

COUNTY COMMISSION ELECTION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends provisions related to county commissioner elections.

Highlighted Provisions:

This bill:

- ▶ allows a county to modify the process by which a candidate for a county commission is elected when there is more than one vacant county commission position; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 17-52-401**, as last amended by Laws of Utah 2012, Chapter 17
- 17-52-501**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-52-502**, as last amended by Laws of Utah 2005, Chapter 42
- 20A-1-508**, as last amended by Laws of Utah 2011, Chapters 35, 297, and 327
- 20A-9-409**, as enacted by Laws of Utah 2014, Chapter 17

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

29 Section 1. Section **17-52-401** is amended to read:

30 **17-52-401. Contents of proposed optional plan.**

31 (1) Each optional plan proposed under this chapter:

32 (a) shall propose the adoption of one of the forms of county government listed in

33 Subsection [17-52-402\(1\)\(a\)](#);

34 (b) shall contain detailed provisions relating to the transition from the existing form of
35 county government to the form proposed in the optional plan, including provisions relating to
36 the:

37 (i) election or appointment of officers specified in the optional plan for the new form of
38 county government;

39 (ii) retention, elimination, or combining of existing offices and, if an office is
40 eliminated, the division or department of county government responsible for performing the
41 duties of the eliminated office;

42 (iii) continuity of existing ordinances and regulations;

43 (iv) continuation of pending legislative, administrative, or judicial proceedings;

44 (v) making of interim and temporary appointments; and

45 (vi) preparation, approval, and adjustment of necessary budget appropriations;

46 (c) shall specify the date it is to become effective if adopted, which may not be earlier
47 than the first day of January next following the election of officers under the new plan; and

48 (d) notwithstanding any other provision of this title and except with respect to an
49 optional plan that proposes the adoption of the county commission or expanded county
50 commission form of government, with respect to the county budget shall provide that the
51 county executive's role is to prepare and present a proposed budget to the county legislative
52 body, and the county legislative body's role is to adopt a final budget.

53 (2) Subject to Subsection (3), an optional plan may include provisions that are
54 considered necessary or advisable to the effective operation of the proposed optional plan.

55 (3) An optional plan may not include any provision that is inconsistent with or

56 prohibited by the Utah Constitution or any statute.

57 (4) Each optional plan proposing to change the form of government to a form under
58 Section 17-52-504 or 17-52-505 shall:

59 (a) provide for the same executive and legislative officers as are specified in the
60 applicable section for the form of government being proposed by the optional plan;

61 (b) provide for the election of the county council;

62 (c) specify the number of county council members, which shall be an odd number from
63 three to nine;

64 (d) specify whether the members of the county council are to be elected from districts,
65 at large, or by a combination of at large and by district;

66 (e) specify county council members' qualifications and terms and whether the terms are
67 to be staggered;

68 (f) contain procedures for filling vacancies on the county council, consistent with the
69 provisions of Section 20A-1-508; and

70 (g) state the initial compensation, if any, of county council members and procedures for
71 prescribing and changing compensation.

72 (5) Each optional plan proposing to change the form of government to the county
73 commission form under Section 17-52-501 or the expanded county commission form under
74 Section 17-52-502 shall specify:

75 (a) (i) for the county commission form of government, that the county commission
76 shall have three members; or

77 (ii) for the expanded county commission form of government, whether the county
78 commission shall have five or seven members;

79 (b) the terms of office for county commission members and whether the terms are to be
80 staggered;

81 (c) whether members of the county commission are to be elected from districts, at
82 large, or by a combination of at large and from districts; [~~and~~]

83 (d) if any members of the county commission are to be elected from districts, the
84 district residency requirements for those commission members[-]; and

85 (e) if any members of the county commission are to be elected at large, whether the
86 election of county commission members is subject to the provisions of Subsection
87 17-52-501(6) or Subsection 17-52-502(6).

88 Section 2. Section 17-52-501 is amended to read:

89 **17-52-501. County commission form of government -- Commission member**
90 **elections.**

91 (1) As used in this section:

92 (a) "Midterm vacancy" means a county commission position that is being filled at an
93 election for less than the position's full term as established in:

94 (i) Subsection (4)(a); or

95 (ii) a county's optional plan under Subsection 17-52-401(5)(b).

96 (b) "Open position" means a county commission position that is being filled at a
97 regular general election for the position's full term as established in:

98 (i) Subsection (4)(a); or

99 (ii) a county's optional plan under Subsection 17-52-401(5)(b).

100 (c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a),
101 chosen to conduct county commissioner elections in accordance with Subsection (6).

102 [~~+~~] (2) Each county operating under the county commission form of government shall
103 be governed by a county commission consisting of three members.

104 [~~2~~] (3) A county commission under a county commission form of government is both
105 the county legislative body and the county executive and has the powers, duties, and functions
106 of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the
107 powers, duties, and functions of a county executive under Chapter 53, Part 3, County
108 Executive.

109 [~~3~~] (4) Except as otherwise provided in an optional plan adopted under this chapter:

110 (a) the term of office of each county commission member is four years;
111 (b) the terms of county commission members shall be staggered so that two members
112 are elected at a regular general election date that alternates with the regular general election
113 date of the other member; and

114 (c) each county commission member shall be elected:
115 (i) at large, unless otherwise required by court order[-]; and
116 (ii) subject to the provisions of this section, in accordance with Title 20A, Election
117 Code.

118 (5) Except as provided in Subsection (6):

119 [(4)] (a) if two county commission positions are vacant for an election, the positions
120 shall be designated "county commission seat A" and "county commission seat B[-]";

121 (b) each candidate who files a declaration of candidacy when two positions are vacant
122 shall designate on the declaration of candidacy form whether the candidate is a candidate for
123 seat A or seat B[-]; and

124 (c) no person may file a declaration of candidacy for, be a candidate for, or be elected
125 to two county commission positions in the same election.

126 (6) (a) A county of the first or second class may, through an alternate plan as described
127 in Subsection 17-52-401(5) or by ordinance, choose to conduct county commissioner elections
128 in accordance with this Subsection (6).

129 (b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk
130 of an opt-in county shall, if there is at least one open position and at least one midterm vacancy,
131 designate:

132 (i) each open position as "open position"; and
133 (ii) each midterm vacancy as "midterm vacancy."

134 (c) An individual who files a declaration of candidacy for the office of county
135 commissioner in an opt-in county:

136 (i) if there is more than one open position, is not required to indicate which open

137 position the individual is running for;

138 (ii) if there is at least one open position and at least one midterm vacancy, shall
139 designate on the declaration of candidacy whether the individual is filing for an open position
140 or a midterm vacancy; and

141 (iii) may not file a declaration of candidacy for an open position and a midterm
142 vacancy in the same election.

143 (d) If there is an open position and a midterm vacancy being voted upon in the same
144 election in an opt-in county, the county clerk shall indicate on the ballot for the election which
145 positions are open positions and which positions are midterm vacancies.

146 (e) In an opt-in county:

147 (i) the candidates for open positions, in a number equal to the number of open
148 positions, who receive the highest number of votes are:

149 (A) for the purposes of a regular primary election, nominated by the candidates' party
150 for the open positions; and

151 (B) for the purposes of a regular general election, elected to fill the open positions; and

152 (ii) the candidates for midterm vacancies, in a number equal to the number of midterm
153 vacancies, who receive the highest number of votes are:

154 (A) for the purposes of a regular primary election, nominated by the candidates' party
155 for the midterm vacancies; and

156 (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

157 Section 3. Section **17-52-502** is amended to read:

158 **17-52-502. Expanded county commission form of government -- Commission**
159 **member elections.**

160 (1) As used in this section:

161 (a) "Midterm vacancy" means the same as that term is defined in Section [17-52-501](#).

162 (b) "Open position" means the same as that term is defined in Section [17-52-501](#).

163 (c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a),

164 chosen to conduct county commissioner elections in accordance with Subsection (6).

165 ~~[(1)]~~ (2) Each county operating under an expanded county commission form of
166 government shall be governed by a county commission consisting of five or seven members.

167 ~~[(2)]~~ (3) A county commission under the expanded county commission form of
168 government is both the county legislative body and the county executive and has the powers,
169 duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative
170 Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3,
171 County Executive.

172 ~~[(3)]~~ (4) Except as otherwise provided in an optional plan adopted under this chapter:

173 (a) the term of office of each county commission member is four years;

174 (b) the terms of county commission members shall be staggered so that approximately
175 half the members are elected at alternating regular general election dates; and

176 (c) each county commission member shall be elected[-];

177 (i) at large, unless otherwise required by court order; and

178 (ii) subject to the provisions of this section, in accordance with Title 20A, Election
179 Code.

180 (5) Except as provided in Subsection (6):

181 ~~[(4)]~~ (a) if multiple at-large county commission positions are vacant for an election, the
182 positions shall be designated "county commission seat A," "county commission seat B," and so
183 on as necessary for the number of vacant positions[-];

184 (b) each candidate who files a declaration of candidacy when multiple positions are
185 vacant shall designate the letter of the county commission seat for which the candidate is a
186 candidate[-]; and

187 (c) no person may file a declaration of candidacy for, be a candidate for, or be elected
188 to two county commission positions in the same election.

189 (6) (a) A county of the first or second class may, through an alternate plan as described
190 in Subsection 17-52-401(5) or by ordinance, choose to conduct county commissioner elections

191 in accordance with this Subsection (6).

192 (b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk
193 of an opt-in county shall, if there is at least one open position and at least one midterm vacancy,
194 designate:

195 (i) each open position as "open position"; and

196 (ii) each midterm vacancy as "midterm vacancy."

197 (c) An individual who files a declaration of candidacy for the office of county
198 commissioner in an opt-in county:

199 (i) if there is more than one open position, is not required to indicate which open
200 position the individual is running for;

201 (ii) if there is at least one open position and at least one midterm vacancy, shall
202 designate on the declaration of candidacy whether the individual is filing for an open position
203 or a midterm vacancy; and

204 (iii) may not file a declaration of candidacy for an open position and a midterm
205 vacancy in the same election.

206 (d) If there is an open position and a midterm vacancy being voted upon in the same
207 election in an opt-in county, the county clerk shall indicate on the ballot for the election which
208 positions are open positions and which positions are midterm vacancies.

209 (e) In an opt-in county:

210 (i) the candidates for open positions, in a number equal to the number of open
211 positions, who receive the highest number of votes are:

212 (A) for the purposes of a regular primary election, nominated by the candidates' party
213 for the open positions; and

214 (B) for the purposes of a regular general election, elected to fill the open positions; and

215 (ii) the candidates for midterm vacancies, in a number equal to the number of midterm
216 vacancies, who receive the highest number of votes are:

217 (A) for the purposes of a regular primary election, nominated by the candidates' party

218 for the midterm vacancies; and
219 (B) for the purposes of a regular general election, elected to fill the midterm vacancies.

220 Section 4. Section **20A-1-508** is amended to read:

221 **20A-1-508. Midterm vacancies in county elected offices.**

222 (1) As used in this section:

223 (a) (i) "County offices" includes the county executive, members of the county
224 legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor,
225 the county recorder, the county surveyor, and the county assessor.

226 (ii) "County offices" does not mean the offices of president and vice president of the
227 United States, United States senators and representatives, members of the Utah Legislature,
228 state constitutional officers, county attorneys, district attorneys, and judges.

229 (b) "Party liaison" means the political party officer designated to serve as a liaison with
230 each county legislative body on all matters relating to the political party's relationship with a
231 county as required by Section [20A-8-401](#).

232 (2) (a) Until a replacement is selected as provided in this section and has qualified, the
233 county legislative body shall appoint an interim replacement to fill the vacant office by
234 following the procedures and requirements of this Subsection (2).

235 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
236 of the vacancy to the party liaison of the same political party of the prior office holder and
237 invite that party liaison to submit the name of a person to fill the vacancy.

238 (ii) That party liaison shall, within 30 days, submit the name of the person selected in
239 accordance with the party constitution or bylaws as described in Section [20A-8-401](#) for the
240 interim replacement to the county legislative body.

241 (iii) The county legislative body shall no later than five days after the day on which a
242 party liaison submits the name of the person for the interim replacement appoint the person to
243 serve out the unexpired term.

244 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the

245 vacancy in accordance with Subsection (2)(b)(iii), the county clerk shall send to the governor a
246 letter that:

247 (A) informs the governor that the county legislative body has failed to appoint a
248 replacement within the statutory time period; and

249 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

250 (ii) The governor shall appoint the person named by the party liaison as an interim
251 replacement to fill the vacancy within 30 days after receipt of the letter.

252 (d) A person appointed as interim replacement under this Subsection (2) shall hold
253 office until their successor is elected and has qualified.

254 (3) (a) The requirements of this Subsection (3) apply to all county offices that become
255 vacant if:

256 (i) the vacant office has an unexpired term of two years or more; and

257 (ii) the vacancy occurs after the election at which the person was elected but before
258 April 10 of the next even-numbered year.

259 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk
260 shall notify the public and each registered political party that the vacancy exists.

261 (ii) ~~[All persons]~~ An individual intending to become ~~[candidates]~~ a candidate for the
262 vacant office shall ~~[: (A)]~~ file a declaration of candidacy ~~[according to the procedures and~~
263 requirements of] in accordance with:

264 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

265 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if
266 applicable.

267 ~~[(B) if]~~ (iii) An individual who is nominated as a party candidate for the vacant office
268 or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation
269 and Procedures, for the vacant office shall run in the regular general election.

270 (4) (a) The requirements of this Subsection (4) apply to all county offices that become
271 vacant if:

272 (i) the vacant office has an unexpired term of two years or more; and
273 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75
274 days before the regular primary election.

275 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk
276 shall notify the public and each registered political party that:

277 (A) the vacancy exists; and
278 (B) identifies the date and time by which a person interested in becoming a candidate
279 shall file a declaration of candidacy.

280 (ii) ~~[All persons]~~ An individual intending to become ~~[candidates for the vacant offices]~~
281 a candidate for a vacant office shall, within five days after the date that the notice is made,
282 ending at the close of normal office hours on the fifth day, file a declaration of candidacy for
283 the vacant office ~~[as required by]~~ in accordance with:

284 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy~~[-];~~ and
285 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if
286 applicable.

287 (iii) The county central committee of each party shall:
288 (A) select a candidate or candidates from among those qualified candidates who have
289 filed declarations of candidacy; and
290 (B) certify the name of the candidate or candidates to the county clerk at least 60 days
291 before the regular primary election.

292 (5) (a) The requirements of this Subsection (5) apply to all county offices that become
293 vacant:

294 (i) if the vacant office has an unexpired term of two years or more; and
295 (ii) when 75 days or less remain before the regular primary election but more than 65
296 days remain before the regular general election.

297 (b) When the conditions established in Subsection (5)(a) are met, the county central
298 committees of each political party registered under this title that wishes to submit a candidate

299 for the office shall summarily certify the name of one candidate to the county clerk for
300 placement on the regular general election ballot.

301 (6) (a) The requirements of this Subsection (6) apply to all county offices that become
302 vacant:

303 (i) if the vacant office has an unexpired term of less than two years; or

304 (ii) if the vacant office has an unexpired term of two years or more but 65 days or less
305 remain before the next regular general election.

306 (b) (i) When the conditions established in Subsection (6)(a) are met, the county
307 legislative body shall give notice of the vacancy to the party liaison of the same political party
308 as the prior office holder and invite that party liaison to submit the name of a person to fill the
309 vacancy.

310 (ii) That party liaison shall, within 30 days, submit the name of the person to fill the
311 vacancy to the county legislative body.

312 (iii) The county legislative body shall no later than five days after the day on which a
313 party liaison submits the name of the person to fill the vacancy appoint the person to serve out
314 the unexpired term.

315 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy in
316 accordance with Subsection (6)(b)(iii), the county clerk shall send to the governor a letter that:

317 (A) informs the governor that the county legislative body has failed to appoint a person
318 to fill the vacancy within the statutory time period; and

319 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

320 (ii) The governor shall appoint the person named by the party liaison to fill the vacancy
321 within 30 days after receipt of the letter.

322 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office
323 until their successor is elected and has qualified.

324 (7) Except as otherwise provided by law, the county legislative body may appoint
325 replacements to fill all vacancies that occur in those offices filled by appointment of the county

326 legislative body.

327 (8) Nothing in this section prevents or prohibits independent candidates from filing a
328 declaration of candidacy for the office within the same time limits.

329 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a
330 county office shall serve for the remainder of the unexpired term of the person who created the
331 vacancy and until a successor is elected and qualified.

332 (b) Nothing in this section may be construed to contradict or alter the provisions of
333 Section 17-16-6.

334 Section 5. Section 20A-9-409 is amended to read:

335 **20A-9-409. Primary election provisions relating to qualified political party.**

336 (1) The fourth Tuesday of June of each even-numbered year is designated as a regular
337 primary election day.

338 (2) (a) A qualified political party that nominates one or more candidates for an elective
339 office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that
340 office under Section 20A-9-408, may, but is not required to, participate in the primary election
341 for that office.

342 [~~(3)~~] (b) A qualified political party that has only one candidate qualify as a candidate
343 for an elective office under Section 20A-9-408 and does not nominate a candidate for that
344 office under Section 20A-9-407, may, but is not required to, participate in the primary election
345 for that office.

346 [~~(4)~~] (c) A qualified political party that nominates one or more candidates for an
347 elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate
348 for that office under Section 20A-9-408 shall participate in the primary election for that office.

349 [~~(5)~~] (d) A qualified political party that has two or more candidates qualify as
350 candidates for an elective office under Section 20A-9-408 and does not nominate a candidate
351 for that office under Section 20A-9-407 shall participate in the primary election for that office.

352 (3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section

353 17-52-501 or Section 17-52-502, a qualified political party shall participate in the primary
354 election for a county commission office if:

355 (a) there is more than one:

356 (i) open position as defined in Section 17-52-501; or

357 (ii) midterm vacancy as defined in Section 17-52-501; and

358 (b) the number of candidates nominated under Section 20A-9-407 or qualified under

359 Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number

360 of respective open positions or midterm vacancies.