

**Representative Norman K Thurston** proposes the following substitute bill:

**COUNTY COMMISSION ELECTION AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K Thurston**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill amends provisions related to county commissioner elections.

**Highlighted Provisions:**

This bill:

- ▶ allows a county to modify the process by which a candidate for county commission is elected when there is more than one vacant county commission position; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17-52-401**, as last amended by Laws of Utah 2012, Chapter 17

**17-52-501**, as renumbered and amended by Laws of Utah 2000, Chapter 133

**17-52-502**, as last amended by Laws of Utah 2005, Chapter 42

**20A-1-508**, as last amended by Laws of Utah 2011, Chapters 35, 297, and 327

**20A-9-409**, as enacted by Laws of Utah 2014, Chapter 17



26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

---

---

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

Section 1. 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 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 prohibited by the Utah Constitution or any statute.

(4) Each optional plan proposing to change the form of government to a form under

57 Section 17-52-504 or 17-52-505 shall:

58 (a) provide for the same executive and legislative officers as are specified in the  
59 applicable section for the form of government being proposed by the optional plan;

60 (b) provide for the election of the county council;

61 (c) specify the number of county council members, which shall be an odd number from  
62 three to nine;

63 (d) specify whether the members of the county council are to be elected from districts,  
64 at large, or by a combination of at large and by district;

65 (e) specify county council members' qualifications and terms and whether the terms are  
66 to be staggered;

67 (f) contain procedures for filling vacancies on the county council, consistent with the  
68 provisions of Section 20A-1-508; and

69 (g) state the initial compensation, if any, of county council members and procedures for  
70 prescribing and changing compensation.

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

74 (a) (i) for the county commission form of government, that the county commission  
75 shall have three members; or

76 (ii) for the expanded county commission form of government, whether the county  
77 commission shall have five or seven members;

78 (b) the terms of office for county commission members and whether the terms are to be  
79 staggered;

80 (c) whether members of the county commission are to be elected from districts, at  
81 large, or by a combination of at large and from districts; [~~and~~]

82 (d) if any members of the county commission are to be elected from districts, the  
83 district residency requirements for those commission members[~~];~~ and

84 (e) if any members of the county commission are to be elected at large, whether the  
85 election of county commission members is subject to the provisions of Subsection  
86 17-52-501(5) or Subsection 17-52-502(5).

87 Section 2. Section 17-52-501 is amended to read:

88           **17-52-501. County commission form of government -- Commission member**  
89 **elections.**

90           (1) As used in this section:

91           (a) "Midterm vacancy" means a county commission position that is being filled at an  
92 election for less than the position's full term as established in:

93           (i) Subsection (4)(a); or

94           (ii) a county's optional plan under Subsection [17-52-401\(5\)\(b\)](#).

95           (b) "Open position" means a county commission position that is being filled at a  
96 regular general election for the position's full term as established in:

97           (i) Subsection (4)(a); or

98           (ii) a county's optional plan under Subsection [17-52-401\(5\)\(b\)](#).

99           (c) "Opt-in county" means a county that has, through an alternate plan as described in  
100 Subsection [17-52-401\(5\)](#) or by ordinance, chosen to conduct county commissioner elections in  
101 accordance with Subsection (5).

102           ~~[(+)]~~ (2) Each county operating under the county commission form of government shall  
103 be governed by a county commission consisting of three members.

104           ~~[(2)]~~ (3) A county commission under a county commission form of government is both  
105 the county legislative body and the county executive and has the powers, duties, and functions  
106 of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the  
107 powers, duties, and functions of a county executive under Chapter 53, Part 3, County  
108 Executive.

109           ~~[(3)]~~ (4) Except as otherwise provided in an optional plan adopted under this chapter:

110           (a) the term of office of each county commission member is four years;

111           (b) the terms of county commission members shall be staggered so that two members  
112 are elected at a regular general election date that alternates with the regular general election  
113 date of the other member; and

114           (c) each county commission member shall be elected:

115           (i) at large, unless otherwise required by court order[-]; and

116           (ii) subject to the provisions of this section, in accordance with Title 20A, Election  
117 Code.

118           ~~[(4)(a)]~~ If two county commission positions are vacant for an election, the positions

119 shall be designated "county commission seat A" and "county commission seat B."]

120 ~~[(b) Each candidate who files a declaration of candidacy when two positions are vacant~~  
121 ~~shall designate on the declaration of candidacy form whether the candidate is a candidate for~~  
122 ~~seat A or seat B.]~~

123 ~~[(c) No person may file a declaration of candidacy for, be a candidate for, or be elected~~  
124 ~~to two county commission positions in the same election.]~~

125 (5) (a) When issuing the notice of election required by Subsection 20A-5-101(2), the  
126 clerk of an opt-in county shall, if there is at least one open position and at least one midterm  
127 vacancy, designate:

128 (i) each open position as "open position"; and

129 (ii) each midterm vacancy as "midterm vacancy".

130 (b) An individual who files a declaration of candidacy for the office of county  
131 commissioner in an opt-in county:

132 (i) if there is more than one open position, is not required to indicated which open  
133 position the individual is running for;

134 (ii) if there is at least one open position and at least one midterm vacancy, shall  
135 designate on the declaration of candidacy whether the individual is filing for an open position  
136 or a midterm vacancy; and

137 (iii) may not file a declaration of candidacy for an open position and a midterm  
138 vacancy in the same election.

139 (c) If there is an open position and a midterm vacancy being voted upon in the same  
140 election, the county clerk shall indicate on the ballot for the election which positions are open  
141 positions and which positions are midterm vacancies.

142 (d) In an opt-in county:

143 (i) the candidates for open positions, in a number equal to the number of open  
144 positions, who receive the highest number of votes are:

145 (A) for the purposes of a regular primary election, nominated by the candidates' party  
146 for the open positions; and

147 (B) for the purposes of a regular general election, elected to fill the open positions; and

148 (ii) the candidates for midterm vacancies, in a number equal to the number of midterm  
149 vacancies, who receive the highest number of votes are:

150 (A) for the purposes of a regular primary election, nominated by the candidates' party  
151 for the midterm vacancies; and

152 (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

153 Section 3. Section **17-52-502** is amended to read:

154 **17-52-502. Expanded county commission form of government -- Commission**  
155 **member elections.**

156 (1) As used in this section:

157 (a) "Midterm vacancy" means the same as that term is defined in Section [17-52-501](#).

158 (b) "Open position" means the same as that term is defined in Section [17-52-501](#).

159 (c) "Opt-in county" means a county that has, through an alternate plan as described in  
160 Subsection [17-52-401](#)(5) or by ordinance, chosen to conduct county commissioner elections in  
161 accordance with Subsection (5).

162 ~~[(1)]~~ (2) Each county operating under an expanded county commission form of  
163 government shall be governed by a county commission consisting of five or seven members.

164 ~~[(2)]~~ (3) A county commission under the expanded county commission form of  
165 government is both the county legislative body and the county executive and has the powers,  
166 duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative  
167 Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3,  
168 County Executive.

169 ~~[(3)]~~ (4) Except as otherwise provided in an optional plan adopted under this chapter:

170 (a) the term of office of each county commission member is four years;

171 (b) the terms of county commission members shall be staggered so that approximately  
172 half the members are elected at alternating regular general election dates; and

173 (c) each county commission member shall be elected[-]:

174 (i) at large, unless otherwise required by court order; and

175 (ii) subject to the provisions of this section, in accordance with Title 20A, Election  
176 Code.

177 ~~[(4)(a) If multiple at-large county commission positions are vacant for an election, the~~  
178 ~~positions shall be designated "county commission seat A," "county commission seat B," and so~~  
179 ~~on as necessary for the number of vacant positions.]~~

180 ~~[(b) Each candidate who files a declaration of candidacy when multiple positions are~~

181 ~~vacant shall designate the letter of the county commission seat for which the candidate is a~~  
182 ~~candidate.]~~

183 ~~[(c) No person may file a declaration of candidacy for, be a candidate for, or be elected~~  
184 ~~to two county commission positions in the same election.]~~

185 (5) (a) When issuing the notice of election required by Subsection 20A-5-101(2), the  
186 clerk of an opt-in county shall, if there is at least one open position and at least one midterm  
187 vacancy, designate:

188 (i) each open position as "open position"; and

189 (ii) each midterm vacancy as "midterm vacancy".

190 (b) An individual who files a declaration of candidacy for the office of county  
191 commissioner in an opt-in county:

192 (i) if there is more than one open position, is not required to indicate which open  
193 position the individual is running for;

194 (ii) if there is at least one open position and at least one midterm vacancy, shall  
195 designate on the declaration of candidacy whether the individual is filing for an open position  
196 or a midterm vacancy; and

197 (iii) may not file a declaration of candidacy for an open position and a midterm  
198 vacancy in the same election.

199 (c) If there is an open position and a midterm vacancy being voted upon in the same  
200 election, the county clerk shall indicate on the ballot for the election which positions are open  
201 positions and which positions are midterm vacancies.

202 (d) In an opt-in county:

203 (i) the candidates for open positions, in a number equal to the number of open  
204 positions, who receive the highest number of votes are:

205 (A) for the purposes of a regular primary election, nominated by the candidates' party  
206 for the open positions; and

207 (B) for the purposes of a regular general election, elected to fill the open positions; and

208 (ii) the candidates for midterm vacancies, in a number equal to the number of midterm  
209 vacancies, who receive the highest number of votes are:

210 (A) for the purposes of a regular primary election, nominated by the candidates' party  
211 for the midterm vacancies; and

212 (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

213 Section 4. Section **20A-1-508** is amended to read:

214 **20A-1-508. Midterm vacancies in county elected offices.**

215 (1) As used in this section:

216 (a) (i) "County offices" includes the county executive, members of the county  
217 legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor,  
218 the county recorder, the county surveyor, and the county assessor.

219 (ii) "County offices" does not mean the offices of president and vice president of the  
220 United States, United States senators and representatives, members of the Utah Legislature,  
221 state constitutional officers, county attorneys, district attorneys, and judges.

222 (b) "Party liaison" means the political party officer designated to serve as a liaison with  
223 each county legislative body on all matters relating to the political party's relationship with a  
224 county as required by Section [20A-8-401](#).

225 (2) (a) Until a replacement is selected as provided in this section and has qualified, the  
226 county legislative body shall appoint an interim replacement to fill the vacant office by  
227 following the procedures and requirements of this Subsection (2).

228 (b) (i) To appoint an interim replacement, the county legislative body shall give notice  
229 of the vacancy to the party liaison of the same political party of the prior office holder and  
230 invite that party liaison to submit the name of a person to fill the vacancy.

231 (ii) That party liaison shall, within 30 days, submit the name of the person selected in  
232 accordance with the party constitution or bylaws as described in Section [20A-8-401](#) for the  
233 interim replacement to the county legislative body.

234 (iii) The county legislative body shall no later than five days after the day on which a  
235 party liaison submits the name of the person for the interim replacement appoint the person to  
236 serve out the unexpired term.

237 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the  
238 vacancy in accordance with Subsection (2)(b)(iii), the county clerk shall send to the governor a  
239 letter that:

240 (A) informs the governor that the county legislative body has failed to appoint a  
241 replacement within the statutory time period; and

242 (B) contains the name of the person to fill the vacancy submitted by the party liaison.



243 (ii) The governor shall appoint the person named by the party liaison as an interim  
244 replacement to fill the vacancy within 30 days after receipt of the letter.

245 (d) A person appointed as interim replacement under this Subsection (2) shall hold  
246 office until their successor is elected and has qualified.

247 (3) (a) The requirements of this Subsection (3) apply to all county offices that become  
248 vacant if:

249 (i) the vacant office has an unexpired term of two years or more; and

250 (ii) the vacancy occurs after the election at which the person was elected but before  
251 April 10 of the next even-numbered year.

252 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk  
253 shall notify the public and each registered political party that the vacancy exists.

254 (ii) ~~[All persons]~~ An individual intending to become ~~[candidates]~~ a candidate for the  
255 vacant office shall ~~[(A)]~~ file a declaration of candidacy ~~[according to the procedures and~~  
256 ~~requirements of]~~ in accordance with:

257 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

258 (B) for a county commission office, Subsection 17-52-501(5) or 17-52-502(5), if  
259 applicable; and

260 ~~[(B) if]~~ (iii) An individual who is nominated as a party candidate for the vacant office  
261 or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation  
262 and Procedures for the vacant office, shall run in the regular general election.

263 (4) (a) The requirements of this Subsection (4) apply to all county offices that become  
264 vacant if:

265 (i) the vacant office has an unexpired term of two years or more; and

266 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75  
267 days before the regular primary election.

268 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk  
269 shall notify the public and each registered political party that:

270 (A) the vacancy exists; and

271 (B) identifies the date and time by which a person interested in becoming a candidate  
272 shall file a declaration of candidacy.

273 (ii) ~~[All persons]~~ An individual intending to become ~~[candidates for the vacant offices]~~

274 a candidate for a vacant office shall, within five days after the date that the notice is made,  
275 ending at the close of normal office hours on the fifth day, file a declaration of candidacy for  
276 the vacant office [~~as required by~~] in accordance with:

277 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy[~~;~~]; and

278 (B) for a county commission office, Subsection 17-52-501(5) or 17-52-502(5), if  
279 applicable.

280 (iii) The county central committee of each party shall:

281 (A) select a candidate or candidates from among those qualified candidates who have  
282 filed declarations of candidacy; and

283 (B) certify the name of the candidate or candidates to the county clerk at least 60 days  
284 before the regular primary election.

285 (5) (a) The requirements of this Subsection (5) apply to all county offices that become  
286 vacant:

287 (i) if the vacant office has an unexpired term of two years or more; and

288 (ii) when 75 days or less remain before the regular primary election but more than 65  
289 days remain before the regular general election.

290 (b) When the conditions established in Subsection (5)(a) are met, the county central  
291 committees of each political party registered under this title that wishes to submit a candidate  
292 for the office shall summarily certify the name of one candidate to the county clerk for  
293 placement on the regular general election ballot.

294 (6) (a) The requirements of this Subsection (6) apply to all county offices that become  
295 vacant:

296 (i) if the vacant office has an unexpired term of less than two years; or

297 (ii) if the vacant office has an unexpired term of two years or more but 65 days or less  
298 remain before the next regular general election.

299 (b) (i) When the conditions established in Subsection (6)(a) are met, the county  
300 legislative body shall give notice of the vacancy to the party liaison of the same political party  
301 as the prior office holder and invite that party liaison to submit the name of a person to fill the  
302 vacancy.

303 (ii) That party liaison shall, within 30 days, submit the name of the person to fill the  
304 vacancy to the county legislative body.

305 (iii) The county legislative body shall no later than five days after the day on which a  
306 party liaison submits the name of the person to fill the vacancy appoint the person to serve out  
307 the unexpired term.

308 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy in  
309 accordance with Subsection (6)(b)(iii), the county clerk shall send to the governor a letter that:

310 (A) informs the governor that the county legislative body has failed to appoint a person  
311 to fill the vacancy within the statutory time period; and

312 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

313 (ii) The governor shall appoint the person named by the party liaison to fill the vacancy  
314 within 30 days after receipt of the letter.

315 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office  
316 until their successor is elected and has qualified.

317 (7) Except as otherwise provided by law, the county legislative body may appoint  
318 replacements to fill all vacancies that occur in those offices filled by appointment of the county  
319 legislative body.

320 (8) Nothing in this section prevents or prohibits independent candidates from filing a  
321 declaration of candidacy for the office within the same time limits.

322 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a  
323 county office shall serve for the remainder of the unexpired term of the person who created the  
324 vacancy and until a successor is elected and qualified.

325 (b) Nothing in this section may be construed to contradict or alter the provisions of  
326 Section 17-16-6.

327 Section 5. Section 20A-9-409 is amended to read:

328 **20A-9-409. Primary election provisions relating to qualified political party.**

329 (1) The fourth Tuesday of June of each even-numbered year is designated as a regular  
330 primary election day.

331 (2) (a) A qualified political party that nominates one or more candidates for an elective  
332 office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that  
333 office under Section 20A-9-408, may, but is not required to, participate in the primary election  
334 for that office.

335 [~~(3)~~] (b) A qualified political party that has only one candidate qualify as a candidate

336 for an elective office under Section 20A-9-408 and does not nominate a candidate for that  
337 office under Section 20A-9-407, may, but is not required to, participate in the primary election  
338 for that office.

339 ~~[(4)]~~ (c) A qualified political party that nominates one or more candidates for an  
340 elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate  
341 for that office under Section 20A-9-408 shall participate in the primary election for that office.

342 ~~[(5)]~~ (d) A qualified political party that has two or more candidates qualify as  
343 candidates for an elective office under Section 20A-9-408 and does not nominate a candidate  
344 for that office under Section 20A-9-407 shall participate in the primary election for that office.

345 (3) Notwithstanding Subsection (2), in an opt-in county, as defined in Subsection  
346 17-52-501(5) or Subsection 17-52-502(5), a qualified political party shall participate in the  
347 primary election for a county commission office if:

348 (a) there is more than one:

349 (i) open position as defined in Section 17-52-501; or

350 (ii) midterm vacancy as defined in Section 17-52-501; and

351 (b) the number of candidates nominated under Section 20A-9-407 or qualified under  
352 Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number  
353 of respective open positions or midterm vacancies.