members of the public are
1124 provided a reasonable opportunity to comment on the subject of the hearing.

1125 ~~[(30)]~~ (29) "Public meeting" means a meeting that is required to be open to the public
1126 under Title 52, Chapter 4, Open and Public Meetings Act.

1127 ~~[(31)]~~ (30) "Record of survey map" means a map of a survey of land prepared in
1128 accordance with Section 17-23-17.

1129 ~~[(32)]~~ (31) "Receiving zone" means an area of a municipality that the municipality's
1130 land use authority designates as an area in which an owner of land may receive transferrable
1131 development rights.

1132 ~~[(33)]~~ (32) "Residential facility for elderly persons" means a single-family or
1133 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
1134 include a health care facility as defined by Section 26-21-2.

1135 ~~[(34)]~~ (33) "Residential facility for persons with a disability" means a residence:

1136 (a) in which more than one person with a disability resides; and

1137 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
1138 Chapter 2, Licensure of Programs and Facilities; or

1139 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
1140 Health Care Facility Licensing and Inspection Act.

1141 ~~[(35)]~~ (34) "Sanitary sewer authority" means the department, agency, or public entity

1142 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1143 wastewater systems.

1144 [~~(36)~~] (35) "Sending zone" means an area of a municipality that the municipality's land
1145 use authority designates as an area from which an owner of land may transfer transferrable
1146 development rights to an owner of land in a receiving zone.

1147 [~~(37)~~] (36) "Specified public utility" means an electrical corporation, gas corporation,
1148 or telephone corporation, as those terms are defined in Section 54-2-1.

1149 [~~(38)~~] (37) "Street" means a public right-of-way, including a highway, avenue,
1150 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1151 or other way.

1152 [~~(39)~~] (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1153 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1154 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1155 installment plan or upon any and all other plans, terms, and conditions.

1156 (b) "Subdivision" includes:

1157 (i) the division or development of land whether by deed, metes and bounds description,
1158 devise and testacy, map, plat, or other recorded instrument; and

1159 (ii) except as provided in Subsection [~~(39)~~] (38)(c), divisions of land for residential and
1160 nonresidential uses, including land used or to be used for commercial, agricultural, and
1161 industrial purposes.

1162 (c) "Subdivision" does not include:

1163 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
1164 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
1165 neither the resulting combined parcel nor the parcel remaining from the division or partition
1166 violates an applicable land use ordinance;

1167 (ii) a recorded agreement between owners of adjoining unsubdivided properties
1168 adjusting their mutual boundary if:

1169 (A) no new lot is created; and

1170 (B) the adjustment does not violate applicable land use ordinances;

1171 (iii) a recorded document, executed by the owner of record:

1172 (A) revising the legal description of more than one contiguous unsubdivided parcel of

1173 property into one legal description encompassing all such parcels of property; or

1174 (B) joining a subdivided parcel of property to another parcel of property that has not
1175 been subdivided, if the joinder does not violate applicable land use ordinances; or

1176 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
1177 their mutual boundary if:

1178 (A) no new dwelling lot or housing unit will result from the adjustment; and

1179 (B) the adjustment will not violate any applicable land use ordinance.

1180 (d) The joining of a subdivided parcel of property to another parcel of property that has
1181 not been subdivided does not constitute a subdivision under this Subsection [~~(39)~~ (38) as to
1182 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
1183 subdivision ordinance.

1184 [~~(40)~~ (39) "Transferrable development right" means the entitlement to develop land
1185 within a sending zone that would vest according to the municipality's existing land use
1186 ordinances on the date that a completed land use application is filed seeking the approval of
1187 development activity on the land.

1188 [~~(41)~~ (40) "Unincorporated" means the area outside of the incorporated area of a city
1189 or town.

1190 [~~(42)~~ (41) "Zoning map" means a map, adopted as part of a land use ordinance, that
1191 depicts land use zones, overlays, or districts.

1192 Section 37. Section **20A-1-102** is amended to read:

1193 **20A-1-102. Definitions.**

1194 As used in this title:

1195 (1) "Active voter" means a registered voter who has not been classified as an inactive
1196 voter by the county clerk.

1197 (2) "Automatic tabulating equipment" means apparatus that automatically examines
1198 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1199 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
1200 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and
1201 secrecy envelopes.

1202 (4) "Ballot sheet":

1203 (a) means a ballot that:

1204 (i) consists of paper or a card where the voter's votes are marked or recorded; and

1205 (ii) can be counted using automatic tabulating equipment; and

1206 (b) includes punch card ballots, and other ballots that are machine-countable.

1207 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that

1208 contain the names of offices and candidates and statements of ballot propositions to be voted

1209 on and which are used in conjunction with ballot sheets that do not display that information.

1210 (6) "Ballot proposition" means opinion questions specifically authorized by the

1211 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions

1212 that are submitted to the voters for their approval or rejection.

1213 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and

1214 20A-4-306 to canvass election returns.

1215 (8) "Bond election" means an election held for the purpose of approving or rejecting

1216 the proposed issuance of bonds by a government entity.

1217 (9) "Book voter registration form" means voter registration forms contained in a bound

1218 book that are used by election officers and registration agents to register persons to vote.

1219 (10) "By-mail voter registration form" means a voter registration form designed to be

1220 completed by the voter and mailed to the election officer.

1221 (11) "Canvass" means the review of election returns and the official declaration of

1222 election results by the board of canvassers.

1223 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at

1224 the canvass.

1225 (13) "Convention" means the political party convention at which party officers and

1226 delegates are selected.

1227 (14) "Counting center" means one or more locations selected by the election officer in

1228 charge of the election for the automatic counting of ballots.

1229 (15) "Counting judge" means a poll worker designated to count the ballots during

1230 election day.

1231 (16) "Counting poll watcher" means a person selected as provided in Section

1232 20A-3-201 to witness the counting of ballots.

1233 (17) "Counting room" means a suitable and convenient private place or room,

1234 immediately adjoining the place where the election is being held, for use by the poll workers

1235 and counting judges to count ballots during election day.

1236 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

1237 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

1238 (20) "County officers" means those county officers that are required by law to be
1239 elected.

1240 (21) "Election" means a regular general election, a municipal general election, a
1241 statewide special election, a local special election, a regular primary election, a municipal
1242 primary election, and a local district election.

1243 (22) "Election Assistance Commission" means the commission established by Public
1244 Law 107-252, the Help America Vote Act of 2002.

1245 (23) "Election cycle" means the period beginning on the first day persons are eligible to
1246 file declarations of candidacy and ending when the canvass is completed.

1247 (24) "Election judge" means a poll worker that is assigned to:

1248 (a) preside over other poll workers at a polling place;

1249 (b) act as the presiding election judge; or

1250 (c) serve as a canvassing judge, counting judge, or receiving judge.

1251 (25) "Election officer" means:

1252 (a) the lieutenant governor, for all statewide ballots;

1253 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
1254 as provided in Section 20A-5-400.5;

1255 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
1256 provided in Section 20A-5-400.5;

1257 (d) the local district clerk or chief executive officer for certain ballots and elections as
1258 provided in Section 20A-5-400.5; and

1259 (e) the business administrator or superintendent of a school district for certain ballots
1260 or elections as provided in Section 20A-5-400.5.

1261 (26) "Election official" means any election officer, election judge, or poll worker.

1262 (27) "Election results" means, for bond elections, the count of those votes cast for and
1263 against the bond proposition plus any or all of the election returns that the board of canvassers
1264 may request.

1265 (28) "Election returns" includes the pollbook, all affidavits of registration, the military

1266 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
1267 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
1268 spoiled ballots, the ballot disposition form, and the total votes cast form.

1269 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
1270 device or other voting device that records and stores ballot information by electronic means.

1271 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1272 (b) "Electronic voting device" includes a direct recording electronic voting device.

1273 (31) "Inactive voter" means a registered voter who has been sent the notice required by
1274 Section 20A-2-306 and who has failed to respond to that notice.

1275 (32) "Inspecting poll watcher" means a person selected as provided in this title to
1276 witness the receipt and safe deposit of voted and counted ballots.

1277 (33) "Judicial office" means the office filled by any judicial officer.

1278 (34) "Judicial officer" means any justice or judge of a court of record or any county
1279 court judge.

1280 (35) "Local district" means a local government entity under Title 17B, Limited Purpose
1281 Local Government Entities - Local Districts, and includes a special service district under Title
1282 17A, Chapter 2, Part 13, Utah Special Service District Act.

1283 (36) "Local district officers" means those local district officers that are required by law
1284 to be elected.

1285 (37) "Local election" means a regular municipal election, a local special election, a
1286 local district election, and a bond election.

1287 (38) "Local political subdivision" means a county, a municipality, a local district, or a
1288 local school district.

1289 (39) "Local special election" means a special election called by the governing body of a
1290 local political subdivision in which all registered voters of the local political subdivision may
1291 vote.

1292 (40) "Municipal executive" means:

1293 [~~(a) the city council or town council in the traditional management arrangement~~
1294 ~~established by Title 10, Chapter 3, Part 1, Governing Body;~~]

1295 [~~(b)~~ (a) the mayor in the council-mayor [~~optional~~] form of government defined in
1296 Section [~~10-3-101~~] 10-3b-102; and

1297 ~~[(c)]~~ (b) the ~~[manager]~~ mayor in the council-manager ~~[optional]~~ form of government
1298 defined in ~~[Section 10-3-101]~~ Subsection 10-3b-103(6).

1299 (41) "Municipal general election" means the election held in municipalities and local
1300 districts on the first Tuesday after the first Monday in November of each odd-numbered year
1301 for the purposes established in Section 20A-1-202.

1302 (42) "Municipal legislative body" means ~~[(a)]~~ the ~~[city]~~ council of the city or town
1303 ~~[council]~~ in ~~[the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1304 ~~Governing Body;]~~ any form of municipal government.

1305 ~~[(b) the municipal council in the council-mayor optional form of government defined~~
1306 ~~in Section 10-3-101; and]~~

1307 ~~[(c) the municipal council in the council-manager optional form of government defined~~
1308 ~~in Section 10-3-101.]~~

1309 (43) "Municipal officers" means those municipal officers that are required by law to be
1310 elected.

1311 (44) "Municipal primary election" means an election held to nominate candidates for
1312 municipal office.

1313 (45) "Official ballot" means the ballots distributed by the election officer to the poll
1314 workers to be given to voters to record their votes.

1315 (46) "Official endorsement" means:

1316 (a) the information on the ballot that identifies:

1317 (i) the ballot as an official ballot;

1318 (ii) the date of the election; and

1319 (iii) the facsimile signature of the election officer; and

1320 (b) the information on the ballot stub that identifies:

1321 (i) the poll worker's initials; and

1322 (ii) the ballot number.

1323 (47) "Official register" means the official record furnished to election officials by the
1324 election officer that contains the information required by Section 20A-5-401.

1325 (48) "Paper ballot" means a paper that contains:

1326 (a) the names of offices and candidates and statements of ballot propositions to be
1327 voted on; and

1328 (b) spaces for the voter to record his vote for each office and for or against each ballot
1329 proposition.

1330 (49) "Political party" means an organization of registered voters that has qualified to
1331 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party
1332 Formation and Procedures.

1333 (50) (a) "Poll worker" means a person assigned by an election official to assist with an
1334 election, voting, or counting votes.

1335 (b) "Poll worker" includes election judges.

1336 (c) "Poll worker" does not include a watcher.

1337 (51) "Pollbook" means a record of the names of voters in the order that they appear to
1338 cast votes.

1339 (52) "Polling place" means the building where voting is conducted.

1340 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
1341 in which the voter marks his choice.

1342 (54) "Provisional ballot" means a ballot voted provisionally by a person:

1343 (a) whose name is not listed on the official register at the polling place;

1344 (b) whose legal right to vote is challenged as provided in this title; or

1345 (c) whose identity was not sufficiently established by a poll worker.

1346 (55) "Provisional ballot envelope" means an envelope printed in the form required by
1347 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
1348 verify a person's legal right to vote.

1349 (56) "Primary convention" means the political party conventions at which nominees for
1350 the regular primary election are selected.

1351 (57) "Protective counter" means a separate counter, which cannot be reset, that is built
1352 into a voting machine and records the total number of movements of the operating lever.

1353 (58) "Qualify" or "qualified" means to take the oath of office and begin performing the
1354 duties of the position for which the person was elected.

1355 (59) "Receiving judge" means the poll worker that checks the voter's name in the
1356 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
1357 after the voter has voted.

1358 (60) "Registration form" means a book voter registration form and a by-mail voter

1359 registration form.

1360 (61) "Regular ballot" means a ballot that is not a provisional ballot.

1361 (62) "Regular general election" means the election held throughout the state on the first
1362 Tuesday after the first Monday in November of each even-numbered year for the purposes
1363 established in Section 20A-1-201.

1364 (63) "Regular primary election" means the election on the fourth Tuesday of June of
1365 each even-numbered year, at which candidates of political parties and nonpolitical groups are
1366 voted for nomination.

1367 (64) "Resident" means a person who resides within a specific voting precinct in Utah.

1368 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed
1369 and distributed as provided in Section 20A-5-405.

1370 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or
1371 punch the ballot for one or more candidates who are members of different political parties.

1372 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into
1373 which the voter places the ballot after he has voted it in order to preserve the secrecy of the
1374 voter's vote.

1375 (68) "Special election" means an election held as authorized by Section 20A-1-204.

1376 (69) "Spoiled ballot" means each ballot that:

1377 (a) is spoiled by the voter;

1378 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1379 (c) lacks the official endorsement.

1380 (70) "Statewide special election" means a special election called by the governor or the
1381 Legislature in which all registered voters in Utah may vote.

1382 (71) "Stub" means the detachable part of each ballot.

1383 (72) "Substitute ballots" means replacement ballots provided by an election officer to
1384 the poll workers when the official ballots are lost or stolen.

1385 (73) "Ticket" means each list of candidates for each political party or for each group of
1386 petitioners.

1387 (74) "Transfer case" means the sealed box used to transport voted ballots to the
1388 counting center.

1389 (75) "Vacancy" means the absence of a person to serve in any position created by

1390 statute, whether that absence occurs because of death, disability, disqualification, resignation,
1391 or other cause.

1392 (76) "Valid voter identification" means:

1393 (a) a form of identification that bears the name and photograph of the voter which may
1394 include:

1395 (i) a currently valid Utah driver license;

1396 (ii) a currently valid identification card that is issued by:

1397 (A) the state;

1398 (B) a local government within the state; or

1399 (C) a branch, department, or agency of the United States;

1400 (iii) an identification card that is issued by an employer for an employee;

1401 (iv) a currently valid identification card that is issued by a college, university, technical
1402 school, or professional school that is located within the state;

1403 (v) a currently valid Utah permit to carry a concealed weapon;

1404 (vi) a currently valid United States passport; or

1405 (vii) a valid tribal identification card; or

1406 (b) two forms of identification that bear the name of the voter and provide evidence
1407 that the voter resides in the voting precinct, which may include:

1408 (i) a voter identification card;

1409 (ii) a current utility bill or a legible copy thereof;

1410 (iii) a bank or other financial account statement, or a legible copy thereof;

1411 (iv) a certified birth certificate;

1412 (v) a valid Social Security card;

1413 (vi) a check issued by the state or the federal government or a legible copy thereof;

1414 (vii) a paycheck from the voter's employer, or a legible copy thereof;

1415 (viii) a currently valid Utah hunting or fishing license;

1416 (ix) a currently valid United States military identification card;

1417 (x) certified naturalization documentation;

1418 (xi) a currently valid license issued by an authorized agency of the United States;

1419 (xii) a certified copy of court records showing the voter's adoption or name change;

1420 (xiii) a Bureau of Indian Affairs card;

1421 (xiv) a tribal treaty card;

1422 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or

1423 (xvi) a form of identification listed in Subsection (76)(a) that does not contain a
1424 photograph, but establishes the name of the voter and provides evidence that the voter resides
1425 in the voting precinct.

1426 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in
1427 candidate by following the procedures and requirements of this title.

1428 (78) "Voter" means a person who meets the requirements for voting in an election,
1429 meets the requirements of election registration, is registered to vote, and is listed in the official
1430 register book.

1431 (79) "Voter registration deadline" means the registration deadline provided in Section
1432 20A-2-102.5.

1433 (80) "Voting area" means the area within six feet of the voting booths, voting
1434 machines, and ballot box.

1435 (81) "Voting booth" means:

1436 (a) the space or compartment within a polling place that is provided for the preparation
1437 of ballots, including the voting machine enclosure or curtain; or

1438 (b) a voting device that is free standing.

1439 (82) "Voting device" means:

1440 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1441 piercing the ballots by the voter;

1442 (b) a device for marking the ballots with ink or another substance;

1443 (c) an electronic voting device or other device used to make selections and cast a ballot
1444 electronically, or any component thereof;

1445 (d) an automated voting system under Section 20A-5-302; or

1446 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1447 by means of automatic tabulating equipment.

1448 (83) "Voting machine" means a machine designed for the sole purpose of recording
1449 and tabulating votes cast by voters at an election.

1450 (84) "Voting poll watcher" means a person appointed as provided in this title to
1451 witness the distribution of ballots and the voting process.

1452 (85) "Voting precinct" means the smallest voting unit established as provided by law
1453 within which qualified voters vote at one polling place.

1454 (86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1455 poll watcher, and a testing watcher.

1456 (87) "Western States Presidential Primary" means the election established in Title 20A,
1457 Chapter 9, Part 8.

1458 (88) "Write-in ballot" means a ballot containing any write-in votes.

1459 (89) "Write-in vote" means a vote cast for a person whose name is not printed on the
1460 ballot according to the procedures established in this title.

1461 Section 38. Section **20A-1-506** is amended to read:

1462 **20A-1-506. Judicial vacancies -- Courts not of record.**

1463 (1) As used in this section:

1464 (a) "Appointing authority" means:

1465 (i) for a county:

1466 ~~[(i)]~~ (A) the chair of the county commission in ~~[counties]~~ a county having the county
1467 commission or expanded county commission form of county government; and

1468 ~~[(ii)]~~ (B) the county executive in ~~[counties]~~ a county having the county
1469 executive-council form of government; and

1470 ~~[(iii) the chair]~~ (ii) for a city or town, the mayor of the city [council] or town [council
1471 in municipalities having:].

1472 ~~[(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~
1473 ~~Governing Body; and]~~

1474 ~~[(B) the council-manager optional form of government defined in Section 10-3-101;~~
1475 ~~and]~~

1476 ~~[(iv) the mayor, in the council-mayor optional form of government defined in Section~~
1477 ~~10-3-101;]~~

1478 (b) "Local legislative body" means:

1479 (i) for a county, the county commission or county council; and

1480 (ii) for a city or town the ~~[city]~~ council of the city or town ~~[council]~~.

1481 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the
1482 completion of his term of office, the appointing authority may:

1483 (i) fill the vacancy by appointment for the unexpired term by following the procedures
1484 and requirements for appointments in Section 78A-7-202; or

1485 (ii) contract with a justice court judge of the county, an adjacent county, or another
1486 municipality within those counties for judicial services.

1487 (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it
1488 shall ensure that the contract is for the same term as the term of office of the judge whose
1489 services are replaced by the contract.

1490 (c) The appointing authority shall notify the Office of the State Court Administrator in
1491 writing of the appointment, resignation, or the contractual agreement for services of a judge
1492 under this section within 30 days after filling the vacancy.

1493 (3) (a) If a vacancy occurs in the office of a county justice court judge before the
1494 completion of that judge's term of office, the appointing authority may fill the vacancy by
1495 appointment for the unexpired term by following the procedures and requirements for
1496 appointments in Section 78A-7-202.

1497 (b) The appointing authority shall notify the Office of the State Court Administrator in
1498 writing of any appointment of a county justice court judge under this section within 30 days
1499 after the appointment is made.

1500 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing
1501 authority shall:

1502 (i) advertise the vacancy and solicit applications for the vacancy;

1503 (ii) appoint the best qualified candidate to office based solely upon fitness for office;

1504 (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting
1505 employment of relatives in making appointments to fill the vacancy; and

1506 (iv) submit the name of the appointee to the local legislative body.

1507 (b) If the local legislative body does not confirm the appointment within 30 days of
1508 submission, the appointing authority may either appoint another of the applicants or reopen the
1509 vacancy by advertisement and solicitations of applications.

1510 Section 39. Section **20A-1-510** is amended to read:

1511 **20A-1-510. Midterm vacancies in municipal offices.**

1512 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the
1513 office of municipal executive or member of a municipal legislative body, the municipal

1514 legislative body shall appoint a registered voter in the municipality who meets the
1515 qualifications for office established in Section 10-3-301 to fill the unexpired term of the office
1516 vacated until the January following the next municipal election.

1517 (b) Before acting to fill the vacancy, the municipal legislative body shall:

1518 (i) give public notice of the vacancy at least two weeks before the municipal legislative
1519 body meets to fill the vacancy; and

1520 (ii) identify, in the notice:

1521 (A) the date, time, and place of the meeting where the vacancy will be filled; and

1522 (B) the person to whom a person interested in being appointed to fill the vacancy may
1523 submit his name for consideration and any deadline for submitting it.

1524 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within
1525 30 days after the vacancy occurs, the municipal legislative body shall vote upon the names that
1526 have been submitted.

1527 (ii) The two persons having the highest number of votes of the municipal legislative
1528 body shall appear before the municipal legislative body and the municipal legislative body shall
1529 vote again.

1530 (iii) If neither candidate receives a majority vote of the municipal legislative body at
1531 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

1532 (2) (a) A vacancy in the office of municipal executive or member of a municipal
1533 legislative body shall be filled by an interim appointment, followed by an election to fill a
1534 two-year term, if:

1535 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive
1536 at least 14 days before the deadline for filing for election in an odd-numbered year; and

1537 (ii) two years of the vacated term will remain after the first Monday of January
1538 following the next municipal election.

1539 (b) In appointing an interim replacement, the municipal legislative body shall comply
1540 with the notice requirements of this section.

1541 (3) A member of a municipal legislative body may not participate in any part of the
1542 process established in this section to fill a vacancy if that member is being considered for
1543 appointment to fill the vacancy.

1544 (4) (a) In a municipality operating under the council-mayor form of government, as

1545 defined in Section 10-3b-102:

1546 (i) the council may appoint a person to fill a vacancy in the office of mayor before the
 1547 effective date of the mayor's resignation by making the effective date of the appointment the
 1548 same as the effective date of the mayor's resignation; and

1549 (ii) if a vacancy in the office of mayor occurs before the effective date of an
 1550 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as
 1551 acting mayor during the time between the creation of the vacancy and the effective date of the
 1552 appointment to fill the vacancy.

1553 (b) While serving as acting mayor under Subsection (4)(a)(ii), the council chair
 1554 continues to:

1555 (i) act as a council member; and

1556 (ii) vote at council meetings.

1557 Section 40. Section **20A-9-203** is amended to read:

1558 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

1559 (1) (a) (i) A person may become a candidate for any municipal office if:

1560 (A) the person is a registered voter; and[;]

1561 [(i)] (B) (I) the person has resided within the municipality in which that person seeks to
 1562 hold elective office for the 12 consecutive months immediately before the date of the election;
 1563 or

1564 [(ii)] (II) if the territory in which the person resides was annexed into the municipality,
 1565 the person has resided within the annexed territory or the municipality [for 12 months:] the 12
 1566 consecutive months immediately before the date of the election.

1567 (ii) For purposes of determining whether a person meets the residency requirement of
 1568 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before
 1569 the election, the municipality shall be considered to have been incorporated 12 months before
 1570 the date of the election.

1571 (b) In addition to the requirements of Subsection (1)(a), [~~candidates~~] each candidate for
 1572 a municipal council position [~~under the council-mayor or council-manager alternative forms of~~
 1573 ~~municipal government~~] shall, if elected from [~~districts, be residents~~] a district, be a resident of
 1574 the council district from which [~~they are~~] elected.

1575 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally

1576 incompetent person, any person convicted of a felony, or any person convicted of treason or a
1577 crime against the elective franchise may not hold office in this state until the right to hold
1578 elective office is restored under Section 20A-2-101.5.

1579 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
1580 become a candidate for a municipal office shall:

1581 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
1582 office hours and not later than 5 p.m. between July 1 and July 15 of any odd numbered year;
1583 and

1584 (ii) pay the filing fee, if one is required by municipal ordinance.

1585 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
1586 persons registered to vote in the municipality on the January 1 of the municipal election year.

1587 (ii) A third, fourth, or fifth class city that used the convention system to nominate
1588 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
1589 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
1590 convention system to nominate candidates in the last municipal election as authorized by
1591 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
1592 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
1593 for municipal office file a nominating petition signed by a percentage of registered voters at the
1594 same time that the candidate files a declaration of candidacy.

1595 (iii) The ordinance shall specify the number of signatures that the candidate must
1596 obtain on the nominating petition in order to become a candidate for municipal office under
1597 this Subsection (2), but that number may not exceed 5% of registered voters.

1598 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

1599 (i) filing a nomination petition with the city recorder or town clerk during office hours,
1600 but not later than 5 p.m., between July 1 and July 15 of any odd-numbered year; and

1601 (ii) paying the filing fee, if one is required by municipal ordinance.

1602 (d) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended
1603 until 5 p.m. on the following regular business day.

1604 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
1605 petition, the filing officer shall:

1606 (i) read to the prospective candidate or person filing the petition the constitutional and

1607 statutory qualification requirements for the office that the candidate is seeking; and

1608 (ii) require the candidate or person filing the petition to state whether or not the
1609 candidate meets those requirements.

1610 (b) If the prospective candidate does not meet the qualification requirements for the
1611 office, the filing officer may not accept the declaration of candidacy or nomination petition.

1612 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
1613 filing officer shall:

1614 (i) inform the candidate that the candidate's name will appear on the ballot as it is
1615 written on the declaration of candidacy;

1616 (ii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
1617 Electronic Voter Information Website Program and inform the candidate of the submission
1618 deadline under Subsection 20A-7-801(4)(a);

1619 (iii) provide the candidate with a copy of the pledge of fair campaign practices
1620 described under Section 20A-9-206 and inform the candidate that:

1621 (A) signing the pledge is voluntary; and

1622 (B) signed pledges shall be filed with the filing officer; and

1623 (iv) accept the declaration of candidacy or nomination petition.

1624 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
1625 officer shall:

1626 (i) accept the candidate's pledge; and

1627 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
1628 candidate's pledge to the chair of the county or state political party of which the candidate is a
1629 member.

1630 (4) The declaration of candidacy shall substantially comply with the following form:

1631 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
1632 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
1633 registered voter; and that I am a candidate for the office of ____ (stating the term). I request
1634 that my name be printed upon the applicable official ballots. (Signed) _____

1635 Subscribed and sworn to (or affirmed) before me by ____ on this
1636 _____(month\day\year).

1637 (Signed) _____ (Clerk or other officer qualified to administer oath)"

1638 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
1639 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
1640 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
1641 for municipal office by submitting a petition signed by:

- 1642 (i) 25 residents of the municipality who are at least 18 years old; or
- 1643 (ii) 20% of the residents of the municipality who are at least 18 years old.

1644 (b) (i) The petition shall substantially conform to the following form:

1645 "NOMINATION PETITION

1646 The undersigned residents of (name of municipality) being 18 years old or older
1647 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
1648 applicable)."

1649 (ii) The remainder of the petition shall contain lines and columns for the signatures of
1650 persons signing the petition and their addresses and telephone numbers.

1651 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
1652 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
1653 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
1654 signed by the same percentage of registered voters in the municipality as required by the
1655 ordinance passed under authority of Subsection (2)(b).

1656 (b) (i) The petition shall substantially conform to the following form:

1657 "NOMINATION PETITION

1658 The undersigned residents of (name of municipality) being 18 years old or older
1659 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
1660 whichever is applicable)."

1661 (ii) The remainder of the petition shall contain lines and columns for the signatures of
1662 persons signing the petition and their addresses and telephone numbers.

1663 (7) If the declaration of candidacy or nomination petition fails to state whether the
1664 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
1665 the four-year term.

1666 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
1667 voters.

1668 (b) Any candidate who is not registered to vote is disqualified and the clerk may not

1669 print the candidate's name on the ballot.

1670 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
1671 clerk shall:

1672 (a) cause the names of the candidates as they will appear on the ballot to be published
1673 in at least two successive publications of a newspaper with general circulation in the
1674 municipality; and

1675 (b) notify the lieutenant governor of the names of the candidates as they will appear on
1676 the ballot.

1677 (10) A declaration of candidacy or nomination petition filed under this section may not
1678 be amended after the expiration of the period for filing a declaration of candidacy.

1679 (11) (a) A declaration of candidacy or nomination petition filed under this section is
1680 valid unless a written objection is filed with the clerk within five days after the last day for
1681 filing.

1682 (b) If an objection is made, the clerk shall:

1683 (i) mail or personally deliver notice of the objection to the affected candidate
1684 immediately; and

1685 (ii) decide any objection within 48 hours after it is filed.

1686 (c) If the clerk sustains the objection, the candidate may correct the problem by
1687 amending the declaration or petition within three days after the objection is sustained or by
1688 filing a new declaration within three days after the objection is sustained.

1689 (d) (i) The clerk's decision upon objections to form is final.

1690 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
1691 prompt application is made to the district court.

1692 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
1693 of its discretion, agrees to review the lower court decision.

1694 (12) Any person who filed a declaration of candidacy and was nominated, and any
1695 person who was nominated by a nomination petition, may, any time up to 23 days before the
1696 election, withdraw the nomination by filing a written affidavit with the clerk.

1697 Section 41. Section **78A-7-202** is amended to read:

1698 **78A-7-202. Justice court judges to be appointed -- Procedure -- Report to Judicial**
1699 **Council -- Retention election -- Vacancy.**

- 1700 (1) As used in this section:
- 1701 (a) "Appointing authority" means:
- 1702 (i) for a county:
- 1703 ~~[(i)]~~ (A) the chair of the county commission in [counties having] a county operating
- 1704 under the county commission or expanded county commission form of county government;
- 1705 ~~[(ii)]~~ (B) the county executive in [counties having] a county operating under the county
- 1706 executive-council form of county government; and
- 1707 (C) the county manager in a county operating under the council-manager form of
- 1708 county government; and
- 1709 ~~[(iii) the chair]~~ (ii) for a city or town, the mayor of the city [council] or town [council
- 1710 in municipalities having the traditional management arrangement established by Title 10,
- 1711 Chapter 3, Part 1, Governing Body;].
- 1712 ~~[(iv) the city manager, in the council-manager optional form of government defined in~~
- 1713 ~~Section 10-3-101; and]~~
- 1714 ~~[(v) the mayor, in the council-mayor optional form of government defined in Section~~
- 1715 ~~10-3-101.]~~
- 1716 (b) "Local legislative body" means:
- 1717 (i) for a county, the county commission or county council; and
- 1718 (ii) for a city or town, the [city] council of the city or town [council].
- 1719 (2) Justice court judges shall be appointed by the appointing authority and confirmed
- 1720 by a majority vote of the local legislative body.
- 1721 (3) (a) After a newly appointed justice court judge has been confirmed, the local
- 1722 legislative body shall report the confirmed judge's name to the Judicial Council.
- 1723 (b) The Judicial Council shall certify the judge as qualified to hold office upon
- 1724 successful completion of the orientation program and upon the written opinion of the county or
- 1725 municipal attorney that the judge meets the statutory qualifications for office.
- 1726 (c) A justice court judge may not perform judicial duties until certified by the Judicial
- 1727 Council.
- 1728 (4) Upon the expiration of a county justice court judge's term of office the judge shall
- 1729 be subject to an unopposed retention election in accordance with the procedures set forth in
- 1730 Section 20A-12-201.

1731 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
1732 justice court judge shall be reappointed absent a showing of good cause by the appointing
1733 authority.

1734 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
1735 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
1736 the local legislative body.

1737 (b) The local legislative body shall determine by majority vote whether good cause
1738 exists not to reappoint the municipal justice court judge.

1739 (c) The decision of the local legislative body is not subject to appeal.

1740 (d) In determining whether good cause exists to not reappoint a municipal justice court
1741 judge, the appointing authority and local legislative body shall consider:

1742 (i) whether or not the judge has been certified as meeting the evaluation criteria for
1743 judicial performance established by the Judicial Council; and

1744 (ii) any other factors considered relevant by the appointing authority.

1745 (6) Before reappointment or retention election, each justice court judge shall be
1746 evaluated in accordance with the performance evaluation program established in Subsection
1747 78A-2-104(5).

1748 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
1749 justice court judge, the appointing authority may contract with a justice court judge in the
1750 county or an adjacent county to serve as justice court judge.

1751 (b) The contract shall be for the duration of the justice court judge's term of office.

1752 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
1753 20A-1-506.

1754 **Section 42. Repealer.**

1755 This bill repeals:

1756 **Section 10-3-101, Governing body -- Legislative and executive powers.**

1757 **Section 10-3-102, Governing body -- Other functions.**

1758 **Section 10-3-106, Governing body in towns.**

1759 **Section 10-3-206, Election of officers in towns operating under a five-member**
1760 **council form of government.**

1761 **Section 10-3-207, Determining two and four year terms.**

- 1762 Section **10-3-403, Mayor as presiding officer -- Mayor pro tempore.**
- 1763 Section **10-3-404, No veto.**
- 1764 Section **10-3-501, Meetings in cities of the first and second class.**
- 1765 Section **10-3-503, Quorum necessary to do business.**
- 1766 Section **10-3-802, Designation of department head in cities of the first class.**
- 1767 Section **10-3-804, Change in names, functions and superintendents of departments.**
- 1768 Section **10-3-806, Designation of department head in cities of the second class.**
- 1769 Section **10-3-807, Commissioners may administer two departments -- Change in**
- 1770 **names, functions and superintendents.**
- 1771 Section **10-3-808, Administration vested in mayor.**
- 1772 Section **10-3-809, Powers of mayors in a city of third, fourth, or fifth class or a**
- 1773 **town.**
- 1774 Section **10-3-810, Additional powers and duties of elected officials in a city of the**
- 1775 **third, fourth, or fifth class or a town.**
- 1776 Section **10-3-811, Members of the governing body may be appointed to**
- 1777 **administration in a city of the third, fourth, or fifth class or a town.**
- 1778 Section **10-3-812, Change of duties in a city of the third, fourth, or fifth class or a**
- 1779 **town.**
- 1780 Section **10-3-813, General administrative powers of all municipalities.**
- 1781 Section **10-3-814, Personnel assigned to one or more departments.**
- 1782 Section **10-3-815, Rules and regulations for administration of municipality.**
- 1783 Section **10-3-816, Appointed officers -- Residency requirement authorized.**
- 1784 Section **10-3-817, Elected executives to appoint their deputies.**
- 1785 Section **10-3-830, Appointment of city or town manager.**
- 1786 Section **10-3-901, Creating offices -- Filling vacancies.**
- 1787 Section **10-3-1201, Citation of act.**
- 1788 Section **10-3-1202, Legislative finding.**
- 1789 Section **10-3-1203, Election requirements and procedure for organization under**
- 1790 **different form of government.**
- 1791 Section **10-3-1204, Application of act.**
- 1792 Section **10-3-1205, Rights, powers, and duties of municipality operating under**

- 1793 **optional form.**
- 1794 Section 10-3-1206, Limitation on changing form of government.
- 1795 Section 10-3-1207, Disapproval of optional form by voters -- Limitation on
- 1796 **resubmission.**
- 1797 Section 10-3-1208, Election of officers -- When new government operative --
- 1798 **Compensation of officials without position in new government.**
- 1799 Section 10-3-1210, Functions of the council.
- 1800 Section 10-3-1211, Council members -- Qualifications -- Terms of office.
- 1801 Section 10-3-1212, Meetings of council -- Access to records.
- 1802 Section 10-3-1213, Chairmen of councils -- Power to call witnesses and administer
- 1803 **oath -- Quorum -- Voting procedure.**
- 1804 Section 10-3-1214, Ordinance adoption under council-mayor form -- Powers of
- 1805 **mayor.**
- 1806 Section 10-3-1215, Rules and regulations for government of council.
- 1807 Section 10-3-1216, Council members elected from districts -- Boundary --
- 1808 **Adjustments.**
- 1809 Section 10-3-1217, Limitations on actions and authority of council members --
- 1810 **Investigatory committees.**
- 1811 Section 10-3-1218, Vacancy in council.
- 1812 Section 10-3-1219, Council-mayor form -- Powers and duties of mayor.
- 1813 Section 10-3-1219.5, Council-mayor form -- Ordinances on transfer of municipal
- 1814 **property and regulation of subdivisions or annexations.**
- 1815 Section 10-3-1220, Council-mayor form -- Appointment of chief administrative
- 1816 **officer.**
- 1817 Section 10-3-1221, Municipal administrative code in council-mayor form.
- 1818 Section 10-3-1222, Council-mayor form -- Vacancy in office of mayor.
- 1819 Section 10-3-1223, Council-manager form -- Election and powers and duties of
- 1820 **mayor.**
- 1821 Section 10-3-1224, Council-manager form -- Appointment of municipal manager.
- 1822 Section 10-3-1225, Manager -- Removal from office.
- 1823 Section 10-3-1226, Manager -- Powers and duties.

1824 Section 10-3-1227, Municipal administrative code in council-manager form.
1825 Section 10-3-1228, Manager -- Working time and compensation.
1826 Section 43. Coordinating S.B. 20 with S.B. 72 -- Merging technical and substantive
1827 amendments.

1828 If this S.B. 20 and S.B. 72, Justice Court Amendments, both pass, it is the intent of the
1829 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
1830 Code database for publication, modify Subsection 78A-7-202(1), repealed and reenacted by
1831 S.B. 72, to read:

1832 "(1) As used in this section:

1833 (a) "Local government executive" means:

1834 (i) for a county:

1835 (A) the chair of the county commission in a county operating under the county

1836 commission or expanded county commission form of county government;

1837 (B) the county executive in a county operating under the county executive-council form

1838 of county government; and

1839 (C) the county manager in a county operating under the council-manager form of

1840 county government; and

1841 (ii) for a city or town, the mayor of the city or town.

1842 (b) "Local legislative body" means:

1843 (i) for a county, the county commission or county council; and

1844 (ii) for a city or town, the council of the city or town."

S.B. 20 3rd Sub. (Ivory) - 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.
