

2nd Sub. S.B. 20 MUNICIPAL GOVERNMENT AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 3

FEBRUARY 11, 2008 10:43 AM

Senator **Carlene M. Walker** proposes the following amendments:

1. *Page 1, Line 18:*

18 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;

2. *Page 2, Lines 45 through 46:*

45 20A-1-102, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 329

46 20A-1-506, as last amended by Laws of Utah ~~{2006, Chapter 16}~~ 2008, Chapter 3

3. *Page 2, Line 49:*

49 ~~{78-5-134, as last amended by Laws of Utah 2006, Chapter 16}~~

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

4. *Page 16, Lines 463 through 464:*

463 council-mayor form under [Part 12, Optional Forms of Municipal Government Act] ~~{Subsection~~

464 10-36-103(3)} Chapter 3b, Part 2, Council-Mayor Form of Municipal Government, an ordinance adopted under Subsection (7)(a) may provide that the governing

5. *Page 17, Line 494:*

494 10-3b-102 ~~{3}~~ ; and

6. *Page 18, Line 526:*

526 (B) Part ~~{3}~~ 4, Five-Member Council Form of Municipal Government;

7. *Page 25, Line 745:*

745 necessary; ~~{and}~~

8. *Page 29, Line 886:*

886 the council by ordinance delegates to the manager, subject to Subsection (3); ~~{and}~~

9. Page 30, Line 915:

915 declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the

10. Page 30, Line 918:

918 the proposed change in the form of government ~~{no less than 90 days but within 12 months}~~ at the
next municipal general election or regular general election that is more than 75 days

11. Page 30, Line 922:

922 ~~{20a-7-507}~~ 20A-7-507 .

12. Page 31, Lines 941 through 942:

941 A resolution may not be adopted under Subsection 10-3b-503(1)(a) ~~{(f)}~~ and a petition
942 may not be filed under Subsection 10-3b-503(1) ~~{(a)(ii)}~~ (b) within:

13. Page 32, Line 980:

980 Independent audits of all cities are required ~~{,}~~ to be performed in conformity with Title

14. Page 34, Line 1019:

1019 ~~{(6)}~~ (5) "Conditional use" means a land use that, because of its unique characteristics or

15. Page 34, Line 1023:

1023 ~~{(7)}~~ (6) "Constitutional taking" means a governmental action that results in a taking of

16. Page 34, Line 1027:

1027 ~~{(8)}~~ (7) "Culinary water authority" means the department, agency, or public entity with

17. Page 34, Line 1030:

1030 ~~{(9)}~~ (8) (a) "Disability" means a physical or mental impairment that substantially limits one

18. Page 34, Line 1036:

1036 ~~{(10)}~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or

19. Page 34, Line 1039:

1039 ~~{(11)}~~ (10) "Fire authority" means the department, agency, or public entity with responsibility

20. Page 34, Line 1042:

- 1042 ~~{(12)}~~ (11) "General plan" means a document that a municipality adopts that sets forth general
21. Page 34, Line 1044:
1044 ~~{(13)}~~ (12) "Identical plans" means building plans submitted to a municipality that are
22. Page 35, Line 1051:
1051 ~~{(14)}~~ (13) "Land use application" means an application required by a municipality's land use
23. Page 35, Line 1053:
1053 ~~{(15)}~~ (14) "Land use authority" means a person, board, commission, agency, or other body
24. Page 35, Line 1055:
1055 ~~{(16)}~~ (15) "Land use ordinance" means a planning, zoning, development, or subdivision
25. Page 35, Lines 1057 through 1059:
1057 ~~{(17)}~~ (16) "Land use permit" means a permit issued by a land use authority.
1058 ~~{(18)}~~ (17) "Legislative body" means the municipal council.
1059 ~~{(19)}~~ (18) "Local district" means an entity under Title 17B, Limited Purpose Local
26. Page 35, Line 1062:
1062 ~~{(20)}~~ (19) "Lot line adjustment" means the relocation of the property boundary line in a
27. Page 35, Line 1064:
1064 ~~{(21)}~~ (20) "Moderate income housing" means housing occupied or reserved for occupancy
28. Page 35, Line 1067:
1067 ~~{(22)}~~ (21) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
29. Page 35, Line 1072:
1072 ~~{(23)}~~ (22) "Noncomplying structure" means a structure that:
30. Page 35, Line 1077:
1077 ~~{(24)}~~ (23) "Nonconforming use" means a use of land that:
31. Page 36, Line 1083:
1083 ~~{(25)}~~ (24) "Official map" means a map drawn by municipal authorities and recorded in a

32. Page 36, Line 1091:
 1091 {~~(26)~~} (25) "Person" means an individual, corporation, partnership, organization, association,
33. Page 36, Line 1093:
 1093 {~~(27)~~} (26) "Plan for moderate income housing" means a written document adopted by a city
34. Page 36, Line 1104:
 1104 {~~(28)~~} (27) "Plat" means a map or other graphical representation of lands being laid out and
35. Page 36, Line 1106:
 1106 {~~(29)~~} (28) "Public hearing" means a hearing at which members of the public are provided a
36. Page 36, Line 1108:
 1108 {~~(30)~~} (29) "Public meeting" means a meeting that is required to be open to the public under
37. Page 36, Line 1110:
 1110 {~~(31)~~} (30) "Record of survey map" means a map of a survey of land prepared in accordance
38. Page 37, Line 1112:
 1112 {~~(32)~~} (31) "Receiving zone" means an area of a municipality that the municipality's land use
39. Page 37, Line 1115:
 1115 {~~(33)~~} (32) "Residential facility for elderly persons" means a single-family or multiple-family
40. Page 37, Line 1118:
 1118 {~~(34)~~} (33) "Residential facility for persons with a disability" means a residence:
41. Page 37, Line 1124:
 1124 {~~(35)~~} (34) "Sanitary sewer authority" means the department, agency, or public entity with
42. Page 37, Line 1127:
 1127 {~~(36)~~} (35) "Sending zone" means an area of a municipality that the municipality's land use
43. Page 37, Line 1130:

- 1130 ~~{(37)}~~ (36) "Specified public utility" means an electrical corporation, gas corporation, or
44. *Page 37, Line 1132:*
- 1132 ~~{(38)}~~ (37) "Street" means a public right-of-way, including a highway, avenue, boulevard,
45. *Page 37, Line 1135:*
- 1135 ~~{(39)}~~ (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
46. *Page , Line 1142 through Page 38, Line 1142:*
- 1142 (ii) except as provided in Subsection ~~{(39)}~~ (38) (c), divisions of land for residential and
47. *Page 38, Line 1164:*
- 1164 not been subdivided does not constitute a subdivision under this Subsection ~~{(39)}~~ (38) as to the
48. *Page 38, Line 1167:*
- 1167 ~~{(40)}~~ (39) "Transferrable development right" means the entitlement to develop land within a
49. *Page 38, Line 1171:*
- 1171 ~~{(41)}~~ (40) "Unincorporated" means the area outside of the incorporated area of a city or
50. *Page , Line 1173 through Page 39, Line 1173:*
- 1173 ~~{(42)}~~ (41) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
51. *Page 47, Line 1443 through Page 49, Line 1492:*
- 1443 ballot according to the procedures established in this title.
- 1444 Section 38. Section **20A-1-506** is amended to read:
- 1445 ~~{**20A-1-506. Judicial vacancies -- Courts not of record.**}~~
- 1446 ~~—— (1) As used in this section:~~
- 1447 ~~—— (a) "Appointing authority" means:~~
- 1448 ~~—— (i) for a county:~~
- 1449 ~~—— [(i)] (A) the chair of the county commission in [counties] a county having the county~~
- 1450 ~~commission form of county government; and~~
- 1451 ~~—— [(ii)] (B) the county executive in [counties] a county having the county~~
- 1452 ~~executive-council form of government; and~~
- 1453 ~~—— [(iii) the chair] (ii) for a city, or town, the mayor of the city [council] or town [council~~
- 1454 ~~in municipalities having:];~~
- 1455 ~~—— [(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~

1456 **Governing Body; and}**
1457 ~~—— [(B) the council-manager optional form of government defined in Section 10-3-101;~~
1458 ~~and]~~
1459 ~~—— [(iv) the mayor, in the council-mayor optional form of government defined in Section~~
1460 ~~10-3-101;]~~
1461 ~~—— (b) "Local legislative body" means:~~
1462 ~~—— (i) the county commission or county council; and~~
1463 ~~—— (ii) the [city] council of the city or town [council].~~
1464 ~~—— (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the~~
1465 ~~completion of his term of office, the appointing authority may:~~
1466 ~~—— (i) fill the vacancy by appointment for the unexpired term by following the procedures~~
1467 ~~and requirements for appointments in Section 78-5-134; or~~
1468 ~~—— (ii) contract with a justice court judge of the county, an adjacent county, or another~~
1469 ~~municipality within those counties for judicial services.~~
1470 ~~—— (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it~~
1471 ~~shall ensure that the contract is for the same term as the term of office of the judge whose~~
1472 ~~services are replaced by the contract.~~
1473 ~~—— (c) The appointing authority shall notify the Office of the State Court Administrator in~~
1474 ~~writing of the appointment, resignation, or the contractual agreement for services of a judge~~
1475 ~~under this section within 30 days after filling the vacancy.~~
1476 ~~—— (3) (a) If a vacancy occurs in the office of a county justice court judge before the~~
1477 ~~completion of that judge's term of office, the appointing authority may fill the vacancy by~~
1478 ~~appointment for the unexpired term by following the procedures and requirements for~~
1479 ~~appointments in Section 78-5-134.~~
1480 ~~—— (b) The appointing authority shall notify the Office of the State Court Administrator in~~
1481 ~~writing of any appointment of a county justice court judge under this section within 30 days~~
1482 ~~after the appointment is made.~~
1483 ~~—— (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing~~
1484 ~~authority shall:~~
1485 ~~—— (i) advertise the vacancy and solicit applications for the vacancy;~~
1486 ~~—— (ii) appoint the best qualified candidate to office based solely upon fitness for office;~~
1487 ~~—— (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting~~
1488 ~~employment of relatives in making appointments to fill the vacancy; and~~
1489 ~~—— (iv) submit the name of the appointee to the local legislative body.~~
1490 ~~—— (b) If the local legislative body does not confirm the appointment within 30 days of~~
1491 ~~submission, the appointing authority may either appoint another of the applicants or reopen the~~
1492 ~~vacancy by advertisement and solicitations of applications. }~~

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

(1) As used in this section:

(a) "Appointing authority" means:

(i) for a county:

~~{(i)}~~ **(A)** the chair of the county commission in ~~{counties}~~ **a county** having the county commission **or expanded county commission** form of county government; **and**

~~{(ii)}~~ **(B)** the county executive in ~~{counties}~~ **a county** having the county executive-council form of government; **and**

~~{(iii) the chair}~~ **(ii) for a city or town, the mayor** of the city ~~{council}~~ or town ~~{council in municipalities having:}~~ **and**

~~{(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body; and}~~

~~{(B) the council-manager optional form of government defined in Section 10-3-101; and}~~

~~{(iv) the mayor, in the council-mayor optional form of government defined in Section 10-3-101;}~~

(b) "Local legislative body" means:

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

(ii) **for a city or town** the ~~{city}~~ council **of the city** or town ~~{council}~~ .

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

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

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

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

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

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

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

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

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

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

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

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

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

52. Page 55, Line 1680 through Page 57, Line 1734:

1680 Section 41. Section ~~{78-5-134}~~ 78A-7-202 is amended to read:
1681 ~~{78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial~~
1682 ~~Council -- Retention election -- Vacancy.~~
1683 ~~—— (1) As used in this section:~~
1684 ~~—— (a) "Appointing authority" means:~~
1685 ~~—— (i) for a county:~~
1686 ~~—— [(i)] (A) the chair of the county commission in [counties] a county having the county~~
1687 ~~commission form of county government; and~~
1688 ~~—— [(ii)] (B) the county executive in [counties] a county having the county~~
1689 ~~executive-council form of government;~~
1690 ~~—— [(iii) the chair] (ii) for a city or town, the mayor of the city [council] or town [council~~
1691 ~~in municipalities having the traditional management arrangement established by Title 10,~~
1692 ~~Chapter 3, Part 1, Governing Body;];~~
1693 ~~—— [(iv) the city manager, in the council-manager optional form of government defined in~~
1694 ~~Section 10-3-101; and]~~
1695 ~~—— [(v) the mayor, in the council-mayor optional form of government defined in Section~~
1696 ~~10-3-101.]~~
1697 ~~—— (b) "Local legislative body" means:~~
1698 ~~—— (i) the county commission or county council; and~~
1699 ~~—— (ii) the [city] council of the city or town [council].~~
1700 ~~—— (2) Justice court judges shall be appointed by the appointing authority and confirmed~~
1701 ~~by a majority vote of the local legislative body.~~
1702 ~~—— (3) (a) After a newly appointed justice court judge has been confirmed, the local~~
1703 ~~legislative body shall report the confirmed judge's name to the Judicial Council.~~
1704 ~~—— (b) The Judicial Council shall certify the judge as qualified to hold office upon~~
1705 ~~successful completion of the orientation program and upon the written opinion of the county or~~
1706 ~~municipal attorney that the judge meets the statutory qualifications for office.~~
1707 ~~—— (c) A justice court judge may not perform judicial duties until certified by the Judicial~~
1708 ~~Council.~~
1709 ~~—— (4) Upon the expiration of a county justice court judge's term of office the judge shall~~
1710 ~~be subject to an unopposed retention election in accordance with the procedures set forth in~~
1711 ~~Section 20A-12-201.~~
1712 ~~—— (5) Upon the expiration of a municipal justice court judge's term of office a municipal~~
1713 ~~justice court judge shall be reappointed absent a showing of good cause by the appointing~~

1714 authority.

1715 ——— (a) If an appointing authority asserts good cause to not reappoint a municipal justice

1716 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of

1717 the local legislative body.

1718 ——— (b) The local legislative body shall determine by majority vote whether good cause

1719 exists not to reappoint the municipal justice court judge.

1720 ——— (c) The decision of the local legislative body is not subject to appeal.

1721 ——— (d) In determining whether good cause exists to not reappoint a municipal justice court

1722 judge, the appointing authority and local legislative body shall consider:

1723 ——— (i) whether or not the judge has been certified as meeting the evaluation criteria for

1724 judicial performance established by the Judicial Council; and

1725 ——— (ii) any other factors considered relevant by the appointing authority.

1726 ——— (6) Before reappointment or retention election, each justice court judge shall be

1727 evaluated in accordance with the performance evaluation program established in Subsection

1728 78-3-21(4).

1729 ——— (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of

1730 justice court judge, the appointing authority may contract with a justice court judge in the

1731 county or an adjacent county to serve as justice court judge.

1732 ——— (b) The contract shall be for the duration of the justice court judge's term of office.

1733 ——— (8) Vacancies in the office of justice court judge shall be filled as provided in Section

1734 20A-1-506. }

78A-7-202. Justice court judges to be appointed -- Procedure -- Report to Judicial Council -- Retention election -- Vacancy.

(1) As used in this section:

(a) "Appointing authority" means:

(i) for a county:

~~{(i)}~~ **(A)** the chair of the county commission in ~~{counties}~~ **a county** having the county commission **or expanded county commission** form of county government; **and**

(B) the county executive in ~~{counties}~~ **a county** having the county executive-council form of government; **and**

~~{(iii) the chair}~~ **(ii) for a city or town, the mayor** of the city ~~{council}~~ or town ~~{council in municipalities having the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;}~~ **and**

~~{(iv) the city manager, in the council-manager optional form of government defined in Section 10-3-101; and}~~

~~{(v) the mayor, in the council-mayor optional form of government defined in Section 10-3-101.}~~

(b) "Local legislative body" means:

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

(ii) for a city or town, the ~~{city}~~ council of the city or town ~~{council}~~ .

(2) Justice court judges shall be appointed by the appointing authority and confirmed by a majority vote of the local legislative body.

(3) (a) After a newly appointed justice court judge has been confirmed, the local legislative body shall report the confirmed judge's name to the Judicial Council.

(b) The Judicial Council shall certify the judge as qualified to hold office upon successful completion of the orientation program and upon the written opinion of the county or municipal attorney that the judge meets the statutory qualifications for office.

(c) A justice court judge may not perform judicial duties until certified by the Judicial Council.

(4) Upon the expiration of a county justice court judge's term of office the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201.

(5) Upon the expiration of a municipal justice court judge's term of office a municipal justice court judge shall be reappointed absent a showing of good cause by the appointing authority.

(a) If an appointing authority asserts good cause to not reappoint a municipal justice court judge, at the request of the judge, the good cause shall be presented at a formal hearing of the local legislative body.

(b) The local legislative body shall determine by majority vote whether good cause exists not to reappoint the municipal justice court judge.

(c) The decision of the local legislative body is not subject to appeal.

(d) In determining whether good cause exists to not reappoint a municipal justice court judge, the appointing authority and local legislative body shall consider:

(i) whether or not the judge has been certified as meeting the evaluation criteria for judicial performance established by the Judicial Council; and

(ii) any other factors considered relevant by the appointing authority.

(6) Before reappointment or retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Subsection 78A-2-104(5).

(7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of justice court judge, the appointing authority may contract with a justice court judge in the county or an adjacent county to serve as justice court judge.

(b) The contract shall be for the duration of the justice court judge's term of office.

(8) Vacancies in the office of justice court judge shall be filled as provided in Section 20A-1-506.