

MUNICIPAL FORMS OF GOVERNMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill reinstates the council-manager form of municipal government.

Highlighted Provisions:

This bill:

- ▶ reinstates the council-manager form of municipal government;
- ▶ allows a new municipality to incorporate under the council-manager form of municipal government;
- ▶ allows a municipality to change to the council-manager form of municipal government;
- ▶ requires a municipality that operates under the council-manager form of municipal government to be governed by a municipal council with five or seven members;
- ▶ provides that the mayor of a municipality that operates under the council-manager form of municipal government:
 - is a voting member of the municipal council; and
 - holds certain powers;
- ▶ provides that the municipal council of a municipality that operates under the council-manager form of municipal government:
 - may select a mayor pro tempore;
 - selects the manager for the municipality and establishes the manager's hours and compensation;



- 28 • may remove the municipality's manager; and
- 29 • may establish ordinances to govern certain actions of the municipality's
- 30 manager;
- 31 ▶ provides that the manager of a municipality that operates under the council-manager
- 32 form of municipal government:
- 33 • is the chief executive officer of the municipality;
- 34 • is responsible for implementing the municipal council's policies;
- 35 • holds certain appointment powers;
- 36 • may create or dissolve a position;
- 37 • is responsible for the municipality's employees;
- 38 • is required to report to the municipal council; and
- 39 • holds certain other powers;
- 40 ▶ requires the first manager of a municipality that incorporates or changes to operate
- 41 under the council-manager form of municipal government to draft certain
- 42 ordinances regarding the municipality's administration for the council's
- 43 consideration;
- 44 ▶ repeals obsolete provisions; and
- 45 ▶ makes technical and conforming changes.

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 None

50 **Utah Code Sections Affected:**

51 AMENDS:

52 **10-2a-211**, as renumbered and amended by Laws of Utah 2015, Chapter 352

53 **10-2a-213**, as renumbered and amended by Laws of Utah 2015, Chapter 352

54 **10-2a-214**, as last amended by Laws of Utah 2017, Chapter 91

55 **10-2a-215**, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and

56 amended by Laws of Utah 2015, Chapter 352 and last amended by Coordination

57 Clause, Laws of Utah 2015, Chapter 352

58 **10-2a-218**, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and

59 amended by Laws of Utah 2015, Chapter 352
60 **10-3-205.5**, as last amended by Laws of Utah 2016, Chapter 14
61 **10-3-916**, as last amended by Laws of Utah 2017, Chapter 36
62 **10-3-1105**, as last amended by Laws of Utah 2012, Chapter 321
63 **10-3b-102**, as last amended by Laws of Utah 2015, Chapter 352
64 **10-3b-103**, as last amended by Laws of Utah 2015, Chapter 352
65 **10-3b-601**, as enacted by Laws of Utah 2015, Chapter 352
66 **10-3b-605**, as enacted by Laws of Utah 2015, Chapter 352
67 **10-6-106**, as last amended by Laws of Utah 2014, Chapters 176, 253, 377 and last
68 amended by Coordination Clause, Laws of Utah 2014, Chapter 253
69 **20A-1-102**, as last amended by Laws of Utah 2017, Chapter 52
70 **52-8-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
71 **78A-7-202**, as last amended by Laws of Utah 2015, Chapters 99 and 352

72 ENACTS:

73 **10-3b-701**, Utah Code Annotated 1953
74 **10-3b-702**, Utah Code Annotated 1953
75 **10-3b-703**, Utah Code Annotated 1953
76 **10-3b-704**, Utah Code Annotated 1953
77 **10-3b-705**, Utah Code Annotated 1953
78 **10-3b-706**, Utah Code Annotated 1953

79 REPEALS:

80 **10-2a-221**, as renumbered and amended by Laws of Utah 2015, Chapter 352



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

83 Section 1. Section **10-2a-211** is amended to read:

84 **10-2a-211. Ballot used at the incorporation election.**

85 (1) The ballot at the incorporation election under Subsection **10-2a-210**(1) shall pose
86 the incorporation question substantially as follows:

87 "Shall the area described as (insert a description of the proposed city) be incorporated
88 as the city of (insert the proposed name of the proposed city)?"

89 (2) The ballot shall provide a space for the voter to answer yes or no to the question in

90 Subsection (1).

91 (3) (a) The ballot at the incorporation election shall also pose the question relating to
92 the form of government substantially as follows:

93 "If the above incorporation proposal passes, under what form of municipal government
94 shall (insert the name of the proposed city) operate? Vote for one:

95 Five-member council form

96 Six-member council form

97 Five-member council-mayor form

98 Seven-member council-mayor form

99 Five-member council-manager form

100 Seven-member council-manager form."

101 (b) The ballot shall provide a space for the voter to vote for one form of government.

102 (4) (a) The ballot at the incorporation election shall also pose the question of whether
103 to elect city council members by district substantially as follows:

104 If the above incorporation proposal passes, shall members of the city council of (insert
105 the name of the proposed city) be elected by district?

106 (b) The ballot shall provide a space for the voter to answer yes or no to the question in
107 Subsection (4)(a).

108 Section 2. Section **10-2a-213** is amended to read:

109 **10-2a-213. Determination of number of council members -- Determination of**
110 **election districts -- Hearings and notice.**

111 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of
112 the canvass of the election under Section **10-2a-210**:

113 [~~(a) if the voters at the incorporation election choose the council-mayor form of~~
114 ~~government, determine the number of council members that will constitute the council of the~~
115 ~~future city;~~]

116 [~~(b)~~] (a) if the voters at the incorporation election vote to elect council members by
117 district, determine the number of council members to be elected by district and draw the
118 boundaries of those districts, which shall be substantially equal in population;

119 [~~(c)~~] (b) determine the initial terms of the mayor and members of the city council so
120 that:

121 (i) the mayor and approximately half the members of the city council are elected to
 122 serve an initial term, of no less than one year, that allows their successors to serve a full
 123 four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

124 (ii) the remaining members of the city council are elected to serve an initial term, of no
 125 less than one year, that allows their successors to serve a full four-year term that coincides with
 126 the schedule established in Subsection 10-3-205(2); and

127 ~~[(d)]~~ (c) submit in writing to the county legislative body the results of the sponsors'
 128 determinations under Subsections (1)(a)[;] and (b)[, and (c)].

129 (2) (a) Before making a determination under Subsection (1)(a)[, (b), or (c)] or (b), the
 130 petition sponsors shall hold a public hearing within the future city on the applicable issues
 131 under Subsections (1)(a)[;] and (b)[, and (c)].

132 (b) (i) The petition sponsors shall publish notice of the public hearing under Subsection
 133 (2)(a):

134 (A) in a newspaper of general circulation within the future city at least once a week for
 135 two successive weeks before the hearing; and

136 (B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks
 137 before the hearing.

138 (ii) The last publication of notice under Subsection (2)(b)(i)(A) shall be at least three
 139 days before the public hearing under Subsection (2)(a).

140 (c) (i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general
 141 circulation within the future city, the petition sponsors shall post at least one notice of the
 142 hearing per 1,000 population in conspicuous places within the future city that are most likely to
 143 give notice of the hearing to the residents of the future city.

144 (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven
 145 days before the hearing under Subsection (2)(a).

146 Section 3. Section 10-2a-214 is amended to read:

147 **10-2a-214. Notice of number of commission or council members to be elected and**
 148 **of district boundaries -- Declaration of candidacy for city office.**

149 (1) (a) Within 20 days of the county legislative body's receipt of the information under
 150 Subsection 10-2a-213(1)~~[(d)]~~(c), the county clerk shall publish, in accordance with Subsection
 151 (1)(b), notice containing:

152 (i) the number of commission or council members to be elected for the new city;
 153 (ii) if some or all of the commission or council members are to be elected by district, a
 154 description of the boundaries of those districts as designated by the petition sponsors under
 155 Subsection 10-2a-213(1)(~~b~~)(a);

156 (iii) information about the deadline for filing a declaration of candidacy for those
 157 seeking to become candidates for mayor or city commission or council; and

158 (iv) information about the length of the initial term of each of the city officers, as
 159 determined by the petition sponsors under Subsection 10-2a-213(1)(~~c~~)(b).

160 (b) The notice under Subsection (1)(a) shall be published:

161 (i) in a newspaper of general circulation within the future city at least once a week for
 162 two successive weeks; and

163 (ii) in accordance with Section 45-1-101 for two weeks.

164 (c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general
 165 circulation within the future city, the county clerk shall post at least one notice per 1,000
 166 population in conspicuous places within the future city that are most likely to give notice to the
 167 residents of the future city.

168 (ii) The notice under Subsection (1)(c)(i) shall contain the information required under
 169 Subsection (1)(a).

170 (iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least
 171 seven days before the deadline for filing a declaration of candidacy under Subsection (2).

172 (2) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a
 173 candidate for mayor or city commission or council of a city incorporating under this part shall
 174 file a declaration of candidacy with the clerk of the county in which the future city is located
 175 and in accordance with the deadlines set by the clerk as authorized by Section 10-2a-215.

176 Section 4. Section 10-2a-215 is amended to read:

177 **10-2a-215. Election of officers of new city -- Primary and final election dates --**

178 **County clerk duties -- Candidate duties -- Occupation of office.**

179 (1) For the election of elected city officers, the county legislative body shall:

180 (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary
 181 election; and

182 (b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a

183 final election.

184 (2) Each election under Subsection (1) shall be:

185 (a) appropriate to the form of government chosen by the voters at the incorporation
186 election;

187 (b) consistent with the voters' decision about whether to elect [~~commission or~~] council
188 members by district and, if applicable, consistent with the boundaries of those districts as
189 determined by the petition sponsors; and

190 (c) consistent with the sponsors' or voters' determination of the number of [~~commission~~
191 ~~or~~] council members to be elected and the length of [~~their~~] the council members' initial term.

192 (3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall
193 be held at the earliest of the next:

194 (i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section
195 20A-1-201;

196 (ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under
197 Subsection 20A-1-201.5(1);

198 (iii) municipal primary election under Section 20A-9-404; or

199 (iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under
200 Section 20A-1-202.

201 (b) The county shall hold the primary election, if necessary, on the next earliest
202 election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

203 (i) 75 days after the incorporation election under Section 10-2a-210; and

204 (ii) 65 days after the last day of the candidate filing period.

205 (4) (a) Subject to Subsection (4)(b), the county shall hold the final election under
206 Subsection (1)(b) on one of the following election dates:

207 (i) regular general election under Section 20A-1-201;

208 (ii) municipal primary election under Section 20A-9-404;

209 (iii) regular municipal general election under Section 20A-1-202; or

210 (iv) regular primary election under Section 20A-1-201.5.

211 (b) The county shall hold the final election on the earliest of the next election date that
212 is listed in Subsection (4)(a)(i), (ii), (iii), or (iv):

213 (i) that is after a primary election; or

214 (ii) if there is no primary election, that is at least:
215 (A) 75 days after the incorporation election under Section 10-2a-210; and
216 (B) 65 days after the candidate filing period.

217 (5) (a) (i) The county clerk shall publish notice of an election under this section:
218 (A) at least once a week for two successive weeks in a newspaper of general circulation
219 within the future city; and
220 (B) in accordance with Section 45-1-101 for two weeks.

221 (ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more
222 than seven days before the election.

223 (b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general
224 circulation within the future city, the county clerk shall post at least one notice of the election
225 per 1,000 population in conspicuous places within the future city that are most likely to give
226 notice of the election to the voters.

227 (ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven
228 days before each election under Subsection (1).

229 (6) (a) Until the city is incorporated, the county clerk:
230 (i) is the election officer for all purposes in an election of officers of the city approved
231 at an incorporation election; and
232 (ii) may, as necessary, determine appropriate deadlines, procedures, and instructions
233 that are not otherwise contrary to law.

234 (b) The county clerk shall require and determine deadlines for the filing of campaign
235 financial disclosures of city officer candidates in accordance with Section 10-3-208.

236 (c) The county clerk is responsible to ensure that:
237 (i) a primary or final election for the officials of a newly incorporated city is held on a
238 date authorized by this section; and
239 (ii) the ballot for the election includes each office that is required to be included in the
240 election for officers of the newly incorporated city and the term of each office.

241 (7) A person who has filed as a candidate for an office described in this section shall
242 comply with the campaign finance disclosure requirements of Section 10-3-208 and
243 requirements and deadlines as lawfully set forth by the county clerk.

244 (8) Notwithstanding Section 10-3-201, the officers elected at a final election described

245 in Subsection (4)(a) shall take office:

246 (a) after taking the oath of office; and

247 (b) at noon on the first Monday following the day on which the election official

248 transmits a certificate of nomination or election under the officer's seal to each elected

249 candidate in accordance with Subsection [20A-4-304\(2\)\(c\)\(ii\)](#).

250 Section 5. Section **10-2a-218** is amended to read:

251 **10-2a-218. Powers of officers-elect.**

252 (1) [~~Upon~~] Except as provided in Subsection (3), upon the canvass of the final election

253 of elected city officers under Section [10-2a-215](#) and until the future city becomes legally

254 incorporated, the elected officers of the future city may:

255 (a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities,
256 a proposed budget and compilation of ordinances;

257 (b) negotiate and make personnel contracts and hirings;

258 (c) negotiate and make service contracts;

259 (d) negotiate and make contracts to purchase equipment, materials, and supplies;

260 (e) borrow funds from the county in which the future city is located under Subsection

261 [10-2a-219\(3\)](#);

262 (f) borrow funds for startup expenses of the future city;

263 (g) issue tax anticipation notes in the name of the future city; and

264 (h) make appointments to the city's planning commission.

265 (2) [~~The~~] Except as provided in Subsection (3), the city's legislative body shall review

266 and ratify each contract made by the elected officers under Subsection (1) within 30 days after

267 the effective date of incorporation under Section [10-2a-217](#).

268 (3) Notwithstanding Subsections (1) and (2), an elected city officer in a city that

269 incorporates under the council-manager form of municipal government may not perform a duty

270 or function specifically reserved for the municipal manager under Chapter 3b, Part 7,

271 Council-Manager Form of Municipal Government, regardless of whether the council has

272 appointed a manager under Section [10-3b-703](#).

273 Section 6. Section **10-3-205.5** is amended to read:

274 **10-3-205.5. At-large election of officers -- Election of council members.**

275 (1) (a) Except as provided in Subsection [~~(2), (3), or (4)~~] (1)(b), the officers of each

276 city shall be elected in an at-large election held at the time and in the manner provided for
277 electing municipal officers.

278 (b) A council member is not required to be elected in an at-large election if the council
279 member is required to be elected by district:

280 (i) under an ordinance described in Subsection (2);

281 (ii) under Subsection (3) or (4);

282 (iii) in a city that incorporates under Subsection 10-2a-211(4) with council members
283 selected by district; or

284 (iv) in a city that changes, under Chapter 3b, Part 6, Changing to Another Form of
285 Municipal Government, to a form of government with council members selected by district.

286 (2) (a) The governing body of a city may by ordinance provide for the election of some
287 or all [~~commissioners or~~] council members, as the case may be, by district equal in number to
288 the number of [~~commissioners or~~] council members elected by district.

289 (b) (i) Each district shall be of substantially equal population as the other districts.

290 (ii) Within six months after the Legislature completes its redistricting process, the
291 governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make
292 any adjustments in the boundaries of the districts as may be required to maintain districts of
293 substantially equal population.

294 (3) (a) The municipal council members of a metro township, as defined in Section
295 10-2a-403, are elected:

296 (i) for a metro township with a population of 10,000 or more, by district in accordance
297 with Subsection 10-2a-410(1)(a); or

298 (ii) for a metro township with a population of less than 10,000, at-large in accordance
299 with Subsection 10-2a-410(1)(b).

300 (b) The council districts in a metro township with a population of 10,000 or more shall
301 comply with the requirements of Subsections (2)(b)(i) and (ii).

302 (4) (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of
303 Metro Townships and Unincorporated Islands in a County of the First Class on and after May
304 12, 2015:

305 (i) the council members are elected by district in accordance with Section 10-2a-410;

306 and

307 (ii) the mayor is elected at-large in accordance with Section 10-2a-410.

308 (b) The council districts in a city described in Subsection (4)(a) shall comply with the
309 requirements of Subsections (2)(b)(i) and (ii).

310 Section 7. Section 10-3-916 is amended to read:

311 **10-3-916. Appointment of recorder and treasurer in a city of third, fourth, or**
312 **fifth class or a town -- Vacancies in office.**

313 (1) (a) ~~[It]~~ Except as provided in Subsection 10-3b-704(6) for a city operating under
314 the council-manager form of government, in each city of the third, fourth, or fifth class and in
315 each town, the mayor, with the advice and consent of the city council, shall appoint a qualified
316 person to the office of city recorder and a qualified person to the office of city treasurer.

317 (b) The mayor and city council, or the manager in a city operating under the
318 council-manager form of government, shall use best efforts to ensure the office of city recorder
319 or office of city treasurer is not vacant.

320 (2) The city recorder is ex officio the city auditor and shall perform the duties of that
321 office.

322 (3) ~~[The]~~ Except as provided in Chapter 3b, Part 7, Council-Manager Form of
323 Municipal Government, the mayor, with the advice and consent of the council, may ~~[also]~~
324 appoint and fill vacancies in all offices provided for by law or ordinance.

325 (4) All appointed officers shall continue in office until their successors are appointed
326 and qualified.

327 Section 8. Section 10-3-1105 is amended to read:

328 **10-3-1105. Municipal employees -- Duration and termination of employment --**
329 **Exceptions.**

330 (1) (a) Except as provided in Subsection (1)(b) or (2), each employee of a municipality
331 shall hold employment without limitation of time, being subject to discharge, suspension of
332 over two days without pay, or involuntary transfer to a position with less remuneration only as
333 provided in Section 10-3-1106.

334 (b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily
335 transferred to a position with less remuneration if the discharge or involuntary transfer is the
336 result of a layoff or reorganization.

337 (2) Subsection (1)(a) does not apply to:

338 (a) a municipal manager in a municipality operating under the council-manager form of
339 municipal government;

340 ~~[(a)]~~ (b) subject to Subsection (3), a person appointed by the mayor, city manager, or
341 other person or body with the power to appoint in the municipality if:

342 (i) the appointment is made in writing;

343 (ii) the person's written job description identifies the person's position as exempt from
344 the protections described in Subsection (1)(a); and

345 (iii) the position is described in an ordinance as exempt from the protections described
346 in Subsection (1)(a);

347 ~~[(b)]~~ (c) a member of the municipality's police department or fire department who is a
348 member of the classified civil service in a first or second class city;

349 ~~[(c)]~~ (d) a person who holds a position described in Subsections (2)~~[(c)]~~(d)(i) through
350 (xii) or an equivalent position designated in a municipal ordinance or personnel policy:

351 (i) a police chief of the municipality;

352 (ii) a deputy or assistant police chief of the municipality;

353 (iii) a fire chief of the municipality;

354 (iv) a deputy or assistant fire chief of the municipality;

355 (v) a head of a municipal department or division;

356 (vi) a deputy of a head of a municipal department or division;

357 (vii) a superintendent;

358 (viii) a probationary employee of the municipality;

359 (ix) a part-time employee of the municipality, including paid call firefighters;

360 (x) a seasonal or temporary employee of the municipality;

361 (xi) a person who works in the office of an elected official; or

362 (xii) a secretarial or administrative assistant support position that is specifically
363 designated as a position to assist an elected official or the head or deputy head of a municipal
364 department;

365 ~~[(d)]~~ (e) an individual appointed to a position under Part 9, Appointed Officials and
366 Their Duties, including:

367 (i) the city engineer;

368 (ii) the city recorder;

369 (iii) the city treasurer; or

370 (iv) the city attorney; or

371 ~~[(e)]~~ (f) an employee who has:

372 (i) acknowledged in writing that the employee's employment status is appointed or
373 at-will; or

374 (ii) voluntarily waived the procedures required by Section 10-3-1106.

375 (3) In addition to the persons described in Subsections (2)~~[(b)]~~~~(c)~~ through ~~[(e)]~~ (f), a
376 municipality may appoint up to 5% of the municipality's workforce in accordance with
377 Subsection (2)(a).

378 (4) Nothing in this section or Section 10-3-1106 may be construed to limit a
379 municipality's ability to define cause for an employee termination or reduction in force.

380 Section 9. Section 10-3b-102 is amended to read:

381 **10-3b-102. Definitions.**

382 As used in this chapter:

383 (1) "Council-manager form of government" means the form of municipal government
384 described in Part 7, Council-Manager Form of Municipal Government.

385 ~~[(1)]~~ (2) "Council-mayor form of government" means the form of municipal
386 government that:

387 (a) (i) is provided for in Laws of Utah 1977, Chapter 48;

388 (ii) may not be adopted without voter approval; and

389 (iii) consists of two separate, independent, and equal branches of municipal
390 government; and

391 (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal
392 Government.

393 ~~[(2)]~~ (3) "Five-member council form of government" means the form of municipal
394 government described in Part 4, Five-Member Council Form of Municipal Government.

395 ~~[(3)]~~ (4) "Metro township" means the same as that term is defined in Section
396 10-2a-403.

397 ~~[(4)]~~ (5) "Metro township council form of government" means the form of metro
398 township government described in Part 5, Metro Township Council Form of Municipal
399 Government.

400 [~~(5)~~] (6) "Six-member council form of government" means the form of municipal
401 government described in Part 3, Six-Member Council Form of Municipal Government.

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

403 **10-3b-103. Forms of municipal government -- Form of government for towns.**

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

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

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

408 [10-3b-102](#); and

409 (ii) be subject to:

410 (A) this part;

411 (B) Part 2, Council-Mayor Form of Municipal Government;

412 (C) Part 6, Changing to Another Form of Municipal Government; and

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

414 and

415 (b) is not subject to:

416 (i) Part 3, Six-Member Council Form of Municipal Government;

417 (ii) Part 4, Five-Member Council Form of Municipal Government; or

418 (iii) Part 5, Metro Township Council Form of Municipal Government.

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

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

423 (i) operate under a six-member council form of government, as defined in Section

424 [10-3b-102](#);

425 (ii) be subject to:

426 (A) this part;

427 (B) Part 3, Six-Member Council Form of Municipal Government;

428 (C) Part 6, Changing to Another Form of Municipal Government; and

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

430 and

- 431 (b) is not subject to:
- 432 (i) Part 2, Council-Mayor Form of Municipal Government;
- 433 (ii) Part 4, Five-Member Council Form of Municipal Government; or
- 434 (iii) Part 5, Metro Township Council Form of Municipal Government.
- 435 (3) A municipality operating on May 4, 2008, under a form of government known
- 436 under the law then in effect as the five-member council form:
- 437 (a) shall, on and after May 5, 2008:
- 438 (i) operate under a five-member council form of government, as defined in Section
- 439 [10-3b-102](#);
- 440 (ii) be subject to:
- 441 (A) this part;
- 442 (B) Part 4, Five-Member Council Form of Municipal Government;
- 443 (C) Part 6, Changing to Another Form of Municipal Government; and
- 444 (D) except as provided in Subsection (3)(b), other applicable provisions of this title;
- 445 and
- 446 (b) is not subject to:
- 447 (i) Part 2, Council-Mayor Form of Municipal Government;
- 448 (ii) Part 3, Six-Member Council Form of Municipal Government; or
- 449 (iii) Part 5, Metro Township Council Form of Municipal Government.
- 450 (4) Subject to Subsection (5), each municipality other than a metro township
- 451 incorporated on or after May 5, 2008, shall operate under:
- 452 (a) the council-mayor form of government, with a five-member council;
- 453 (b) the council-mayor form of government, with a seven-member council;
- 454 (c) the six-member council form of government; or
- 455 (d) the five-member council form of government.
- 456 (5) Each town shall operate under a five-member council form of government unless:
- 457 (a) before May 5, 2008, the town has changed to another form of municipal
- 458 government; or
- 459 (b) on or after May 5, 2008, the town changes its form of government as provided in
- 460 Part 6, Changing to Another Form of Municipal Government.
- 461 (6) Each metro township:

- 462 (a) shall operate under a metro township council form of government;
- 463 (b) is subject to:
- 464 (i) this part;
- 465 (ii) Part 5, Metro Township Council Form of Municipal Government; and
- 466 (iii) except as provided in Subsection (6)(c), other applicable provisions of this title;

467 and

- 468 (c) is not subject to:
- 469 (i) Part 2, Council-Mayor Form of Municipal Government;
- 470 (ii) Part 3, Six-Member Council Form of Municipal Government; or
- 471 (iii) Part 4, Five-Member Council Form of Municipal Government.

472 [~~(7) (a) As used in this Subsection (7), "council-manager form of government" means~~
473 ~~the form of municipal government:]~~

474 [~~(i) provided for in Laws of Utah 1977, Chapter 48;~~

475 [~~(ii) that cannot be adopted without voter approval; and]~~

476 [~~(iii) that provides for, subject to Subsections (8) and (9), an appointed manager with~~
477 ~~duties and responsibilities established in Laws of Utah 1977, Chapter 48:]~~

478 [~~(b)~~] (7) A municipality operating on May [~~4, 2008;~~] 7, 2018, under the law then in
479 effect known as the council-manager form of government:

480 [~~(i) shall:]~~

481 [~~(A) continue to operate, on and after May 5, 2008, under the council-manager form of~~
482 ~~government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and]~~

483 (a) shall, on and after May 8, 2018, operate under the council-manager form of
484 government as defined in Section [10-3b-102](#);

485 [~~(B)~~] (b) [~~be~~] is subject to:

486 [~~(I)~~] (i) this Subsection (7) and other applicable provisions of this part;

487 (ii) Part 7, Council-Manager Form of Municipal Government;

488 [~~(H)~~] (iii) Part 6, Changing to Another Form of Municipal Government; and

489 [~~(HH)~~] (iv) except as provided in Subsection (7)(b)[~~(ii)~~], other applicable provisions of
490 this title; and

491 [~~(ii)~~] (c) is not subject to:

492 [~~(A)~~] (i) Part 2, Council-Mayor Form of Municipal Government;

493 ~~[(B)]~~ (ii) Part 3, Six-Member Council Form of Municipal Government;
 494 ~~[(C)]~~ (iii) Part 4, Five-Member Council Form of Municipal Government; or
 495 ~~[(D)]~~ (iv) Part 5, Metro Township Council Form of Municipal Government.

496 (8) (a) As used in this Subsection (8), "interim vacancy period" means the period of
 497 time that:

498 (i) begins on the day on which a municipal general election described in Section
 499 [10-3-201](#) is held to elect a council member; and

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

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

503 (ii) Notwithstanding Subsection (8)(b)(i):

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

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

507 (c) Subsection (8)(b) does not apply if all the council members who held office on the
 508 day of the municipal general election whose term of office was vacant for the election are
 509 re-elected to the council for the following term.

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

513 (10) Nothing in this section may be construed to prevent or limit a municipality
 514 operating under any form of municipal government from changing to another form of
 515 government as provided in Part 6, Changing to Another Form of Municipal Government.

516 Section 11. Section **10-3b-601** is amended to read:

517 **10-3b-601. Authority to change to another form of municipal government.**

518 (1) As provided in this part, a municipality may change from the form of government
 519 under which ~~[it]~~ the municipality operates to:

520 (a) the council-mayor form of government with a five-member council;

521 (b) the council-mayor form of government with a seven-member council;

522 (c) the six-member council form of government; ~~[or]~~

523 (d) the five-member council form of government~~[-]~~;

- 524 (e) the council-manager form of government with a five-member council; or
- 525 (f) the council-manager form of government with a seven-member council.
- 526 (2) (a) A metro township that changes from the metro township council form of
- 527 government to a form described in Subsection (1):
- 528 (i) is no longer a metro township; and
- 529 (ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority
- 530 of a city or town.
- 531 (b) If a metro township with a population that qualifies as a town in accordance with
- 532 Section 10-2-301 changes the metro township's form of government in accordance with this
- 533 part, the metro township may only change to the five-member council form of government.
- 534 (3) A municipality other than a metro township may not operate under the metro
- 535 township council form of government.

Section 12. Section 10-3b-605 is amended to read:

10-3b-605. Ballot form.

The ballot at an election on a proposal to change the municipality's form of government shall:

(1) state the ballot question substantially as follows: "Shall [state the municipality's name], Utah, change its form of government to the [state "council-mayor form, with a five-member council," "council-mayor form, with a seven-member council," "six-member council form," ~~or~~ "five-member council form," or "council-manager form," as applicable]?"; and

(2) provide a space or method for the voter to vote "yes" or "no."

Section 13. Section 10-3b-701 is enacted to read:

Part 7. Council-Manager Form of Municipal Government

10-3b-701. Council-manager form -- Election and powers and duties of mayor.

The powers of municipal government in a municipality operating under the council-manager form of government are vested in:

(1) a council consisting of five or seven members, one of which is a mayor; and

(2) a municipal manager selected by the council.

Section 14. Section 10-3b-702 is enacted to read:

10-3b-702. Mayor in council-manager form -- Powers and responsibilities --

555 **Mayor pro tempore.**

556 (1) The mayor in a municipality operating under the council-manager form of
557 government:

558 (a) is a regular and voting member of the council;

559 (b) is chair of the council;

560 (c) presides at all council meetings;

561 (d) exercises ceremonial functions for the municipality; and

562 (e) has only those powers granted to the mayor in this part or other applicable law.

563 (2) The mayor shall be elected at large for a four-year term.

564 (3) The mayor is the only person that may execute a bond, note, contract, or written
565 obligation of the municipality on behalf of the municipality.

566 (4) (a) If the mayor is absent or is unable or refuses to act, the council may select a
567 member of the council as mayor pro tempore.

568 (b) A mayor pro tempore selected under Subsection (4)(a) may, during the mayor's
569 absence or inability or refusal to act, perform the duties and functions of the mayor.

570 (c) If the council selects a mayor pro tempore under Subsection (4)(a), the municipal
571 clerk or recorder shall record the selection in the minutes of the council meeting at which the
572 council makes the selection.

573 Section 15. Section **10-3b-703** is enacted to read:

574 **10-3b-703. Council-manager form -- Appointment and removal of municipal**
575 **manager -- Prohibitions on council action.**

576 (1) The council of a municipality operating under the council-manager form of
577 government shall, by a two-thirds vote of all of the council members, appoint a municipal
578 manager.

579 (2) The municipal manager is the chief executive officer of the municipality.

580 (3) (a) The municipal council may, at its pleasure and by majority vote, remove the
581 manager.

582 (b) Except as provided in Subsection (3)(c), the council shall ensure that a manager
583 that the council removes receives:

584 (i) any unpaid balance of the manager's salary as of the day on which the council
585 removes the manager; and

586 (ii) the manager's salary, at the same rate as before the manager is removed, for the six
587 calendar months immediately following the day on which the council removes the manager.

588 (c) Subsection (3)(b) does not apply to a manager that is removed for proven
589 malfesance in office.

590 (4) The council may not delegate to the manager:

591 (a) a power specifically reserved for the mayor in a statute that is applicable to the
592 mayor of a municipality that operates under the council-manager form of municipal
593 government;

594 (b) the mayor's position as chair of the council; or

595 (c) an ex officio position that the mayor holds.

596 (5) (a) The council or a member of the council may not give an order to a person over
597 which the mayor or the manager has jurisdiction.

598 (b) Notwithstanding Subsection (5)(a), the council or a member of the council may
599 make a recommendation to the mayor or the manager regarding a person over which the mayor
600 or manager has jurisdiction.

601 Section 16. Section **10-3b-704** is enacted to read:

602 **10-3b-704. Manager -- Powers and duties.**

603 A municipal manager in a municipality that operates under the council-manager form of
604 government shall:

605 (1) execute and enforce all applicable laws, ordinances, rules, and regulations for the
606 municipality;

607 (2) ensure that a person observes the terms of a franchise, lease, permit, contract,
608 license, or privilege that the municipality grants to the person;

609 (3) implement the policies and programs that the council establishes;

610 (4) organize and direct the executive affairs of the municipality in a manner that is
611 consistent with this chapter and the municipality's ordinances;

612 (5) if the municipality is a city, appoint a budget officer to comply with the
613 requirements of Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

614 (6) appoint, with the council's advice and consent, a qualified person to each of the
615 following:

616 (a) in a city, the offices of recorder, treasurer, engineer, and attorney; or

- 617 (b) in a town, the offices of treasurer and clerk;
618 (7) create any other offices that the manager determines is necessary for the
619 municipality's good governance;
620 (8) regulate and prescribe the powers and duties of an unelected officer of the
621 municipality, except as provided by law or by ordinance;
622 (9) inspect the records of, investigate the actions of, and require reports from, an office,
623 department, agency, board, or commission of the municipality;
624 (10) except as provided in Chapter 3, Part 10, Civil Service Commission, appoint,
625 suspend, or remove the head of a municipal office, department, or agency:
626 (a) with the council's advice and consent;
627 (b) in accordance with the provisions of this part and Chapter 3, Municipal
628 Government; and
629 (c) in accordance with municipal ordinance;
630 (11) unless otherwise indicated in an ordinance adopted by the council, appoint
631 members of each of the municipality's boards or commissions;
632 (12) establish standards and procedures, that are consistent with Chapter 3, Municipal
633 Government, to govern the process by which the head of an office, department, or agency
634 selects employees within the head's office, department, or agency;
635 (13) submit an annual report to the council that:
636 (a) describes development within the municipality;
637 (b) assesses the needs of the municipality;
638 (c) describes the financial, administrative, and operational activities of municipal
639 offices, departments, agencies, boards, and commissions; and
640 (d) evaluates and makes recommendations regarding an item described in Subsections
641 (13)(a) through (c);
642 (14) submit other reports to the council:
643 (a) as requested by the council; or
644 (b) as the manager determines is necessary for the council's information;
645 (15) attend each council meeting and participate in the council's discussions and
646 deliberations;
647 (16) with the consent of the council, select an individual to act as municipal manager if

648 the municipal manager is absent or temporarily unable to act as the municipal manager; and
649 (17) perform other duties and functions as specified by the council, municipal
650 ordinance, or state law.

651 Section 17. Section **10-3b-705** is enacted to read:

652 **10-3b-705. Municipal administration in council-manager form.**

653 (1) When a municipality changes under Part 6, Changing to Another Form of
654 Municipal Government, to operate under the council-manager form of government, or when a
655 municipality incorporates under Chapter 2a, Municipal Incorporation, to operate under the
656 council-manager form of government, the first municipal manager appointed under Section
657 10-3b-703 after the change or incorporation shall:

658 (a) draft a proposed ordinance that:

659 (i) subject to Sections 10-3-801 and 10-3-805, for a city of the first or second class,
660 divides the administrative organization of the municipality into departments, divisions, and
661 offices;

662 (ii) defines the functions and duties of each department, division, or office; and

663 (iii) establishes provisions for the management of each department, division, or office,
664 including the duties and powers of the head of each department, division, or office; and

665 (b) submit the proposed ordinance described in Subsection (1)(a) to the council within
666 six months after the day on which the manager is appointed.

667 (2) (a) After the manager submits the proposed ordinance under Subsection (1)(b), the
668 council shall consider, amend if necessary, and adopt the proposed ordinance.

669 (b) After the adoption of the proposed ordinance, the council, upon recommendation of
670 the manager, may:

671 (i) create, consolidate, or dissolve a municipal department, division, or office; and

672 (ii) define or alter the functions or duties of a municipal department, division, or office.

673 (3) The head of each division, department, or office has power to create policies and
674 rules for the head's division, department, or office that are consistent with:

675 (a) the ordinance adopted or amended under this section; and

676 (b) applicable law.

677 (4) Before the council adopts an ordinance under Subsection (2), the manager may
678 establish temporary rules and policies for the administration of the municipal government in

679 order to ensure the municipal government functions efficiently and effectively.

680 Section 18. Section **10-3b-706** is enacted to read:

681 **10-3b-706. Manager -- Hours and compensation.**

682 The municipal council operating under a council-manager form of government shall

683 establish:

684 (1) expectations for the municipal manager's responsibilities and performance;

685 (2) the municipal manager's hours and work schedule; and

686 (3) the municipal manager's total compensation package, including the manager's

687 salary and benefits.

688 Section 19. Section **10-6-106** is amended to read:

689 **10-6-106. Definitions.**

690 As used in this chapter:

691 (1) "Account group" is defined by generally accepted accounting principles as reflected
692 in the Uniform Accounting Manual for Utah Cities.

693 (2) "Appropriation" means an allocation of money by the governing body for a specific
694 purpose.

695 (3) (a) "Budget" means a plan of financial operations for a fiscal period which
696 embodies estimates of proposed expenditures for given purposes and the proposed means of
697 financing them.

698 (b) "Budget" may refer to the budget of a particular fund for which a budget is required
699 by law or it may refer collectively to the budgets for all such funds.

700 (4) "Budgetary fund" means a fund for which a budget is required.

701 (5) "Budget officer" means:

702 (a) the city auditor in a city of the first [~~and~~] or second class[;];

703 (b) the mayor, or [~~some person~~] an individual appointed by the mayor with the
704 approval of the city council, in a city of the third, fourth, or fifth class[;];

705 (c) the mayor in the council-mayor optional form of government[; ~~or~~];

706 (d) the [~~person~~] individual designated by the charter in a charter city[;]; or

707 (e) notwithstanding Subsections (5)(a) through (d), in a city operating under the
708 council-manager form of government, the individual whom the city manager designates.

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

710 (7) "Check" means an order in a specific amount drawn upon a depository by an
711 authorized officer of a city.

712 (8) "City general fund" means the general fund used by a city.

713 (9) "Current period" means the fiscal period in which a budget is prepared and adopted,
714 i.e., the fiscal period next preceding the budget period.

715 (10) "Department" means any functional unit within a fund that carries on a specific
716 activity, such as a fire or police department within a city general fund.

717 (11) "Encumbrance system" means a method of budgetary control in which part of an
718 appropriation is reserved to cover a specific expenditure by charging obligations, such as
719 purchase orders, contracts, or salary commitments to an appropriation account at their time of
720 origin. Such obligations cease to be encumbrances when paid or when the actual liability is
721 entered on the city's books of account.

722 (12) "Enterprise fund" means a fund as defined by the Governmental Accounting
723 Standards Board that is used by a municipality to report an activity for which a fee is charged to
724 users for goods or services.

725 (13) "Estimated revenue" means the amount of revenue estimated to be received from
726 all sources during the budget period in each fund for which a budget is being prepared.

727 (14) "Financial officer" means the mayor in the council-mayor optional form of
728 government or the city official as authorized by Section [10-6-158](#).

729 (15) "Fiscal period" means the annual or biennial period for accounting for fiscal
730 operations in each city.

731 (16) "Fund" is as defined by generally accepted accounting principles as reflected in
732 the Uniform Accounting Manual for Utah Cities.

733 (17) "Fund balance," "retained earnings," and "deficit" have the meanings commonly
734 accorded such terms under generally accepted accounting principles as reflected in the Uniform
735 Accounting Manual for Utah Cities.

736 (18) "General fund" is as defined by the Governmental Accounting Standards Board as
737 reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office
738 of the Utah State Auditor.

739 (19) "Governing body" means a city council, [~~or city commission, as the case may be,~~]
740 but the authority to make any appointment to any position created by this chapter is vested in

741 the mayor in the council-mayor optional form of government.

742 (20) "Interfund loan" means a loan of cash from one fund to another, subject to future
743 repayment.

744 (21) "Last completed fiscal period" means the fiscal period next preceding the current
745 period.

746 (22) (a) "Public funds" means any money or payment collected or received by an
747 officer or employee of the city acting in an official capacity and includes money or payment to
748 the officer or employee for services or goods provided by the city, or the officer or employee
749 while acting within the scope of employment or duty.

750 (b) "Public funds" does not include money or payments collected or received by an
751 officer or employee of a city for charitable purposes if the mayor or city council has consented
752 to the officer's or employee's participation in soliciting contributions for a charity.

753 (23) "Special fund" means any fund other than the city general fund.

754 (24) "Utility" means a utility owned by a city, in whole or in part, that provides
755 electricity, gas, water, or sewer, or any combination of them.

756 (25) "Warrant" means an order drawn upon the city treasurer, in the absence of
757 sufficient money in the city's depository, by an authorized officer of a city for the purpose of
758 paying a specified amount out of the city treasury to the person named or to the bearer as
759 money becomes available.

760 Section 20. Section **20A-1-102** is amended to read:

761 **20A-1-102. Definitions.**

762 As used in this title:

763 (1) "Active voter" means a registered voter who has not been classified as an inactive
764 voter by the county clerk.

765 (2) "Automatic tabulating equipment" means apparatus that automatically examines
766 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

767 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
768 upon which a voter records the voter's votes.

769 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
770 envelopes.

771 (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

772 (a) contain the names of offices and candidates and statements of ballot propositions to
773 be voted on; and

774 (b) are used in conjunction with ballot sheets that do not display that information.

775 (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
776 on the ballot for their approval or rejection including:

777 (a) an opinion question specifically authorized by the Legislature;

778 (b) a constitutional amendment;

779 (c) an initiative;

780 (d) a referendum;

781 (e) a bond proposition;

782 (f) a judicial retention question;

783 (g) an incorporation of a city or town; or

784 (h) any other ballot question specifically authorized by the Legislature.

785 (6) "Ballot sheet":

786 (a) means a ballot that:

787 (i) consists of paper or a card where the voter's votes are marked or recorded; and

788 (ii) can be counted using automatic tabulating equipment; and

789 (b) includes punch card ballots and other ballots that are machine-countable.

790 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
791 together with a staple or stitch in at least three places across the top of the paper in the blank
792 space reserved for securing the paper.

793 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
794 [20A-4-306](#) to canvass election returns.

795 (9) "Bond election" means an election held for the purpose of approving or rejecting
796 the proposed issuance of bonds by a government entity.

797 (10) "Book voter registration form" means voter registration forms contained in a
798 bound book that are used by election officers and registration agents to register persons to vote.

799 (11) "Business reply mail envelope" means an envelope that may be mailed free of
800 charge by the sender.

801 (12) "By-mail voter registration form" means a voter registration form designed to be
802 completed by the voter and mailed to the election officer.

803 (13) "Canvass" means the review of election returns and the official declaration of
804 election results by the board of canvassers.

805 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
806 the canvass.

807 (15) "Contracting election officer" means an election officer who enters into a contract
808 or interlocal agreement with a provider election officer.

809 (16) "Convention" means the political party convention at which party officers and
810 delegates are selected.

811 (17) "Counting center" means one or more locations selected by the election officer in
812 charge of the election for the automatic counting of ballots.

813 (18) "Counting judge" means a poll worker designated to count the ballots during
814 election day.

815 (19) "Counting poll watcher" means a person selected as provided in Section
816 [20A-3-201](#) to witness the counting of ballots.

817 (20) "Counting room" means a suitable and convenient private place or room,
818 immediately adjoining the place where the election is being held, for use by the poll workers
819 and counting judges to count ballots during election day.

820 (21) "County officers" means those county officers that are required by law to be
821 elected.

822 (22) "Date of the election" or "election day" or "day of the election":

823 (a) means the day that is specified in the calendar year as the day that the election
824 occurs; and

825 (b) does not include:

826 (i) deadlines established for absentee voting; or

827 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
828 Voting.

829 (23) "Elected official" means:

830 (a) a person elected to an office under Section [20A-1-303](#);

831 (b) a person who is considered to be elected to a municipal office in accordance with
832 Subsection [20A-1-206\(1\)\(c\)\(ii\)](#); or

833 (c) a person who is considered to be elected to a local district office in accordance with

834 Subsection [20A-1-206\(3\)\(c\)\(ii\)](#).

835 (24) "Election" means a regular general election, a municipal general election, a
836 statewide special election, a local special election, a regular primary election, a municipal
837 primary election, and a local district election.

838 (25) "Election Assistance Commission" means the commission established by the Help
839 America Vote Act of 2002, Pub. L. No. 107-252.

840 (26) "Election cycle" means the period beginning on the first day persons are eligible to
841 file declarations of candidacy and ending when the canvass is completed.

842 (27) "Election judge" means a poll worker that is assigned to:

- 843 (a) preside over other poll workers at a polling place;
- 844 (b) act as the presiding election judge; or
- 845 (c) serve as a canvassing judge, counting judge, or receiving judge.

846 (28) "Election officer" means:

- 847 (a) the lieutenant governor, for all statewide ballots and elections;
- 848 (b) the county clerk for:
 - 849 (i) a county ballot and election; and
 - 850 (ii) a ballot and election as a provider election officer as provided in Section
851 [20A-5-400.1](#) or [20A-5-400.5](#);
- 852 (c) the municipal clerk for:
 - 853 (i) a municipal ballot and election; and
 - 854 (ii) a ballot and election as a provider election officer as provided in Section
855 [20A-5-400.1](#) or [20A-5-400.5](#);
- 856 (d) the local district clerk or chief executive officer for:
 - 857 (i) a local district ballot and election; and
 - 858 (ii) a ballot and election as a provider election officer as provided in Section
859 [20A-5-400.1](#) or [20A-5-400.5](#); or
- 860 (e) the business administrator or superintendent of a school district for:
 - 861 (i) a school district ballot and election; and
 - 862 (ii) a ballot and election as a provider election officer as provided in Section
863 [20A-5-400.1](#) or [20A-5-400.5](#).

864 (29) "Election official" means any election officer, election judge, or poll worker.

865 (30) "Election results" means:

866 (a) for an election other than a bond election, the count of votes cast in the election and
867 the election returns requested by the board of canvassers; or

868 (b) for bond elections, the count of those votes cast for and against the bond
869 proposition plus any or all of the election returns that the board of canvassers may request.

870 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
871 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
872 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition
873 form, and the total votes cast form.

874 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
875 device or other voting device that records and stores ballot information by electronic means.

876 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
877 or logically associated with a record and executed or adopted by a person with the intent to sign
878 the record.

879 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

880 (b) "Electronic voting device" includes a direct recording electronic voting device.

881 (35) "Inactive voter" means a registered voter who is listed as inactive by a county
882 clerk under Subsection [20A-2-306\(4\)\(c\)\(i\)](#) or (ii).

883 (36) "Inspecting poll watcher" means a person selected as provided in this title to
884 witness the receipt and safe deposit of voted and counted ballots.

885 (37) "Judicial office" means the office filled by any judicial officer.

886 (38) "Judicial officer" means any justice or judge of a court of record or any county
887 court judge.

888 (39) "Local district" means a local government entity under Title 17B, Limited Purpose
889 Local Government Entities - Local Districts, and includes a special service district under Title
890 17D, Chapter 1, Special Service District Act.

891 (40) "Local district officers" means those local district board members that are required
892 by law to be elected.

893 (41) "Local election" means a regular county election, a regular municipal election, a
894 municipal primary election, a local special election, a local district election, and a bond
895 election.

896 (42) "Local political subdivision" means a county, a municipality, a local district, or a
897 local school district.

898 (43) "Local special election" means a special election called by the governing body of a
899 local political subdivision in which all registered voters of the local political subdivision may
900 vote.

901 (44) "Municipal executive" means:

902 (a) the mayor in the council-mayor form of government defined in Section [10-3b-102](#);

903 (b) the mayor in the council-manager form of government defined in [Subsection

904 ~~10-3b-103(7)~~] [Section 10-3b-102](#); or

905 (c) the chair of a metro township form of government defined in Section [10-3b-102](#).

906 (45) "Municipal general election" means the election held in municipalities and, as
907 applicable, local districts on the first Tuesday after the first Monday in November of each
908 odd-numbered year for the purposes established in Section [20A-1-202](#).

909 (46) "Municipal legislative body" means:

910 (a) the council of the city or town in any form of municipal government; or

911 (b) the council of a metro township.

912 (47) "Municipal office" means an elective office in a municipality.

913 (48) "Municipal officers" means those municipal officers that are required by law to be
914 elected.

915 (49) "Municipal primary election" means an election held to nominate candidates for
916 municipal office.

917 (50) "Municipality" means a city, town, or metro township.

918 (51) "Official ballot" means the ballots distributed by the election officer to the poll
919 workers to be given to voters to record their votes.

920 (52) "Official endorsement" means:

921 (a) the information on the ballot that identifies:

922 (i) the ballot as an official ballot;

923 (ii) the date of the election; and

924 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the
925 facsimile signature required by Subsection [20A-6-401\(1\)\(b\)\(iii\)](#); or

926 (B) for a ballot prepared by a county clerk, the words required by Subsection

927 20A-6-301(1)(c)(iii); and

928 (b) the information on the ballot stub that identifies:

929 (i) the poll worker's initials; and

930 (ii) the ballot number.

931 (53) "Official register" means the official record furnished to election officials by the
932 election officer that contains the information required by Section 20A-5-401.

933 (54) "Paper ballot" means a paper that contains:

934 (a) the names of offices and candidates and statements of ballot propositions to be
935 voted on; and

936 (b) spaces for the voter to record the voter's vote for each office and for or against each
937 ballot proposition.

938 (55) "Political party" means an organization of registered voters that has qualified to
939 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
940 and Procedures.

941 [~~58~~] (56) (a) "Poll worker" means a person assigned by an election official to assist
942 with an election, voting, or counting votes.

943 (b) "Poll worker" includes election judges.

944 (c) "Poll worker" does not include a watcher.

945 [~~56~~] (57) "Pollbook" means a record of the names of voters in the order that they
946 appear to cast votes.

947 [~~57~~] (58) "Polling place" means the building where voting is conducted.

948 (59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
949 in which the voter marks the voter's choice.

950 (60) "Primary convention" means the political party conventions held during the year
951 of the regular general election.

952 (61) "Protective counter" means a separate counter, which cannot be reset, that:

953 (a) is built into a voting machine; and

954 (b) records the total number of movements of the operating lever.

955 (62) "Provider election officer" means an election officer who enters into a contract or
956 interlocal agreement with a contracting election officer to conduct an election for the
957 contracting election officer's local political subdivision in accordance with Section

958 20A-5-400.1.

959 (63) "Provisional ballot" means a ballot voted provisionally by a person:

960 (a) whose name is not listed on the official register at the polling place;

961 (b) whose legal right to vote is challenged as provided in this title; or

962 (c) whose identity was not sufficiently established by a poll worker.

963 (64) "Provisional ballot envelope" means an envelope printed in the form required by
964 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
965 verify a person's legal right to vote.

966 (65) "Qualify" or "qualified" means to take the oath of office and begin performing the
967 duties of the position for which the person was elected.

968 (66) "Receiving judge" means the poll worker that checks the voter's name in the
969 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
970 after the voter has voted.

971 (67) "Registration form" means a book voter registration form and a by-mail voter
972 registration form.

973 (68) "Regular ballot" means a ballot that is not a provisional ballot.

974 (69) "Regular general election" means the election held throughout the state on the first
975 Tuesday after the first Monday in November of each even-numbered year for the purposes
976 established in Section 20A-1-201.

977 (70) "Regular primary election" means the election on the fourth Tuesday of June of
978 each even-numbered year, to nominate candidates of political parties and candidates for
979 nonpartisan local school board positions to advance to the regular general election.

980 (71) "Resident" means a person who resides within a specific voting precinct in Utah.

981 (72) "Sample ballot" means a mock ballot similar in form to the official ballot printed
982 and distributed as provided in Section 20A-5-405.

983 (73) "Scratch vote" means to mark or punch the straight party ticket and then mark or
984 punch the ballot for one or more candidates who are members of different political parties or
985 who are unaffiliated.

986 (74) "Secrecy envelope" means the envelope given to a voter along with the ballot into
987 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
988 the voter's vote.

989 (75) "Special election" means an election held as authorized by Section 20A-1-203.

990 (76) "Spoiled ballot" means each ballot that:

991 (a) is spoiled by the voter;

992 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

993 (c) lacks the official endorsement.

994 (77) "Statewide special election" means a special election called by the governor or the

995 Legislature in which all registered voters in Utah may vote.

996 (78) "Stub" means the detachable part of each ballot.

997 (79) "Substitute ballots" means replacement ballots provided by an election officer to

998 the poll workers when the official ballots are lost or stolen.

999 (80) "Ticket" means a list of:

1000 (a) political parties;

1001 (b) candidates for an office; or

1002 (c) ballot propositions.

1003 (81) "Transfer case" means the sealed box used to transport voted ballots to the

1004 counting center.

1005 (82) "Vacancy" means the absence of a person to serve in any position created by

1006 statute, whether that absence occurs because of death, disability, disqualification, resignation,

1007 or other cause.

1008 (83) "Valid voter identification" means:

1009 (a) a form of identification that bears the name and photograph of the voter which may

1010 include:

1011 (i) a currently valid Utah driver license;

1012 (ii) a currently valid identification card that is issued by:

1013 (A) the state; or

1014 (B) a branch, department, or agency of the United States;

1015 (iii) a currently valid Utah permit to carry a concealed weapon;

1016 (iv) a currently valid United States passport; or

1017 (v) a currently valid United States military identification card;

1018 (b) one of the following identification cards, whether or not the card includes a

1019 photograph of the voter:

- 1020 (i) a valid tribal identification card;
- 1021 (ii) a Bureau of Indian Affairs card; or
- 1022 (iii) a tribal treaty card; or
- 1023 (c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear
- 1024 the name of the voter and provide evidence that the voter resides in the voting precinct, which
- 1025 may include:
 - 1026 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
 - 1027 election;
 - 1028 (ii) a bank or other financial account statement, or a legible copy thereof;
 - 1029 (iii) a certified birth certificate;
 - 1030 (iv) a valid social security card;
 - 1031 (v) a check issued by the state or the federal government or a legible copy thereof;
 - 1032 (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - 1033 (vii) a currently valid Utah hunting or fishing license;
 - 1034 (viii) certified naturalization documentation;
 - 1035 (ix) a currently valid license issued by an authorized agency of the United States;
 - 1036 (x) a certified copy of court records showing the voter's adoption or name change;
 - 1037 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - 1038 (xii) a currently valid identification card issued by:
 - 1039 (A) a local government within the state;
 - 1040 (B) an employer for an employee; or
 - 1041 (C) a college, university, technical school, or professional school located within the
 - 1042 state; or
 - 1043 (xiii) a current Utah vehicle registration.
- 1044 (84) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 1045 candidate by following the procedures and requirements of this title.
- 1046 (85) "Voter" means a person who:
 - 1047 (a) meets the requirements for voting in an election;
 - 1048 (b) meets the requirements of election registration;
 - 1049 (c) is registered to vote; and
 - 1050 (d) is listed in the official register book.

1051 (86) "Voter registration deadline" means the registration deadline provided in Section
1052 [20A-2-102.5](#).

1053 (87) "Voting area" means the area within six feet of the voting booths, voting
1054 machines, and ballot box.

1055 (88) "Voting booth" means:

1056 (a) the space or compartment within a polling place that is provided for the preparation
1057 of ballots, including the voting machine enclosure or curtain; or

1058 (b) a voting device that is free standing.

1059 (89) "Voting device" means:

1060 (a) an apparatus in which ballot sheets are used in connection with a punch device for
1061 piercing the ballots by the voter;

1062 (b) a device for marking the ballots with ink or another substance;

1063 (c) an electronic voting device or other device used to make selections and cast a ballot
1064 electronically, or any component thereof;

1065 (d) an automated voting system under Section [20A-5-302](#); or

1066 (e) any other method for recording votes on ballots so that the ballot may be tabulated
1067 by means of automatic tabulating equipment.

1068 (90) "Voting machine" means a machine designed for the sole purpose of recording
1069 and tabulating votes cast by voters at an election.

1070 (91) "Voting poll watcher" means a person appointed as provided in this title to
1071 witness the distribution of ballots and the voting process.

1072 (92) "Voting precinct" means the smallest voting unit established as provided by law
1073 within which qualified voters vote at one polling place.

1074 (93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
1075 poll watcher, and a testing watcher.

1076 (94) "Western States Presidential Primary" means the election established in Chapter 9,
1077 Part 8, Western States Presidential Primary.

1078 (95) "Write-in ballot" means a ballot containing any write-in votes.

1079 (96) "Write-in vote" means a vote cast for a person whose name is not printed on the
1080 ballot according to the procedures established in this title.

1081 Section 21. Section **52-8-102** is amended to read:

1082 **52-8-102. Definitions.**

1083 As used in this chapter:

1084 (1) "Attribution" means to be responsible for the truth, correctness, and accuracy of a
1085 report.

1086 (2) "Chief executive officer" means:

1087 (a) the governor, for the state;

1088 (b) the chair of the county commission or the county executive, for a county; and

1089 (c) the mayor, for a municipality~~[, or if governed under a council-manager form of~~
1090 ~~government, the chair of the council].~~

1091 (3) "Government entity" includes the state, its agencies and institutions, each county,
1092 municipality, school district, local district, and special service district in Utah.

1093 (4) "Promotional literature" means reports whose primary or secondary purpose is to
1094 provide nonresidents with information about the government entity that produced the report.

1095 (5) (a) "Report" means each account, statement, record of proceedings, summary of
1096 activities, and other written or printed document required by statute that is prepared or
1097 produced by a government entity that is distributed to the public.

1098 (b) "Report" does not mean written or printed documents whose primary purpose is to
1099 provide biographical information about government officials.

1100 Section 22. Section **78A-7-202** is amended to read:

1101 **78A-7-202. Justice court judges to be appointed -- Procedure.**

1102 (1) As used in this section:

1103 (a) "Local government executive" means:

1104 (i) for a county:

1105 (A) the chair of the county commission in a county operating under the county
1106 commission or expanded county commission form of county government;

1107 (B) the county executive in a county operating under the county executive-council form
1108 of county government; and

1109 (C) the county manager in a county operating under the council-manager form of
1110 county government;

1111 (ii) for a city or town:

1112 (A) the mayor of the city or town; or

- 1113 (B) the city manager, in [the] a council-manager form of government [described in
1114 ~~Subsection 10-3b-103(7)~~] as defined in Section [10-3b-102](#); and
- 1115 (iii) for a metro township, the chair of the metro township council.
- 1116 (b) "Local legislative body" means:
- 1117 (i) for a county, the county commission or county council; and
- 1118 (ii) for a city or town, the council of the city or town.
- 1119 (2) There is created in each county a county justice court nominating commission to
1120 review applicants and make recommendations to the appointing authority for a justice court
1121 position. The commission shall be convened when a new justice court judge position is created
1122 or when a vacancy in an existing court occurs for a justice court located within the county.
- 1123 (a) Membership of the justice court nominating commission shall be as follows:
- 1124 (i) one member appointed by:
- 1125 (A) the county commission if the county has a county commission form of
1126 government; or
- 1127 (B) the county executive if the county has an executive-council form of government;
- 1128 (ii) one member appointed by the municipalities in the counties as follows:
- 1129 (A) if the county has only one municipality, appointment shall be made by the
1130 governing authority of that municipality; or
- 1131 (B) if the county has more than one municipality, appointment shall be made by a
1132 municipal selection committee composed of the mayors of each municipality and the chairs of
1133 each metro township in the county;
- 1134 (iii) one member appointed by the county bar association; and
- 1135 (iv) two members appointed by the governing authority of the jurisdiction where the
1136 judicial office is located.
- 1137 (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be
1138 appointed by the regional bar association. If no regional bar association exists, the state bar
1139 association shall make the appointment.
- 1140 (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing
1141 authority or an elected official of a county or municipality.
- 1142 (d) The nominating commission shall submit at least three names to the appointing
1143 authority of the jurisdiction expected to be served by the judge. The local government

1144 executive shall appoint a judge from the list submitted and the appointment ratified by the local
1145 legislative body.

1146 (e) The state court administrator shall provide staff to the commission. The Judicial
1147 Council shall establish rules and procedures for the conduct of the commission.

1148 (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through
1149 the Utah State Bar, and other appropriate means.

1150 (4) Selection of candidates shall be based on compliance with the requirements for
1151 office and competence to serve as a judge.

1152 (5) Once selected, every prospective justice court judge shall attend an orientation
1153 seminar conducted under the direction of the Judicial Council. Upon completion of the
1154 orientation program, the Judicial Council shall certify the justice court judge as qualified to
1155 hold office.

1156 (6) The selection of a person to fill the office of justice court judge is effective upon
1157 certification of the judge by the Judicial Council. A justice court judge may not perform
1158 judicial duties until certified by the Judicial Council.

1159 Section 23. **Repealer.**

1160 This bill repeals:

1161 Section **10-2a-221, Incorporation petition or feasibility study before May 8, 2012.**

Legislative Review Note
Office of Legislative Research and General Counsel