

**POLITICAL SUBDIVISIONS ADMINISTRATION**

**AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: Michael T. Morley

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**LONG TITLE**

**General Description:**

This bill prohibits a political subdivision from appointing or hiring, in certain circumstances, a manager or similar position during an interim vacancy period.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a council in a municipal council-manager form of government from:
  - appointing a manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after

May 10, 2011, with a manager;

- ▶ prohibits a mayor in a municipal council-mayor form of government from:
  - appointing a chief administrative officer during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after

May 10, 2011, with a chief administrative officer;

- ▶ prohibits a council in a municipal six-member council form of government from:
  - appointing a manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after

May 10, 2011, with a manager;

- ▶ prohibits a council in a municipal five-member council form of government from:



- 28           • appointing a manager during an interim vacancy period; and
- 29           • entering into a contract that contains an automatic renewal provision on or after
- 30 May 10, 2011, with a manager;
- 31           ▶ prohibits a council in a county council-manager form of government from:
- 32           • appointing a county manager during an interim vacancy period; and
- 33           • entering into a contract that contains an automatic renewal provision on or after
- 34 May 10, 2011, with a county manager;
- 35           ▶ prohibits a county executive from:
- 36           • appointing a manager, a chief executive officer, a chief administrative officer, or
- 37 a similar position during an interim vacancy period; and
- 38           • entering into a contract on or after May 10, 2011, that contains an automatic
- 39 renewal provision with a chief executive officer, a chief administrative officer,
- 40 or a similar position;
- 41           ▶ prohibits a local district from:
- 42           • hiring a manager, a chief executive officer, a chief administrative officer, or a
- 43 similar position during an interim vacancy period; and
- 44           • entering into a contract on or after May 10, 2011, that contains an automatic
- 45 renewal provision with a manager, a chief executive officer, a chief
- 46 administrative officer, or a similar position;
- 47           ▶ prohibits a special service district from:
- 48           • hiring a manager, a chief executive officer, a chief administrative officer, or a
- 49 similar position during an interim vacancy period; and
- 50           • entering into a contract on or after May 10, 2011, that contains an automatic
- 51 renewal provision with a manager, a chief executive officer, a chief
- 52 administrative officer, or a similar position;
- 53           ▶ prohibits a local school board from:
- 54           • appointing a superintendent during an interim vacancy period; and
- 55           • entering into a contract on or after May 10, 2011, that contains an automatic
- 56 renewal provision with a superintendent; and
- 57           ▶ makes technical corrections.

58 **Money Appropriated in this Bill:**

59 None

60 **Other Special Clauses:**

61 None

62 **Utah Code Sections Affected:**

63 AMENDS:

64 **10-3b-103**, as enacted by Laws of Utah 2008, Chapter 19

65 **10-3b-202**, as enacted by Laws of Utah 2008, Chapter 19

66 **10-3b-303**, as enacted by Laws of Utah 2008, Chapter 19

67 **10-3b-403**, as enacted by Laws of Utah 2008, Chapter 19

68 **10-3b-503**, as enacted by Laws of Utah 2008, Chapter 19

69 **17-52-505**, as renumbered and amended by Laws of Utah 2000, Chapter 133

70 **17-53-302**, as last amended by Laws of Utah 2001, Chapters 199 and 241

71 **17-53-317**, as enacted by Laws of Utah 2001, Chapter 241

72 **17B-1-301**, as renumbered and amended by Laws of Utah 2007, Chapter 329

73 **17D-1-106**, as last amended by Laws of Utah 2009, Chapters 181 and 356

74 **53A-3-301**, as last amended by Laws of Utah 2003, Chapters 231 and 315

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

77 Section 1. Section **10-3b-103** is amended to read:

78 **10-3b-103. Forms of municipal government -- Form of government for towns --**

79 **Former council-manager form.**

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

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

83 (i) operate under a council-mayor form of government, as defined in Section

84 10-3b-102; and

85 (ii) be subject to:

86 (A) this part;

87 (B) Part 2, Council-mayor Form of Municipal Government;

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

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

90 and

91 (b) is not subject to:

92 (i) Part 3, Six-member Council Form of Municipal Government; or

93 (ii) Part 4, Five-member Council Form of Municipal Government.

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

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

98 (i) operate under a six-member council form of government, as defined in Section  
99 10-3b-102;

100 (ii) be subject to:

101 (A) this part;

102 (B) Part 3, Six-member Council Form of Municipal Government;

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

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

105 and

106 (b) is not subject to:

107 (i) Part 2, Council-mayor Form of Municipal Government; or

108 (ii) Part 4, Five-member Council Form of Municipal Government.

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

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

112 (i) operate under a five-member council form of government, as defined in Section  
113 10-3b-102;

114 (ii) be subject to:

115 (A) this part;

116 (B) Part 4, Five-member Council Form of Municipal Government;

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

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

119 and

120 (b) is not subject to:

- 121 (i) Part 2, Council-mayor Form of Municipal Government; or  
122 (ii) Part 3, Six-member Council Form of Municipal Government.  
123 (4) Subject to Subsection (5), each municipality incorporated on or after May 5, 2008,  
124 shall operate under:
- 125 (a) the council-mayor form of government, with a five-member council;
  - 126 (b) the council-mayor form of government, with a seven-member council;
  - 127 (c) the six-member council form of government; or
  - 128 (d) the five-member council form of government.
- 129 (5) Each town shall operate under a five-member council form of government unless:
- 130 (a) before May 5, 2008, the town has changed to another form of municipal  
131 government; or
  - 132 (b) on or after May 5, 2008, the town changes its form of government as provided in  
133 Part 5, Changing to Another Form of Municipal Government.
- 134 (6) (a) As used in this Subsection (6), "council-manager form of government" means  
135 the form of municipal government:
- 136 (i) provided for in Laws of Utah 1977, Chapter 48;
  - 137 (ii) that cannot be adopted without voter approval; and
  - 138 (iii) that provides for, subject to Subsections (7) and (8), an appointed manager with  
139 duties and responsibilities established in Laws of Utah 1977, Chapter 48.
- 140 (b) A municipality operating on May 4, 2008, under the council-manager form of  
141 government:
- 142 (i) shall:
    - 143 (A) continue to operate, on and after May 5, 2008, under the council-manager form of  
144 government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and
    - 145 (B) be subject to:
      - 146 (I) this Subsection (6) and other applicable provisions of this part;
      - 147 (II) Part 5, Changing to Another Form of Municipal Government; and
      - 148 (III) except as provided in Subsection (6)(b)(ii), other applicable provisions of this  
149 title; and
  - 150 (ii) is not subject to:
    - 151 (A) Part 2, Council-mayor Form of Municipal Government;

152 (B) Part 3, Six-member Council Form of Municipal Government; or

153 (C) Part 4, Five-member Council Form of Municipal Government.

154 (7) (a) As used in this Subsection (7), "interim vacancy period" means the period of  
155 time that:

156 (i) begins on the day on which a municipal general election described in Section  
157 10-3-201 is held to elect a council member; and

158 (ii) ends on the day on which the council member-elect begins the council member's  
159 term.

160 (b) (i) The council may not appoint a manager during an interim vacancy period.

161 (ii) Notwithstanding Subsection (7)(b)(i):

162 (A) the council may appoint an interim manager during an interim vacancy period; and

163 (B) the interim manager's term shall expire once a new manager is appointed by the  
164 new administration after the interim vacancy period has ended.

165 (c) Subsection (7)(b) does not apply if all the council members who held office on the  
166 day of the municipal general election whose term of office was vacant for the election are  
167 re-elected to the council for the following term.

168 (8) A council that appoints a manager in accordance with this section may not, on or  
169 after May 10, 2011, enter into an employment contract that contains an automatic renewal  
170 provision with the manager.

171 ~~[(7)]~~ (9) Nothing in this section may be construed to prevent or limit a municipality  
172 operating under any form of municipal government from changing to another form of  
173 government as provided in Part 5, Changing to Another Form of Municipal Government.

174 Section 2. Section **10-3b-202** is amended to read:

175 **10-3b-202. Mayor in council-mayor form of government.**

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

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

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

181 (c) shall:

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

- 183 (ii) execute the policies adopted by the council;
- 184 (iii) appoint, with the council's advice and consent, a qualified person for each of the
- 185 following positions:
  - 186 (A) subject to Subsection (3), chief administrative officer, if required under the
  - 187 resolution or petition under Subsection 10-3b-503(1)(a) that proposed the change to a
  - 188 council-mayor form of government;
  - 189 (B) recorder;
  - 190 (C) treasurer;
  - 191 (D) engineer; and
  - 192 (E) attorney;
- 193 (iv) provide to the council, at intervals provided by ordinance, a written report to the
- 194 council setting forth:
  - 195 (A) the amount of budget appropriations;
  - 196 (B) total disbursements from the appropriations;
  - 197 (C) the amount of indebtedness incurred or contracted against each appropriation,
  - 198 including disbursements and indebtedness incurred and not paid; and
  - 199 (D) the percentage of the appropriations encumbered;
  - 200 (v) report to the council the condition and needs of the municipality;
  - 201 (vi) report to the council any release granted under Subsection (1)(d)(xiii);
  - 202 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the
  - 203 remittance to the council at the council's next meeting after the remittance;
  - 204 (viii) perform each other duty:
    - 205 (A) prescribed by statute; or
    - 206 (B) required by a municipal ordinance that is not inconsistent with statute;
  - 207 (d) may:
    - 208 (i) subject to budget constraints:
      - 209 (A) appoint:
        - 210 (I) subject to Subsections (3)(b) and (4), a chief administrative officer; and
        - 211 (II) one or more deputies or administrative assistants to the mayor; and
      - 212 (B) (I) create any other administrative office that the mayor considers necessary for
      - 213 good government of the municipality; and

214 (II) appoint a person to the office;  
215 (ii) with the council's advice and consent and except as otherwise specifically limited  
216 by statute, appoint:  
217 (A) each department head of the municipality;  
218 (B) each statutory officer of the municipality; and  
219 (C) each member of a statutory commission, board, or committee of the municipality;  
220 (iii) dismiss any person appointed by the mayor;  
221 (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation  
222 passed by the council;  
223 (v) exercise control of and supervise each executive or administrative department,  
224 division, or office of the municipality;  
225 (vi) within the general provisions of statute and ordinance, regulate and prescribe the  
226 powers and duties of each other executive or administrative officer or employee of the  
227 municipality;  
228 (vii) attend each council meeting, take part in council meeting discussions, and freely  
229 give advice to the council;  
230 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill  
231 in all other respects the requirements of, as the case may be:  
232 (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or  
233 (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;  
234 (ix) execute an agreement on behalf of the municipality, or delegate, by written  
235 executive order, the authority to execute an agreement on behalf of the municipality:  
236 (A) if the obligation under the agreement is within certified budget appropriations; and  
237 (B) subject to Section 10-6-138;  
238 (x) at any reasonable time, examine and inspect the official books, papers, records, or  
239 documents of:  
240 (A) the municipality; or  
241 (B) any officer, employee, or agent of the municipality;  
242 (xi) remit fines and forfeitures;  
243 (xii) if necessary, call on residents of the municipality over the age of 21 years to assist  
244 in enforcing the laws of the state and ordinances of the municipality; and



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

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

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

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

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

256 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of  
257 time that:

258 (i) begins on the day on which a municipal general election described in Section  
259 10-3-201 is held to elect a mayor; and

260 (ii) ends on the day on which the mayor-elect begins the mayor's term.

261 [~~(3)~~] (b) Each person appointed as chief administrative officer under Subsection  
262 (1)(c)(iii)(A) shall be appointed on the basis of:

263 [~~(a)~~] (i) the person's ability and prior experience in the field of public administration;  
264 and

265 [~~(b)~~] (ii) any other qualification prescribed by ordinance.

266 (c) (i) The mayor may not appoint a chief administrative officer during an interim  
267 vacancy period.

268 (ii) Notwithstanding Subsection (3)(c)(i):

269 (A) the mayor may appoint an interim chief administrative officer during an interim  
270 vacancy period; and

271 (B) the interim chief administrative officer's term shall expire once a new chief  
272 administrative officer is appointed by the new mayor after the interim vacancy period has  
273 ended.

274 (d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the  
275 municipal general election is re-elected to the mayor's office for the following term.

276 (4) A mayor who appoints a chief administrative officer in accordance with this section  
277 may not, on or after May 10, 2011, enter into an employment contract that contains an  
278 automatic renewal provision with the chief administrative officer.

279 Section 3. Section **10-3b-303** is amended to read:

280 **10-3b-303. Council in six-member council form of government.**

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

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

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

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

288 (b) may:

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

290 (A) removing from the mayor any power, duty, or function of the mayor under Section  
291 10-3b-104; or

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

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

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

297 (A) appoint, subject to Subsections (3) and (4), a manager to perform executive and  
298 administrative duties or functions that the council by ordinance delegates to the manager,  
299 subject to Subsection (1)(c); and

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

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

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

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

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

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

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

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

311 (b) all council members except the mayor.

312 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of  
313 time that:

314 (i) begins on the day on which a municipal general election described in Section  
315 10-3-201 is held to elect a council member; and

316 (ii) ends on the day on which the council member-elect begins the council member's  
317 term.

318 (b) (i) The council may not appoint a manager during an interim vacancy period.

319 (ii) Notwithstanding Subsection (3)(b)(i):

320 (A) the council may appoint an interim manager during an interim vacancy period; and

321 (B) the interim manager's term shall expire once a new manager is appointed by the  
322 new administration after the interim vacancy period has ended.

323 (c) Subsection (3)(b) does not apply if all the council members who held office on the  
324 day of the municipal general election whose term of office was vacant for the election are  
325 re-elected to the council for the following term.

326 (4) A council that appoints a manager in accordance with this section may not, on or  
327 after May 10, 2011, enter into an employment contract that contains an automatic renewal  
328 provision with the manager.

329 Section 4. Section **10-3b-403** is amended to read:

330 **10-3b-403. Council in a five-member council form of government.**

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

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

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

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

338 (b) may:

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

340 (A) removing from the mayor any power, duty, or function of the mayor under Section

341 10-3b-104; and

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

343 Subsection (1)(b)(i)(A);

344 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,

345 duty, or function that the council has under Subsection (1)(a);

346 (iii) subject to Subsections (3) and (4), appoint a manager to perform executive and

347 administrative duties or functions that the council by ordinance delegates to the manager,

348 subject to Subsection (1)(c);

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

350 (v) assign any or all council members, including the mayor, to supervise one or more

351 administrative departments of the municipality; and

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

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

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

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

356 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to

357 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative

358 vote of:

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

360 (b) all council members except the mayor.

361 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of

362 time that:

363 (i) begins on the day on which a municipal general election described in Section

364 10-3-201 is held to elect a council member; and

365 (ii) ends on the day on which the council member-elect begins the council member's

366 term.

367 (b) (i) The council may not appoint a manager during an interim vacancy period.

368 (ii) Notwithstanding Subsection (3)(b)(i):

369 (A) the council may appoint an interim manager during an interim vacancy period; and

370 (B) the interim manager's term shall expire once a new manager is appointed by the

371 new administration after the interim vacancy period has ended.

372 (c) Subsection (3)(b) does not apply if all the council members who held office on the

373 day of the municipal general election whose term of office was vacant for the election are

374 re-elected to the council for the following term.

375 (4) A council that appoints a manager in accordance with this section may not, on or

376 after May 10, 2011, enter into an employment contract that contains an automatic renewal

377 provision with the manager.

378 Section 5. Section **10-3b-503** is amended to read:

379 **10-3b-503. Resolution or petition proposing a change in the form of government.**

380 (1) The process to change the form of government under which a municipality operates

381 is initiated by:

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

383 (b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives

384 - Procedures, proposing a change.

385 (2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the

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

387 council shall hold at least two public hearings on the proposed change.

388 (3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on

389 the proposed change in the form of government at the next municipal general election or

390 regular general election that is more than 75 days after, as the case may be:

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

392 (ii) a petition filed under Subsection (1)(b) is declared sufficient under Section

393 20A-7-507.

394 (b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of

395 government may not be held if:

396 (i) in the case of a proposed change initiated by the council's adoption of a resolution

397 under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

398 (ii) in the case of a proposed change initiated by a petition under Subsection (1)(b),

399 enough signatures are withdrawn from the petition within 60 days after the petition is declared

400 sufficient under Section 20A-7-507 that the petition is no longer sufficient.

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

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

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

406 (5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing  
407 a change to a council-mayor form of government may require that, if the change is adopted, the  
408 mayor appoint, with the council's advice and consent and subject to Section 10-3b-202, a chief  
409 administrative officer, to exercise the administrative powers and perform the duties that the  
410 mayor prescribes.

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

412 **17-52-505. Council-manager form of county government.**

413 (1) (a) A county operating under the form of government known as the  
414 "council-manager" form shall be governed by an elected county council, a county manager  
415 appointed by the council, and such other officers and employees as are authorized by law.

416 (b) The optional plan shall provide for the qualifications, time and manner of  
417 appointment[;] subject to Subsections (6) and (7), term of office, compensation, and removal of  
418 the county manager.

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

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

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

423 (3) (a) No member of the council shall directly or indirectly, by suggestion or  
424 otherwise, attempt to influence or coerce the manager in the making of any appointment or  
425 removal of any officer or employee or in the purchase of supplies, attempt to exact any promise  
426 relative to any appointment from any candidate for manager, or discuss directly or indirectly  
427 with him the matter of specific appointments to any county office or employment. [~~A violation~~  
428 ~~of the foregoing~~]

429 (b) (i) A person who violates the provisions of this Subsection (3) shall forfeit the  
430 office of the offending member of the council.

431           (ii) Nothing in this section shall be construed, however, as prohibiting the council  
432 while in open session from fully and freely discussing with or suggesting to the manager  
433 anything pertaining to county affairs or the interests of the county.

434           (iii) Neither manager nor any person in the employ of the county shall take part in  
435 securing, or contributing any money toward, the nomination or election of any candidate for a  
436 county office.

437           (iv) The optional plan may provide procedures for implementing this Subsection (3).

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

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

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

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

445           (6) (a) As used in this Subsection (6), "interim vacancy period" means the period of  
446 time that:

447           (i) begins on the day on which a general election described in Section 17-16-6 is held  
448 to elect a council member; and

449           (ii) ends on the day on which the council member-elect begins the council member's  
450 term.

451           (b) (i) The county council may not appoint a county manager during an interim vacancy  
452 period.

453           (ii) Notwithstanding Subsection (6)(b)(i):

454           (A) the county council may appoint an interim county manager during an interim  
455 vacancy period; and

456           (B) the interim county manager's term shall expire once a new county manager is  
457 appointed by the new administration after the interim vacancy period has ended.

458           (c) Subsection (6)(b) does not apply if all the county council members who held office  
459 on the day of the county general election whose term of office was vacant for the election are  
460 re-elected to the council for the following term.

461           (7) A county council that appoints a county manager in accordance with this section

462 may not, on or after May 10, 2011, enter into an employment contract that contains an  
463 automatic renewal provision with the county manager.

464 Section 7. Section **17-53-302** is amended to read:

465 **17-53-302. County executive duties.**

466 Each county executive shall:

467 (1) exercise supervisory control over all functions of the executive branch of county  
468 government;

469 (2) direct and organize the management of the county in a manner consistent with state  
470 law, county ordinance, and the county's optional plan of county government;

471 (3) carry out programs and policies established by the county legislative body;

472 (4) faithfully ensure compliance with all applicable laws and county ordinances;

473 (5) exercise supervisory and coordinating control over all departments of county  
474 government;

475 (6) except as otherwise vested in the county legislative body by state law or by the  
476 optional plan of county government, and subject to Section 17-53-317, appoint, suspend, and  
477 remove the directors of all county departments and all appointive officers of boards and  
478 commissions;

479 (7) except as otherwise delegated by statute to another county officer, exercise  
480 administrative and auditing control over all funds and assets, tangible and intangible, of the  
481 county;

482 (8) except as otherwise delegated by statute to another county officer, supervise and  
483 direct centralized budgeting, accounting, personnel management, purchasing, and other service  
484 functions of the county;

485 (9) conduct planning studies and make recommendations to the county legislative body  
486 relating to financial, administrative, procedural, and operational plans, programs, and  
487 improvements in county government;

488 (10) maintain a continuing review of expenditures and of the effectiveness of  
489 departmental budgetary controls;

490 (11) develop systems and procedures, not inconsistent with statute, for planning,  
491 programming, budgeting, and accounting for all activities of the county;

492 (12) if the county executive is an elected county executive, exercise a power of veto



493 over ordinances enacted by the county legislative body, including an item veto upon budget  
494 appropriations, in the manner provided by the optional plan of county government;

495 (13) review, negotiate, approve, and execute contracts for the county, unless otherwise  
496 provided by statute;

497 (14) perform all other functions and duties required of the executive by state law,  
498 county ordinance, and the optional plan of county government; and

499 (15) sign on behalf of the county all deeds that convey county property.

500 Section 8. Section 17-53-317 is amended to read:

501 **17-53-317. Executive appointment with advice and consent of county legislative**  
502 **body.**

503 (1) The appointment of a person to fill a position on a board, committee, or similar  
504 body whose membership is appointed by the county shall be by the county executive, with the  
505 advice and consent of the county legislative body.

506 (2) (a) As used in this Subsection (2), "interim vacancy period" means:

507 (i) for a county commission form or expanded county commission form of  
508 government, the period of time that:

509 (A) begins on the day on which a general election described in Section 17-16-6 is held  
510 to elect a commission member; and

511 (B) ends on the day on which the commission member-elect begins the council  
512 member's term; or

513 (ii) for a county executive-council form of government, the period of time that:

514 (A) begins on the day on which a general election described in Section 17-16-6 is held  
515 to elect a county executive; and

516 (B) ends on the day on which the county executive-elect begins the county executive's  
517 term.

518 (b) (i) A county commission in a county commission form of government, or a county  
519 commission in an expanded county commission form of government, may not appoint during  
520 an interim period vacancy a manager, a chief executive officer, a chief administrative officer,  
521 or a similar position to perform executive and administrative duties or functions.

522 (ii) Notwithstanding Subsection (2)(b)(i):

523 (A) a county commission in a county commission form of government, or a county

524 commission in an expanded county commission form of government, may appoint an interim  
525 manager, a chief executive officer, a chief administrative officer, or a similar position during an  
526 interim vacancy period; and

527 (B) the interim appointee's term shall expire once a new manager, a chief executive  
528 officer, a chief administrative officer, or a similar position is appointed by the new  
529 administration after the interim vacancy period has ended.

530 (c) Subsection (2)(b) does not apply if all the county commission members who held  
531 office on the day of the county general election whose term of office was vacant for the  
532 election are re-elected to the county commission for the following term.

533 (d) (i) A county executive in a county executive-council form of government may not  
534 appoint during an interim vacancy period a manager, a chief executive officer, a chief  
535 administrative officer, or a similar position to perform executive and administrative duties or  
536 functions.

537 (ii) Notwithstanding Subsection (2)(d)(i):

538 (A) a county executive in a county executive-council form of government may appoint  
539 an interim manager, a chief executive officer, a chief administrative officer, or a similar  
540 position during an interim vacancy period; and

541 (B) the interim appointee's term shall expire once a new manager, a chief executive  
542 officer, a chief administrative officer, or a similar position is appointed by the new county  
543 executive after the interim vacancy period has ended.

544 (e) Subsection (2)(d) does not apply if the county executive who held office on the day  
545 of the county general election is re-elected to the office of county executive for the following  
546 term.

547 (3) A county commission in a county commission form of government, a county  
548 commission in an expanded county commission form of government, or a county executive in a  
549 county executive-council form of government that appoints a manager, a chief executive  
550 officer, a chief administrative officer, or a similar position in accordance with this section may  
551 not, on or after May 10, 2011, enter into an employment contract that contains an automatic  
552 renewal provision with the manager, chief executive officer, chief administrative officer, or  
553 similar position.

554 Section 9. Section **17B-1-301** is amended to read:

555           **17B-1-301. Board of trustees duties and powers.**

556           (1) (a) Each local district shall be governed by a board of trustees which shall manage  
557 and conduct the business and affairs of the district and shall determine all questions of district  
558 policy.

559           (b) All powers of a local district are exercised through the board of trustees.

560           (2) The board of trustees may:

561           (a) fix the location of the local district's principal place of business and the location of  
562 all offices and departments, if any;

563           (b) fix the times of meetings of the board of trustees;

564           (c) select and use an official district seal;

565           (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to  
566 district officers power to employ employees and agents, for the operation of the local district  
567 and its properties and prescribe or delegate to district officers the power to prescribe the duties,  
568 compensation, and terms and conditions of employment of those employees and agents;

569           (e) require district officers and employees charged with the handling of district funds to  
570 provide surety bonds in an amount set by the board or provide a blanket surety bond to cover  
571 officers and employees;

572           (f) contract for or employ professionals to perform work or services for the local  
573 district that cannot satisfactorily be performed by the officers or employees of the district;

574           (g) through counsel, prosecute on behalf of or defend the local district in all court  
575 actions or other proceedings in which the district is a party or is otherwise involved;

576           (h) adopt bylaws for the orderly functioning of the board;

577           (i) adopt and enforce rules and regulations for the orderly operation of the local district  
578 or for carrying out the district's purposes;

579           (j) prescribe a system of civil service for district employees;

580           (k) on behalf of the local district, enter into contracts that the board considers to be for  
581 the benefit of the district;

582           (l) acquire, construct or cause to be constructed, operate, occupy, control, and use  
583 buildings, works, or other facilities for carrying out the purposes of the local district;

584           (m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess  
585 property necessary to carry out the purposes of the district, dispose of property when the board

586 considers it appropriate, and institute and maintain in the name of the district any action or  
587 proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district  
588 property;

589 (n) delegate to a district officer the exercise of a district duty; and

590 (o) exercise all powers and perform all functions in the operation of the local district  
591 and its properties as are ordinarily exercised by the governing body of a political subdivision of  
592 the state and as are necessary to accomplish the purposes of the district.

593 (3) (a) As used in this Subsection (3), "interim vacancy period" means:

594 (i) if any member of the local district board is elected, the period of time that:

595 (A) begins on the day on which a municipal general election described in Section  
596 17B-1-306 is held to elect a local district board member; and

597 (B) ends on the day on which the local district board member-elect begins the  
598 member's term; or

599 (ii) if any member of the local district board is appointed, the period of time that:

600 (A) begins on the day on which an appointing authority posts a notice of vacancy in  
601 accordance with Section 17B-1-304; and

602 (B) ends on the day on which the person who is appointed by the local district board to  
603 fill the vacancy begins the person's term.

604 (b) (i) The local district may not hire during an interim vacancy period a manager, a  
605 chief executive officer, a chief administrative officer, or a similar position to perform executive  
606 and administrative duties or functions.

607 (ii) Notwithstanding Subsection (3)(b)(i):

608 (A) the local district may hire an interim manager, a chief executive officer, a chief  
609 administrative officer, or a similar position during an interim vacancy period; and

610 (B) the interim manager's, chief executive officer's, chief administrative officer's, or  
611 similar position's employment shall terminate once a new manager, chief executive officer,  
612 chief administrative officer, or similar position is hired by the new local district board after the  
613 interim vacancy period has ended.

614 (c) Subsection (3)(b) does not apply if:

615 (i) all the elected local district board members who held office on the day of the  
616 municipal general election whose term of office was vacant for the election are re-elected to the

617 local district board; and

618 (ii) all the appointed local district board members who were appointed whose term of  
 619 appointment was expiring are re-appointed to the local district board.

620 (4) A local district board that hires an interim manager, a chief executive officer, a  
 621 chief administrative officer, or a similar position in accordance with this section may not, on or  
 622 after May 10, 2011, enter into an employment contract that contains an automatic renewal  
 623 provision with the interim manager, chief executive officer, chief administrative officer, or  
 624 similar position.

625 Section 10. Section **17D-1-106** is amended to read:

626 **17D-1-106. Special service districts subject to other provisions.**

627 (1) A special service district is, to the same extent as if it were a local district, subject  
 628 to and governed by:

629 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,  
 630 17B-1-112, 17B-1-113, 17B-1-116, and 17B-1-118;

631 (b) Subsections 17B-1-301(3) and (4), Sections 17B-1-304, 17B-1-305, 17B-1-306,  
 632 17B-1-307, 17B-1-310, 17B-1-312, and 17B-1-313;

633 (c) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

634 (d) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

635 (e) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

636 (f) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

637 (2) For purposes of applying the provisions listed in Subsection (1) to a special service  
 638 district, each reference in those provisions to the local district board of trustees means the  
 639 governing body.

640 Section 11. Section **53A-3-301** is amended to read:

641 **53A-3-301. Superintendent of schools -- Appointment -- Qualifications -- Term --**  
 642 **Compensation.**

643 (1) [~~A~~] Subject to Subsection (7), a local school board shall appoint a district  
 644 superintendent of schools who serves as the board's chief executive officer.

645 (2) (a) The local school board shall appoint the superintendent on the basis of  
 646 outstanding professional qualifications.

647 (b) (i) The superintendent's term of office is for two years and until, subject to

648 Subsection (7), a successor is appointed and qualified.

649 (ii) A local school board that appoints a superintendent in accordance with this section  
650 may not, on or after May 10, 2011, enter into an employment contract that contains an  
651 automatic renewal provision with the superintendent.

652 (3) [H] Unless vacancy occurs during an interim vacancy period subject to Subsection  
653 (7), if it becomes necessary to appoint an interim superintendent due to a vacancy in the office  
654 of superintendent, then the local school board shall make an appointment during a public  
655 meeting for an indefinite term not to exceed one year, which term shall end upon the  
656 appointment and qualification of a new superintendent.

657 (4) (a) The superintendent shall hold an administrative/supervisory license issued by  
658 the State Board of Education, except as otherwise provided in Subsection (4)(b).

659 (b) A local school board [of education] may request, and the State Board of Education  
660 may grant, a letter of authorization permitting a person with outstanding professional  
661 qualifications to serve as superintendent without holding an administrative/supervisory license.

662 (5) The local school board shall set the superintendent's compensation for services.

663 (6) The superintendent qualifies for office by taking the constitutional oath of office.

664 (7) (a) As used in this Subsection (7), "interim vacancy period" means the period of  
665 time that:

666 (i) begins on the day on which a general election described in Section 20A-1-202 is  
667 held to elect a member of a local school board; and

668 (ii) ends on the day on which the member-elect begins the member's term.

669 (b) (i) The local school board may not appoint a superintendent during an interim  
670 vacancy period.

671 (ii) Notwithstanding Subsection (7)(b)(i):

672 (A) the local school board may appoint an interim superintendent during an interim  
673 vacancy period; and

674 (B) the interim superintendent's term shall expire once a new superintendent is  
675 appointed by the new local school board after the interim vacancy period has ended.

676 (c) Subsection (7)(b) does not apply if all the local school board members who held  
677 office on the day of the general election whose term of office was vacant for the election are  
678 re-elected to the local school board for the following term.

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**Legislative Review Note**

as of 2-11-11 10:57 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 172

SHORT TITLE: **Political Subdivisions Administration Amendments**

SPONSOR: **Stephenson, H.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.