

Representative Kim F. Coleman proposes the following substitute bill:

MUNICIPAL FORMS OF GOVERNMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: Karen Mayne

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 municipality to change to the council-manager form of municipal government if the municipality previously operated under the council-manager form of municipal government;
- ▶ provides a grandfather clause for certain provisions of this bill;
- ▶ 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;



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

47 **Money Appropriated in this Bill:**

48 None

49 **Other Special Clauses:**

50 None

51 **Utah Code Sections Affected:**

52 AMENDS:

53 [10-3-205.5](#), as last amended by Laws of Utah 2016, Chapter 14

54 [10-3-916](#), as last amended by Laws of Utah 2017, Chapter 36

55 [10-3-1105](#), as last amended by Laws of Utah 2012, Chapter 321

56 [10-3b-102](#), as last amended by Laws of Utah 2015, Chapter 352

- 57 [10-3b-103](#), as last amended by Laws of Utah 2015, Chapter 352
- 58 [10-3b-601](#), as enacted by Laws of Utah 2015, Chapter 352
- 59 [10-3b-605](#), as enacted by Laws of Utah 2015, Chapter 352
- 60 [10-6-106](#), as last amended by Laws of Utah 2014, Chapters 176, 253, 377 and last
- 61 amended by Coordination Clause, Laws of Utah 2014, Chapter 253
- 62 [20A-1-102](#), as last amended by Laws of Utah 2017, Chapter 52
- 63 [52-8-102](#), as renumbered and amended by Laws of Utah 2008, Chapter 382
- 64 [78A-7-202](#), as last amended by Laws of Utah 2015, Chapters 99 and 352

65 ENACTS:

- 66 [10-3b-701](#), Utah Code Annotated 1953
- 67 [10-3b-702](#), Utah Code Annotated 1953
- 68 [10-3b-703](#), Utah Code Annotated 1953
- 69 [10-3b-704](#), Utah Code Annotated 1953
- 70 [10-3b-705](#), Utah Code Annotated 1953
- 71 [10-3b-706](#), Utah Code Annotated 1953

72 REPEALS:

- 73 [10-2a-221](#), as renumbered and amended by Laws of Utah 2015, Chapter 352

74

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

76 Section 1. Section [10-3-205.5](#) is amended to read:

77 **[10-3-205.5. At-large election of officers -- Election of council members.](#)**

78 (1) (a) Except as provided in Subsection [~~(2)~~, ~~(3)~~, or ~~(4)~~] (1)(b), the officers of each
79 city shall be elected in an at-large election held at the time and in the manner provided for
80 electing municipal officers.

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

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

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

85 (iii) in a city that incorporates under Subsection [10-2a-211\(4\)](#) with council members
86 selected by district; or

87 (iv) in a city that changes, under Chapter 3b, Part 6, Changing to Another Form of

88 Municipal Government, to a form of government with council members selected by district.

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

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

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

97 (3) (a) The municipal council members of a metro township, as defined in Section
98 10-2a-403, are elected:

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

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

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

105 (4) (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of
106 Metro Townships and Unincorporated Islands in a County of the First Class on and after May
107 12, 2015:

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

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

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

113 Section 2. Section 10-3-916 is amended to read:

114 **10-3-916. Appointment of recorder and treasurer in a city of third, fourth, or**
115 **fifth class or a town -- Vacancies in office.**

116 (1) (a) ~~It~~ Except as provided in Subsection 10-3b-704(6) for a city operating under
117 the council-manager form of government, in each city of the third, fourth, or fifth class and in
118 each town, the mayor, with the advice and consent of the city council, shall appoint a qualified

119 person to the office of city recorder and a qualified person to the office of city treasurer.

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

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

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

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

130 Section 3. Section 10-3-1105 is amended to read:

131 **10-3-1105. Municipal employees -- Duration and termination of employment --**
132 **Exceptions.**

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

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

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

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

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

145 (i) the appointment is made in writing;

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

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

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

152 ~~(e)~~ (d) a person who holds a position described in Subsections (2)~~(e)~~(d)(i) through
153 (xii) or an equivalent position designated in a municipal ordinance or personnel policy:

- 154 (i) a police chief of the municipality;
- 155 (ii) a deputy or assistant police chief of the municipality;
- 156 (iii) a fire chief of the municipality;
- 157 (iv) a deputy or assistant fire chief of the municipality;
- 158 (v) a head of a municipal department or division;
- 159 (vi) a deputy of a head of a municipal department or division;
- 160 (vii) a superintendent;
- 161 (viii) a probationary employee of the municipality;
- 162 (ix) a part-time employee of the municipality, including paid call firefighters;
- 163 (x) a seasonal or temporary employee of the municipality;
- 164 (xi) a person who works in the office of an elected official; or
- 165 (xii) a secretarial or administrative assistant support position that is specifically
166 designated as a position to assist an elected official or the head or deputy head of a municipal
167 department;

168 ~~(d)~~ (e) an individual appointed to a position under Part 9, Appointed Officials and
169 Their Duties, including:

- 170 (i) the city engineer;
- 171 (ii) the city recorder;
- 172 (iii) the city treasurer; or
- 173 (iv) the city attorney; or

174 ~~(e)~~ (f) an employee who has:

- 175 (i) acknowledged in writing that the employee's employment status is appointed or
176 at-will; or
- 177 (ii) voluntarily waived the procedures required by Section 10-3-1106.

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

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

183 Section 4. Section 10-3b-102 is amended to read:

184 **10-3b-102. Definitions.**

185 As used in this chapter:

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

188 (b) "Council-manager form of government" includes a municipal government that
189 deviates under Subsection 10-3b-103(7)(b) from the requirements described in Part 7,
190 Council-Manager Form of Municipal Government.

191 [~~1~~] (2) "Council-mayor form of government" means the form of municipal
192 government that:

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

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

195 (iii) consists of two separate, independent, and equal branches of municipal
196 government; and

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

199 [~~2~~] (3) "Five-member council form of government" means the form of municipal
200 government described in Part 4, Five-Member Council Form of Municipal Government.

201 [~~3~~] (4) "Metro township" means the same as that term is defined in Section
202 10-2a-403.

203 [~~4~~] (5) "Metro township council form of government" means the form of metro
204 township government described in Part 5, Metro Township Council Form of Municipal
205 Government.

206 [~~5~~] (6) "Six-member council form of government" means the form of municipal
207 government described in Part 3, Six-Member Council Form of Municipal Government.

208 Section 5. Section 10-3b-103 is amended to read:

209 **10-3b-103. Forms of municipal government -- Form of government for towns.**

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

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

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

214 10-3b-102; and

215 (ii) be subject to:

216 (A) this part;

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

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

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

220 and

221 (b) is not subject to:

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

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

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

225 (2) A municipality operating on May 4, 2008 under a form of government known under

226 the law then in effect as the six-member council form:

227 (a) shall, on and after May 5, 2008, and whether or not the council has adopted an

228 ordinance appointing a manager for the municipality:

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

230 10-3b-102;

231 (ii) be subject to:

232 (A) this part;

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

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

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

236 and

237 (b) is not subject to:

238 (i) Part 2, Council-Mayor Form of Municipal Government;

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

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

241 (3) A municipality operating on May 4, 2008, under a form of government known

242 under the law then in effect as the five-member council form:

243 (a) shall, on and after May 5, 2008:
244 (i) operate under a five-member council form of government, as defined in Section
245 10-3b-102;
246 (ii) be subject to:
247 (A) this part;
248 (B) Part 4, Five-Member Council Form of Municipal Government;
249 (C) Part 6, Changing to Another Form of Municipal Government; and
250 (D) except as provided in Subsection (3)(b), other applicable provisions of this title;
251 and
252 (b) is not subject to:
253 (i) Part 2, Council-Mayor Form of Municipal Government;
254 (ii) Part 3, Six-Member Council Form of Municipal Government; or
255 (iii) Part 5, Metro Township Council Form of Municipal Government.
256 (4) Subject to Subsection (5), each municipality other than a metro township
257 incorporated on or after May 5, 2008, shall operate under:
258 (a) the council-mayor form of government, with a five-member council;
259 (b) the council-mayor form of government, with a seven-member council;
260 (c) the six-member council form of government; or
261 (d) the five-member council form of government.
262 (5) Each town shall operate under a five-member council form of government unless:
263 (a) before May 5, 2008, the town has changed to another form of municipal
264 government; or
265 (b) on or after May 5, 2008, the town changes its form of government as provided in
266 Part 6, Changing to Another Form of Municipal Government.
267 (6) Each metro township:
268 (a) shall operate under a metro township council form of government;
269 (b) is subject to:
270 (i) this part;
271 (ii) Part 5, Metro Township Council Form of Municipal Government; and
272 (iii) except as provided in Subsection (6)(c), other applicable provisions of this title;
273 and

274 (c) is not subject to:

275 (i) Part 2, Council-Mayor Form of Municipal Government;

276 (ii) Part 3, Six-Member Council Form of Municipal Government; or

277 (iii) Part 4, Five-Member Council Form of Municipal Government.

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

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

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

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

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

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

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

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

291 [~~(B)~~] (ii) [be] except as provided in Subsection (7)(b), is subject to:

292 [~~(F)~~] (A) this Subsection (7) and other applicable provisions of this part;

293 (B) Part 7, Council-Manager Form of Municipal Government;

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

295 [~~(HH)~~] (D) except as provided in Subsection (7)[~~(b)(ii)~~](c), other applicable provisions
296 of this title; and

297 [~~(H)~~] (iii) is not subject to:

298 (A) Part 2, Council-Mayor Form of Municipal Government;

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

300 (C) Part 4, Five-Member Council Form of Municipal Government; or

301 (D) Part 5, Metro Township Council Form of Municipal Government.

302 (b) A municipality described in Subsection (7)(a) may, on and after May 8, 2018:

303 (i) notwithstanding Subsection [10-3b-701](#)(1), continue operating with the same number
304 of council members with which the municipality lawfully operated on May 7, 2018;

305 (ii) provide that the municipality's mayor has different duties, responsibilities, or
306 powers than those described in Subsection 10-3b-702(1) and (2), to the same extent that the
307 municipality's mayor lawfully possessed those different duties, responsibilities, or powers on
308 May 7, 2018; and

309 (iii) provide that the municipality's manager does not possess a duty, responsibility, or
310 power described in Section 10-3b-704, to the extent that the municipality provides that the
311 municipality's mayor lawfully possessed that duty, responsibility, or power under Subsection
312 (7)(b)(ii).

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

315 (i) begins on the day on which a municipal general election described in Section
316 10-3-201 is held to elect a council member; and

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

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

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

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

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

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

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

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

333 Section 6. Section 10-3b-601 is amended to read:

334 **10-3b-601. Authority to change to another form of municipal government.**

335 (1) As provided in this part, a municipality may change from the form of government

336 under which [it] the municipality operates to:

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

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

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

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

341 (e) subject to Subsection (4), the council-manager form of government with a

342 five-member council; or

343 (f) subject to Subsection (4), the council-manager form of government with a

344 seven-member council.

345 (2) (a) A metro township that changes from the metro township council form of
346 government to a form described in Subsection (1):

347 (i) is no longer a metro township; and

348 (ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority
349 of a city or town.

350 (b) If a metro township with a population that qualifies as a town in accordance with
351 Section 10-2-301 changes the metro township's form of government in accordance with this
352 part, the metro township may only change to the five-member council form of government.

353 (3) A municipality other than a metro township may not operate under the metro
354 township council form of government.

355 (4) A municipality may only change to the council-manager form of government if the
356 municipality previously operated under the council-manager form of government at any time
357 on or after May 5, 2008 in accordance with the laws in effect at the time the municipality
358 operated under the council-manager form of government.

359 Section 7. Section 10-3b-605 is amended to read:

360 **10-3b-605. Ballot form.**

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

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

367 and

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

369 Section 8. Section 10-3b-701 is enacted to read:

370 **Part 7. Council-Manager Form of Municipal Government**

371 **10-3b-701. Council-manager form -- Election and powers and duties of mayor.**

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

374 (1) except as provided in Subsection 10-3b-103(7)(b)(i), a council consisting of five or
375 seven members, one of which is a mayor; and

376 (2) a municipal manager selected by the council.

377 Section 9. Section 10-3b-702 is enacted to read:

378 **10-3b-702. Mayor in council-manager form -- Powers and responsibilities --**

379 **Mayor pro tempore.**

380 (1) Except as provided in Subsection 10-3b-103(7)(b)(ii), the mayor in a municipality
381 operating under the council-manager form of government:

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

383 (b) is chair of the council;

384 (c) presides at all council meetings;

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

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

387 (2) Except as provided in Subsection 10-3b-103(7)(b)(ii), the mayor shall be elected at
388 large for a four-year term.

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

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

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

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

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

399 **10-3b-703. Council-manager form -- Appointment and removal of municipal**
400 **manager -- Prohibitions on council action.**

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

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

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

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

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

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

413 (c) Subsection (3)(b) does not apply to a manager that is removed for proven
414 malfeasance in office.

415 (4) (a) Each year, the council shall vote on whether to retain the municipality's current
416 manager.

417 (b) If a majority of the council votes against retaining the municipality's manager:

418 (i) the manager is immediately removed, unless otherwise specified by the council; and

419 (ii) the council shall comply with Subsection (3)(b).

420 (5) The council may not delegate to the manager:

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

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

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

426 (6) (a) The council or a member of the council may not give an order to a person over
427 which the mayor or the manager has jurisdiction.

428 (b) Notwithstanding Subsection (6)(a), the council or a member of the council may

429 make a recommendation to the mayor or the manager regarding a person over which the mayor
430 or manager has jurisdiction.

431 Section 11. Section **10-3b-704** is enacted to read:

432 **10-3b-704. Manager -- Powers and duties.**

433 Except as provided in Subsection [10-3b-103\(7\)\(b\)\(iii\)](#), a municipal manager in a
434 municipality that operates under the council-manager form of government shall:

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

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

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

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

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

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

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

447 (b) in a town, the offices of treasurer and clerk;

448 (7) create any other offices that the manager determines is necessary for the
449 municipality's good governance;

450 (8) regulate and prescribe the powers and duties of an unelected officer of the
451 municipality, except as provided by law or by ordinance;

452 (9) inspect the records of, investigate the actions of, and require reports from, an office,
453 department, agency, board, or commission of the municipality;

454 (10) except as provided in Chapter 3, Part 10, Civil Service Commission, appoint,
455 suspend, or remove the head of a municipal office, department, or agency:

456 (a) with the council's advice and consent;

457 (b) in accordance with the provisions of this part and Chapter 3, Municipal
458 Government; and

459 (c) in accordance with municipal ordinance;

460 (11) unless otherwise indicated in an ordinance adopted by the council, appoint
461 members of each of the municipality's boards or commissions;

462 (12) establish standards and procedures, that are consistent with Chapter 3, Municipal
463 Government, to govern the process by which the head of an office, department, or agency
464 selects employees within the head's office, department, or agency;

465 (13) submit an annual report to the council that:

466 (a) describes development within the municipality;

467 (b) assesses the needs of the municipality;

468 (c) describes the financial, administrative, and operational activities of municipal
469 offices, departments, agencies, boards, and commissions; and

470 (d) evaluates and makes recommendations regarding an item described in Subsections
471 (13)(a) through (c);

472 (14) submit other reports to the council:

473 (a) as requested by the council; or

474 (b) as the manager determines is necessary for the council's information;

475 (15) attend each council meeting and participate in the council's discussions and
476 deliberations;

477 (16) with the consent of the council, select an individual to act as municipal manager if
478 the municipal manager is absent or temporarily unable to act as the municipal manager; and

479 (17) perform other duties and functions as specified by the council, municipal
480 ordinance, or state law.

481 Section 12. Section **10-3b-705** is enacted to read:

482 **10-3b-705. Municipal administration in council-manager form.**

483 (1) When a municipality changes under Part 6, Changing to Another Form of
484 Municipal Government, to operate under the council-manager form of government the first
485 municipal manager appointed under Section [10-3b-703](#) after the change shall:

486 (a) draft a proposed ordinance that:

487 (i) subject to Sections [10-3-801](#) and [10-3-805](#) for a city of the first or second class,
488 divides the administrative organization of the municipality into departments, divisions, and
489 offices;

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

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

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

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

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

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

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

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

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

504 (b) applicable law.

505 (4) Before the council adopts an ordinance under Subsection (2), the manager may
506 establish temporary rules and policies for the administration of the municipal government in
507 order to ensure the municipal government functions efficiently and effectively.

508 Section 13. Section **10-3b-706** is enacted to read:

509 **10-3b-706. Manager -- Hours and compensation.**

510 The municipal council operating under a council-manager form of government shall
511 establish:

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

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

514 (3) the municipal manager's total compensation package, including the manager's
515 salary and benefits.

516 Section 14. Section **10-6-106** is amended to read:

517 **10-6-106. Definitions.**

518 As used in this chapter:

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

521 (2) "Appropriation" means an allocation of money by the governing body for a specific

522 purpose.

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

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

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

529 (5) "Budget officer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (14) "Financial officer" means the mayor in the council-mayor optional form of
556 government or the city official as authorized by Section 10-6-158.

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

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

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

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

567 (19) "Governing body" means a city council, [~~or city commission, as the case may be,~~]
568 but the authority to make any appointment to any position created by this chapter is vested in
569 the mayor in the council-mayor optional form of government.

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

572 (21) "Last completed fiscal period" means the fiscal period next preceding the current
573 period.

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

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

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

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

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

588 Section 15. Section **20A-1-102** is amended to read:

589 **20A-1-102. Definitions.**

590 As used in this title:

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

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

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

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

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

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

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

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

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

606 (b) a constitutional amendment;

607 (c) an initiative;

608 (d) a referendum;

609 (e) a bond proposition;

610 (f) a judicial retention question;

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

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

613 (6) "Ballot sheet":

614 (a) means a ballot that:

- 615 (i) consists of paper or a card where the voter's votes are marked or recorded; and
616 (ii) can be counted using automatic tabulating equipment; and
617 (b) includes punch card ballots and other ballots that are machine-countable.
- 618 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
619 together with a staple or stitch in at least three places across the top of the paper in the blank
620 space reserved for securing the paper.
- 621 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
622 [20A-4-306](#) to canvass election returns.
- 623 (9) "Bond election" means an election held for the purpose of approving or rejecting
624 the proposed issuance of bonds by a government entity.
- 625 (10) "Book voter registration form" means voter registration forms contained in a
626 bound book that are used by election officers and registration agents to register persons to vote.
- 627 (11) "Business reply mail envelope" means an envelope that may be mailed free of
628 charge by the sender.
- 629 (12) "By-mail voter registration form" means a voter registration form designed to be
630 completed by the voter and mailed to the election officer.
- 631 (13) "Canvass" means the review of election returns and the official declaration of
632 election results by the board of canvassers.
- 633 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
634 the canvass.
- 635 (15) "Contracting election officer" means an election officer who enters into a contract
636 or interlocal agreement with a provider election officer.
- 637 (16) "Convention" means the political party convention at which party officers and
638 delegates are selected.
- 639 (17) "Counting center" means one or more locations selected by the election officer in
640 charge of the election for the automatic counting of ballots.
- 641 (18) "Counting judge" means a poll worker designated to count the ballots during
642 election day.
- 643 (19) "Counting poll watcher" means a person selected as provided in Section
644 [20A-3-201](#) to witness the counting of ballots.
- 645 (20) "Counting room" means a suitable and convenient private place or room,

646 immediately adjoining the place where the election is being held, for use by the poll workers
647 and counting judges to count ballots during election day.

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

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

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

653 (b) does not include:

654 (i) deadlines established for absentee voting; or

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

657 (23) "Elected official" means:

658 (a) a person elected to an office under Section 20A-1-303;

659 (b) a person who is considered to be elected to a municipal office in accordance with
660 Subsection 20A-1-206(1)(c)(ii); or

661 (c) a person who is considered to be elected to a local district office in accordance with
662 Subsection 20A-1-206(3)(c)(ii).

663 (24) "Election" means a regular general election, a municipal general election, a
664 statewide special election, a local special election, a regular primary election, a municipal
665 primary election, and a local district election.

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

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

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

671 (a) preside over other poll workers at a polling place;

672 (b) act as the presiding election judge; or

673 (c) serve as a canvassing judge, counting judge, or receiving judge.

674 (28) "Election officer" means:

675 (a) the lieutenant governor, for all statewide ballots and elections;

676 (b) the county clerk for:

- 677 (i) a county ballot and election; and
678 (ii) a ballot and election as a provider election officer as provided in Section
679 20A-5-400.1 or 20A-5-400.5;
- 680 (c) the municipal clerk for:
681 (i) a municipal ballot and election; and
682 (ii) a ballot and election as a provider election officer as provided in Section
683 20A-5-400.1 or 20A-5-400.5;
- 684 (d) the local district clerk or chief executive officer for:
685 (i) a local district ballot and election; and
686 (ii) a ballot and election as a provider election officer as provided in Section
687 20A-5-400.1 or 20A-5-400.5; or
- 688 (e) the business administrator or superintendent of a school district for:
689 (i) a school district ballot and election; and
690 (ii) a ballot and election as a provider election officer as provided in Section
691 20A-5-400.1 or 20A-5-400.5.
- 692 (29) "Election official" means any election officer, election judge, or poll worker.
693 (30) "Election results" means:
694 (a) for an election other than a bond election, the count of votes cast in the election and
695 the election returns requested by the board of canvassers; or
696 (b) for bond elections, the count of those votes cast for and against the bond
697 proposition plus any or all of the election returns that the board of canvassers may request.
- 698 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
699 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
700 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition
701 form, and the total votes cast form.
- 702 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
703 device or other voting device that records and stores ballot information by electronic means.
- 704 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
705 or logically associated with a record and executed or adopted by a person with the intent to sign
706 the record.
- 707 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

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

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

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

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

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

716 (39) "Local district" means a local government entity under Title 17B, Limited Purpose
717 Local Government Entities - Local Districts, and includes a special service district under Title
718 17D, Chapter 1, Special Service District Act.

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

721 (41) "Local election" means a regular county election, a regular municipal election, a
722 municipal primary election, a local special election, a local district election, and a bond
723 election.

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

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

729 (44) "Municipal executive" means:

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

731 (b) the mayor in the council-manager form of government defined in [~~Subsection~~
732 ~~[10-3b-103\(7\)](#)~~] [Section 10-3b-102](#); or

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

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

737 (46) "Municipal legislative body" means:

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

- 739 (b) the council of a metro township.
- 740 (47) "Municipal office" means an elective office in a municipality.
- 741 (48) "Municipal officers" means those municipal officers that are required by law to be
742 elected.
- 743 (49) "Municipal primary election" means an election held to nominate candidates for
744 municipal office.
- 745 (50) "Municipality" means a city, town, or metro township.
- 746 (51) "Official ballot" means the ballots distributed by the election officer to the poll
747 workers to be given to voters to record their votes.
- 748 (52) "Official endorsement" means:
- 749 (a) the information on the ballot that identifies:
- 750 (i) the ballot as an official ballot;
- 751 (ii) the date of the election; and
- 752 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the
753 facsimile signature required by Subsection [20A-6-401\(1\)\(b\)\(iii\)](#); or
- 754 (B) for a ballot prepared by a county clerk, the words required by Subsection
755 [20A-6-301\(1\)\(c\)\(iii\)](#); and
- 756 (b) the information on the ballot stub that identifies:
- 757 (i) the poll worker's initials; and
- 758 (ii) the ballot number.
- 759 (53) "Official register" means the official record furnished to election officials by the
760 election officer that contains the information required by Section [20A-5-401](#).
- 761 (54) "Paper ballot" means a paper that contains:
- 762 (a) the names of offices and candidates and statements of ballot propositions to be
763 voted on; and
- 764 (b) spaces for the voter to record the voter's vote for each office and for or against each
765 ballot proposition.
- 766 (55) "Political party" means an organization of registered voters that has qualified to
767 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
768 and Procedures.
- 769 [~~58~~] (56) (a) "Poll worker" means a person assigned by an election official to assist

770 with an election, voting, or counting votes.

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

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

773 ~~[(56)]~~ (57) "Pollbook" means a record of the names of voters in the order that they
774 appear to cast votes.

775 ~~[(57)]~~ (58) "Polling place" means the building where voting is conducted.

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

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

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

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

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

783 (62) "Provider election officer" means an election officer who enters into a contract or
784 interlocal agreement with a contracting election officer to conduct an election for the
785 contracting election officer's local political subdivision in accordance with Section
786 [20A-5-400.1](#).

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

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

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

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

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

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

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

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

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

802 (69) "Regular general election" means the election held throughout the state on the first
803 Tuesday after the first Monday in November of each even-numbered year for the purposes
804 established in Section [20A-1-201](#).

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

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

809 (72) "Sample ballot" means a mock ballot similar in form to the official ballot printed
810 and distributed as provided in Section [20A-5-405](#).

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

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

817 (75) "Special election" means an election held as authorized by Section [20A-1-203](#).

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

819 (a) is spoiled by the voter;

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

821 (c) lacks the official endorsement.

822 (77) "Statewide special election" means a special election called by the governor or the
823 Legislature in which all registered voters in Utah may vote.

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

825 (79) "Substitute ballots" means replacement ballots provided by an election officer to
826 the poll workers when the official ballots are lost or stolen.

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

828 (a) political parties;

829 (b) candidates for an office; or

830 (c) ballot propositions.

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

832 counting center.

833 (82) "Vacancy" means the absence of a person to serve in any position created by
834 statute, whether that absence occurs because of death, disability, disqualification, resignation,
835 or other cause.

836 (83) "Valid voter identification" means:

837 (a) a form of identification that bears the name and photograph of the voter which may
838 include:

839 (i) a currently valid Utah driver license;

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

841 (A) the state; or

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

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

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

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

846 (b) one of the following identification cards, whether or not the card includes a
847 photograph of the voter:

848 (i) a valid tribal identification card;

849 (ii) a Bureau of Indian Affairs card; or

850 (iii) a tribal treaty card; or

851 (c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear
852 the name of the voter and provide evidence that the voter resides in the voting precinct, which
853 may include:

854 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
855 election;

856 (ii) a bank or other financial account statement, or a legible copy thereof;

857 (iii) a certified birth certificate;

858 (iv) a valid social security card;

859 (v) a check issued by the state or the federal government or a legible copy thereof;

860 (vi) a paycheck from the voter's employer, or a legible copy thereof;

861 (vii) a currently valid Utah hunting or fishing license;

862 (viii) certified naturalization documentation;

- 863 (ix) a currently valid license issued by an authorized agency of the United States;
- 864 (x) a certified copy of court records showing the voter's adoption or name change;
- 865 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 866 (xii) a currently valid identification card issued by:
- 867 (A) a local government within the state;
- 868 (B) an employer for an employee; or
- 869 (C) a college, university, technical school, or professional school located within the
- 870 state; or
- 871 (xiii) a current Utah vehicle registration.
- 872 (84) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 873 candidate by following the procedures and requirements of this title.
- 874 (85) "Voter" means a person who:
- 875 (a) meets the requirements for voting in an election;
- 876 (b) meets the requirements of election registration;
- 877 (c) is registered to vote; and
- 878 (d) is listed in the official register book.
- 879 (86) "Voter registration deadline" means the registration deadline provided in Section
- 880 [20A-2-102.5](#).
- 881 (87) "Voting area" means the area within six feet of the voting booths, voting
- 882 machines, and ballot box.
- 883 (88) "Voting booth" means:
- 884 (a) the space or compartment within a polling place that is provided for the preparation
- 885 of ballots, including the voting machine enclosure or curtain; or
- 886 (b) a voting device that is free standing.
- 887 (89) "Voting device" means:
- 888 (a) an apparatus in which ballot sheets are used in connection with a punch device for
- 889 piercing the ballots by the voter;
- 890 (b) a device for marking the ballots with ink or another substance;
- 891 (c) an electronic voting device or other device used to make selections and cast a ballot
- 892 electronically, or any component thereof;
- 893 (d) an automated voting system under Section [20A-5-302](#); or

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

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

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

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

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

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

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

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

909 Section 16. Section **52-8-102** is amended to read:

910 **52-8-102. Definitions.**

911 As used in this chapter:

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

914 (2) "Chief executive officer" means:

915 (a) the governor, for the state;

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

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

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

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

923 (5) (a) "Report" means each account, statement, record of proceedings, summary of
924 activities, and other written or printed document required by statute that is prepared or

925 produced by a government entity that is distributed to the public.

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

928 Section 17. Section **78A-7-202** is amended to read:

929 **78A-7-202. Justice court judges to be appointed -- Procedure.**

930 (1) As used in this section:

931 (a) "Local government executive" means:

932 (i) for a county:

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

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

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

939 (ii) for a city or town:

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

941 (B) the city manager, in ~~[the] a~~ council-manager form of government ~~[described in~~
942 ~~Subsection 10-3b-103(7)]~~ as defined in Section [10-3b-102](#); and

943 (iii) for a metro township, the chair of the metro township council.

944 (b) "Local legislative body" means:

945 (i) for a county, the county commission or county council; and

946 (ii) for a city or town, the council of the city or town.

947 (2) There is created in each county a county justice court nominating commission to
948 review applicants and make recommendations to the appointing authority for a justice court
949 position. The commission shall be convened when a new justice court judge position is created
950 or when a vacancy in an existing court occurs for a justice court located within the county.

951 (a) Membership of the justice court nominating commission shall be as follows:

952 (i) one member appointed by:

953 (A) the county commission if the county has a county commission form of
954 government; or

955 (B) the county executive if the county has an executive-council form of government;

- 956 (ii) one member appointed by the municipalities in the counties as follows:
- 957 (A) if the county has only one municipality, appointment shall be made by the
- 958 governing authority of that municipality; or
- 959 (B) if the county has more than one municipality, appointment shall be made by a
- 960 municipal selection committee composed of the mayors of each municipality and the chairs of
- 961 each metro township in the county;
- 962 (iii) one member appointed by the county bar association; and
- 963 (iv) two members appointed by the governing authority of the jurisdiction where the
- 964 judicial office is located.
- 965 (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be
- 966 appointed by the regional bar association. If no regional bar association exists, the state bar
- 967 association shall make the appointment.
- 968 (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing
- 969 authority or an elected official of a county or municipality.
- 970 (d) The nominating commission shall submit at least three names to the appointing
- 971 authority of the jurisdiction expected to be served by the judge. The local government
- 972 executive shall appoint a judge from the list submitted and the appointment ratified by the local
- 973 legislative body.
- 974 (e) The state court administrator shall provide staff to the commission. The Judicial
- 975 Council shall establish rules and procedures for the conduct of the commission.
- 976 (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through
- 977 the Utah State Bar, and other appropriate means.
- 978 (4) Selection of candidates shall be based on compliance with the requirements for
- 979 office and competence to serve as a judge.
- 980 (5) Once selected, every prospective justice court judge shall attend an orientation
- 981 seminar conducted under the direction of the Judicial Council. Upon completion of the
- 982 orientation program, the Judicial Council shall certify the justice court judge as qualified to
- 983 hold office.
- 984 (6) The selection of a person to fill the office of justice court judge is effective upon
- 985 certification of the judge by the Judicial Council. A justice court judge may not perform
- 986 judicial duties until certified by the Judicial Council.

987 Section 18. **Repealer.**

988 This bill repeals:

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