

## HB0224S02 compared with HB0224S01

~~{deleted text}~~ shows text that was in HB0224S01 but was deleted in HB0224S02.

Inserted text shows text that was not in HB0224S01 but was inserted into HB0224S02.

**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 bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Gage Froerer proposes the following substitute bill:

### COUNTY GOVERNMENT CHANGE ELECTION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

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

---

#### LONG TITLE

##### General Description:

This bill amends provisions related to the process to change a county's form of government.

##### Highlighted Provisions:

This bill:

- ▶ reorganizes and recodifies Title 17, Chapter 52, Changing Forms of County Government;
- ▶ combines sections with similar subject matter;
- ▶ amends definitions;

~~{~~ → amends provisions related to the appointment of certain members of an appointment council;

~~}~~ ▶ prohibits a person from initiating a process to change a county's form of government

## HB0224S02 compared with HB0224S01

when a process to change the county's form of government is pending;

- ▶ requires that registered voters who wish to initiate the process to change a county's form of government to file a notice of intent to gather signatures;
- ▶ ~~{establishes a deadline by which the sponsors of a petition to create}~~ repeals provisions that provide for a study committee ~~{are required to file the petition}~~;
- ▶ ~~{removes a provision that requires}~~ repeals provisions that provide for an appointment council;
- ▶ repeals provisions related to the content and function of an optional plan ~~{to be approved by}~~;
- ▶ requires a county legislative body that proposes, or registered voters that propose, a change in a county's form of government to specify the form of county government to which the county should change;
- ▶ requires the county legislative body ~~{or subjected to a petition before the optional plan is submitted to the voters}~~;
- ▶ ~~requires a county clerk to post}~~ to hold public hearings on the change of the county's form of government;
- ▶ provides that a county operating under an optional plan ~~{on the county's website for a specified period of time before an election on}~~ at the time the bill takes effect shall continue to operate under the optional plan;
- ▶ provides that ~~{an optional plan}~~ a change in a county's form of government is ~~{adopted}~~ effective if the change is approved by a majority of voters that vote on the ~~{optional plan}~~;
- ▶ ~~provides for the appointment of a chair of a study committee;~~
- ▶ ~~requires a study committee to submit a report to the county clerk;~~
- ▶ ~~provides that if a study committee recommends that the form of a county's government not } change {, the process to change the county's form of government is concluded;~~
- ▶ ~~establishes a deadline after which an optional plan may not be repealed without initiating a new process to change the county's form of government}~~;
- ▶ removes obsolete and superfluous provisions; and
- ▶ makes technical and conforming changes.

## HB0224S02 compared with HB0224S01

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

- 17-15-27, as last amended by Laws of Utah 2006, Chapter 171
- 17-16-6, as last amended by Laws of Utah 2014, Chapter 16
- 17-19a-203, as enacted by Laws of Utah 2012, Chapter 17
- 17-31-8, as last amended by Laws of Utah 2017, Chapter 70
- 17-43-201, as last amended by Laws of Utah 2016, Chapter 113
- 17-43-301, as last amended by Laws of Utah 2016, Chapter 113
- 17-53-101, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-53-302, as last amended by Laws of Utah 2011, Chapter 209
- 17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176
- 17C-1-203, as last amended by Laws of Utah 2016, Chapter 350
- 17D-2-203, as enacted by Laws of Utah 2008, Chapter 360
- 20A-1-203, as last amended by Laws of Utah 2015, Chapters 111 and 352
- 20A-1-508, as last amended by Laws of Utah 2017, Chapter 54
- 20A-9-409, as last amended by Laws of Utah 2017, Chapters 54 and 91
- 26A-1-102, as last amended by Laws of Utah 2016, Chapter 113
- 59-2-919, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 68-3-12.5, as last amended by Laws of Utah 2015, Chapters 141 and 152

#### ENACTS:

- 17-52a-103, Utah Code Annotated 1953
- 17-52a-305, Utah Code Annotated 1953

#### RENUMBERS AND AMENDS:

- 17-52a-101, (Renumbered from 17-52-101, as last amended by Laws of Utah 2012, Chapter 17)
- 17-52a-102, (Renumbered from 17-52-102, as last amended by Laws of Utah 2001, Chapter 241)

## HB0224S02 compared with HB0224S01

**17-52a-201**, (Renumbered from 17-52-501, as last amended by Laws of Utah 2017, Chapter 54)

**17-52a-202**, (Renumbered from 17-52-502, as last amended by Laws of Utah 2017, Chapter 54)

**17-52a-203**, (Renumbered from 17-52-504, as renumbered and amended by Laws of Utah 2000, Chapter 133)

**17-52a-204**, (Renumbered from 17-52-505, as last amended by Laws of Utah 2011, Chapter 209)

**17-52a-301**, (Renumbered from 17-52-201, as last amended by Laws of Utah 2008, Chapter 250)

**17-52a-302**, (Renumbered from 17-52-202, as last amended by Laws of Utah 2004, Chapter 371)

**17-52a-303**, (Renumbered from 17-52-203, as last amended by Laws of Utah 2013, Chapters 37 and 134)

**17-52a-304**, (Renumbered from ~~{17-52-203.5}~~17-52-402, as last amended by Laws of Utah ~~{2004}~~2015, Chapter ~~{371}~~216)

**17-52a-401**, (Renumbered from ~~{17-52-301}~~17-52-206, as last amended by Laws of Utah ~~{2001}~~2013, Chapter ~~{241}~~37)

**17-52a-402**, (Renumbered from ~~{17-52-302}~~17-52-205, as last amended by Laws of Utah 2001, Chapter 241)

**17-52a-403**, (Renumbered from ~~{17-52-303}~~17-52-403, as last amended by Laws of Utah ~~{2001}~~2012, Chapter ~~{241}~~17)

**17-52a-404**, (Renumbered from 17-52-401, as last amended by Laws of Utah 2017, Chapter 54)

### REPEALS:

~~{17-52a-405, (Renumbered from 17-52-402)}~~17-52-203.5, as last amended by Laws of Utah ~~{2015}~~2004, Chapter ~~{216}~~371

~~{17-52a-406, (Renumbered from)}~~17-52-204, as last amended by Laws of Utah 2001, Chapter 241 ~~{}~~

~~17-52a-501, (Renumbered from 17-52-206, as last amended by Laws of Utah 2013, Chapter 37)~~

## HB0224S02 compared with HB0224S01

~~17-52a-502, (Renumbered from 17-52-205, as last amended by Laws of Utah 2001, Chapter 241)~~

~~17-52a-503, (Renumbered from 17-52-403, as last amended by Laws of Utah 2012, Chapter 17)~~

~~17-52a-504, (Renumbered from 17-52-404, as renumbered and amended by Laws of Utah 2000, Chapter 133)~~

~~17-52a-505, (Renumbered from 17-52-405, as enacted by Laws of Utah 2013, Chapter 134)~~

### REPEALS:}

17-52-207, as last amended by Laws of Utah 2001, Chapter 241

17-52-301, as last amended by Laws of Utah 2001, Chapter 241

17-52-302, as last amended by Laws of Utah 2001, Chapter 241

17-52-303, as last amended by Laws of Utah 2001, Chapter 241

17-52-404, as renumbered and amended by Laws of Utah 2000, Chapter 133

17-52-405, as enacted by Laws of Utah 2013, Chapter 134

---

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

Section 1. Section **17-15-27** is amended to read:

**17-15-27. Appointment of legal counsel by county executive and county legislative body.**

(1) (a) An elected county executive in a county that has adopted a county executive-council form of county government under Chapter 52a, Changing Forms of County Government, may appoint an attorney to advise and represent the county executive.

(b) An attorney appointed under Subsection (1)(a):

(i) serves at the pleasure of the county executive; and

(ii) may not perform any of the functions of a county attorney or district attorney under this title, except as provided in this section.

(c) An attorney appointed under this Subsection (1) may represent the county executive in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county executive.

## HB0224S02 compared with HB0224S01

(2) (a) The legislative body of a county that has adopted a county executive-council form of county government under Chapter 52a, Changing Forms of County Government, may appoint an attorney to advise and represent the county legislative body.

(b) An attorney appointed under Subsection (2)(a):

(i) serves at the pleasure of the county legislative body; and

(ii) may not perform any of the functions of a county attorney or district attorney under this title, except as provided in this section.

(c) An attorney appointed under this Subsection (2) may represent the county legislative body in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county legislative body.

Section 2. Section 17-16-6 is amended to read:

**17-16-6. County officers -- Time of holding elections -- County commissioners -- Terms of office.**

(1) Except as otherwise provided in an optional or transitional plan adopted under Chapter 52a, Changing Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section [~~17-52-501~~] 17-52a-201; and

(c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section 17-16-1.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:

(A) county treasurer;

(B) county recorder;

(C) county surveyor; and

## HB0224S02 compared with HB0224S01

(D) county assessor; and

(ii) all other county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more county offices in accordance with Section 17-16-3, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

Section 3. Section **17-19a-203** is amended to read:

### **17-19a-203. 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~~] 17-52a-201 or an expanded county commission form of government described in Section [~~17-52-502~~] 17-52a-202, the county commission;

(2) in the county executive-council form of government described in Section [~~17-52-504~~] 17-52a-203, the county executive; or

(3) in the council-manager form of government described in Section [~~17-52-505~~] 17-52a-204, the county council.

Section 4. Section **17-31-8** is amended to read:

### **17-31-8. Tourism tax advisory boards.**

(1) (a) Except as provided in Subsection (1)(b), any county that collects the following taxes shall operate a tourism tax advisory board:

(i) the tax allowed under Section 59-12-301; or

(ii) the tax allowed under Section 59-12-603.

(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the county has an existing board, council, committee, convention visitor's bureau, or body that substantially conforms with Subsections (2), (3), and (4).

(2) A tourism tax advisory board created under Subsection (1) shall consist of at least five members.

(3) A tourism tax advisory board shall be composed of the following members that are residents of the county:

(a) a majority of the members shall be current employees of entities in the county that

## HB0224S02 compared with HB0224S01

are subject to the taxes referred to in Section 59-12-301 or 59-12-603; and

(b) the balance of the board's membership shall be employees of recreational facilities, convention facilities, museums, cultural attractions, or other tourism related industries located within the county.

(4) (a) Each tourism tax advisory board shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-301 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(b) Each tourism tax advisory board in a county operating under the county commission form of government under Section [~~17-52-501~~] 17-52a-201 or the expanded county commission form under Section [~~17-52-502~~] 17-52a-202 shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-603 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(5) A member of any county tourism tax advisory board:

(a) may not receive compensation or benefits for the member's services; and

(b) may receive per diem and travel expenses incurred in the performance of the member's official duties, in accordance with Section 11-55-103.

Section 5. Section **17-43-201** is amended to read:

### **17-43-201. Local substance abuse authorities -- Responsibilities.**

(1) (a) (i) In each county operating under a county executive-council form of government under Section [~~17-52-504~~] 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section [~~17-52-505~~] 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:



## **HB0224S02 compared with HB0224S01**

- (i) develop substance abuse prevention and treatment services plans;
- (ii) provide substance abuse services to residents of the county; and
- (iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

- (i) provide substance abuse prevention and treatment services; or
- (ii) create a united local health department that provides substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

- (i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

- (B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

- (ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

- (iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

- (B) authorize the designated legal officer to request and receive the assistance of the

## **HB0224S02 compared with HB0224S01**

county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

## **HB0224S02 compared with HB0224S01**

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

## HB0224S02 compared with HB0224S01

(iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and

## HB0224S02 compared with HB0224S01

Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor;  
and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

- (i) are accessible to the pregnant woman or pregnant minor;
- (ii) are best suited to provide services to the pregnant woman or pregnant minor;
- (iii) may include:
  - (A) counseling;
  - (B) case management; or
  - (C) a support group; and
- (iv) shall include a referral for:
  - (A) prenatal care; and
  - (B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance abuse treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Substance Abuse and Mental Health for assistance in providing services to the pregnant woman or pregnant minor.

Section 6. Section **17-43-301** is amended to read:

### **17-43-301. Local mental health authorities -- Responsibilities.**

(1) (a) (i) In each county operating under a county executive-council form of government under Section [~~17-52-504~~] 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section [~~17-52-505~~] 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local mental health authority.

## **HB0224S02 compared with HB0224S01**

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to persons within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

## **HB0224S02 compared with HB0224S01**

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(3) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(4) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(5) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs

## **HB0224S02 compared with HB0224S01**

and services for persons incarcerated in a county jail or other county correctional facility;

(ii) as provided in Subsection (5)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (5)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;



## HB0224S02 compared with HB0224S01

- (iii) outpatient care and services;
- (iv) 24-hour crisis care and services;
- (v) psychotropic medication management;
- (vi) psychosocial rehabilitation, including vocational training and skills development;
- (vii) case management;
- (viii) community supports, including in-home services, housing, family support services, and respite services;
- (ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and
- (x) services to persons incarcerated in a county jail or other county correctional facility.

(6) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

- (i) the division;
- (ii) the local mental health authority director;
- (iii) (A) the county treasurer and county or district attorney; or  
(B) if two or more counties jointly provide mental health services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;
- (iv) the county legislative body; and
- (v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in

## HB0224S02 compared with HB0224S01

Section 17-43-303.

(b) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

Section 7. Section **17-52a-101**, which is renumbered from Section 17-52-101 is renumbered and amended to read:

### CHAPTER 52a. CHANGING FORMS OF COUNTY GOVERNMENT

#### Part 1. General Provisions

##### ~~[17-52-101].~~ **17-52a-101. Definitions.**

As used in this chapter:

~~[(1) "Appointment council" means a group of {} persons {}~~ five individuals ~~consisting of:]~~

~~[(a) a resident of the county in which the optional plan is proposed, designated by a majority of all state senators and representatives whose districts include any part of the county in which the optional plan is proposed;]~~

~~[(b) a resident of the county in which the optional plan is proposed, designated by the county legislative body; { and~~

~~\_\_\_\_\_ (c) (i) if registered voters initiate the process to adopt an optional plan or otherwise qualify to select a member of an appointment council under Section 17-52a-303;~~

~~\_\_\_\_\_ [(c) (A);]~~

~~[(c) a resident of the county in which the optional plan is proposed, designated by the petition sponsors; and]~~

~~[(d) {} (B); two other residents of the county in which the optional plan is proposed, designated by majority vote of the three other members of the appointment council {[.]; or~~

~~\_\_\_\_\_ (ii) if the county legislative body initiates the process to adopt an optional plan under Section 17-52a-302, three other residents of the county in which the optional plan is proposed, designated individually by:~~

~~\_\_\_\_\_ (A) a unanimous vote of the appointment council members described in Subsections (1)(a) and (b); or~~

~~\_\_\_\_\_ (B) if the appointment council members described in Subsections (1)(a) and (b) cannot reach a unanimous vote to fill an appointment council member position, the legislators~~

## HB0224S02 compared with HB0224S01

~~described in Subsection (1)(a), who shall, by a majority vote, designate an individual to fill the appointment council member position:~~

~~—(2)—~~

~~(1) "Optional plan" means a plan [establishing] described in Section 17-52a-103 that establishes an alternate form of government for a county [as provided in Section ~~{[17-52-401] 17-52a-404.} 17-52-401].~~~~

~~(2) "Transitional plan" means a plan that a county legislative body establishes under Section 17-52a-404 to effectuate the transition to a new form of county government.~~

~~(3) "Reasonable notice" means, at a minimum:~~

~~(a) publication:~~

~~(i) (A) in a newspaper of general circulation within the county at least once a week for at least two consecutive weeks ending no more than 10 and no fewer than three days before the event that is the subject of the notice; or]~~

~~(B) if there is no newspaper of general circulation within the county, posting at least one notice per 1,000 population within the county, for at least a week ending no more than three days before the event that is the subject of the notice, at locations throughout the county that are most likely to give actual notice to county residents; and]~~

~~(ii) in accordance with Section 45-1-101 for two weeks before the event that is the subject of the notice; and]~~

~~(b) if the county has an Internet home page, posting an electronic notice on the Internet for at least seven days immediately before the event that is the subject of the notice.]~~

~~(4) ~~{(3)}~~ "Study committee" means ~~{[} a group of persons.}] { the committee that has between seven and 11 members:}~~~~

~~(a) appointed under Section ~~{[} 17-52-301 {] 17-52a-401}~~; and]~~

~~(b) charged with the duties provided in Section ~~{[} 17-52-303.}] { 17-52a-403.}~~~~

Section 8. Section **17-52a-102**, which is renumbered from Section 17-52-102 is renumbered and amended to read:

~~[17-52-102].~~      **17-52a-102. Forms of county government -- County commission form required unless another is adopted -- Restrictions on form of county government.**

(1) [Each] Subject to Subsections (2), each county shall operate under one of the

## HB0224S02 compared with HB0224S01

following forms of county government:

- (a) the county commission form under Section [~~17-52-501~~] 17-52a-201;
- (b) the expanded county commission form under Section [~~17-52-502~~] 17-52a-202;
- (c) the county executive and council form under Section [~~17-52-504~~] 17-52a-203; or
- (d) the council-manager form under Section [~~17-52-505~~] 17-52a-204.

(2) Unless [it] a county adopts another form of government as provided in this chapter, [~~each~~] the county shall operate under the county commission form of government under Section [~~17-52-501~~] 17-52a-201.

Section 9. Section 17-52a-103 is enacted to read:

17-52a-103. Operation under provision formerly known as optional plan -- Changing to nonpartisan elections prohibited.

(1) A county operating on May 7, 2018 under the provisions of a plan known under the law then in effect as an optional plan shall continue to operate under the provisions of the optional plan on and after May 8, 2018.

(2) A county that provides for the election of the county's elected officers through a partisan election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

Section ~~{9}~~10. Section **17-52a-201**, which is renumbered from Section 17-52-501 is renumbered and amended to read:

### Part 2. Forms of County Government

~~[17-52-501].~~      17-52a-201. County commission form of government -- Commission member elections.

(1) As used in this section:

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

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

(ii) a county's optional ~~[plan under Subsection {17-52-401} {17-52a-404} (5)(b)]~~ or transitional plan.

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

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

## HB0224S02 compared with HB0224S01

(ii) a county's optional ~~[plan under Subsection ~~{}~~ 17-52-401 ~~{}~~ 17-52a-404] (5)(b)]~~ or transitional plan.

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

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

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

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

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

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

(c) each county commission member shall be elected:

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

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

(5) Except as provided in Subsection (6):

(a) if two county commission positions are vacant for an election, the positions shall be designated "county commission seat A" and "county commission seat B";

(b) each candidate who files a declaration of candidacy when two positions are vacant shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through ~~[an ~~{}~~ alternate]~~ {optional} a transitional plan [as] described in ~~[Subsection ~~{}~~ 17-52-401 ~~(5)~~] Section 17-52a-404 ~~{(5)}~~~~ or by

## HB0224S02 compared with HB0224S01

ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

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

- (i) each open position as "open position"; and
- (ii) each midterm vacancy as "midterm vacancy."

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

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

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

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

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

(e) In an opt-in county:

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

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

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

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

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

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

Section ~~10~~11. Section **17-52a-202**, which is renumbered from Section 17-52-502 is

## HB0224S02 compared with HB0224S01

renumbered and amended to read:

~~[17-52-502].~~            17-52a-202. **Expanded county commission form of government -- Commission member elections.**

(1) As used in this section:

(a) "Midterm vacancy" means the same as that term is defined in Section ~~[17-52-501]~~ 17-52a-201.

(b) "Open position" means the same as that term is defined in Section ~~[17-52-501]~~ 17-52a-201.

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

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

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

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

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

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

(c) each county commission member shall be elected:

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

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

(5) Except as provided in Subsection (6):

(a) if multiple at-large county commission positions are vacant for an election, the positions shall be designated "county commission seat A," "county commission seat B," and so on as necessary for the number of vacant positions;

## HB0224S02 compared with HB0224S01

(b) each candidate who files a declaration of candidacy when multiple positions are vacant shall designate the letter of the county commission seat for which the candidate is a candidate; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through ~~[an alternate]~~ [optional] a transitional plan ~~[as]~~ described in ~~[Subsection 17-52-401(5)]~~ Section 17-52a-404(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

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

- (i) each open position as "open position"; and
- (ii) each midterm vacancy as "midterm vacancy."

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

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

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

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

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

(e) In an opt-in county:

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

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



## HB0224S02 compared with HB0224S01

(B) for the purposes of a regular general election, elected to fill the open positions; and  
(ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:

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

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

Section ~~{11}~~12. Section **17-52a-203**, which is renumbered from Section 17-52-504 is renumbered and amended to read:

~~[17-52-504]~~. **17-52a-203**. **County executive-council form of county government.**

(1) (a) ~~[A]~~ The following shall govern a county operating under the form of government known as the "county executive-council" form ~~[shall be governed by]~~:

(i) an elected county council~~[-]~~;

(ii) an elected county executive~~[-]~~; and ~~[such]~~

(iii) other officers and employees ~~[as are]~~ authorized by law.

(b) The ~~[optional]~~ transitional plan described in Section 17-52a-404 shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.

(2) The county executive ~~[shall be]~~ is the chief executive officer or body of the county.

(3) In the county executive-council form of county government:

(a) the county council is the county legislative body and ~~[shall have]~~ has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body; and

(b) the county executive ~~[shall have]~~ has the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

(4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

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

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

Section ~~{12}~~13. Section **17-52a-204**, which is renumbered from Section 17-52-505 is

## HB0224S02 compared with HB0224S01

renumbered and amended to read:

~~[17-52-505].~~ **17-52a-204. Council-manager form of county government.**

(1) (a) ~~[A]~~ The following shall govern a county operating under the form of government known as the "council-manager" form ~~[shall be governed by]:~~

- (i) an elected county council~~;~~;
- (ii) a county manager appointed by the council~~;~~; and ~~[such]~~
- (iii) other officers and employees ~~[as are]~~ authorized by law.

(b) The ~~[optional]~~ transitional plan described in Section 17-52a-404 shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.

(2) The county manager ~~[shall be]~~ is the administrative head of the county government and ~~[shall have]~~ has the powers, functions, and duties of a county executive, except:

- (a) as the county legislative body otherwise provides by ordinance; and
- (b) that the county manager may not veto any ordinances enacted by the council.

(3) (a) ~~[No]~~ A member of the council ~~[shall]~~ may not directly or indirectly, by suggestion or otherwise~~;~~:

- (i) attempt to influence or coerce the manager in ~~[the]~~;
- (A) making ~~[of]~~ any appointment ~~[or removal of]~~;
- (B) removing any officer or employee ~~[or in the purchase of]~~; or
- (C) purchasing supplies~~;~~;

(ii) attempt to exact any promise relative to any appointment from any candidate for manager~~;~~; or

(iii) discuss directly or indirectly with ~~[him]~~ the manager the matter of specific appointments to any county office or employment.

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

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

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

## HB0224S02 compared with HB0224S01

county office.

(iv) The ~~[optional]~~ transitional plan described in Section 17-52a-404 may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government[;]:

(a) the legislative powers of the county [~~shall be~~] are vested in the county council[;];

and

(b) the executive powers of the county [~~shall be~~] are vested in the county manager.

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{13}~~14. Section **17-52a-301**, which is renumbered from Section 17-52-201 is

## HB0224S02 compared with HB0224S01

renumbered and amended to read:

### Part 3. Procedure for Initiating ~~{Adoption}~~Change in Form of ~~{Optional Plan}~~County Government

~~[17-52-201].~~ 17-52a-301. Procedure for initiating ~~{adoption}~~change in form of ~~{optional plan}~~county government -- Limitations -- Pending proceedings.

~~[(1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.]~~

(1) A county may change the county's form of government as provided in this chapter.

(2) The process to ~~[adopt an optional plan establishing an alternate]~~ change a county's form of ~~[county]~~ government may be initiated by:

(a) the county legislative body as provided in Section ~~[17-52-202]~~ 17-52a-302; or

(b) registered voters of the county as provided in Section ~~[17-52-203]~~ 17-52a-303.

(3) (a) If the process to ~~[adopt an optional plan {f} has been]~~ change a county's form of government is initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section ~~[17-52-202 or 17-52-203]~~ 17-52a-302 or 17-52a-303, the county legislative body may not initiate the process again under Section ~~[17-52-202 unless the earlier proceeding]~~ 17-52a-302, and registered voters may not initiate the process again under Section 17-52a-303, until the first initiated process concludes:

~~[(i) has been concluded by an affirmative or negative vote of registered voters; or]~~

~~{(i) the first initiated process concludes with an election under Section 17-52a-502;~~

~~—— (ii) the first initiated process concludes under Subsection 17-52a-403(7) because the study committee recommended that the county's form of government not change;~~

~~—— [(ii)] (iii) the first initiated process has not [been]; [(ii) has not been] concluded but has been pending for at least two years {[.] after the day on which the voters approved the appointment of a study committee in an election described in Section 17-52a-304;~~

~~—— (iv) notwithstanding Subsection (3)(a)(iii), if an election on an optional plan under the first initiated process is scheduled} -]~~

(i) with an election under Section ~~{17-52a-501, the conclusion of that election; or~~

~~—— (v) the first initiated process concludes} 17-52a-401; or~~

(ii) because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection 17-52a-303(2)(c).

## HB0224S02 compared with HB0224S01

(b) A county legislative body may not initiate the process to ~~[adopt an optional plan]~~ change the county's form of government under Section ~~[17-52-202]~~ 17-52a-302 within four years of an election at which voters approved or rejected ~~[an optional plan proposed as a result of a process initiated by]~~ a proposed change in the county's form of government that the county legislative body initiates.

(c) Registered voters of a county may not initiate the process to ~~[adopt an optional plan]~~ change the county's form of government under Section ~~[17-52-203]~~ 17-52a-303 within four years of an election at which voters approved or rejected ~~[an optional plan proposed as a result of a process initiated by]~~ a proposed change in the county's form of government that registered voters initiate.

Section ~~{14}~~15. Section **17-52a-302**, which is renumbered from Section 17-52-202 is renumbered and amended to read:

~~[17-52-202]~~. **17-52a-302. County legislative body initiation of {adoption}change in form of {optional plan}county government -- Procedure.**

(1) A county legislative body may initiate the process of ~~[adopting an optional plan]~~ changing the county's form or government by adopting a resolution to submit to the voters the question of whether ~~[a study committee should be established as provided in Section~~ the county should change the county's form of government.

(2) ~~[Each]~~ The county legislative body shall ensure that a resolution adopted under Subsection (1) [shall require]:

(a) complies with the requirements described in Section 17-52a-304; and

(b) requires the question to be submitted to the registered voters of the county at the next [special election scheduled {}} pursuant to {} under} Section 20A-1-204 after adoption of the resolution under Subsection (1)] election described in Section 17-52a-401.

Section ~~{15}~~16. Section **17-52a-303**, which is renumbered from Section 17-52-203 is renumbered and amended to read:

~~[17-52-203]~~. **17-52a-303. Registered voter initiation of {adoption}change in form of {optional plan}government -- Procedure.**

(1) (a) Registered voters of a county may initiate the process of ~~[adopting an optional plan by filing~~ a petition for the establishment of a study committee as provided in Section 17-52-301] changing the county's form of government by filing with the county clerk a notice

## HB0224S02 compared with HB0224S01

of intent to gather signatures for a petition ~~for the establishment of a study committee~~ as provided in] described in Section [17-52-301] 17-52a-401 to change the county's form of government.

~~[(2) Each petition under Subsection (1) shall:]~~

(b) A notice of intent described in Subsection (1)(a) shall:

(i) designate up to five sponsors for the petition;

(ii) designate a contact sponsor to serve as the primary contact for the petition sponsors;

(iii) list the mailing address and telephone number of each of the sponsors;

(iv) comply with the requirements described in Section 17-52a-304; and

~~(iv)] v~~ be signed by each of the petition sponsors.

(c) Registered voters of a county may not file a notice of intent to gather signatures in bad faith.

(2) (a) The sponsors of a petition ~~for the establishment of a study committee~~ to change a county's form of government may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).

~~[(a) be]~~ (b) To be considered valid, the petition is required to be signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county for all candidates for president of the United States at the most recent election [for] at which a president of the United States[;] was elected.

~~[(b) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and]~~

~~[(c) be filed in the office of the clerk of the county in which the petition signers reside:]~~

(c) Except as provided in Subsection (4)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (3)(b) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).

(3) [(a)] Within 30 days [of the filing of a] after the day on which the sponsors submit a petition under Subsection [(+)] (2)(c) or an amended or supplemental petition under Subsection [(3)(b)] (4), the county clerk shall:

[(+)] (a) determine whether the petition or amended or supplemental petition has been

## HB0224S02 compared with HB0224S01

signed by the required number of registered voters; and

~~[(ii)(A) if so,]~~

(b) (i) if the petition was signed by a sufficient number of registered voters:

~~(A) certify the petition [or amended or supplemental petition and];~~

~~(B) deliver [it] the petition to the county legislative body; and~~

~~(C) notify [in writing] the contact sponsor in writing of the certification; or~~

~~[(B) if not,] (ii) if the petition was not signed by a sufficient number of registered~~

voters:

~~(A) reject the petition [or the amended or supplemental petition]; and~~

~~(B) notify [in writing] the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.~~

~~[(b) If a county clerk rejects a petition or an amended or supplemental petition under Subsection (3)(a)(ii)(B), the petition may be amended or supplemented or an amended or supplemental petition may be further amended or supplemented with additional signatures and refiled within 20 days of the date of rejection.]~~

(4) The sponsors of a petition circulated under this section may amend the petition or submit supplemental signatures for the petition:

(a) if the county clerk rejects the petition under Subsection (3)(b)(ii); and

(b) before the earlier of:

(i) the deadline described in Subsection (2)(c); or

(ii) 20 days after the day on which the county clerk rejects the petition under Subsection (3)(b)(ii).

~~[(4) ~~(5)~~ With the unanimous approval of petition sponsors, a petition filed under ~~(1)~~ Subsection (1) ~~this section~~ may be withdrawn at any time within 90 days after ~~petition certification but~~ the day on which the county clerk certifies the petition under Subsection (3)(b)(i) and no later than 45 days before an election under Section ~~17-52-206~~ 17-52a-501 if:]~~

~~(a) the petition ~~notified signers~~ included a notification to petition signers, in conspicuous language ~~and in a conspicuous location,~~ that the petition sponsors are authorized to withdraw the petition; and~~

~~(b) ~~there are at least three sponsors of~~ the petition has at least three sponsors.~~

## HB0224S02 compared with HB0224S01

~~—— (6) (a) Notwithstanding Subsection 17-52a-301(3), registered voters of a county may circulate a petition under this section after a county legislative body initiates the process to adopt an optional plan under Section 17-52a-302 in order to qualify to select a member of an appointment committee that is formed as a result of the process initiated by the county legislative body.~~

~~—— (b) Notwithstanding Subsection (2)(c), registered voters who circulate a petition described in Subsection (6)(a) shall submit the completed petition not more than 30 days before the day of the election described in Section 17-52a-304.~~

~~—— (c) Notwithstanding Subsection (4), registered voters who circulate a petition described in Subsection (6)(a) may not amend or submit supplemental signatures for the petition unless:~~

~~—— (i) the county clerk makes the determination described in Subsection (3) before the deadline described in Subsection (6)(b); and~~

~~—— (ii) the registered voters submit the amended or supplemented petition before the deadline described in Subsection (6)(b);~~

~~—— Section 16; the petition.~~

Section 17. Section **17-52a-304**, which is renumbered from Section ~~{17-52-203.5}~~ 17-52-402 is renumbered and amended to read:

~~[{17-52-203.5} 17-52-402].~~ **17-52a-304.** ~~{ Election to determine whether study committee should be established.~~

~~—— } Specifying forms of county government.~~

~~(1) (a) [Each optional plan shall propose] A county legislative body that adopts a resolution under Section 17-52a-302, and registered voters that file a notice of intent to gather signatures under Section 17-52a-303, shall ensure that the resolution or notice proposes changing the form of county government to:~~

~~(i) the county commission form under Section [17-52-501] 17-52a-201;~~

~~(ii) the expanded county commission form under Section [17-52-502] 17-52a-202;~~

~~(iii) the county executive and council form under Section [17-52-504] 17-52a-203; or~~

~~(iv) the council-manager form under Section [17-52-505] 17-52a-204.~~

~~[(b) An optional plan adopted after May 1, 2000, may not:~~

~~[(i)] (b) A county legislative body or registered voters may not propose changing the form of government to a form not included in Subsection (1)(a)[;].~~



## HB0224S02 compared with HB0224S01

~~[(ii) provide for the nonpartisan election of elected officers;]~~

~~[(iii) impose a limit on the number of terms or years that an elected officer may serve; or]~~

~~[(iv) provide for elected officers to be subject to a recall election.]~~

~~[(2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.]~~

~~[(3) A county that provided for the election of the county's elected officers through a partisan election in or after the 2000 general election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.]~~

Section 18. Section 17-52a-305 is enacted to read:

### 17-52a-305. Public hearings.

(1) The county legislative body shall hold ~~{an election}~~ public hearings under this section ~~{if}~~ within 45 days after the day on which:

(a) the county legislative body adopts a resolution under ~~{[Subsection 17-52-202(1)]}~~ Section 17-52a-302; or

(b) ~~{[a petition filed under Subsection 17-52-203(1) is certified by]}~~ the county clerk {certifies a petition under Subsection [17-52-203] 17-52a-303(3):

——— (2) ~~[Each]~~ An election [under] described in Subsection (1) shall be a special election, called and held ~~[as required by]~~ in accordance with Sections 20A-1-203 and 20A-1-204 [after:]

——— ~~[(a) adoption of a resolution under Subsection 17-52-202(1); or]~~

——— ~~[(b) certification of]~~ certifies a petition under Subsection ~~{17-52-203}~~ 17-52a-303(3). ~~{}~~

~~[(3)2]~~ (2) The county ~~{clerk shall prepare the ballot for [each]}~~ an election [under] described in Subsection (1) with a question that asks substantially ~~[as follows]~~ the following:

——— "Shall a study committee be appointed to consider and possibly recommend a change in [the] \_\_\_\_\_ County's legislative body shall hold at least four public hearings on a proposed change in the county's form of government { of \_\_\_\_\_ County}?"

## HB0224S02 compared with HB0224S01

Section ~~{17}~~19. Section 17-52a-401, which is renumbered from Section ~~{17-52-301}~~17-52-206 is renumbered and amended to read:

### Part 4. ~~{Study Committee and Optional Plan~~

#### ~~{17-52-301}~~Election on and Transition to a New Form of County Government

~~{17-52-206}~~. 17-52a-401.~~{ Procedure for appointing members to study committee:~~

~~— (1) Each member of;~~ Election on change in form of county government.

~~[(1)(a) The county legislative body shall hold an election on an optional plan recommended in a study committee {shall be appointed by an appointment council} report filed under Subsection 17-52-303(3)(d) if:]~~

~~[(i) the county or district attorney has completed the review of the recommended optional plan and has submitted the attorney's report to the county clerk as provided in {this section.}]~~

~~— (1) If;~~ Section 17-52-204.;

~~[(ii) the recommended optional plan may, under Subsection 17-52-204(3), be the subject of a resolution or petition under this Subsection (1); and]~~

~~[(iii) after the county or district attorney has submitted the attorney's report under Section 17-52-204.;~~

~~[(A) the county legislative body adopts a resolution to submit the recommended optional plan to voters; or]~~

~~[(B) a petition is filed with the county clerk that:]~~

~~[(i) is signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States.;~~

~~[(ii) designates up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and]~~

~~[(iii) requests that the recommended optional plan be submitted to voters.;~~

~~[(b) The process for certifying a petition filed under Subsection (1)(a)(iii)(B) shall be the same as that provided in Subsection 17-52-203(3).]~~

(1) The county legislative body shall hold an election under this section if:

(a) the county legislative body adopts a resolution under Section 17-52a-302; or

## HB0224S02 compared with HB0224S01

(b) the county clerk certifies a petition under Subsection 17-52a-303(3).

(2) [Each election under Subsection (1)] An election on a change in the county's form of government shall be held at the next regular general or municipal general election [date] that is no less than [two months after] 75 days after the day on which the conditions described in Subsection (1) are met:

[(a) the county legislative body's adoption of a resolution under Subsection (1)(a)(iii)(A); or]

[(b) certification of a petition filed under Subsection (1)(a)(iii)(B).]

(3) The county clerk shall prepare the ballot for [each] an election under [Subsection (1)] this section so that the question on the ballot states substantially [as follows] the following:

"Shall \_\_\_\_\_ County adopt the alternate form of government known as the \_\_\_\_\_ (insert the proposed form of government) \_\_\_\_\_ [that has been recommended by the study committee]?"

[(4) The county clerk shall:]

[(a) cause the complete text of the proposed optional plan to be published in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election under Subsection (1); and]

[(b) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.]

(4) a county clerk shall declare a change in a county's form of government as approved by the voters if a majority of voters voting {in an election described in Section 17-52a-304} on the change vote in favor of {appointing a study committee, an appointment council shall appoint the members of a study committee as provided in this section:

—— (2) (a) The county executive shall convene [a] the first meeting of the [three] members of the appointment council [referred to] described in Subsections [17-52-101] 17-52a-101(1)(a), (b), and, if applicable, (c)(i)(A) within 10 days after the canvass of an election conducted under Section [17-52-203.5 if a majority of those voting voted in favor of establishing a study committee] 17-52a-304.

—— (b) Within 10 days of the convening of the first meeting under Subsection (2)(a), the [three] members of the appointment council described in Subsection (2)(a) shall designate the

## HB0224S02 compared with HB0224S01

~~remaining [two] members [referred to in Subsection 17-52-101(1)(d)] of the appointment council.~~

~~—— (3) (a) Within 30 days [of the designation of the remaining two members] after the day on which the last appointment council member is appointed under Subsection (2)(b), the appointment council shall:~~

~~—— (i) appoint the members to the study committee; and~~

~~—— (ii) notify in writing the appointees, the county executive, and the county legislative body of the appointments.~~

~~—— (b) In making appointments to the study committee, the appointment council shall work to achieve a broadly representative membership.~~

~~—— (c) The appointment council may not appoint [a person] an individual to the study committee unless that [person] individual:~~

~~—— (i) is a registered voter in the county whose form of government will be studied by the study committee; and~~

~~—— (ii) does not hold any public office or employment other than membership on the appointment council.~~

~~—— Section 18} **the change.**~~

**Section 20.** Section 17-52a-402, which is renumbered from Section {17-52-302} **17-52-205** is renumbered and amended to read:

**[{17-52-302} **17-52-205**].** **17-52a-402. { ~~Convening of first meeting of study committee.~~**

~~—— (1) The county executive shall convene the first meeting of the study committee within 10 days after [receipt of notification] the county executive receives the notification described in Subsection 17-52a-401(3)(a) of the study committee members' appointment [under Subsection 17-52-301(3)(a)].~~

~~—— (2) (a) At the study committee's first meeting, the study committee shall select a chair from among the members of the study committee.~~

~~—— (b) The chair of the study committee is responsible for convening each future meeting of the study committee.~~

~~—— Section 19} **Voter information pamphlet.**~~

**(1) In anticipation of an election under Section [17-52-206] 17-52a-401, the county**

## HB0224S02 compared with HB0224S01

clerk may prepare a voter information pamphlet to inform the public of the proposed [optional plan] change in the county's form of government.

(2) In preparing a voter information pamphlet under this section, the county clerk may:

(a) allow proponents and opponents of the proposed [optional plan] change to provide written statements to be included in the pamphlet; and

(b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.

(3) [Each] A county clerk [preparing] who prepares a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner [determined by] that the county clerk [to be] determines is adequate.

Section 21. Section 17-52a-403, which is renumbered from Section ~~{17-52-303}~~ 17-52-403 is renumbered and amended to read:

[~~{17-52-303}~~17-52-403]. 17-52a-403. ~~Study committee -- Members -- Powers and duties -- Report -- Services provided by county.~~

~~— (1) (a) [Each] A study committee [shall consist] consists of at least seven but no more than 11 members.~~

~~— (b) A member of a study committee may not receive compensation for service on the committee.~~

~~— (c) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.~~

~~— (2) A study committee may:~~

~~— (a) adopt rules for [its] the study committee's own organization and procedure and to fill a vacancy in its membership;~~

~~— (b) establish advisory boards or committees and include on [them] the advisory boards or committees persons who are not members of the study committee; and~~

~~— (c) request the assistance and advice of any officers or employees of any agency of state or local government.~~

~~— (3) [Each] A study committee shall:~~

~~— (a) study the} **Election of new county officers.**~~

(1) If a [proposed optional plan] change in a county's form of government { within the

## HB0224S02 compared with HB0224S01

~~county and compare it with other forms available under this chapter;~~

~~—— (b) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;~~

~~—— (c) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and~~

~~—— (d) file a written report of [its] the study committee's findings and recommendations with the county executive [and], the county legislative body, and the county clerk no later than one year after the convening of [its] the study committee's first meeting under Section [17-52-302] 17-52a-402.~~

~~—— (4) Each study committee report under Subsection (3)(d) shall include:~~

~~—— (a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;~~

~~—— (b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and~~

~~—— (c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.~~

~~—— (5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(d) and, following the hearings and subject to Subsection (5)(b), alter the report.~~

~~—— (b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:~~

~~—— (i) that would recommend the adoption of an optional form different from that recommended in the original report; or~~

~~—— (ii) within the 120-day period before the election} is approved at an election held under Section [17-52-206] ~~{17-52a-501.}~~ 17-52a-401:~~

## HB0224S02 compared with HB0224S01

~~{(6) Each meeting [held by] that the study committee holds shall be open to the public.~~

~~(7) If the study committee's report does not recommend a change in~~ (a) the elected county officers shall be elected at the next regular general election following the election under Section 17-52a-401, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;

~~[(a) the proposed optional plan]~~

~~[becomes effective according to its terms and;]~~

~~[subject to Subsection 17-52-401(1)(c), at the time specified in it, is public record open to inspection by the public, and]~~

~~[is judicially noticeable by all courts;]~~

~~[(b) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;]~~

~~[(c)] (b) all public officers and employees shall cooperate fully in making the transition between forms of county government; and~~

~~[(d)] (c) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional or transitional plan and necessary or convenient to place it into full effect.~~

~~[(2) Adoption of an optional plan changing only the form of county government {, the report is final, the study committee is dissolved, and the process to change} without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:]~~

~~[(a) school district;]~~

~~[(b) justice court;]~~

~~[(c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;]~~

~~[(d) special service district under Title 17D, Chapter 1, Special Service District Act;]~~

~~[(e) city or town; or]~~

~~[(f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal~~

## HB0224S02 compared with HB0224S01

### Cooperation Act.

~~[(3)] (2) After [the adoption of an optional plan] a county changes~~ the county's form of government ~~{ is concluded.~~

~~— [(7)] (8) The county legislative body shall provide for the study committee:~~

~~— (a) suitable meeting facilities;~~

~~— (b) necessary secretarial services;~~

~~— (c) necessary printing and photocopying services;~~

~~— (d) necessary clerical and staff assistance; and~~

~~— (e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.~~

~~— Section 20}, the county remains vested with all powers and duties vested generally in counties by statute.~~

Section 22. Section 17-52a-404, which is renumbered from Section 17-52-401 is renumbered and amended to read:

~~[17-52-401].~~            17-52a-404. { Contents of proposed optional plan.

~~— (1) [Each] The study committee shall ensure that each optional plan [proposed] the committee proposes}~~ County legislative body to establish transition plan.

~~[(1) Each optional plan proposed under this chapter:]~~

~~[(a) {} shall propose {} proposes} the adoption of one of the forms of county government listed in Subsection {} 17-52-402 {} 17-52a-405(1)(a);~~

~~— (b) (1)(a):~~

(1) The county legislative body shall hold public hearings under this section within 45 days after the day on which:

(a) the county legislative body adopts a resolution under Section 17-52a-302; or

(b) the county clerk certifies a petition under Subsection 17-52a-303(3).

(2) The county legislative body shall hold at least four public hearings on a proposed change in the county's form of government, that:

[(b)] (a) [shall contain] contains detailed provisions relating to the transition from the existing form of county government to the form [proposed in the optional plan] approved by the voters, including provisions relating to the:



## HB0224S02 compared with HB0224S01

(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);~~

(iii) redistribution of duties of an office that the transitional plan eliminates;

~~[(iii)] (iv)~~ continuity of existing ordinances and regulations;

~~[(iv)] (v)~~ continuation of pending legislative, administrative, or judicial proceedings;

~~[(v)] (vi)~~ making of interim and temporary appointments; and

~~[(vi)] (vii)~~ preparation, approval, and adjustment of necessary budget appropriations;

~~[(e)] (b)~~ ~~[shall specify]~~ specifies the date ~~[it is to become ]~~ the optional plan becomes effective if adopted the transitional plan becomes effective, which may not be earlier than the first day of January next following the election of officers under ~~[the new plan; and]~~ under the new form of government;

~~[(d)] (c)~~ notwithstanding any other provision of this title, and except ~~[with respect to an optional plan that proposes the adoption of]~~ when a county changes to the county commission or expanded county commission form of government, ~~[with respect to the county budget ]~~ ~~shall provide]~~ provides that:

~~— (i) }~~ the county executive's role is to prepare and present a proposed budget to the county legislative body ~~{}, {2},~~ and

~~— (ii) }~~ the county legislative body's role is to adopt a final budget.

~~— } [-];~~

(d) specifies the method of election and initial terms of county council members or commissioners under the new form of county government; and

(e) specifies whether some or all of county council members or commissioners are to be elected by district, and if so, specifies the boundaries of districts that are substantially equal in population.

~~[(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~~

## HB0224S02 compared with HB0224S01

prohibited by the Utah Constitution or any statute.]

~~[(4)] (2) [Each {} The study committee shall ensure that each] optional plan proposing to change the~~ If a county changes the county's form of government to a form under Section ~~[17-52-504 or 17-52-505 shall]~~ 17-52a-203 or 17-52a-204, the county legislative body shall ensure that a transitional plan:

(a) ~~[provide]~~ provides for the same executive and legislative officers as are specified in the applicable section for the form of government ~~[being proposed by {} that] the optional plan]~~ to which the county is changing;

(b) ~~[provide]~~ provides for the election of the county council;

(c) ~~[specify]~~ specifies the number of county council members, which shall be an odd number from three to nine;

(d) ~~[specify]~~ specifies 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]~~ specifies county council members' qualifications and terms and whether the terms are to be staggered;

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

(g) ~~[state]~~ states the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.

~~[(5)] {} Each {} The study committee shall ensure that each] optional plan proposing to change the]~~

(3) If a county changes the county's form of government to the county commission form under Section ~~[17-52-501]~~ 17-52a-201 or the expanded county commission form under Section ~~[17-52-502 shall specify]~~ 17-52a-202, the county legislative body shall ensure that a transitional plan specifies:

(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;

## HB0224S02 compared with HB0224S01

(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;

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

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection [~~17-52-501~~] 17-52a-201(6) or Subsection [~~17-52-502~~] 17-52a-202(6).

~~{Section 21. Section 17-52a-405, which is renumbered from Section 17-52-402 is renumbered and amended to read:~~

~~\_\_\_\_\_ [~~17-52-402~~]. \_\_\_\_\_ 17-52a-405. Plan may propose changing forms of county government -- Plan may propose change of structural form -- Partisan elections.~~

~~\_\_\_\_\_ (1) (a) [~~Each~~] The study committee shall ensure that each optional plan [shall propose] proposes changing the form of county government to:~~

~~\_\_\_\_\_ (i) the county commission form under Section [~~17-52-501~~] 17-52a-201;~~

~~\_\_\_\_\_ (ii) the expanded county commission form under Section [~~17-52-502~~] 17-52a-202;~~

~~\_\_\_\_\_ (iii) the county executive and council form under Section [~~17-52-504~~] 17-52a-203; or~~

~~\_\_\_\_\_ (iv) the council-manager form under Section [~~17-52-505~~] 17-52a-204.~~

~~\_\_\_\_\_ (b) [~~An~~] The study committee may not recommend an optional plan [adopted after May 1, 2000, may not] that:~~

~~\_\_\_\_\_ (i) [~~propose~~] proposes changing the form of government to a form not included in Subsection (1)(a);~~

~~\_\_\_\_\_ (ii) [~~provide~~] provides; (4) A transitional plan created under this section may not:~~

~~(a) provide for the nonpartisan election of elected officers;~~

~~(~~iii~~) b) ~~{}~~impose~~{}~~ imposes a limit on the number of terms or years that an elected officer may serve; or~~

~~(~~iv~~) c) ~~{}~~provide~~{}~~ provides for elected officers to be subject to a recall election.~~

~~{(2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional} (5) A transitional plan may ~~{also propose the adoption of any one of}~~ provide for a change in the structural forms of county government~~{ provided}~~ under Chapter 35b, Part 3, Structural Forms of County Government.~~{~~~~

~~\_\_\_\_\_ (3) A county that [~~provided~~] provides for the election of the county's elected officers~~

## HB0224S02 compared with HB0224S01

~~through a partisan election [in or after the 2000 general election] may not change to a process that provides for the election of the county's elected officers through a nonpartisan election:~~

~~Section 22. Section 17-52a-406, which is renumbered from Section 17-52-204 is renumbered and amended to read:~~

~~[17-52-204].~~ **17-52a-406. County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.**

~~(1) Within 10 days after the day on which the study committee submits [its] the study committee's report under Subsection [17-52-303] 17-52a-403(3)(d) to the county legislative body [recommending], if the report recommends a change in the form of county government, the county clerk shall send to the county attorney [of the county in which the optional plan is proposed] or, if the county does not have a county attorney, to the district attorney, a copy of each optional plan recommended [by the study committee in its] in the report [under Subsection 17-52-303(3)(d)].~~

~~(2) Within 45 days after [receipt of] the day on which the county or district attorney receives the recommended optional plan from the county clerk under Subsection (1), the county or district attorney shall send a written report to the county clerk containing the information [required under] described in Subsection (3):~~

~~(3) [Each] A report from the county or district attorney under Subsection (2) shall:~~

~~(a) state the attorney's opinion as to whether implementation of the optional plan [as prepared by] that the study committee prepared would result in a violation of any applicable statutory or constitutional provision;~~

~~(b) if the attorney concludes that a violation would result:~~

~~(i) identify specifically each statutory or constitutional provision that [would be violated by] implementation of the optional plan [as prepared by the study committee] would violate;~~

~~(ii) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the plan is implemented [as prepared by the study committee]; and~~

~~(iii) state whether, in the attorney's opinion, any of the provisions or features identified in Subsection (3)(b)(ii) are so integral to the proposed optional plan that having previously~~

## HB0224S02 compared with HB0224S01

~~changed the specified provision or feature to avoid the violation would have affected the decision of a study committee member who favored the proposed optional plan, and]~~

~~—— [(iv) if all the provisions or features identified in Subsection (3)(b)(ii) do not meet the standard of Subsection (3)(b)(iii),]~~

~~—— (iii) recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.~~

~~—— (4) (a) [If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that meet the standard of Subsection (3)(b)(iii),] Except as provided in Subsection (4)(b), if the attorney determines under Subsection (3) that a violation would occur, the proposed optional plan may not be the subject of [a resolution or petition under Subsection 17-52-206(1), except that the] an election under Section 17-52a-501:~~

~~—— (b) The study committee may modify [the] an optional plan to avoid [the] a violation that a county or district attorney's report describes under Subsection (3) and [then] file a new report under Subsection [17-52-303] 17-52a-403(3)(d) [that will be treated as any other report under that subsection]:~~

~~—— [(b) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that do not meet the standard of Subsection (3)(b)(iii), the optional plan may be modified by the study committee to avoid the statutory or constitutional violations and then be the subject of a resolution or petition under Subsection 17-52-206(1).]~~

~~—— (c) If a study committee files a new report under Subsection 17-52a-403(3)(d), the county executive, county legislative body, county or district attorney, and county clerk shall treat the new report in the same manner as an original report.~~

~~—— (5) If the attorney's [statement] report under Subsection (3) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan [may] shall be the subject of [a resolution or petition under Subsection 17-52-206(1)] an election under Section 17-52a-501:~~

~~—— Section 23. Section 17-52a-501, which is renumbered from Section 17-52-206 is renumbered and amended to read:~~

### **Part 5. Adoption and Implementation of Optional Plan**

~~—— [17-52-206].~~ **17-52a-501. Election on recommended optional plan.**

~~—— (1) [(a) The] If the county or district attorney finds that a proposed optional plan does~~

## HB0224S02 compared with HB0224S01

~~not violate a statutory or constitutional provision under Section 17-52a-406, a county legislative body shall hold an election on [an] the optional plan [recommended in a study committee report filed under Subsection 17-52-303(3)(d) if:];~~

~~—— [(i) the county or district attorney has completed the review of the recommended optional plan and has submitted the attorney's report to the county clerk as provided in Section 17-52-204;]~~

~~—— [(ii) the recommended optional plan may, under Subsection 17-52-204(3), be the subject of a resolution or petition under this Subsection (1); and]~~

~~—— [(iii) after the county or district attorney has submitted the attorney's report under Section 17-52-204;]~~

~~—— [(A) the county legislative body adopts a resolution to submit the recommended optional plan to voters; or]~~

~~—— [(B) a petition is filed with the county clerk that:]~~

~~—— [(1) is signed by registered voters residing in the county equal in number to at least 10% of the total number of votes cast in the county at the most recent election for president of the United States;]~~

~~—— [(II) designates up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and]~~

~~—— [(III) requests that the recommended optional plan be submitted to voters.]~~

~~—— [(b) The process for certifying a petition filed under Subsection (1)(a)(iii)(B) shall be the same as that provided in Subsection 17-52-203(3).]~~

~~—— (2) [Each election under Subsection (1)] An election on an optional plan shall be held at the next regular general or municipal general election [date] that is no less than [two months after:] 60 days after the day on which the county or district attorney submits the attorney's report described in Subsection 17-52a-406(5) to the county clerk.~~

~~—— [(a) the county legislative body's adoption of a resolution under Subsection (1)(a)(iii)(A); or]~~

~~—— [(b) certification of a petition filed under Subsection (1)(a)(iii)(B).]~~

~~—— (3) The county clerk shall prepare the ballot for [each] an election under [Subsection (1)] this section so that the question on the ballot states substantially [as follows] the following:~~

~~—— "Shall \_\_\_\_\_ County adopt the alternate form of government known~~

## HB0224S02 compared with HB0224S01

as the     (insert the proposed form of government)     that [has been recommended by] the study committee has recommended?''

~~(4) The county clerk shall:~~

~~(a) [cause] publish the complete text of the proposed optional plan [to be published] in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election [under] described in Subsection (1); [and]~~

~~(b) post the complete text of the proposed optional plan in a conspicuous place on the county's website during the 45-day period that immediately precedes the election on the optional plan; and~~

~~[(b)] (c) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy:~~

~~(5) A county clerk shall declare an optional plan as adopted by the voters if a majority of voters voting on the optional plan vote in favor of the optional plan:~~

~~Section 24. Section **17-52a-502**, which is renumbered from Section 17-52-205 is renumbered and amended to read:~~

~~**[17-52-205].**    **17-52a-502. Voter information pamphlet.**~~

~~(1) In anticipation of an election under Section [17-52-206] 17-52a-501, the county clerk may prepare a voter information pamphlet to inform the public of the proposed optional plan:~~

~~(2) In preparing a voter information pamphlet under this section, the county clerk may:~~

~~(a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and~~

~~(b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet:~~

~~(3) [Each] A county clerk [preparing] who prepares a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner [determined by] that the county clerk [to be] determines is adequate:~~

~~Section 25. Section **17-52a-503**, which is renumbered from Section 17-52-403 is renumbered and amended to read:~~

~~**[17-52-403].**    **17-52a-503. Adoption of optional plan -- Election of new**~~

## HB0224S02 compared with HB0224S01

### county officers -- Effect of adoption:

~~—— (1) If a proposed optional plan is approved at an election held under Section [17-52-206] 17-52a-501:~~

~~—— (a) the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section 17-52a-501, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;~~

~~—— [(a)] (b) the proposed optional plan:~~

~~—— (i) becomes effective according to [its] the optional plan's terms [and,];~~

~~—— (ii) subject to Subsection [17-52-401] 17-52a-404(1)(c), at the time specified in [it] the optional plan, is a public record open to inspection by the public[.]; and~~

~~—— (iii) is judicially noticeable by all courts;~~

~~—— [(b)] (c) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;~~

~~—— [(c)] (d) all public officers and employees shall cooperate fully in making the transition between forms of county government; and~~

~~—— [(d)] (e) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.~~

~~—— (2) Adoption of an optional plan changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:~~

~~—— (a) school district;~~

~~—— (b) justice court;~~

~~—— (c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;~~

~~—— (d) special service district under Title 17D, Chapter 1, Special Service District Act;~~

~~—— (e) city or town; or~~

~~—— (f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal~~



## HB0224S02 compared with HB0224S01

### Cooperation Act:

~~— (3) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.~~

~~— Section 26. Section 17-52a-504, which is renumbered from Section 17-52-404 is renumbered and amended to read:~~

~~— [17-52-404].~~ **17-52a-504. Amendment of optional plan:**

~~— (1) Subject to [Subsection] Subsections (2) and (3), an optional plan, after going into effect following an election held under Section [17-52-206] 17-52a-501, may be amended by an affirmative vote of two-thirds of the county legislative body:~~

~~— (2) Notwithstanding Subsection (1), an amendment to an optional plan that is in effect may not take effect until [approved by] a majority of registered voters voting in a general or special election at which the amendment is proposed approve the amendment, if the amendment changes:~~

~~— (a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;~~

~~— (b) the distribution of powers between the executive and legislative branches of county government; or~~

~~— (c) the status of the county executive or legislative body from full-time to part-time or vice versa.~~

~~— Section 27. Section 17-52a-505, which is renumbered from Section 17-52-405 is renumbered and amended to read:~~

~~— [17-52-405].~~ **17-52a-505. Repeal of optional plan:**

~~— (1) An optional plan [adopted] that the voters in an election adopt under this chapter may be repealed as provided in this section:~~

~~— (2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.~~

~~— (3) (a) [A] Registered voters of a county may not file a petition to repeal an optional plan [may not be filed] sooner than four years or more than five years after the election of county officers under Section [17-52-207] 17-52a-503:~~

~~— (b) (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in~~

## HB0224S02 compared with HB0224S01

~~Subsection (8), the voters may not circulate or file a subsequent petition to repeal until at least four, and not more than five, years after the certification of the original petition:~~

~~—— (ii) If, after four years, the voters file a subsequent petition [as described in] under Subsection (3)(b)(i), the voters:~~

~~—— (A) may not circulate or file another petition to repeal until at least four, and not more than five, years after certification of the subsequent petition; and~~

~~—— (B) shall wait an additional four, and not more than five, years after the date of certification of the previous petition for each petition filed thereafter:~~

~~—— (4) [Each] A petition [under] described in Subsection (2) shall:~~

~~—— (a) be signed by registered voters residing in the county:~~

~~—— (i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) for all candidates for president of the United States at the most recent election [for] in which a president of the United States was elected; and~~

~~—— (ii) who represent at least 85% of the voting precincts located within the county;~~

~~—— (b) designate up to five of the petition signers as sponsors, [one of whom shall be designated] designating one petition signer as the contact sponsor, with the mailing address and telephone number of each; and~~

~~—— (c) be filed in the office of the clerk of the county in which the petition signers reside:~~

~~—— (5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:~~

~~—— (a) determine whether the required number of voters have signed the petition or amended petition has been signed by the required number of registered voters; and~~

~~—— (b) (i) if [so] a sufficient number of voters have signed the petition, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or~~

~~—— (ii) if [not] a sufficient number of voters have not signed the petition, reject the petition or the amended petition and notify [in writing] the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.~~

~~—— (6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection:~~

## HB0224S02 compared with HB0224S01

~~(7) [(a)] If a county clerk certifies a petition under Subsection (2) [is certified], the county legislative body shall [within 60 days after petition certification adopt a resolution granting the petition and deciding to] hold an election on the proposal to repeal the optional plan[. (b) The county legislative body shall hold the election] at the next regular general election [date] that is at least [two months after the legislative body's decision] 60 days after the day on which the county clerk certifies the petition:~~

~~(8) If, at an election held under Subsection (7)[(b)], a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:~~

~~(a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection (8)(c);~~

~~(b) upon the effective date of the repeal under Subsection (8)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and~~

~~(c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next regular general election following the election under Subsection (7)[(b)]:~~

~~Section 28}~~

**Section 23.** Section 17-53-101 is amended to read:

### **17-53-101. County officers enumerated.**

(1) The elected officers of a county are:

(a) (i) in a county operating under a county commission or expanded county commission form of government, county commission members; or

(ii) in a county operating under one of the other forms of county government under Subsection [17-52-402] ~~{17-52a-405}~~ 17-52a-304(1)(a), county legislative body members and the county executive;

(b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a county attorney, a district attorney in a county which is part of a prosecution district, a county surveyor, and a county assessor; and

(c) any others provided by law.

(2) Notwithstanding Subsection (1), in counties having a taxable value of less than \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the

## HB0224S02 compared with HB0224S01

duties of the office without extra compensation.

Section 24. Section 17-53-302 is amended to read:

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

Each county executive shall:

- (1) exercise supervisory control over all functions of the executive branch of county government;
- (2) direct and organize the management of the county in a manner consistent with state law, county ordinance, and the county's optional or transitional plan of county government;
- (3) carry out programs and policies established by the county legislative body;
- (4) faithfully ensure compliance with all applicable laws and county ordinances;
- (5) exercise supervisory and coordinating control over all departments of county government;
- (6) except as otherwise vested in the county legislative body by state law or by the optional or transitional plan of county government, and subject to Section 17-53-317, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;
- (7) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county;
- (8) except as otherwise delegated by statute to another county officer, supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county;
- (9) conduct planning studies and make recommendations to the county legislative body relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government;
- (10) maintain a continuing review of expenditures and of the effectiveness of departmental budgetary controls;
- (11) develop systems and procedures, not inconsistent with statute, for planning, programming, budgeting, and accounting for all activities of the county;
- (12) if the county executive is an elected county executive, exercise a power of veto over ordinances enacted by the county legislative body, including an item veto upon budget

## HB0224S02 compared with HB0224S01

appropriations, in the manner provided by the optional or transitional plan of county government;

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

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

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

Section ~~{29}~~25. Section **17B-2a-1106** is amended to read:

### **17B-2a-1106. Municipal services district board of trustees -- Governance.**

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan~~[-as]~~ or a transitional plan, as those terms are defined in Section ~~[17-52-101]~~ 17-52a-101, adopted for a county executive-council form of county government as described in Section ~~[17-52-504]~~ 17-52a-203.

(c) Notwithstanding any other provision of law, in a municipal services district

## HB0224S02 compared with HB0224S01

described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district;

(ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and

(iii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan~~[, as]~~ or a transitional plan, as those terms are defined in Section ~~[17-52-101]~~ 17-52a-101, adopted for a county executive-council form of county government as described in Section ~~[17-52-504]~~ 17-52a-203.

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) subject to Subsection (4), two members of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members shall be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the chair of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

(4) (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

(b) The number of county council members described in Subsection (3)(a)(ii) does not include the county mayor.

## HB0224S02 compared with HB0224S01

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for each member described in Subsection (3)(a)(ii), within the unincorporated county, with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii).

(6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

(8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section ~~30~~26. Section **17C-1-203** is amended to read:

### **17C-1-203. Agency board -- Quorum.**

(1) The governing body of an agency is a board consisting of the current members of the community legislative body.

(2) A majority of board members constitutes a quorum for the transaction of agency business.

(3) A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.

(4) (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:

- (i) serves as the executive director of an agency created by the municipality; and
- (ii) exercises the agency's executive powers.

(b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section ~~[17-52-504]~~

## HB0224S02 compared with HB0224S01

17-52a-203:

- (i) serves as the executive director of an agency created by the county; and
- (ii) exercises the agency's executive powers.

Section ~~{31}~~27. Section **17D-2-203** is amended to read:

### **17D-2-203. Local building authority board of directors.**

(1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.

(2) An authority board may be referred to as a board of trustees.

(3) (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section [~~17-52-501~~] 17-52a-201, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:

- (i) is, as a member of the county commission, placed on paid administrative leave under Section 17-16-10.5;
- (ii) is unable to serve due to a disability;
- (iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or
- (iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.

(b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Section ~~{32}~~28. Section **20A-1-203** is amended to read:

### **20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.**

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.



## HB0224S02 compared with HB0224S01

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

- (i) a vote on a bond or debt issue;
- (ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;
- (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- (v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

~~[(x) a vote on the creation of a study committee under Sections ~~{}~~ 17-52-202 and 17-52-203.5;]~~ ~~{ 17-52a-302 and 17-52a-304; }~~

~~[(xi) ]~~ ~~(x)~~ a vote on a special property tax under Section 53A-16-110;

~~[(xii) ]~~ ~~(xi)~~ a vote on the incorporation of a city in accordance with Section 10-2a-210;

~~[(xiii) ]~~ ~~(xii)~~ a vote on the incorporation of a town in accordance with Section 10-2a-304; or

## HB0224S02 compared with HB0224S01

~~[(xiv)]~~ (xiii) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section ~~33~~29. Section **20A-1-508** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

(ii) That party liaison shall, within 30 days, submit the name of the person selected in

## HB0224S02 compared with HB0224S01

accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.

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

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

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

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

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

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

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

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

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

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

(ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:

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

(B) for a county commission office, Subsection [~~17-52-501(6) or 17-52-502~~]  
17-52a-201(6) or 17-52a-202(6), if applicable.

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

(4) (a) The requirements of this Subsection (4) apply to all county offices that become

## HB0224S02 compared with HB0224S01

vacant if:

- (i) the vacant office has an unexpired term of two years or more; and
- (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75

days before the regular primary election.

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

- (A) the vacancy exists; and
- (B) identifies the date and time by which a person interested in becoming a candidate

shall file a declaration of candidacy.

(ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

- (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and
- (B) for a county commission office, Subsection [~~17-52-501(6) or 17-52-502~~

17-52a-201(6) or 17-52a-202(6), if applicable.

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

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

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

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

- (i) if the vacant office has an unexpired term of two years or more; and
- (ii) when 75 days or less remain before the regular primary election but more than 65

days remain before the regular general election.

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

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

## HB0224S02 compared with HB0224S01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## HB0224S02 compared with HB0224S01

Section ~~{34}~~30. Section 20A-9-409 is amended to read:

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

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

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

(b) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

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

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

(3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section [~~17-52-501 or Section 17-52-502~~] 17-52a-201 or 17-52a-202, a qualified political party shall participate in the primary election for a county commission office if:

(a) there is more than one:

(i) open position as defined in Section [~~17-52-501~~] 17-52a-201; or

(ii) midterm vacancy as defined in Section [~~17-52-501~~] 17-52a-201; and

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

(4) (a) As used in this Subsection (4), a candidate is "unopposed" if:

(i) no individual other than the candidate receives a certification, from the appropriate filing officer, for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

## HB0224S02 compared with HB0224S01

(ii) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification, from the appropriate filing officer, for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(b) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall:

(i) provide to the county clerks:

(A) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications from the appropriate filing officer, along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(B) a list of unopposed candidates for elective office who have been nominated by a registered political party; and

(ii) instruct the county clerks to exclude unopposed candidates from the primary election ballot.

Section ~~35~~31. Section **26A-1-102** is amended to read:

### **26A-1-102. Definitions.**

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part [5] 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health created in Title 26, Chapter 1, Department of Health Organization.

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section

## HB0224S02 compared with HB0224S01

17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(10) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(11) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section ~~36~~32. Section **59-2-919** is amended to read:

**59-2-919. Notice and public hearing requirements for certain tax increases --**

### **Exceptions.**

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity



## HB0224S02 compared with HB0224S01

that operates under the county executive-council form of government described in Section [~~17-52-504~~] 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

- (a) the requirements of this section that apply to the taxing entity; and
- (b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

## HB0224S02 compared with HB0224S01

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

## HB0224S02 compared with HB0224S01

(A) the value of the property for the current calendar year;  
(B) the tax on the property for the current calendar year; and  
(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

## HB0224S02 compared with HB0224S01

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;

and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is

## HB0224S02 compared with HB0224S01

published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

### "NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

- The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ \_\_\_\_\_ to \$ \_\_\_\_\_, which is \$ \_\_\_\_\_ per year.
- The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ \_\_\_\_\_ to \$ \_\_\_\_\_, which is \$ \_\_\_\_\_ per year.
- If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by \_\_\_% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

## HB0224S02 compared with HB0224S01

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

## HB0224S02 compared with HB0224S01

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section ~~37~~33. Section **68-3-12.5** is amended to read:

### **68-3-12.5. Definitions for Utah Code.**

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

## HB0224S02 compared with HB0224S01

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(6) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section [~~17-52-504~~] 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section [~~17-52-505~~] 17-52a-204.

(7) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section [~~17-52-504~~] 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized



## HB0224S02 compared with HB0224S01

by Section [~~17-52-505~~] 17-52a-204.

(8) "Depose" means to make a written statement made under oath or affirmation.

(9) "Executor" includes "administrator" when the subject matter justifies the use.

(10) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(11) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(12) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(13) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

(14) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(15) "Month" means a calendar month, unless otherwise expressed.

(16) "Oath" includes "affirmation."

## HB0224S02 compared with HB0224S01

(17) "Person" means:

- (a) an individual;
- (b) an association;
- (c) an institution;
- (d) a corporation;
- (e) a company;
- (f) a trust;
- (g) a limited liability company;
- (h) a partnership;
- (i) a political subdivision;
- (j) a government office, department, division, bureau, or other body of government;

and

(k) any other organization or entity.

(18) "Personal property" includes:

- (a) money;
- (b) goods;
- (c) chattels;
- (d) effects;
- (e) evidences of a right in action;
- (f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- (g) a right or interest in an item described in Subsections (18)(a) through (f).

(19) "Personal representative," "executor," and "administrator" include:

- (a) an executor;
- (b) an administrator;
- (c) a successor personal representative;
- (d) a special administrator; and
- (e) a person who performs substantially the same function as a person described in Subsections (19)(a) through (d) under the law governing the person's status.

(20) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

## HB0224S02 compared with HB0224S01

(a) is authorized to make policy for the benefit of the general public;  
(b) is created by, and whose duties are provided by, the constitution or statute; and  
(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(21) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(22) "Process" means a writ or summons issued in the course of a judicial proceeding.

(23) "Property" includes both real and personal property.

(24) "Real estate" or "real property" includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

(25) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(26) "Road" includes:

- (a) a public bridge;
- (b) a county way;
- (c) a county road;
- (d) a common road; and
- (e) a state road.

(27) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(28) "State," when applied to the different parts of the United States, includes a state,

## HB0224S02 compared with HB0224S01

district, or territory of the United States.

(29) "Swear" includes "affirm."

(30) "Testify" means to make an oral statement under oath or affirmation.

(31) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration;

and

(c) the commissioned corps of the United States Public Health Service.

(32) "United States" includes each state, district, and territory of the United States of America.

(33) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection (33)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(34) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(35) (a) "Veteran" means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

(36) "Will" includes a codicil.

(37) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

## HB0224S02 compared with HB0224S01

(38) "Writing" includes:

- (a) printing;
- (b) handwriting; and
- (c) information stored in an electronic or other medium if the information is retrievable

in a perceivable format.

Section ~~{38}~~34. **Repealer.**

This bill repeals:

Section 17-52-203.5, Election to determine whether study committee should be established.

Section 17-52-204, County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.

**Section 17-52-207, Election of officers under optional plan.**

Section 17-52-301, Procedure for appointing members to study committee.

Section 17-52-302, Convening of first meeting of study committee.

Section 17-52-303, Study committee -- Members -- Powers and duties -- Report -- Services provided by county.

Section 17-52-404, Amendment of optional plan.

Section 17-52-405, Repeal of optional plan.

Section ~~{39}~~35. **Effective date.**

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