

HB0294S01 compared with HB0294

~~{deleted text}~~ shows text that was in HB0294 but was deleted in HB0294S01.

Inserted text shows text that was not in HB0294 but was inserted into HB0294S01.

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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: _____

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 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

HB0294S01 compared with HB0294

- 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;
 - may remove the municipality's manager;
 - is required to vote each year on whether to retain the municipality's current city manager; and
 - may establish ordinances to govern certain actions of the municipality's manager;
 - ▶ provides that the manager of a municipality that operates under the council-manager form of municipal government:
 - is the chief executive officer of the municipality;
 - is responsible for implementing the municipal council's policies;
 - holds certain appointment powers;
 - may create or dissolve a position;
 - is responsible for the municipality's employees;
 - is required to report to the municipal council; and
 - holds certain other powers;
 - ▶ requires the first manager of a municipality that ~~incorporates or~~ changes to operate under the council-manager form of municipal government to draft certain ordinances regarding the municipality's administration for the council's consideration;
 - ▶ repeals obsolete provisions; and
 - ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

HB0294S01 compared with HB0294

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{~~ ~~10-2a-211~~, as renumbered and amended by Laws of Utah 2015, Chapter 352
- ~~10-2a-213~~, as renumbered and amended by Laws of Utah 2015, Chapter 352
- ~~10-2a-214~~, as last amended by Laws of Utah 2017, Chapter 91
- ~~10-2a-215~~, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352
- ~~10-2a-218~~, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352
- † 10-3-205.5, as last amended by Laws of Utah 2016, Chapter 14
- 10-3-916, as last amended by Laws of Utah 2017, Chapter 36
- 10-3-1105, as last amended by Laws of Utah 2012, Chapter 321
- 10-3b-102, as last amended by Laws of Utah 2015, Chapter 352
- 10-3b-103, as last amended by Laws of Utah 2015, Chapter 352
- 10-3b-601, as enacted by Laws of Utah 2015, Chapter 352
- 10-3b-605, as enacted by Laws of Utah 2015, Chapter 352
- 10-6-106, as last amended by Laws of Utah 2014, Chapters 176, 253, 377 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 253
- 20A-1-102, as last amended by Laws of Utah 2017, Chapter 52
- 52-8-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 78A-7-202, as last amended by Laws of Utah 2015, Chapters 99 and 352

ENACTS:

- 10-3b-701, Utah Code Annotated 1953
- 10-3b-702, Utah Code Annotated 1953
- 10-3b-703, Utah Code Annotated 1953
- 10-3b-704, Utah Code Annotated 1953
- 10-3b-705, Utah Code Annotated 1953

HB0294S01 compared with HB0294

10-3b-706, Utah Code Annotated 1953

REPEALS:

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

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

Section 1. Section ~~{10-2a-211}~~10-3-205.5 is amended to read:

~~{~~ ~~10-2a-211. Ballot used at the incorporation election.~~

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

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

~~_____ (2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).~~

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

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

~~_____ Five-member council form~~

~~_____ Six-member council form~~

~~_____ Five-member council-mayor form~~

~~_____ Seven-member council-mayor form~~

~~_____ Five-member council-manager form~~

~~_____ Seven-member council-manager form."~~

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

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

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

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

~~_____ Section 2. Section 10-2a-213 is amended to read:~~

HB0294S01 compared with HB0294

~~10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice:~~

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

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

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

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

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

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

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

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

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

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

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

~~—— (i) the number of commission or council members to be elected for the new city;~~

~~—— (ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection 10-2a-213(1)[(b)](a);~~

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

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

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

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

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

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

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

~~—— (iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least~~

HB0294S01 compared with HB0294

~~seven days before the deadline for filing a declaration of candidacy under Subsection (2).~~

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

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

~~10-2a-215. Election of officers of new city -- Primary and final election dates --
County clerk duties -- Candidate duties -- Occupation of office.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) The county shall hold the primary election, if necessary, on the next earliest~~

HB0294S01 compared with HB0294

~~election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:~~

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

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

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

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

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

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

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

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

~~—— (i) that is after a primary election; or~~

~~—— (ii) if there is no primary election, that is at least:~~

~~—— (A) 75 days after the incorporation election under Section 10-2a-210; and~~

~~—— (B) 65 days after the candidate filing period.~~

~~—— (5) (a) (i) The county clerk shall publish notice of an election under this section:~~

~~—— (A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and~~

~~—— (B) in accordance with Section 45-1-101 for two weeks.~~

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

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

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

~~—— (6) (a) Until the city is incorporated, the county clerk:~~

~~—— (i) is the election officer for all purposes in an election of officers of the city approved at an incorporation election; and~~

~~—— (ii) may, as necessary, determine appropriate deadlines, procedures, and instructions~~

HB0294S01 compared with HB0294

~~that are not otherwise contrary to law:~~

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

~~—— (c) The county clerk is responsible to ensure that:~~

~~—— (i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and~~

~~—— (ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated city and the term of each office.~~

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

~~—— (8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:~~

~~—— (a) after taking the oath of office; and~~

~~—— (b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).~~

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

~~—— **10-2a-218. Powers of officers-elect.**~~

~~—— (1) [Upon] Except as provided in Subsection (3), upon the canvass of the final election of elected city officers under Section 10-2a-215 and until the future city becomes legally incorporated, the elected officers of the future city may:~~

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

~~—— (b) negotiate and make personnel contracts and hirings;~~

~~—— (c) negotiate and make service contracts;~~

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

~~—— (e) borrow funds from the county in which the future city is located under Subsection 10-2a-219(3);~~

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

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

HB0294S01 compared with HB0294

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

~~— (2) [The] Except as provided in Subsection (3), the city's legislative body shall review and ratify each contract made by the elected officers under Subsection (1) within 30 days after the effective date of incorporation under Section 10-2a-217.~~

~~— (3) Notwithstanding Subsections (1) and (2), an elected city officer in a city that incorporates under the council-manager form of municipal government may not perform a duty or function specifically reserved for the municipal manager under Chapter 3b, Part 7, Council-Manager Form of Municipal Government, regardless of whether the council has appointed a manager under Section 10-3b-703.~~

~~— Section 6. Section 10-3-205.5 is amended to read:~~

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

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

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

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

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

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

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

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

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

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

(3) (a) The municipal council members of a metro township, as defined in Section

HB0294S01 compared with HB0294

10-2a-403, are elected:

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

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

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

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

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

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

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

Section ~~7~~2. Section **10-3-916** is amended to read:

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

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

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

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

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

(4) All appointed officers shall continue in office until their successors are appointed

HB0294S01 compared with HB0294

and qualified.

Section ~~{8}~~3. Section **10-3-1105** is amended to read:

10-3-1105. Municipal employees -- Duration and termination of employment --

Exceptions.

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

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

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

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

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

(i) the appointment is made in writing;

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

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

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

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

(i) a police chief of the municipality;

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

(iii) a fire chief of the municipality;

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

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

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

HB0294S01 compared with HB0294

- (vii) a superintendent;
- (viii) a probationary employee of the municipality;
- (ix) a part-time employee of the municipality, including paid call firefighters;
- (x) a seasonal or temporary employee of the municipality;
- (xi) a person who works in the office of an elected official; or
- (xii) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department;

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

- (i) the city engineer;
- (ii) the city recorder;
- (iii) the city treasurer; or
- (iv) the city attorney; or

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

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

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

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

Section ~~9~~4. Section **10-3b-102** is amended to read:

10-3b-102. Definitions.

As used in this chapter:

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

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

HB0294S01 compared with HB0294

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

- (a) (i) is provided for in Laws of Utah 1977, Chapter 48;
- (ii) may not be adopted without voter approval; and
- (iii) consists of two separate, independent, and equal branches of municipal

government; and

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

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

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

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

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

Section ~~{10}5~~5. Section **10-3b-103** is amended to read:

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

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

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

(i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and

(ii) be subject to:

(A) this part;

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

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

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

and

(b) is not subject to:

HB0294S01 compared with HB0294

- (i) Part 3, Six-Member Council Form of Municipal Government;
- (ii) Part 4, Five-Member Council Form of Municipal Government; or
- (iii) Part 5, Metro Township Council Form of Municipal Government.

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

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

(i) operate under a six-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

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

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

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

and

(b) is not subject to:

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

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

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

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

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

(i) operate under a five-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

(B) Part 4, Five-Member Council Form of Municipal Government;

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

(D) except as provided in Subsection (3)(b), other applicable provisions of this title;

and

(b) is not subject to:

HB0294S01 compared with HB0294

- (i) Part 2, Council-Mayor Form of Municipal Government;
- (ii) Part 3, Six-Member Council Form of Municipal Government; or
- (iii) Part 5, Metro Township Council Form of Municipal Government.

(4) Subject to Subsection (5), each municipality other than a metro township incorporated on or after May 5, 2008, shall operate under:

- (a) the council-mayor form of government, with a five-member council;
- (b) the council-mayor form of government, with a seven-member council;
- (c) the six-member council form of government; or
- (d) the five-member council form of government.

(5) Each town shall operate under a five-member council form of government unless:

- (a) before May 5, 2008, the town has changed to another form of municipal government; or
- (b) on or after May 5, 2008, the town changes its form of government as provided in Part 6, Changing to Another Form of Municipal Government.

(6) Each metro township:

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

and

(c) is not subject to:

- (i) Part 2, Council-Mayor Form of Municipal Government;
- (ii) Part 3, Six-Member Council Form of Municipal Government; or
- (iii) Part 4, Five-Member Council Form of Municipal Government.

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

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

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

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

HB0294S01 compared with HB0294

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

~~[(i) shall:]~~

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

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

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

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

~~[(ii)] (~~(B)~~(B))~~ Part 7, Council-Manager Form of Municipal Government;

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

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

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

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

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

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

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

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

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

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

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

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

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

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

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

Section ~~11~~6. Section **10-3b-601** is amended to read:

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

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

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

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

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

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

(e) subject to Subsection (4), the council-manager form of government with a five-member council; or

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

(2) (a) A metro township that changes from the metro township council form of

HB0294S01 compared with HB0294

government to a form described in Subsection (1):

(i) is no longer a metro township; and

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

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

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

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

Section ~~{12}~~7. 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}~~8. 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) except as provided in Subsection 10-3b-103(7)(b)(i), a council consisting of five or seven members, one of which is a mayor; and

(2) a municipal manager selected by the council.

HB0294S01 compared with HB0294

Section ~~{14}~~9. Section **10-3b-702** is enacted to read:

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

Mayor pro tempore.

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

- (a) is a regular and voting member of the council;
- (b) is chair of the council;
- (c) presides at all council meetings;
- (d) exercises ceremonial functions for the municipality; and
- (e) has only those powers granted to the mayor in this part or other applicable law.

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

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

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

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

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

Section ~~{15}~~10. Section **10-3b-703** is enacted to read:

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

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

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

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

(b) Except as provided in Subsection (3)(c), the council shall ensure that a manager

HB0294S01 compared with HB0294

that the council removes receives:

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

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

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

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

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

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

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

(~~4~~5) The council may not delegate to the manager:

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

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

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

(~~5~~6) (a) The council or a member of the council may not give an order to a person over which the mayor or the manager has jurisdiction.

(b) Notwithstanding Subsection (~~5~~6)(a), the council or a member of the council may make a recommendation to the mayor or the manager regarding a person over which the mayor or manager has jurisdiction.

Section ~~(16)~~11. Section **10-3b-704** is enacted to read:

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

~~(A)~~ Except as provided in Subsection 10-3b-103(7)(b)(iii), a municipal manager in a municipality that operates under the council-manager form of government shall:

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

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

HB0294S01 compared with HB0294

- (3) implement the policies and programs that the council establishes;
- (4) organize and direct the executive affairs of the municipality in a manner that is consistent with this chapter and the municipality's ordinances;
- (5) if the municipality is a city, appoint a budget officer to comply with the requirements of Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;
- (6) appoint, with the council's advice and consent, a qualified person to each of the following:
 - (a) in a city, the offices of recorder, treasurer, engineer, and attorney; or
 - (b) in a town, the offices of treasurer and clerk;
- (7) create any other offices that the manager determines is necessary for the municipality's good governance;
- (8) regulate and prescribe the powers and duties of an unelected officer of the municipality, except as provided by law or by ordinance;
- (9) inspect the records of, investigate the actions of, and require reports from, an office, department, agency, board, or commission of the municipality;
- (10) except as provided in Chapter 3, Part 10, Civil Service Commission, appoint, suspend, or remove the head of a municipal office, department, or agency:
 - (a) with the council's advice and consent;
 - (b) in accordance with the provisions of this part and Chapter 3, Municipal Government; and
 - (c) in accordance with municipal ordinance;
- (11) unless otherwise indicated in an ordinance adopted by the council, appoint members of each of the municipality's boards or commissions;
- (12) establish standards and procedures, that are consistent with Chapter 3, Municipal Government, to govern the process by which the head of an office, department, or agency selects employees within the head's office, department, or agency;
- (13) submit an annual report to the council that:
 - (a) describes development within the municipality;
 - (b) assesses the needs of the municipality;
 - (c) describes the financial, administrative, and operational activities of municipal offices, departments, agencies, boards, and commissions; and

HB0294S01 compared with HB0294

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

(14) submit other reports to the council;

(a) as requested by the council; or

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

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

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

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

Section ~~{17}~~12. Section **10-3b-705** is enacted to read:

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

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

(a) draft a proposed ordinance that:

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

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

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

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

(b) applicable law.

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

Section ~~{18}~~13. Section **10-3b-706** is enacted to read:

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

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

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

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

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

Section ~~{19}~~14. Section **10-6-106** is amended to read:

10-6-106. Definitions.

As used in this chapter:

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

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

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

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

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

(5) "Budget officer" means:

HB0294S01 compared with HB0294

- (a) the city auditor in a city of the first ~~and~~ or second class^[5];
- (b) the mayor, or ~~some person~~ an individual appointed by the mayor with the approval of the city council, in a city of the third, fourth, or fifth class^[5];
- (c) the mayor in the council-mayor optional form of government^[, or];
- (d) the ~~person~~ individual designated by the charter in a charter city^[-]; or
- (e) notwithstanding Subsections (5)(a) through (d), in a city operating under the council-manager form of government, the individual whom the city manager designates.
- (6) "Budget period" means the fiscal period for which a budget is prepared.
- (7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.
- (8) "City general fund" means the general fund used by a city.
- (9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.
- (10) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a city general fund.
- (11) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.
- (12) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.
- (13) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.
- (14) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.
- (15) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.
- (16) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

HB0294S01 compared with HB0294

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

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

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

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

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

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

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

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

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

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

Section ~~{20}~~15. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive

HB0294S01 compared with HB0294

voter by the county clerk.

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

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

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

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

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

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

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

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

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

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

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

(6) "Ballot sheet":

(a) means a ballot that:

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

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

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) does not include:

HB0294S01 compared with HB0294

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early

Voting.

(23) "Elected official" means:

- (a) a person elected to an office under Section 20A-1-303;
- (b) a person who is considered to be elected to a municipal office in accordance with

Subsection 20A-1-206(1)(c)(ii); or

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

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

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

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

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

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

(28) "Election officer" means:

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

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

HB0294S01 compared with HB0294

- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or
- (e) the business administrator or superintendent of a school district for:
 - (i) a school district ballot and election; and
 - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.
- (29) "Election official" means any election officer, election judge, or poll worker.
- (30) "Election results" means:
 - (a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or
 - (b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.
- (31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.
- (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.
- (33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.
 - (b) "Electronic voting device" includes a direct recording electronic voting device.
- (35) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).
- (36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.
- (37) "Judicial office" means the office filled by any judicial officer.
- (38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

HB0294S01 compared with HB0294

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

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

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

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

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

(44) "Municipal executive" means:

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

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

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

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

(46) "Municipal legislative body" means:

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

(b) the council of a metro township.

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

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

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

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

(51) "Official ballot" means the ballots distributed by the election officer to the poll

HB0294S01 compared with HB0294

workers to be given to voters to record their votes.

(52) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

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

(i) the poll worker's initials; and

(ii) the ballot number.

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

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

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

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

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

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

(b) "Poll worker" includes election judges.

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

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

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

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

HB0294S01 compared with HB0294

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

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

- (a) is built into a voting machine; and
- (b) records the total number of movements of the operating lever.

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

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

- (a) whose name is not listed on the official register at the polling place;
- (b) whose legal right to vote is challenged as provided in this title; or
- (c) whose identity was not sufficiently established by a poll worker.

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

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

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

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

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

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

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

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

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

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

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

(80) "Ticket" means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

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

(83) "Valid voter identification" means:

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

- (i) a currently valid Utah driver license;

HB0294S01 compared with HB0294

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

(A) the state; or

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

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

(iv) a currently valid United States passport; or

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

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

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

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

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

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

(iii) a certified birth certificate;

(iv) a valid social security card;

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

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

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

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

HB0294S01 compared with HB0294

(xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(85) "Voter" means a person who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

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

(88) "Voting booth" means:

- (a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or
- (b) a voting device that is free standing.

(89) "Voting device" means:

- (a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;
- (b) a device for marking the ballots with ink or another substance;
- (c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;
- (d) an automated voting system under Section 20A-5-302; or
- (e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

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

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

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

HB0294S01 compared with HB0294

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

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

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

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

Section ~~{21}~~16. Section **52-8-102** is amended to read:

52-8-102. Definitions.

As used in this chapter:

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

(2) "Chief executive officer" means:

(a) the governor, for the state;

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

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

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

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

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

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

Section ~~{22}~~17. Section **78A-7-202** is amended to read:

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

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

HB0294S01 compared with HB0294

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

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

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

(ii) for a city or town:

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

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

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

(b) "Local legislative body" means:

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

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

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

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

(i) one member appointed by:

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

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

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the

HB0294S01 compared with HB0294

judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(d) The nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

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

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

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

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

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

Section ~~{23}~~18. **Repealer.**

This bill repeals:

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

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Legislative Review Note

HB0294S01 compared with HB0294

~~Office of Legislative Research and General Counsel~~