

Representative Kim F. Coleman proposes the following substitute bill:

COUNTY FORMATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill removes a requirement requiring a majority vote in the remaining part of an existing county of the first, second, or third class to create a new county.

Highlighted Provisions:

This bill:

- ▶ imposes certain viability requirements on the formation of a new county;
- ▶ removes a requirement requiring a majority vote in the remaining part of an existing county of the first, second, or third class to create a new county;
- ▶ allows certain rural real property to remain in the original county in certain circumstances;
- ▶ provides for the continuation of property taxation between an existing and new county to satisfy general obligation or revenue bond indebtedness;
- ▶ clarifies provisions regarding the division of taxes between an existing county and a new county; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **17-3-1**, as last amended by Laws of Utah 2011, Chapter 297

30 **17-3-3**, as last amended by Laws of Utah 2009, Chapter 350

31 **17-3-6**, as last amended by Laws of Utah 1993, Chapter 227

32 **17-3-9**, Utah Code Annotated 1953



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

35 Section 1. Section **17-3-1** is amended to read:

36 **17-3-1. By petition -- Election -- Ballots.**

37 (1) Whenever any number of the qualified electors of any portion of any county desire
38 to have the territory within which [they] the individuals reside created into a new county [they],
39 the individuals may file a petition for the creation of a new county with the county legislative
40 body of the county in which [they] the individuals reside.

41 (2) A petition described in Subsection (1) is valid if:

42 (a) [The petition shall be signed by] at least one-fourth of the qualified electors as
43 shown by the registration list of the last preceding general election, residing in that portion of
44 the county to be created into a new county, [and by not less than one-fourth of the qualified
45 electors residing in the remaining portion of the county.] sign the petition;

46 (b) the creation of the new county will not:

47 (i) leave the remaining county with an area within the county's boundaries for which
48 the cost, requirements, or other burdens of providing fundamental county services would
49 materially increase over previous years; or

50 (ii) make it economically or practically unfeasible for the county to continue to
51 function as a county;

52 (c) the proposed new county is capable, in a cost-effective manner of providing
53 fundamental county services;

54 (d) [The] the individuals present the petition [shall be presented] on or before the first
55 Monday in May of any year[;]; and [shall propose]

56 (e) the petition proposes the name and [define] defines the boundaries of the new

57 county.

58 (3) The county legislative body shall ~~cause~~:

59 (a) provide 30 days' notice of the election described in Subsection (3)(b) in accordance
60 with Section 20A-5-101; and

61 (b) submit the proposition ~~[to be submitted]~~ to the legal voters residing in the county at
62 a special election to be held according to the dates established in Section 20A-1-204~~[, first~~
63 ~~causing 30 days' notice of the election to be given in the manner provided by law for giving~~
64 ~~notice of general elections]~~.

65 (4) The election shall be held, the result canvassed, and returns made under the
66 provisions of the general election laws.

67 (5) The form of ballot to be used at such election shall be:

68 For the creation of (supplying the name proposed) county.

69 Against the creation of (supplying the name proposed) county.

70 Section 2. Section 17-3-3 is amended to read:

71 **17-3-3. Certification of returns -- Governor's proclamation of creation of new**
72 **county -- Notice and plat to lieutenant governor -- Recording requirements -- Effective**
73 **date.**

74 (1) If it appears that any proposition submitted to the electors as provided in this
75 chapter has been carried in the affirmative by a majority vote of the qualified electors residing
76 in that portion of the county proposed as a new county, and ~~[also]~~, in a county of the fourth,
77 fifth, or sixth class, by a majority vote of the qualified electors residing in the remaining
78 portion of that county:

79 (a) the lieutenant governor, upon receiving the certified report under Section
80 20A-4-304, shall certify the result to the governor; and

81 (b) upon receiving the results from the lieutenant governor under Subsection (1)(a), the
82 governor shall issue a proclamation, stating:

83 (i) the result of the vote, including the result in each division of the county in a county
84 of the fourth, fifth, or sixth class;

85 (ii) the name and boundaries of the new county;

86 (iii) subject to Subsection (4), the boundaries of the original county as changed by the
87 creation of the new county;

88 (iv) that the creation of the new county will take effect on the first Monday in January
89 following the lieutenant governor's issuance of a certificate of creation under Section
90 67-1a-6.5;

91 (v) the name proposed in the petition as the name of the new county; and

92 (vi) the judicial district to which the new county belongs.

93 (2) The legislative body of the county from which the greatest portion of the new
94 county was taken shall:

95 (a) within 30 days after the issuance of the governor's proclamation under Subsection
96 (1), send to the lieutenant governor:

97 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
98 that meets the requirements of Subsection 67-1a-6.5(3); and

99 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

100 (b) upon the lieutenant governor's issuance of a certificate of creation under Section
101 67-1a-6.5, submit to the recorder of the new county:

102 (i) the original notice of an impending boundary action;

103 (ii) the original certificate of creation;

104 (iii) the original approved final local entity plat; and

105 (iv) a certified copy of the governor's proclamation under Subsection (1).

106 (3) (a) The new county that is the subject of the lieutenant governor's certificate of
107 creation under Section 67-1a-6.5 is a county of the state from and after 12 noon of the first
108 Monday in January following the issuance of the lieutenant governor's certificate of creation.

109 (b) (i) The effective date of the creation of a new county for purposes of assessing
110 property within the county is governed by Section 59-2-305.5.

111 (ii) Until the documents listed in Subsection [~~(3)(b)~~] (2)(b) are recorded in the office of
112 the recorder of the new county, the new county may not:

113 (A) levy or collect a property tax on property in the county;

114 (B) levy or collect an assessment on property in the county; or

115 (C) charge or collect a fee for service provided to property within the county.

116 (4) Unless an owner of rural real property, as defined in Section 17B-2a-1107, gives
117 written consent:

118 (a) the rural real property remains in the original county if the rural real property:

119 (i) consists of 1,500 or more contiguous acres of rural real property comprising one or
 120 more tax parcels;

121 (ii) is not contiguous to but is used in connection with rural real property that consists
 122 of 1,500 acres or more contiguous acres of real property comprising one or more tax parcels;

123 (iii) is owned, managed, or controlled by a person, company, or association, including
 124 a parent, subsidiary, or affiliate related to the person described in this Subsection (4)(a)(iii),
 125 that owns 1,500 or more contiguous acres of rural real property comprising one or more tax
 126 parcels; or

127 (iv) is located in whole or in part in one of the following, as defined in Section
 128 17-41-101:

129 (A) an agricultural protection area;

130 (B) a mining protection area; or

131 (C) an industrial protection area; and

132 (b) the lieutenant governor shall exclude the rural real property from a certificate of
 133 creation that the lieutenant governor issues for the new county in accordance with Section
 134 67-1a-6.5.

135 Section 3. Section 17-3-6 is amended to read:

136 **17-3-6. Effect on precincts and school and other districts -- Indebtedness.**

137 (1) (a) All precincts, school districts, road districts, and election districts, as [they] the
 138 precincts and districts existed [prior to] before the creation of [such] a new county, shall
 139 continue and become precincts, school districts, road districts, and election districts of [such]
 140 the new county[; and the].

141 (b) Except as provided in Subsection (1)(c), the respective officers [thereof] of the
 142 entities described in Subsection (1)(a) shall hold office until the expiration of the several terms
 143 for which [they] the officers were elected or appointed[; provided, that wherever pursuant to].

144 (c) If, in accordance with the provisions of this chapter, any precinct, school district,
 145 road district, or election district [shall be] is divided [the same shall be by reason thereof]:

146 (i) the precinct or district is disorganized[;]; and

147 (ii) the property and territory [embraced therein shall be] of the precinct or district is
 148 subject to the action of the county legislative body of the respective counties [as to] regarding
 149 reorganization [thereof] of the precinct or district or adding the [same] precinct or district to

150 other like subdivisions already organized[; ~~provided further, that any~~].

151 (d) Any bonded or other indebtedness of any [such] school district [so] divided in
152 accordance with Subsection (1)(c) shall attach to and become the obligation of:

153 (i) the district that [shall be] is created out of the territory that [shall retain] retains the
154 buildings and other property of the original district; or [to]

155 (ii) the district to which the [same may be] buildings and other property of the original
156 district is added[; and all bonded or other indebtedness of the county].

157 (2) Notwithstanding the creation of a new county, the existing county from which
158 territory is taken [shall attach to and become the obligation of such county.] to create a new
159 county may continue to levy a tax on the property within the portion of the new county that was
160 taken from the existing county for the purpose of paying the just proportion of the existing
161 county's general obligation or revenue bond until the bonded indebtedness has been satisfied.

162 Section 4. Section 17-3-9 is amended to read:

163 **17-3-9. Division of taxes.**

164 Whenever a new county [shall be] is created under the provisions of this chapter and the
165 officers [thereof shall] of the new county have duly qualified, the county treasurer of the
166 existing county from which territory has been taken to create [such] the new county shall
167 furnish to the county treasurer of [such] the new county:

168 (1) a certified list of all taxes that the county treasurer of the existing county has
169 collected [by him] for the preceding year upon the property located within [such] the portion of
170 [his] the existing county [as] that has become a part of [such] the new county[; together with];

171 (2) the entire amount of [such] the existing county, district school, or other special
172 taxes [by him] that the county treasurer of the existing county has collected for [such] the
173 preceding year upon the property described in Subsection (1), less:

- 174 (a) the pro rata cost of assessing and collecting the [same] taxes; and
- 175 (b) the entire cost of making [said] the certified lists.