

SB0124S01 compared with SB0124

~~{deleted text}~~ shows text that was in SB0124 but was deleted in SB0124S01.

inserted text shows text that was not in SB0124 but was inserted into SB0124S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Curtis S. Bramble proposes the following substitute bill:

COUNTY AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to county funds.

Highlighted Provisions:

This bill:

- ▶ repeals Title 17, Chapter 19, County Auditor, and replaces it with Title 17, Chapter 19a, County Auditor, including:
 - enacts general provisions;
 - enacts provisions related to a county auditor's qualifications, powers, and duties;
 - enacts provisions related to payments and warrants; and
 - enacts provisions related to an investigation conducted by a county auditor;
- ▶ amends provisions related to the preparation of a tentative county budget;
- ▶ amends provisions related to the adoption of a county budget;

SB0124S01 compared with SB0124

- ▶ amends provisions related to a purchase or encumbrance by a purchasing agent;
- ▶ amends provisions related to the county adoption of a financial administration ordinance;
- ▶ enacts provisions related to a county auditor's review, investigation, and payment of a claim against a county;
- ▶ amends provisions related to a county legislative body's authority to examine and audit certain accounts;
- ▶ amends provisions related to a county executive's authority to examine and audit certain accounts; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides an immediate effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

17-8-7, as last amended by Laws of Utah 2011, Chapter 297

17-24-1, as last amended by Laws of Utah 2005, Chapter 105

17-24-4, as last amended by Laws of Utah 2001, Chapter 241

17-36-3, as last amended by Laws of Utah 2001, Chapter 241

17-36-10, as last amended by Laws of Utah 2011, Chapter 297

17-36-11, as last amended by Laws of Utah 1979, Chapter 62

17-36-15, as last amended by Laws of Utah 1999, Chapters 230 and 300

17-36-20, as enacted by Laws of Utah 1975, Chapter 22

17-36-43, as last amended by Laws of Utah 1993, Chapter 227

17-50-401, as last amended by Laws of Utah 2008, Chapter 382

17-52-401, as last amended by Laws of Utah 2011, Chapter 297

17-53-212, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-53-303, as enacted by Laws of Utah 2000, Chapter 133

20A-7-101, as last amended by Laws of Utah 2011, Chapters 17 and 331

SB0124S01 compared with SB0124

ENACTS:

- 17-19a-101, Utah Code Annotated 1953
- 17-19a-102, Utah Code Annotated 1953
- 17-19a-201, Utah Code Annotated 1953
- 17-19a-202, Utah Code Annotated 1953
- 17-19a-203, Utah Code Annotated 1953
- 17-19a-204, Utah Code Annotated 1953
- 17-19a-205, Utah Code Annotated 1953
- 17-19a-206, Utah Code Annotated 1953
- 17-19a-207, Utah Code Annotated 1953
- 17-19a-208, Utah Code Annotated 1953
- 17-19a-209, Utah Code Annotated 1953
- 17-19a-301, Utah Code Annotated 1953
- 17-19a-401, Utah Code Annotated 1953

REPEALS:

- 17-19-1, as last amended by Laws of Utah 1996, Chapter 212
- 17-19-3, as last amended by Laws of Utah 2001, Chapter 241
- 17-19-5, as last amended by Laws of Utah 1996, Chapter 212
- 17-19-6, Utah Code Annotated 1953
- 17-19-7, as last amended by Laws of Utah 2011, Chapter 297
- 17-19-8, Utah Code Annotated 1953
- 17-19-9, Utah Code Annotated 1953
- 17-19-12, as last amended by Laws of Utah 1996, Chapter 212
- 17-19-13, as last amended by Laws of Utah 1993, Chapter 227
- 17-19-14, as last amended by Laws of Utah 2011, Chapter 297
- 17-19-19, as last amended by Laws of Utah 2001, Chapter 241
- 17-19-28, Utah Code Annotated 1953
- 17-19-29, as enacted by Laws of Utah 1996, Chapter 212

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

Section 1. Section **17-8-7** is amended to read:

SB0124S01 compared with SB0124

17-8-7. Declaration of drought emergency -- Appropriation -- Tax levy.

The county legislative body of each county may at any regular meeting or at a special meeting called for such purpose, declare that an emergency drought exists in said county; and thereupon may appropriate from the money not otherwise appropriated in the county general fund such funds as shall be necessary for the gathering of information upon, and aiding in any program for increased precipitation within said county or in conjunction with any other county or counties, or that if there are not sufficient funds available in the county general fund for such purpose, the county legislative body may, during any such emergency so declared by them, assess, levy, and direct the county to collect annually to aid in any program of increased precipitation. The provisions of [~~Sections 17-19-1 to 17-19-28~~] Chapter 19a, County Auditor relating to budgeting do not apply to appropriations necessitated by such an emergency.

Section 2. Section **17-19a-101** is enacted to read:

CHAPTER 19a. COUNTY AUDITOR

Part 1. General Provisions

17-19a-101. Title.

This chapter is known as "County Auditor."

Section 3. Section **17-19a-102** is enacted to read:

17-19a-102. Definitions.

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

(3) "Book" means a financial record of the county, regardless of a record's format.

(4) (a) "Budget" or "budgeting" means a process or activity conducted by the budget

SB0124S01 compared with SB0124

officer related to the preparation or presentation of a proposed or tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection (4)(b)(i) or (ii).

(5) "Budget officer" means a person described in Section 17-19a-204.

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) "Performance audit" means a review and audit as described in Subsection 17-19a-207(3) of a county program, county operation, county management system, or county agency to:

(a) review procedures, activities, or policies; and

(b) determine whether the county is achieving the best levels of economy, efficiency, effectiveness, and compliance.

Section 4. Section **17-19a-201** is enacted to read:

Part 2. Qualifications, Powers, and Duties

17-19a-201. Qualifications for office.

In addition to the requirements listed in Section 17-16-1, a person filing a declaration for candidacy on or after the effective date of this bill for the office of county auditor in a first class county shall be a certified public accountant licensed in Utah.

Section 5. Section **17-19a-202** is enacted to read:

17-19a-202. Seal.

(1) The county legislative body shall furnish the auditor a seal in accordance with Subsection (2).

(2) The seal shall contain or be impressed with:

(a) the name of the county; and

(b) "State of Utah, County Auditor."

SB0124S01 compared with SB0124

Section 6. Section **17-19a-203** is enacted to read:

17-19a-203. General duties.

A county auditor shall perform:

(1) in accordance with Section 17-19a-206, an accounting duty or service described in this chapter or otherwise required by law ~~{ in accordance with generally accepted government accounting standards }~~;

(2) an auditing duty or service described in this chapter or otherwise required by law ~~{ in accordance with generally accepted government auditing standards }~~; and

(3) other duties as may be required by law.

Section 7. Section **17-19a-204** is enacted to read:

17-19a-204. Budget officer.

The budget officer of a county is designated by:

(1) in a county commission form of government described in Section 17-52-501 or an expanded county commission form of government described in Section 17-52-502, the county commission;

(2) in the county executive-council form of government described in Section 17-52-504, the county executive; or

(3) in the council-manager form of government described in Section 17-52-505, the county council.

Section 8. Section **17-19a-205** is enacted to read:

17-19a-205. Auditing services.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), a county auditor is authorized to audit the financial records and accounts of a:

(i) county office;

(ii) county department;

(iii) county division;

(iv) county justice court; or

(v) any other county entity.

(b) The county auditor may not audit the auditor's own office, including any of the county auditor's financial records or accounts.

(2) The county auditor shall perform an audit:

SB0124S01 compared with SB0124

(a) as needed, as defined by good management practices and the standards of the profession; and

(b) based on the auditor's professional judgement, taking into account considerations related to risk and materiality.

(3) Nothing in this section may be construed to affect a county legislative body's authority under Section 17-53-212 or a county executive's authority under Section 17-53-303.

Section 9. Section **17-19a-206** is enacted to read:

17-19a-206. Accounting services.

(1) Except as provided in Subsection (2), the county auditor shall provide accounting services for the county as established by ordinance.

(2) The county legislative body may, by ordinance, delegate an accounting service provided for or executed on behalf of the entire county:

(a) to the county executive; or

(b) to an office's or department's officer or director.

(3) If a county legislative body delegates an accounting service in accordance with Subsection (2), the legislative body shall make the delegation:

(a) in accordance with good management practice to foster effectiveness, efficiency, and the adequate protection of a county asset; and

(b) by considering appropriate checks and balances within county government.

Section 10. Section **17-19a-207** is enacted to read:

17-19a-207. Performance audit services.

(1) (a) A county auditor shall, under the direction and supervision of the county legislative body or county executive and subject to Subsections (1)(b) and (2), provide performance audit services for a county office, department, division, or other county entity.

(b) A county auditor may not conduct a performance audit of the auditor's own office.

(2) The county legislative body or county executive shall establish the goals, nature, and limitations of a performance audit and related services.

(3) A performance audit conducted in accordance with this section shall include a review and audit of the following:

(a) the honesty and integrity of financial and other affairs;

(b) the accuracy and reliability of financial and management reports;

SB0124S01 compared with SB0124

(c) the adequacy of financial controls to safeguard public funds;

(d) the management and staff adherence to statute, ordinance, policies, and legislative intent;

(e) the economy, efficiency, and effectiveness of operational performance;

(f) the accomplishment of intended objectives; and

(g) whether management, financial, and information systems are adequate and effective.

Section 11. Section **17-19a-208** is enacted to read:

17-19a-208. Management of financial records -- Disposal of records.

(1) A county auditor shall:

(a) maintain the books of the county in such a manner as will show the amount of receipts from and disbursement of a county office, department, division, or other county entity;

(b) keep accounts current with the county treasurer;

(c) preserve a document, book, record, or paper that the county legislative body requires the auditor to keep in the auditor's office; and

(d) make an item described in Subsection (1)(c) available for public inspection during office hours.

(2) The county auditor shall, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, remove from the auditor's files and destroy or otherwise dispose of:

(a) fee statements of a county officer;

(b) county warrants; and

(c) claims against the county.

Section 12. Section **17-19a-209** is enacted to read:

17-19a-209. Reporting -- State treasurer -- County legislative body.

(1) On or before the last day of each month, the county auditor shall submit a report to the state treasurer regarding the collection, care, and disbursement of state money by the county during the preceding month.

(2) The county auditor and the county treasurer shall, as required by the county legislative body, make a joint report to the county executive and the county legislative body accounting for the financial condition of the county.

SB0124S01 compared with SB0124

Section 13. Section **17-19a-301** is enacted to read:

Part 3. Payments and Warrants

17-19a-301. Payments and warrants.

(1) (a) Subject to Subsection (1)(b), if a debt or demand against a county is fixed by law, the debt or demand shall be paid by:

(i) subject to Subsection (2)(a), a warrant drawn by the county auditor or the county treasurer; or

(ii) subject to Subsection (2)(b), a check or other payment mechanism as may be adopted in accordance with Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) Subsection (1)(a) does not apply to a debt or demand against the county that is, in accordance with law, audited by another person or tribunal.

(2) (a) The county auditor shall:

(i) distinctly specify on a warrant the liability for which the warrant is made and when the liability accrued; and

(ii) notify the county treasurer:

(A) as described in Subsection (3)(b), of the date, amount, payee of, and number assigned to a warrant; and

(B) of the aggregate amount of all contemporaneous payments by warrant.

(b) The county auditor shall notify the county treasurer and county executive:

(i) as described in Subsection (3)(b), of the amount and payee of all payments made by check or other payment mechanism;

(ii) as described in Subsection (3)(b), the date of and number assigned to a check or other payment mechanism; and

(iii) the aggregate amount of a contemporaneous payment.

(3) (a) As used in this Subsection (3), "remuneration" means a warrant, check, or other payment mechanism.

(b) For a remuneration issued by the county auditor, the auditor shall:

(i) number each remuneration consecutively, commencing annually on the first day of January; and

(ii) state on the remuneration:

(A) the number of the remuneration;

SB0124S01 compared with SB0124

(B) the date of payment;

(C) the amount of the payment made;

(D) the name of the person to whom payable; and

(E) the purpose for which the remuneration was made.

(4) The county auditor shall dispose of a payment not presented for collection in accordance with Title 67, Chapter 4a, Unclaimed Property Act.

(5) The county legislative body may delegate by ordinance the processing of payments and warrants in accordance with Section 17-19a-206.

Section 14. Section **17-19a-401** is enacted to read:

Part 4. Investigations

17-19a-401. County auditor investigative powers -- Report of findings.

(1) (a) A county auditor:

(i) may conduct an investigation of an issue or action associated with or related to the auditor's statutory duties, including investigating a book or account of a county officer, county office, or other county entity; and

(ii) may not conduct an investigation of an issue or action that is not associated with or related to the auditor's statutory duties.

(b) A county officer, employee, or other county administrative entity shall grant the county auditor complete and free access to a book requested by the county auditor in accordance with Subsection (1)(a)(i).

(c) A county auditor, with the assistance ~~and consent~~ of the county or district attorney, may:

(i) administer an oath or affirmation; or

(ii) issue an administrative subpoena for a witness or document necessary to the performance of the auditor's statutory duties.

(2) If the county auditor, after a complete investigation, finds that a book or account of a county officer, office, or other county administrative entity is not kept in accordance to law, or that an officer, office, or other county administrative entity has made an incorrect or improper financial report, the county auditor shall prepare a report of the auditor's findings and submit a copy of the report to the county executive.

(3) If a county auditor, after a complete investigation, finds that a justice court judge

SB0124S01 compared with SB0124

has not kept a book or account according to law, or that the justice court judge has made an incorrect or improper financial report, the auditor shall prepare a report of the auditor's findings and submit a copy of the report to the state court administrator, the county executive, and the county legislative body.

Section 15. Section **17-24-1** is amended to read:

17-24-1. General duties of treasurer.

The county treasurer shall:

(1) receive all money belonging to the county and all other money by law directed to be paid to the treasurer, including proceeds of bonds, notes, or other evidences of indebtedness issued under Title 11, Chapter 14, Local Government Bonding Act;

(2) deposit and invest all money received under Title 51, Chapter 7, State Money Management Act;

(3) keep a record of the receipts and expenditures of all such money;

(4) disburse county money:

(a) on a county warrant issued by the county auditor; or

(b) subject to [~~Sections 17-19-1, 17-19-3, and 17-19-5~~] Section 17-19a-301, by a county check or such other payment mechanism as may be adopted pursuant to Chapter 36, Uniform Fiscal Procedures Act for Counties;

(5) perform the duties assigned to the treasurer under Title 59, Chapter 2, Part 13, Collection of Taxes;

(6) perform the duties under Title 59, Chapter 2, Part 13, Collection of Taxes, that have been reassigned to the treasurer in an ordinance adopted under Section 17-16-5.5; and

(7) perform other duties that are required by law or ordinance.

Section 16. Section **17-24-4** is amended to read:

17-24-4. Payment of warrants, checks, or other instruments.

(1) When a warrant is presented for payment and there is money in the treasury, the treasurer shall pay it.

(2) Upon receiving the notice from the county auditor under [~~Subsection 17-19-3(3)(b)~~] Section 17-19a-301 and if there is adequate money in the treasury, the treasurer shall, by check or other payment mechanism, make any payment not already paid by warrant.

(3) Notwithstanding Subsections (1) and (2), the treasurer has no obligation to pay any

SB0124S01 compared with SB0124

warrant or to issue any check or other payment instrument before receiving the certified list under Subsection 17-20-1.7(4).

Section 17. Section **17-36-3** is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means ~~[the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1)]~~ a person described in Section 17-19a-204.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depository by any authorized officer in accordance with Section ~~[17-19-3]~~ 17-9a-301 or 17-24-1.

(8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted.

(10) "Department" means any functional unit within a fund which carries on a specific activity.

(11) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

SB0124S01 compared with SB0124

(12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

(13) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

(14) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

(15) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

(16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

(17) "General Fund" means the fund used to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

(18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance, or unappropriated surplus of the lending fund.

(19) "Last completed fiscal period" means the fiscal period next preceding the current period.

(20) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(21) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(22) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(23) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

SB0124S01 compared with SB0124

(24) "Special fund" means any fund other than the General Fund, such as those described in Section 17-36-6.

(25) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(26) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

Section 18. Section **17-36-10** is amended to read:

17-36-10. Preparation of tentative budget.

(1) On or before the first day of the next to last month of every fiscal period, the budget officer shall prepare for the next budget period and file with the governing body a tentative budget for each fund for which a budget is required.

(2) (a) A department for which county funds are appropriated shall file with the budget officer not less than three months before the commencement of each fiscal year on forms furnished by the budget officer a detailed estimate and statement of the revenue and necessary expenditures of the department for the next budget year.

(b) The estimate and statement described in Subsection (2)(a) shall set forth:

(i) the number of persons to be regularly employed;

(ii) the kinds of service the department will perform;

(iii) the salaries and wages the department expects to pay;

(iv) the kind of work the department will perform and the improvements the department expects to make; and

(v) the estimated cost of the service, work, and improvements.

(c) The statement shall also record performance data expressed in work units, unit costs, man hours, and man years sufficient in detail, content, and scope to permit the budget officer to prepare and process the county budget.

(3) In the preparation of the budget, the budget officer and all other county officers are subject to Sections 17-36-1 through 17-36-44 and to the uniform system of budgeting, accounting, and reporting established therein.

~~[(2) The]~~ (4) In the tentative budget the budget officer shall set forth in tabular form:

(a) actual revenues and expenditures in the last completed fiscal period;

(b) estimated total revenues and expenditures for the current fiscal period;

SB0124S01 compared with SB0124

(c) the estimated available revenues and expenditures for the ensuing budget period computed by determining:

(i) the estimated expenditure for each fund after review of each departmental budget request;

(ii) (A) the total revenue requirements of the fund;

(B) the part of the total revenue that will be derived from revenue sources other than property tax; and

(C) the part of the total revenue that shall be derived from property taxes; and

(d) if required by the governing body, actual performance experience to the extent available in work units, unit costs, man hours, and man years for each budgeted fund that includes an appropriation for salaries or wages for the last completed fiscal period and the first eight months of the current fiscal period if the county is on an annual fiscal period, or the first 20 months of the current fiscal period if the county is on a biennial fiscal period, together with the total estimated performance data of like character for the current fiscal period and for the ensuing budget period.

~~[(3)]~~ (5) The budget officer may recommend modification of any departmental budget request under Subsection ~~[(2)]~~ (4)(c)(i) before it is filed with the governing body, if each department head has been given an opportunity to be heard concerning the modification.

~~[(4) Each]~~ (6) (a) A tentative budget shall contain the estimates of expenditures submitted by any department together with specific work programs and other supportive data as the governing body requests. ~~[The]~~

(b) The budget officer shall include with the tentative budget ~~[shall be accompanied]~~ by a supplementary estimate of all capital projects or planned capital projects within the budget period and within the next three succeeding years.

~~[(5)(a) Each]~~ (7) (a) A budget officer that submits a tentative budget ~~[submitted]~~ in a county with a population in excess of 25,000 determined ~~[pursuant to]~~ in accordance with Section 17-36-4 shall ~~[be accompanied by]~~ include with the tentative budget a budget message in explanation of the budget.

(b) The budget message shall contain an outline of the proposed financial policies of the county for the budget period and describe the important features of the budgetary plan. It shall also state the reasons for changes from the previous fiscal period in appropriation and

SB0124S01 compared with SB0124

revenue items and explain any major changes in financial policy.

(c) A budget message for counties with a population of less than 25,000 is recommended but not incumbent upon the budget officer.

~~[(6) The]~~ (8) (a) The governing body shall review, consider, and tentatively adopt a tentative budget [shall be reviewed, considered, and tentatively adopted by the governing body] in a regular or special meeting called for that purpose. [It may thereafter be amended or revised by the governing body prior to public hearings thereon, except that no]

(b) (i) Subject to Subsection (8)(b)(ii), the governing body may thereafter amend or revise the tentative budget prior to public hearings on the tentative budget.

(ii) A governing body may not:

(A) reduce below the required minimum an appropriation required for debt retirement and interest; or [reduction, pursuant to Section 17-36-17, of any deficits which exist may be reduced below the required minimum.]

(B) reduce, in accordance with Section 17-36-17, an existing deficit.

Section 19. Section **17-36-11** is amended to read:

17-36-11. Tentative budget -- Public record prior to adoption.

The tentative budget and all supportive schedules and data shall be a public record available for inspection during business hours at the ~~[offices]~~ office of the ~~[county clerk or auditor]~~ budget officer for at least 10 days prior to the public hearing on the adoption of a final budget.

Section 20. Section **17-36-15** is amended to read:

17-36-15. Adoption of budget -- Immunity.

(1) (a) On or before the last day of each fiscal period, the governing body by resolution shall adopt the budget [which, subject to further amendment, shall thereafter be].

(b) A budget adopted in accordance with Subsection (1)(a) is, unless amended, in effect for the next fiscal period. [A]

(c) The budget officer shall:

(i) certify a copy of the final budget, and of any subsequent budget amendment [thereof, shall be certified by the budget officer and filed]; and

(ii) file a copy with the state auditor not later than 30 days after [its adoption. A copy, similarly certified, shall be filed] the day on which the governing body adopts the budget.

SB0124S01 compared with SB0124

(d) The budget officer shall file a certified copy of the budget in the office of the budget officer for inspection by the public during business hours.

(2) (a) Except as provided in Subsection (2)(b), a county officer or county employee may not file a legal action in state or federal court against the county, a department, or a county officer for any matter related to the following:

(i) the adoption of a county budget;

(ii) a county appropriation;

(iii) a county personnel allocation; or

(iv) a fund related to the county budget, a county appropriation, or a county personnel allocation.

(b) A county or district attorney may enforce a procedural requirement that governs the adoption or approval of a budget in accordance with this chapter.

Section 21. Section **17-36-20** is amended to read:

17-36-20. Purchases or encumbrances by purchasing agent.

~~[All purchases or all encumbrances]~~

(1) A person may not make a purchase or incur an encumbrance on behalf of [any] a county [shall be made or incurred only upon] unless that person acts in accordance with an order by the or approval of the person duly authorized to act as purchasing agent for the county[, except encumbrances or expenditures directly investigated and reported by the county auditor and approved by the governing body].

(2) Unless otherwise provided by the governing body, the budget officer or [such] the budget officer's agents shall serve as a purchasing agent.

Section 22. Section **17-36-43** is amended to read:

17-36-43. Financial administration ordinance -- Purposes.

The county legislative body, after consultation with the county auditor, may adopt a financial administration ordinance authorizing the county auditor, county executive, county manager, or [appointed administrator], in the case of county operated hospitals or mental health districts, an appointed administrator, to act as the financial officer for the purpose of approving:

(1) payroll checks, if the checks are prepared in accordance with a salary schedule established in a personnel ordinance or resolution; or

(2) routine expenditures, such as utility bills, payroll-related expenses, supplies,

SB0124S01 compared with SB0124

materials, and payments on county-approved contracts and capital expenditures which are referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year.

Section 23. Section **17-50-401** is amended to read:

17-50-401. Review of claims by county executive -- Auditor review -- Attorney review -- Claim requirements -- Approval or disapproval of claim -- Written explanation of claim process.

(1) Subject to Subsection (3), each county executive shall review each claim against the county and disapprove or, if payment appears to the county executive to be just, lawful, and properly due and owing, approve the claim.

(2) Upon receiving a notice of claim under Section 63G-7-401, the county clerk shall deliver the notice of claim to the county executive.

(3) (a) The county executive shall forward all claims regarding liability or attorney fees to the county attorney, or, in a county that has a district attorney but not a county attorney, to the district attorney for the attorney's review and recommendation to the county executive regarding liability and payment.

(b) Except as provided in Section 17-50-405, the county executive shall forward all claims requesting payment for goods or services to the county auditor for the auditor's review and recommendation, subject to Subsection (7), to the county executive.

(4) Each claim for goods or services against a county shall:

(a) itemize the claim, giving applicable names, dates, and particular goods provided or services rendered;

(b) if the claim is for service of process, state the character of process served, upon whom served, the number of days engaged, and the number of miles traveled;

(c) be duly substantiated as to its correctness and as to the fact that it is justly due;

(d) if the claim is for materials furnished, state to whom the materials were furnished, by whom ordered, and the quantity and price agreed upon; and

(e) be presented to the county executive within a year after the last item of the account or credit accrued.

(5) If the county executive refuses to hear or consider a claim because it is not properly made out, the county executive shall cause notice of the refusal to be given to the claimant or

SB0124S01 compared with SB0124

the claimant's agent and shall allow a reasonable amount of time for the claim to be properly itemized and substantiated.

(6) Each county shall prepare and make available to a person submitting or intending to submit a claim under this part a written explanation, in simple and easy to understand language, of how to submit a claim to the county and of the county's process for receiving, reviewing, and deciding a claim.

(7) Upon receiving a claim in accordance with Subsection (3)(b), the county auditor shall:

(a) (i) investigate, examine, review, and inspect the claim; and

(ii) (A) recommend that the county executive approve or reject the claim; and

(B) endorse the recommendation;

(b) after completing the investigation, examination, and inspection, report the claim and the recommendation described in Subsection (7)(a)(ii) to the county executive; and

(c) keep a complete record of the claim, the claim recommendation, the reasons for the recommendation, and the county executive's final action as described in Subsection (8).

(8) After receiving the county or district attorney's recommendation in accordance with Subsection (3)(a), or the county auditor's recommendation in accordance with Subsection (3)(b), the county executive shall decide whether to approve or reject a claim.

(9) (a) The county auditor shall pay, subject to Subsection (9)(b), a claim approved by the county executive in accordance with Subsection (8) by:

(i) a warrant drawn by the auditor on the county treasurer in favor of the person entitled to payment; or

(ii) a county check or other payment mechanism as may be adopted in accordance with Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) The county auditor may not pay a claim against the county unless:

(i) the auditor:

(A) receives from the county executive a certified list described in Subsection 17-20-1.7(4); and

(B) has complied with the recommendation and other requirements of Subsection (7); and

(ii) the county executive has approved the claim in accordance with Subsection (8).

SB0124S01 compared with SB0124

~~[(7)]~~ (10) Nothing in this section may be construed to modify the requirements of Section 63G-7-401.

Section 24. Section **17-52-401** is amended to read:

17-52-401. Contents of proposed optional plan.

(1) Each optional plan proposed under this chapter:

(a) shall propose the adoption of one of the forms of county government listed in Subsection 17-52-402(1)(a);

(b) shall contain detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) shall specify the date it is to become effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget~~[(i) may provide that the county auditor's role is to be the budget officer, to project county revenues, and to prepare a tentative budget to present to the county executive; and (ii)]~~ shall provide that the county executive's role is to prepare and present a proposed budget to the county legislative body, and the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not include any provision that is inconsistent with or

SB0124S01 compared with SB0124

prohibited by the Utah Constitution or any statute.

(4) Each optional plan proposing to change the form of government to a form under Section 17-52-504 or 17-52-505 shall:

- (a) provide for the same executive and legislative officers as are specified in the applicable section for the form of government being proposed by the optional plan;
- (b) provide for the election of the county council;
- (c) specify the number of county council members, which shall be an odd number from three to nine;
- (d) specify whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;
- (e) specify county council members' qualifications and terms and whether the terms are to be staggered;
- (f) contain procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and
- (g) state the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.

(5) Each optional plan proposing to change the form of government to the county commission form under Section 17-52-501 or the expanded county commission form under Section 17-52-502 shall specify:

- (a) (i) for the county commission form of government, that the county commission shall have three members; or
- (ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;
- (b) the terms of office for county commission members and whether the terms are to be staggered;
- (c) whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts; and
- (d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members.

Section 25. Section **17-53-212** is amended to read:

17-53-212. Examination and audit of accounts.

SB0124S01 compared with SB0124

(1) A county legislative body may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for its use and benefit.

(2) Nothing in this section may be construed to affect a county auditor's authority under Chapter 19a, County Auditor.

Section 26. Section **17-53-303** is amended to read:

17-53-303. Examination and audit of accounts.

(1) The county executive may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for its use and benefit.

(2) Nothing in this section may be construed to affect a county auditor's authority under Chapter 19a, County Auditor.

Section 27. Section **20A-7-101** is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section [~~17-19-19~~]

17-9a-204;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

(c) for a town, the town council.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means a financial statement prepared according to the terms of Section 20A-7-202.5 or 20A-7-502.5 after the filing of an application for an initiative petition.

(6) "Initiative" means a new law proposed for adoption by the public as provided in

SB0124S01 compared with SB0124

this chapter.

(7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) "Local law" includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) "Local law" does not include an individual property zoning decision.

(13) "Local legislative body" means the legislative body of a county, city, or town.

(14) "Local obligation law" means a local law passed by the local legislative body regarding the issuance of a bond, note, lease, finance agreement, or other similar obligation.

(15) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(16) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(17) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(18) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(19) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

SB0124S01 compared with SB0124

(20) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(21) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(22) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 28. Repealer.

This bill repeals:

Section 17-19-1, County auditor's powers and duties.

Section 17-19-3, Payments -- Notification.

Section 17-19-5, Numbering of payments -- Payments not presented for collection.

Section 17-19-6, Books to show receipts and disbursements.

Section 17-19-7, Current accounts with treasurer.

Section 17-19-8, Administration of oaths -- Subpoena power.

Section 17-19-9, Books open to inspection.

Section 17-19-12, Joint statement with treasurer.

Section 17-19-13, Seal.

Section 17-19-14, Duties -- Omnibus provision.

Section 17-19-19, Budget officer -- Departmental revenue and expenditure reports.

Section 17-19-28, Destruction of fee statements, warrants and claims filed for 10 years.

Section 17-19-29, Monthly report to state treasurer.

†

Legislative Review Note

— as of ~~1-20-12 1:12 PM~~

} Section 29. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect

SB0124S01 compared with SB0124

upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 30. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language in Section 17-19a-201 from "the effective date of this bill" with the bill's actual effective date.