

HB0093S05 compared with HB0093S04

~~{deleted text}~~ shows text that was in HB0093S04 but was deleted in HB0093S05.

Inserted text shows text that was not in HB0093S04 but was inserted into HB0093S05.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative 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 amends Title 17, Chapter 3, Creating New Counties, to mirror the municipal incorporation process.

Highlighted Provisions:

This bill:

- ▶ defines terms;

~~{ } → requires the lieutenant governor to establish a fee for certain costs incurred in the county creation process;~~

- ‡ ▶ amends Title 17, Chapter 3, Creating New Counties, to mirror the municipal incorporation process, including provisions to:

- require the lieutenant governor to establish a fee for certain costs incurred in the county creation process;

HB0093S05 compared with HB0093S04

- request and provide for a feasibility study that the lieutenant governor procures through a feasibility consultant;
 - provide certain requirements and considerations for a feasibility study, including considerations of both the new county's viability and the viability of the existing county from which the new county is created;
 - provide for public hearings on the feasibility study;
 - create a petition and election process for the creation of a new county;
 - require the existing county from which a proposed new county would be created to hold a county creation election and provide related notices and administrative support;
 - provide for the structuring of the new county, including, where applicable, the number of members of the new county's legislative body;
 - provide for a separate election to select a county seat and officers for the new county;
 - provide for the powers of a new county's ~~{officers-elect}~~officers-elect; and
 - provide for the division of services and ~~{service-related}~~service-related revenues between the existing and new county;
- ▶ allows certain rural real property to remain in the original county in certain circumstances:
- ▶ 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;
 - ▶ 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:

None

Utah Code Sections Affected:

HB0093S05 compared with HB0093S04

AMENDS:

20A-1-203, as last amended by Laws of Utah 2018, Chapters 68 and 415

ENACTS:

17-3-101, Utah Code Annotated 1953

17-3-102, Utah Code Annotated 1953

17-3-103, Utah Code Annotated 1953

17-3-201, Utah Code Annotated 1953

17-3-202, Utah Code Annotated 1953

17-3-203, Utah Code Annotated 1953

17-3-204, Utah Code Annotated 1953

17-3-205, Utah Code Annotated 1953

17-3-301, Utah Code Annotated 1953

17-3-302, Utah Code Annotated 1953

17-3-303, Utah Code Annotated 1953

17-3-304, Utah Code Annotated 1953

17-3-305, Utah Code Annotated 1953

17-3-401, Utah Code Annotated 1953

17-3-402, Utah Code Annotated 1953

17-3-403, Utah Code Annotated 1953

17-3-404, Utah Code Annotated 1953

17-3-405, Utah Code Annotated 1953

17-3-406, Utah Code Annotated 1953

17-3-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

17-3-502, (Renumbered from 17-3-5, as last amended by Laws of Utah 1993, Chapter 227)

17-3-503, (Renumbered from 17-3-6, as last amended by Laws of Utah 1993, Chapter 227)

17-3-504, (Renumbered from 17-3-7, Utah Code Annotated 1953)

17-3-505, (Renumbered from 17-3-8, as last amended by Laws of Utah 2011, Chapter 297)

HB0093S05 compared with HB0093S04

17-3-506, (Renumbered from 17-3-9, Utah Code Annotated 1953)

REPEALS:

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

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

17-3-4, as last amended by Laws of Utah 1993, Chapter 227

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

Section 1. Section 17-3-101 is enacted to read:

CHAPTER 3. CREATING NEW COUNTIES

Part 1. General Provisions

17-3-101. Title.

This chapter shall be known as "Creating New Counties."

Section 2. Section 17-3-102 is enacted to read:

17-3-102. Definitions.

As used in this chapter:

(1) "County creation election" means an election, described in Section 17-3-301, on the question of whether to create a new county.

(2) "County creation petition" or "petition" means a petition to initiate a county creation election.

(3) "Existing county" means a county:

(a) that exists before the creation of a new county under this chapter; and

(b) from which a portion is created as new county under this chapter.

(4) "New county" means a county that is created in accordance with this chapter.

(5) "Request" means a request for a feasibility study.

Section 3. Section 17-3-103 is enacted to read:

17-3-103. Costs of county creation -- Fees established by lieutenant governor.

(1) (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor for a county creation proceeding, including:

(i) a request certification;

(ii) a feasibility study;

HB0093S05 compared with HB0093S04

(iii) a county creation petition certification;

(iv) publication of notices;

(v) public hearings;

(vi) all other county formation activities occurring after the elections; and

(vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.

(b) A cost under Subsection (1)(a) does not include a cost incurred by an existing county for holding an election under Section 17-3-303.

(2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).

(3) If a creation of a new county occurs, the new county shall pay:

(a) to the lieutenant governor each fee that the lieutenant governor establishes under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and

(b) the existing county from which the new county was formed for a cost described in Subsection (1)(b).

Section 4. Section **17-3-201** is enacted to read:

Part 2. Feasibility Study

17-3-201. Request for feasibility study -- Requirements -- Limitations.

(1) The process to create a new county from contiguous territory within an existing county may be initiated by a request for a feasibility study filed with the lieutenant governor that complies with Subsection (2).

(2) Each request under Subsection (1) shall:

(a) be signed by at least:

(i) 25% of the elected officials elected to the cities, townships and metro townships located within the area proposed to be created as a new county; or

(ii) 5% of residents of the area within the proposed area to be created as a new county;

(b) describe the contiguous area proposed to be created as a new county, [subject to Subsection 17-3-301\(6\)](#);

(c) (i) designate up to five signers of the request as sponsors with one sponsor being designated as the contact sponsor; and

(ii) provide the mailing address, email address, and telephone number of each;

HB0093S05 compared with HB0093S04

(d) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed new county; and

(e) request the lieutenant governor to commission a study to determine:

(i) the feasibility of creating the new county; and

(ii) the feasibility of the separate existence of the portion of the existing county remaining after the creation of the new county.

Section 5. Section 17-3-202 is enacted to read:

17-3-202. Processing a request for incorporation -- Certification or rejection by lieutenant governor -- Processing priority.

(1) Within 45 days of the filing of a request under Section 17-3-201, the lieutenant governor shall:

(a) determine whether the request complies with Section 17-3-201; and

(b) (i) if the lieutenant governor determines that the request complies with Section 17-3-201:

(A) certify the request; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the lieutenant governor determines that the request fails to comply with Section 17-3-201:

(A) reject the request; and

(B) notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) The lieutenant governor shall certify or reject requests under Subsection (1) in the order in which the lieutenant governor receives requests under Subsection (1).

(3) (a) (i) If the lieutenant governor rejects a request under Subsection (1)(b), the sponsors of the request may:

(A) amend the request to correct the deficiencies underlying the rejection; and

(B) refile the request with the lieutenant governor.

(ii) A signature on a request under Section 17-3-201 may be used toward fulfilling the signature requirement of Subsection 17-3-201(2)(a) for the request as modified under Subsection (3)(a)(i).

(b) If the sponsors of a request amend and refile a request under Subsection (3)(a), the

HB0093S05 compared with HB0093S04

lieutenant governor shall consider the refiled request as a newly filed request for purposes of determining the request's priority.

Section 6. Section 17-3-203 is enacted to read:

17-3-203. Feasibility study -- Feasibility study consultant.

(1) Within 90 days of receipt of a certified request under Section 17-3-202, the lieutenant governor shall engage the feasibility consultant selected under Subsection (2) to conduct a feasibility study in accordance with this section.

(2) (a) The following shall select a feasibility consultant:

(i) the contact sponsor of the request, with the consent of the lieutenant governor; or

(ii) if the sponsors of the request state, in writing, that the contact sponsor defers selection of the feasibility consultant to the lieutenant governor, the lieutenant governor.

(b) The individual described in Subsection (2)(a) shall select the feasibility consultant in accordance with applicable procurement procedures.

(3) The lieutenant governor shall require the feasibility consultant selected under Subsection (2) to:

(a) complete the feasibility study described in Subsection (4) and submit the written results to the lieutenant governor and the contact sponsor no later than 90 days after the lieutenant governor engages the feasibility consultant to conduct the study;

(b) submit with results of the feasibility study a summary of the results; and

(c) attend the public hearings under Section 17-3-205 and present the feasibility study results and respond to questions from the public at those hearings.

(4) (a) The feasibility study shall consider:

(i) population and population density within:

(A) the area proposed for the creation of a new county; and

(B) the portion of the existing county remaining after the proposed creation of a new county;

(ii) present and five-year projections of demographics and economic base in the proposed county and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed county and in adjacent areas during the following five years;

HB0093S05 compared with HB0093S04

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed new county and the portion of the existing county remaining after the creation of the new county, including:

(A) law enforcement;

(B) fire protection;

(C) roads and public works; and

(D) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the existing county and all other current service providers, the present and five-year projected revenue for:

(A) the proposed new county; and

(B) the portion of the existing county remaining after the creation of the new county;

(vi) a projection of any new taxes per household that may be levied within:

(A) the proposed new county; and

(B) the portion of the existing county remaining after the creation of the new county;

and

(vii) the fiscal impact on unincorporated areas, municipalities, local districts, special service districts, and other governmental entities in:

(A) the proposed new county; and

(B) the portion of the existing county remaining after the creation of the new county.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed new county and the portion of the existing county remaining after the creation of the new county in the future that fairly and reasonably approximate the level and quality of governmental services common to other counties of the same class as:

(A) the proposed new county; and

(B) the portion of the existing county remaining after the creation of the new county.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider the amount it would cost the proposed new county to provide governmental service for the first five years after creation.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

HB0093S05 compared with HB0093S04

(5) If the five year projected revenues described in Subsection (4)(a)(v) falls below the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue shortfall.

Section 7. Section **17-3-204** is enacted to read:

17-3-204. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) (i) The sponsors of a request may modify and refile the request to alter the boundaries of the proposed county with the lieutenant governor if:

(A) the results of the feasibility study fail to meet the requirement described in Subsection 17-3-301(3); or

(B) the request meets the conditions of Section 17-3-201 and a county creation petition based on the request has not been filed.

(ii) The sponsors of a request may not file a modified request under Subsection (1)(a)(i) more than:

(A) 90 days after the feasibility consultant submits the results of the study; or

(B) 18 months after the filing of the original request under Section 17-3-201.

(b) (i) Except as provided in Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Section 17-3-201.

(ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section 17-3-201 may be used toward fulfilling the signature requirement of Subsection 17-3-201(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the creation of a new county that is more than 20% greater or smaller than the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) (a) Within 20 days after the day on which the lieutenant governor receives a modified request, the lieutenant governor shall follow the same procedure for the modified request as provided under Subsection 17-3-202(1) for an original request.

(b) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 17-3-202(2) as the original request.

(3) (a) Within 10 days after the day on which the lieutenant governor receives a certified modified request under Subsection (1)(a)(i) that was filed after the completion of a

HB0093S05 compared with HB0093S04

feasibility study on the original request, the lieutenant governor shall commission the feasibility consultant who conducted the original feasibility study to take into account the information in the modified request that was not included in the original request to supplement the feasibility study.

(b) The lieutenant governor shall require the feasibility consultant to complete the supplemental feasibility study described in Subsection (3)(a) and to submit written results of the supplemental study to the lieutenant governor and to the contact sponsor no later than 30 days after the day on which the lieutenant governor commissions the feasibility consultant to conduct the supplemental feasibility study.

Section 8. Section **17-3-205** is enacted to read:

17-3-205. Public hearings on feasibility study results -- Notice of hearings.

(1) The lieutenant governor shall, after receipt of the results of a feasibility study or supplemental feasibility study under Section 17-3-204, schedule at least two public hearings to be held:

(a) within the following 60 days after the lieutenant governor's receipt of the results;

(b) at least seven days apart;

(c) in geographically diverse locations within the proposed new county; and

(d) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study;

(ii) the public to become informed about the feasibility study results; and

(iii) the public to ask questions about the results of the feasibility study.

(2) At a public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed new county;

(b) provide a copy of the feasibility study for public review; and

(c) allow the public to express views about the proposed creation of the new county, including about the proposed boundary.

(3) (a) The lieutenant governor shall publish notice of the public hearings required under Subsection (1):

(i) except as provided in Subsection (3)(b), at least once a week for three successive weeks in a newspaper of general circulation within the proposed new county;

(ii) for three weeks on the Utah Public Notice Website created in Section 63F-1-701;

HB0093S05 compared with HB0093S04

and

(iii) for the last publication of notice required under this Subsection (3)(a), no later than three days before the first public hearing required under Subsection (1).

(b) (i) If there is no newspaper of general circulation within the proposed new county, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed new county that are most likely to give notice of the hearings to the residents of the proposed new county.

(ii) The lieutenant governor shall post the notices described in Subsection (3)(b)(i) at least seven days before the first hearing required under Subsection (1).

(c) The lieutenant governor shall ensure that each notice described in this Subsection (3):

(i) includes the feasibility study summary described in Section 17-3-203; and

(ii) indicates that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.

(d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Section 9. Section **17-3-301** is enacted to read:

Part 3. County Creation Petition and Election

17-3-301. County creation petition -- Requirements and form.

(1) At any time within one year of the completion of the public hearings required under Section 17-3-205, a county creation petition may be filed in the Office of the Lieutenant Governor.

(2) Each county creation petition shall:

(a) be signed by:

(i) a number of signatures equal to 10% of the total votes cast in the previous presidential election within the area proposed for creation of the new county, according to the official voter registration list that the existing county maintained on the date the county creation petition is filed; and

(ii) a number of signatures equal to 10% of the total votes cast in the previous presidential election within, subject to Subsection (5), 90% of the voting precincts the area

HB0093S05 compared with HB0093S04

proposed for creation of the new county, according to the official voter registration list that the existing county maintained on the date the petition is filed;

(b) indicate the typed or printed name and current residence address of each owner signing the petition;

(c) **subject to Subsection (6)**, describe the area proposed for creation of the new county~~f,;~~ as described in the feasibility study request or modified request that meets the requirements of Subsection (3);

(d) state the proposed name for the proposed county;

(e) designate five signers of the county creation petition as petition sponsors with one being designated as the contact sponsor;

(f) provide the mailing address, email address, and telephone number of each petition sponsor;

(g) state that the signers of the county creation petition appoint the sponsors, if the county creation measure passes, to represent the signers in the process of:

(i) selecting the number of commission or council members the new county will have based on the results of the election determining the form of government for the new county;

and

(ii) selecting the form of government;

(h) be accompanied by and circulated with an accurate plat or map that:

(i) a licensed surveyor prepares; and

(ii) shows the boundaries of the proposed new county; and

(i) substantially comply with and be circulated in the following form:

PETITION FOR CREATION OF (insert the proposed name of the proposed new county)

To the Honorable Lieutenant Governor:

We, the undersigned residents within the area described in this county creation petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this county creation petition, at the next regular general election, the question of whether a new county should be created comprising the area. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current

HB0093S05 compared with HB0093S04

residence address of each is correctly written after the signer's name. The area proposed to be included in the newly formed county is described as follows: (insert an accurate description of the area proposed to be included in the newly formed county).

(3) A petition for the creation of a new county under Subsection (1) may not be filed unless the results of the feasibility study show that the average annual amount of revenue under Subsection 17-3-203(4)(a)(v) for the portion of the existing county that remains after the proposed creation of the new county does not fall below the average annual amount of cost under Subsection 17-3-203(4)(a)(iv) by more than 5%.

(4) A signature on a request under Section 17-3-201 or a modified request under Section 17-3-204 may be used toward fulfilling the signature requirement of Subsection (2)(a):

(a) if the request under Section 17-3-201 or modified request under Section 17-3-204 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a county creation petition under this section; and

(b) unless the signer files with the lieutenant governor a written withdrawal of the signature before the county creation petition is filed with the lieutenant governor.

(5) (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

(i) is not located entirely within the boundaries of the proposed new county; or

(ii) includes fewer than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed new county does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

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

(a) the rural real property may not be included in a proposed new county and instead remains in the existing county if the rural real property:

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

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

(iii) is owned, managed, or controlled by a person, company, or association, including

HB0093S05 compared with HB0093S04

a parent, subsidiary, or affiliate related to the person, company, or association that owns 1,500 or more contiguous acres of rural real property comprising one or more tax parcels; or

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

(A) an agricultural protection area;

(B) a mining protection area; or

(C) an industrial protection area; and

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

Section 10. Section 17-3-302 is enacted to read:

17-3-302. Processing of county creation petition by lieutenant governor -- Certification or rejection -- Processing priority.

(1) Within 45 days of the filing of a petition under Section 17-3-301, the lieutenant governor shall:

(a) with the assistance of the county officers of the existing county from whom the lieutenant governor requests assistance, determine whether the petition meets the requirements of Section 17-3-301; and

(b) (i) if the lieutenant governor determines that the petition meets the requirements described in Section 17-3-301, certify the petition and notify in writing the contact sponsor of the certification; or

(ii) if the lieutenant governor determines that the petition fails to meet a requirement described in Section 17-3-301, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the lieutenant governor rejects a county creation petition under Subsection (1)(b)(ii), the petition sponsors may modify and refile the petition to correct the deficiencies underlying the rejection.

(b) The petition sponsors may file a modified petition under Subsection (2)(a) at any time until 30 days after the day on which the lieutenant governor notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline described in Section 17-3-301.

HB0093S05 compared with HB0093S04

(c) A signature on a petition to create a new county under Section 17-3-301 may be used toward fulfilling the signature requirement of Subsection 17-3-301(2)(a) for the petition as modified under Subsection (2)(a).

(3) (a) Within 20 days after the day on which the lieutenant governor receives a modified petition under Subsection (2)(a), the lieutenant governor shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.

(b) If the lieutenant governor rejects a modified petition under Subsection (1)(b)(ii), the petition sponsors may not further modify and refile the modified petition.

Section 11. Section **17-3-303** is enacted to read:

17-3-303. Election on the formation of a new county.

(1) (a) Upon receipt of a certified county creation petition under Section 17-3-302, the lieutenant governor shall:

(i) determine and set an election date for the county creation election that is:

(A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and

(B) at least 65 days after the day that the lieutenant governor receives the certified petition; and

(ii) direct the county legislative body of the existing county to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).

(b) The existing county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).

(c) An individual may not vote on the election unless the individual is:

(i) for a county creation election taking place in a county of the first, second, or third class, a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed new county; or

(ii) for a county creation election taking place in a county of the fourth, fifth, or sixth class, a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the existing county.

(2) (a) The county clerk of the existing county shall publish notice of the election:

(i) except as provided in Subsection (2)(d), at least once a week for three successive weeks in a newspaper of general circulation within:

HB0093S05 compared with HB0093S04

(A) for a county creation election taking place in a county of the first, second, or third class, the area proposed to be included within a new county; or

(B) for a county creation election taking place in a county of the fourth, fifth, or sixth class, the existing county; and

(i) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the county creation petition;

(ii) a description of the area proposed to be included within the proposed new county;

(iii) a statement of the date and time of the election and the location of polling places;

and

(iv) the feasibility study summary described in Section 17-3-203 and a statement that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the area described in Subsection (2)(a) that are most likely to give notice of the county creation election.

(ii) The county clerk shall post the notices described in Subsection (2)(d)(i) at least seven days before the election described in Subsection (1).

(3) (a) For a county creation in an existing county of the first, second, or third class, if a majority of those casting votes within the area proposed to be included within the new county vote to create the new county:

(i) the new county is created; and

(ii) the area is included within the new county.

(b) For a county creation in an existing county of the fourth, fifth, or sixth class, if a majority of those casting votes within the area proposed to be included within the new county and a majority of those casting votes residing in the remaining portion of the existing county vote to create the new county:

(i) the new county is created; and

HB0093S05 compared with HB0093S04

(ii) the area is included within the new county.

Section 12. Section **17-3-304** is enacted to read:

17-3-304. Ballot used at the incorporation election.

(1) The ballot at the county creation election under Section 17-3-303 shall pose the county creation question substantially as follows:

"Shall the area described as (insert a description of the proposed new county) form the county of (insert the proposed name of the proposed new county)?"

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

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

"If the above county creation passes, under what form of county government shall (insert the name of the proposed new county) operate? Vote for one: (insert the available forms of county government described in Section 17-52a-103)."

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

Section 13. Section **17-3-305** is enacted to read:

17-3-305. Notification to lieutenant governor of county creation election results.

Within 10 days of the canvass of the county creation election, the county clerk shall send written notice to the lieutenant governor of:

(1) the results of the election, including the result in each division of the existing county for a county creation election taking place in a county of the fourth, fifth, or sixth class; and

(2) if the county creation measure passes:

(a) the name of the new county; and

(b) the class of the new county.

Section 14. Section **17-3-401** is enacted to read:

Part 4. Structuring New County

17-3-401. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the county creation proposal passes, the petition sponsors shall, within 25 days of

HB0093S05 compared with HB0093S04

the canvass of the election under Section 17-3-303:

(a) if the voters at the county creation election chose the executive-council or the council-manager form of government, determine the number of council members that will constitute the council of the new county;

(b) determine the initial terms of the county legislative body and, if applicable, the county executive so that:

(i) approximately half the members of the county legislative body and, if applicable, the county executive are elected to serve an initial term, of no less than one year, that allows the successors to serve a full four-year term that coincides with a presidential election; and

(ii) the remaining members of the county legislative body are elected to serve an initial term, of no less than one year, that allows the successors to serve a full four-year term that coincides with a federal mid-term election; and

(c) submit in writing to the lieutenant governor the results of the sponsors' determinations under Subsections (1)(a) and (b).

(2) (a) Before making a determination under Subsection (1)(a) or (b), the petition sponsors shall hold a public hearing within the future new county on the issues described in Subsections (1)(a) and (b).

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

(A) except as provided in Subsection (2)(c), in a newspaper of general circulation within the future new county 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).

(c) (i) If there is no newspaper of general circulation within the future new county, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future new county that are most likely to give notice of the hearing to the residents of the future new county.

(ii) The petition sponsors shall post the notices described in Subsection (2)(c)(i) at least

HB0093S05 compared with HB0093S04

seven days before the hearing described in Subsection (2)(a).

Section 15. Section **17-3-402** is enacted to read:

17-3-402. 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 lieutenant governor's receipt of the information described in Subsection 17-3-401(1)(c), the lieutenant governor shall publish, in accordance with Subsection (1)(b), notice containing:

(i) the number of members of the county legislative body to be elected;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for county office;

(iii) whether there is to be a consolidated office in accordance with Section 17-16-3; and

(iv) information about the length of the initial term of each of the county officers, as determined by the petition sponsors in accordance with Subsection 17-3-401(1)(b).

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

(i) except as provided in Subsection (1)(c), in a newspaper of general circulation within the future new county at least once a week for two successive weeks; and

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

(c) (i) If there is no newspaper of general circulation within the future new county, the lieutenant governor shall post at least one notice per 1,000 population in conspicuous places within the future new county that are most likely to give notice to the residents of the future new county.

(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 described in Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy described in Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for county office of a new county created under this chapter shall file a declaration of candidacy with the county clerk of the existing county from which the future new county is being created in accordance with the deadlines set by the county clerk as authorized by statute.

HB0093S05 compared with HB0093S04

Section 16. Section **17-3-403** is enacted to read:

17-3-403. Election of officers of new county -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of new county officers and the selection of a county seat, the county legislative body of the existing county 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 county creation election; and

(b) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their 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 existing county shall hold the primary election, if necessary, on the next earliest election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

(i) 75 days after the county creation 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 existing 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;

HB0093S05 compared with HB0093S04

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

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

(b) The existing 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 county creation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

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

(A) except as provided in Subsection (5)(b), at least once a week for two successive weeks in a newspaper of general circulation within the future new county; 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) If there is no newspaper of general circulation within the future new county, the county clerk of the existing county shall post at least one notice of the election per 1,000 population in conspicuous places within the future new county that are most likely to give notice of the election to the voters.

(ii) The county clerk of the existing county shall post the notices described in Subsection (5)(b)(i) at least seven days before each election described in Subsection (1).

(6) (a) Until the new county is created, the county clerk of the existing county:

(i) is the election officer for all purposes in an election of officers of the new county; and

(ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.

(b) The county clerk of the existing county shall require and determine deadlines for the filing of campaign financial disclosures of county officer candidates in accordance with statute.

(c) The county clerk of the existing county is responsible to ensure that:

(i) a primary or final election for the officials of a new county is held on a date

HB0093S05 compared with HB0093S04

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 new county 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 described in Subsection (6)(b).

(8) Notwithstanding any other provision of law, 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 17. Section **17-3-404** is enacted to read:

17-3-404. Notification to lieutenant governor of election of county officers.

Within 10 days of the canvass of the final election of county officers under Section 17-3-403, the county clerk of the existing county shall send written notice to the lieutenant governor of:

(1) the name and position of each officer elected; and

(2) the term for which each officer has been elected.

Section 18. Section **17-3-405** is enacted to read:

17-3-405. Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of county formation -- Necessity of recording documents and effect of not recording.

(1) The county executive or the commission of the new county shall:

(a) within 30 days after the canvass of the final election of county officers under Section 17-3-403, file with the lieutenant governor:

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

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

(b) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the existing county from which the new county is created the:

HB0093S05 compared with HB0093S04

(i) notice of an impending boundary action;

(ii) certificate of creation; and

(iii) approved final local entity plat.

(2) (a) The formation of a new county is effective upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5.

(b) Notwithstanding any other provision of law, a county is conclusively presumed to be lawfully created and existing if, for two years following the county's creation the county has:

(i) (A) levied and collected a property tax; or

(B) imposed a sales and use tax; and

(ii) no challenge to the existence or formation of the county has been filed in the relevant district court.

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

(b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of the existing county from which the new county is created, a newly created county may not:

(i) levy or collect a property tax on property within the county;

(ii) levy or collect an assessment on property within the county; or

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

Section 19. Section **17-3-406** is enacted to read:

17-3-406. Powers of officers-elect.

(1) Upon the canvass of the final election of county officers under Section 17-3-403 and until the new county becomes legally created, the officers of the new county may:

(a) prepare and adopt, under Chapter 36, Uniform Fiscal Procedures Act for Counties, 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 for startup expenses of the future new county; and

(f) issue tax anticipation notes in the name of the future new county.

(2) The county legislative body shall review and ratify each contract that the county

HB0093S05 compared with HB0093S04

officers make under Subsection (1) within 30 days after the effective date of the formation of the new county under Section 17-3-405.

Section 20. Section **17-3-501** is enacted to read:

Part 5. Effectuating Operation of Newly Created County

17-3-501. Division of services revenues -- County may provide startup funds.

(1) The existing county shall, until the date of the new county's legal formation under Section 17-3-405, continue:

(a) to levy and collect ad valorem property tax and other revenues from or pertaining to the new county; and

(b) except as otherwise agreed by the existing county and the new county, to provide the same services to the new county as the existing county provided in that area before the county creation proceedings.

(2) The legislative body of the existing county shall share pro rata with the new county, based on the date of county formation, the taxes and service charges or fees that the existing county levied and collected under Section 17-34-3 during the year of the new county's creation if and to the extent that the new county provides, directly or by contract, the same services for which the existing county levied and collected the taxes and service charges or fees.

(3) (a) The legislative body of an existing county may appropriate county funds to:

(i) before the legal formation of the new county but after the canvass of the final election of county officers under Section 17-3-403, the officers of the new county to pay startup expenses of the new county; or

(ii) after the legal formation of the new county, the new county.

(b) Funds that a county appropriates under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Section 21. Section **17-3-502**, which is renumbered from Section 17-3-5 is renumbered and amended to read:

~~[17-3-5].~~ **17-3-502. Records to be transmitted -- Expenses for transcribing and transfer.**

(1) Whenever a new county [~~shall have been~~] is created under the provisions of this chapter, the county executive of the existing county from which the new county [~~has been taken~~] is created shall furnish to the respective officers of the new county, in form and on

HB0093S05 compared with HB0093S04

suitable paper for binding into permanent records, certified copies of all ~~[such]~~ records or parts of ~~[such]~~ records and books as pertain to or affect the title of real or personal property in ~~[such]~~ the new county~~;~~~~such copies to be complete up to~~ by 12 o'clock noon of the first Monday in January following the election for the creation of ~~[such]~~ the officers of the new county~~;~~ ~~provided, that~~].

(2) (a) Any original records, books, maps or plats, whether filed or recorded, or filed papers which exclusively relate to or affect the title to land in ~~[such]~~ the new county or which affect personal property owned by residents of ~~[such]~~ the new county, as shown by the records pertaining ~~[thereto]~~ to the land or personal property, shall be transferred to the custody of the proper officer of the new county~~;~~ ~~who shall give his receipt therefor, and where~~].

(b) The officer of the new county described in Subsection (2)(a) shall give the office's receipt for originals described in Subsection (2)(a).

(c) Where any record of ~~[any]~~ an existing county from which ~~[such]~~ the new county is ~~[taken]~~ created has been compiled or arranged in such manner that it may be divided by segregating ~~[such]~~ the instruments ~~[therein]~~ within or pages ~~[thereof]~~ of the record as to relate to or affect exclusively the title to lands in ~~[such]~~ the new county or personal property owned by residents ~~[thereof, such]~~ of the new county:

(i) the record shall be so divided~~;~~ and

(ii) the separate parts of ~~[such]~~ the divided or segregated records ~~[shall be]~~ are the property of the counties to which ~~[they]~~ the records relate.

(3) (a) The records of all corporations whose principal place of business is situated in the new county, unless recorded in such a manner that the original record pertaining to ~~[any such]~~ the corporation may~~;~~ ~~as herein provided;~~ be delivered over to the new county, shall be copied and certified~~;~~ ~~and such~~].

(b) The certified ~~[copy of]~~ copies described in Subsection (3)(a), together with all original documents, files, and papers relating to ~~[such]~~ the corporations described in Subsection (3)(a) shall be transmitted to the new county.

(4) (a) All recorded official bonds of officers within the new county in force at the time it is created, unless recorded in such manner that the original record ~~[thereof]~~ may be transferred, shall be copied, certified, and transmitted to the new county~~;~~ ~~and all~~].

(b) All bonds of local officers within the new county which are required by law to be

HB0093S05 compared with HB0093S04

filed only shall be transferred to the new county.

(5) All official registers, books, papers, and files of every description relating to or affecting elections, both general and local, which ~~shall~~ have been held in any district, precinct, or other subdivision wholly within ~~such~~ the new county, and certified copies of the last election proceedings ~~had~~ in any districts which are partly in the new county and partly in the ~~old~~ existing county, shall be transmitted to the new county.

(6) All records, maps, plats, files, and papers relating to or affecting the creation, regulation and operation of irrigation, drainage and mosquito abatement districts which are wholly within the new county, and certified copies of ~~such~~ the records, maps, plats, files, and papers relating to and affecting the creation, regulation, and operation of irrigation, drainage, and mosquito abatement districts which are partly in the new and partly in the ~~old~~ existing county, shall be transmitted to the new county.

(7)(a) All expenses lawfully incurred for transcribing and for the transfer of records provided for in this section shall be paid out of the general funds of the new county~~;~~ ~~and the~~.

(b) The expenses of any special election provided for in this chapter shall be paid one-half out of the general funds of the existing county ~~[from which territory is taken]~~ and one-half out of the general funds of the new county.

Section 22. Section **17-3-503**, which is renumbered from Section 17-3-6 is renumbered and amended to read:

~~[17-3-6].~~ **17-3-503.** **Effect on precincts and school and other districts --
Indebtedness.**

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

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

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

(i) the precinct or district is disorganized~~;~~; and

HB0093S05 compared with HB0093S04

(ii) the property and territory [~~embraced therein shall be~~] of the precinct or district is subject to the action of the county legislative body of the respective counties [~~as to~~] regarding reorganization [~~thereof~~] of the precinct or district or adding the [~~same~~] precinct or district to other like subdivisions already organized[~~; provided further, that any~~].

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

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

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

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

Section 23. Section **17-3-504**, which is renumbered from Section 17-3-7 is renumbered and amended to read:

~~[17-3-7].~~ **17-3-504. Pending civil and criminal actions.**

(1) All civil and criminal actions which shall be pending in the territory embraced in [~~such~~] the new county shall be prosecuted to judgment and execution [~~therein, and all~~] in the new county.

(2) All actions pending in the district court in any county shall be prosecuted to judgment and execution in the county in which the same are pending, subject to change of venue as provided by law.

Section 24. Section **17-3-505**, which is renumbered from Section 17-3-8 is renumbered and amended to read:

~~[17-3-8].~~ **17-3-505. Prior offenses.**

An offense, for which prosecution has not commenced, that was committed within the boundaries of [~~a~~] the new county before the new county was created, may be prosecuted to judgment and execution in the new county.

Section 25. Section **17-3-506**, which is renumbered from Section 17-3-9 is renumbered

HB0093S05 compared with HB0093S04

and amended to read:

~~[17-3-9].~~ **17-3-506. Division of taxes.**

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

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

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

(a) the pro rata cost of assessing and collecting the [~~same~~] taxes; and

(b) the entire cost of making [~~said~~] the certified lists.

Section 26. Section **20A-1-203** is amended to read:

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

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

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

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

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

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

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

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

HB0093S05 compared with HB0093S04

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

- (i) a vote on a bond or debt issue;
- (ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;
- (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- (v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;
- (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- (vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;
- (viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;
- (ix) a vote to create a new county under Section [~~17-3-1~~] 17-3-303;
- (x) a vote on the creation of a study committee under Sections 17-52a-302 and 17-52a-304;
- (xi) a vote on a special property tax under Section 53F-8-402;
- (xii) a vote on the incorporation of a city in accordance with Section 10-2a-210;
- (xiii) a vote on the incorporation of a town in accordance with Section 10-2a-304; or
- (xiv) a vote on incorporation or annexation as described in Section 10-2a-404.

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

- (i) the date for the local special election as authorized by Section 20A-1-204; and
 - (ii) the purpose for the local special election.
- (c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:
- (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
 - (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
 - (iii) a vote authorized or required for a sales tax issue as described in Subsection

HB0093S05 compared with HB0093S04

(5)(a)(vi).

Section 27. **Repealer.**

This bill repeals:

Section 17-3-1, **By petition -- Election -- Ballots.**

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

Section 17-3-4, **County seat, selection by election -- First officers -- Election.**