

COUNTY PLANNING AND SERVICES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions regarding county planning and services.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the membership on a county mountainous planning commission;
- ▶ allows a county to fund fire, paramedic, and police services within a municipality that is located within an area that the county has designated as a recreation area;
- ▶ extends sunset dates for the mountainous planning commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-301, as last amended by Laws of Utah 2017, Chapters 70 and 448

17-34-1, as last amended by Laws of Utah 2014, Chapter 405

63I-2-210, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

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

31 Section 1. Section **17-27a-301** is amended to read:

32 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
33 **Ordinance requirements -- Planning advisory area planning commission --**
34 **Compensation.**

35 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
36 establishing a countywide planning commission for the unincorporated areas of the county not
37 within a planning advisory area.

38 (b) Subsection (1)(a) does not apply if all of the county is included within any
39 combination of:

40 (i) municipalities;

41 (ii) planning advisory areas with their own planning commissions; and

42 (iii) mountainous planning districts.

43 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection
44 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,
45 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over
46 the entire mountainous planning district, including areas of the mountainous planning district
47 that are also located within a municipality or are unincorporated.

48 (ii) A planning commission described in Subsection (1)(c)(i):

49 (A) does not have jurisdiction over a municipality described in Subsection
50 [10-9a-304\(2\)\(b\)](#); and

51 (B) has jurisdiction subject to a local health department exercising its authority in
52 accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising
53 the municipality's authority in accordance with Section [10-8-15](#).

54 (iii) The ordinance shall require that:

55 (A) members of the planning commission represent areas located in the unincorporated
56 and incorporated county;

57 (B) members of the planning commission be registered voters who reside either in the

58 unincorporated or incorporated county;

59 (C) at least one member of the planning commission resides within the mountainous
60 planning district and another member [~~either resides or owns property~~] is a resident of a
61 municipality located within the mountainous planning district; and

62 (D) the county designate up to four seats on the planning commission, and fill each
63 vacancy in the designated seats in accordance with the procedure described in Subsection (7).

64 (2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

65 (i) the number and terms of the members and, if the county chooses, alternate
66 members;

67 (ii) the mode of appointment;

68 (iii) the procedures for filling vacancies and removal from office;

69 (iv) the authority of the planning commission;

70 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
71 planning commission in a public meeting; and

72 (vi) other details relating to the organization and procedures of the planning
73 commission.

74 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
75 Title 52, Chapter 4, Open and Public Meetings Act.

76 (3) (a) (i) If the county establishes a planning advisory area planning commission, the
77 county legislative body shall enact an ordinance that defines:

78 (A) appointment procedures;

79 (B) procedures for filling vacancies and removing members from office;

80 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
81 planning advisory area planning commission in a public meeting; and

82 (D) details relating to the organization and procedures of each planning advisory area
83 planning commission.

84 (ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning
85 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

86 (b) The planning commission for each planning advisory area shall consist of seven
87 members who shall be appointed by:

88 (i) in a county operating under a form of government in which the executive and
89 legislative functions of the governing body are separated, the county executive with the advice
90 and consent of the county legislative body; or

91 (ii) in a county operating under a form of government in which the executive and
92 legislative functions of the governing body are not separated, the county legislative body.

93 (c) (i) Members shall serve four-year terms and until their successors are appointed and
94 qualified.

95 (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first
96 planning commissions shall be appointed so that, for each commission, the terms of at least one
97 member and no more than two members expire each year.

98 (d) (i) Each member of a planning advisory area planning commission shall be a
99 registered voter residing within the planning advisory area.

100 (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if
101 that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory
102 area.

103 (4) (a) A member of a planning commission who was elected to and served on a
104 planning commission on May 12, 2015, shall serve out the term to which the member was
105 elected.

106 (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant
107 seat shall be filled by appointment in accordance with this section.

108 (5) Upon the appointment of all members of a planning advisory area planning
109 commission, each planning advisory area planning commission under this section shall begin to
110 exercise the powers and perform the duties provided in Section [17-27a-302](#) with respect to all
111 matters then pending that previously had been under the jurisdiction of the countywide
112 planning commission or planning advisory area planning and zoning board.

113 (6) The legislative body may authorize a member of a planning commission to receive

114 per diem and travel expenses for meetings actually attended, in accordance with Section
115 11-55-103.

116 (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning
117 commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

118 (b) If a county designates one or more planning commission seats under Subsection
119 (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

120 (i) (A) are adjacent to the mountainous planning district; and

121 (B) border the entrance to a canyon that is located within the boundaries of the
122 mountainous planning district and accessed by a paved road maintained by the county or the
123 state; or

124 (ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

125 (c) When there is a vacancy in a planning commission seat described in Subsection
126 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in
127 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy
128 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

129 (d) The city shall respond to a written request described in Subsection (7)(c) within 60
130 days after the day on which the city receives the written request.

131 (e) After the county receives the city's list of three individuals, the county shall submit
132 one of the individuals on the list for appointment to the vacant planning commission seat in
133 accordance with county ordinance.

134 (f) The county shall fill the vacancy in accordance with the county's standard procedure
135 if the city fails to timely respond to the written request.

136 Section 2. Section 17-34-1 is amended to read:

137 **17-34-1. Counties may provide municipal services -- Limitation -- First-class**
138 **counties to provide certain services -- Counties allowed to provide certain services in**
139 **recreational areas.**

140 (1) For purposes of this chapter, except as otherwise provided in Subsection (3):

141 (a) "Greater than class C radioactive waste" has the same meaning as in Section

142 19-3-303.

143 (b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.

144 (c) "Municipal-type services" means:

145 (i) fire protection service;

146 (ii) waste and garbage collection and disposal;

147 (iii) planning and zoning;

148 (iv) street lighting;

149 (v) animal services;

150 (vi) storm drains;

151 (vii) traffic engineering;

152 (viii) code enforcement;

153 (ix) business licensing;

154 (x) building permits and inspections;

155 (xi) in a county of the first class:

156 (A) advanced life support and paramedic services; and

157 (B) detective investigative services; and

158 (xii) all other services and functions that are required by law to be budgeted,

159 appropriated, and accounted for from a municipal services fund or a municipal capital projects

160 fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

161 (d) "Placement" has the same meaning as in Section 19-3-303.

162 (e) "Storage facility" has the same meaning as in Section 19-3-303.

163 (f) "Transfer facility" has the same meaning as in Section 19-3-303.

164 (2) A county may:

165 (a) provide municipal-type services to areas of the county outside the limits of cities

166 and towns without providing the same services to cities or towns; and

167 (b) fund those services by:

168 (i) levying a tax on taxable property in the county outside the limits of cities and towns;

169 (ii) charging a service charge or fee to persons benefitting from the municipal-type

170 services; or

171 (iii) providing funds to a municipal services district in accordance with Section
172 [17B-2a-1109](#).

173 (3) A county may not:

174 (a) provide, contract to provide, or agree in any manner to provide municipal-type
175 services, as these services are defined in Section [19-3-303](#), to any area under consideration for
176 a storage facility or transfer facility for the placement of high-level nuclear waste, or greater
177 than class C radioactive waste; or

178 (b) seek to fund services for these facilities by:

179 (i) levying a tax; or

180 (ii) charging a service charge or fee to persons benefitting from the municipal-type
181 services.

182 (4) Each county of the first class shall provide to the area of the county outside the
183 limits of cities and towns:

184 (a) advanced life support and paramedic services; and

185 (b) detective investigative services.

186 (5) (a) A county may provide fire, paramedic, and police protection services in any area
187 of the county outside the limits of cities and towns that is designated as a recreational area in
188 accordance with the provisions of this Subsection (5).

189 (b) A county legislative body may designate any area of the county outside the limits of
190 cities and towns as a recreational area if:

191 (i) the area has fewer than 1,500 residents and is primarily used for recreational
192 purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds,
193 or picnic areas; and

194 (ii) the county legislative body makes a finding that the recreational area is used by
195 residents of the county who live both inside and outside the limits of cities and towns.

196 (c) Fire, paramedic, and police protection services needed to primarily serve those
197 involved in the recreation activities in areas designated as recreational areas by the county

198 legislative body in accordance with Subsection (5)(b) may be funded from the county general
199 fund.

200 (d) A county legislative body may determine that fire, paramedic, and police protection
201 services within a municipality that is located in an area designated as a recreational area, in
202 accordance with this Subsection (5), may be funded with county general funds if the county
203 legislative body makes a finding that a disproportionate share of public safety service needs
204 within the municipality are generated by residents of the county who live both inside and
205 outside the limits of cities and towns.

206 Section 3. Section **63I-2-210** is amended to read:

207 **63I-2-210. Repeal dates -- Title 10.**

208 [~~(1) On July 1, 2018, the following are repealed:~~]

209 [~~(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";~~]

210 [~~(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";~~]

211 [~~(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";~~]

212 [~~(d) Section 10-2a-302;~~]

213 [~~(e) Subsection 10-2a-302.5(2)(a);~~]

214 [~~(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";~~]

215 [~~(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and~~
216 ~~"10-2a-302(7)(b)(iv) or";~~]

217 [~~(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and~~]

218 [~~(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection~~
219 ~~10-2a-302(5) or".~~]

220 [~~(2) (1) Subsection 10-9a-304(2), regarding municipal authority over property located~~
221 ~~within a mountainous planning district, is repealed June 1, [2020] 2021.~~]

222 [~~(3) (2) When repealing Subsection 10-9a-304(2), the Office of Legislative Research~~
223 ~~and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3),~~
224 ~~make necessary changes to subsection numbering and cross references.~~]

225 Section 4. Section **63I-2-217** is amended to read:

226 **63I-2-217. Repeal dates -- Title 17.**

227 (1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous
228 planning district" is repealed June 1, [2020] 2021.

229 (2) (a) Subsection 17-27a-103(15)(b), regarding a mountainous planning district, is
230 repealed June 1, [2020] 2021.

231 (b) Subsection 17-27a-103(37), regarding a mountainous planning district, is repealed
232 June 1, [2020] 2021.

233 (3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning
234 district area" is repealed June 1, [2020] 2021.

235 (4) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is
236 repealed June 1, [2020] 2021.

237 (b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed
238 June 1, [2020] 2021.

239 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
240 (1)(a) or (c)" is repealed June 1, [2020] 2021.

241 (5) Subsection 17-27a-302(1), the language that states ", or mountainous planning
242 district" and "or the mountainous planning district," is repealed June 1, [2020] 2021.

243 (6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning
244 district or" and ", as applicable" is repealed June 1, [2020] 2021.

245 (7) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is
246 repealed June 1, [2020] 2021.

247 (b) Subsection 17-27a-401[~~(6)~~](7), regarding a mountainous planning district, is
248 repealed June 1, [2020] 2021.

249 (8) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is
250 repealed June 1, [2020] 2021.

251 (b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is
252 repealed June 1, [2020] 2021.

253 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning

254 district" is repealed June 1, [~~2020~~] 2021.

255 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
256 district" is repealed June 1, [~~2020~~] 2021.

257 (9) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is
258 repealed June 1, [~~2020~~] 2021.

259 (10) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is
260 repealed June 1, [~~2020~~] 2021.

261 (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
262 mountainous planning district, the mountainous planning district" is repealed June 1, [~~2020~~]
263 2021.

264 (12) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is
265 repealed June 1, [~~2020~~] 2021.

266 (13) Subsection 17-27a-605(1), the language that states "or mountainous planning
267 district land" is repealed June 1, [~~2020~~] 2021.

268 (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,
269 [~~2020~~] 2021.

270 (15) On June 1, [~~2020~~] 2021, when making the changes in this section, the Office of
271 Legislative Research and General Counsel shall:

272 (a) in addition to its authority under Subsection 36-12-12(3)[~~7~~]:

273 (i) make corrections necessary to ensure that sections and subsections identified in this
274 section are complete sentences and accurately reflect the office's understanding of the
275 Legislature's intent; and

276 (ii) make necessary changes to subsection numbering and cross references; and

277 (b) identify the text of the affected sections and subsections based upon the section and
278 subsection numbers used in Laws of Utah 2017, Chapter 448.

279 (16) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services
280 in a designated recreation area, is repealed June 1, 2021.

281 [~~(16)~~] (17) On June 1, 2020:

- 282 (a) Section 17-52a-104 is repealed;
- 283 (b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision
284 described in Subsection 17-52a-104(2)," is repealed;
- 285 (c) Subsection 17-52a-301(3)(a)(vi) is repealed;
- 286 (d) in Subsection 17-52a-501(1), the language that states "or, for a county under a
287 pending process described in Section 17-52a-104, under Section 17-52-204 as that section was
288 in effect on March 14, 2018," is repealed; and
- 289 (e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a
290 pending process described in Section 17-52a-104, the attorney's report that is described in
291 Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a
292 statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14,
293 2018," is repealed.
- 294 [(17)] (18) On January 1, 2028, Subsection 17-52a-102(3) is repealed.