

TOWN INCORPORATION REQUIREMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends election provisions for the incorporation of a town.

Highlighted Provisions:

This bill:

▶ in certain circumstances requires a county to hold a local special election on the proposed incorporation of a town;

▶ in certain circumstances requires a county to hold a local special election for the election of officers of a newly incorporated town; and

▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-127, as enacted by Laws of Utah 2012, Chapter 359

10-2-128, as enacted by Laws of Utah 2012, Chapter 359

20A-1-203, as last amended by Laws of Utah 2012, Chapter 359

20A-1-204, as last amended by Laws of Utah 2012, Chapter 359



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

29 Section 1. Section **10-2-127** is amended to read:

30 **10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.**

31 (1) (a) [~~At~~] Except as provided in Subsection (1)(b), at the next regular general
32 election, as defined in Section 20A-1-102, more than 60 days after the public hearing described
33 in Section 10-2-126, the county legislative body shall hold an election on the proposed
34 incorporation unless prohibited under the provisions of Section 10-2-126.

35 (b) (i) If a majority of the registered voters within the area proposed to be incorporated
36 as a town, according to the official voter registration list maintained by the county, sign the
37 petition for incorporation described in Section 10-2-125, the county legislative body shall hold
38 a local special election, as defined in Section 20A-1-102 and in accordance with Section
39 20A-1-203, on the proposed incorporation.

40 (ii) The county legislative body shall hold the local special election on a date that:

41 (A) complies with the requirements of Section 20A-1-204; and

42 (B) is no sooner than 60 days after the day of the public hearing described in Section
43 10-2-126.

44 (iii) The county may not hold the local special election if prohibited under the
45 provisions of Section 10-2-126.

46 [~~(b) Unless~~] (c) Notwithstanding Subsection 20A-1-102(43), unless a person is a
47 registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the
48 proposed town, the person may not vote on the proposed incorporation.

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

50 (i) in a newspaper of general circulation, within the area proposed to be incorporated,
51 at least once a week for three successive weeks; and

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

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

54 (i) a statement of the contents of the petition;

55 (ii) a description of the area proposed to be incorporated as a town;

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

57 and

58 (iv) the county Internet website address, if applicable, and the address of the county

59 office where the feasibility study is available for review.

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

62 (d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general
63 circulation within the proposed town, the county clerk shall post at least one notice of the
64 election per 100 population in conspicuous places within the proposed town that are most
65 likely to give notice of the election to the voters of the proposed town.

66 (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before
67 the election under Subsection (1)(a).

68 (3) The ballot at the incorporation election shall pose the incorporation question
69 substantially as follows:

70 Shall the area described as (insert a description of the proposed town) be incorporated
71 as the town of (insert the proposed name of the proposed town)?

72 (4) The ballot shall provide a space for the voter to answer yes or no to the question in
73 Subsection (3).

74 (5) If a majority of those casting votes within the area boundaries of the proposed town
75 vote to incorporate as a town, the area shall incorporate.

76 Section 2. Section **10-2-128** is amended to read:

77 **10-2-128. Form of government -- Election of officers of new town.**

78 (1) A newly incorporated town shall operate under the five-member council form of
79 government as defined in Section 10-3b-102.

80 (2) (a) The county legislative body of the county in which a newly incorporated town is
81 located shall hold an election for town officers;

82 (i) if the election is held in accordance with Subsection 10-2-127(1)(a), at the next
83 local special election after the regular general election in which the town incorporation is
84 approved[-]; or

85 (ii) if the election is held in accordance with Subsection 10-2-127(1)(b), at the earlier
86 of:

87 (A) the next available date of a local special election in accordance with Section
88 20A-1-204 after the local special election described in Subsection 10-2-127(1)(b); or

89 (B) the next regular general election after the local special election described in

90 Subsection 10-2-127(1)(b).

91 (b) The officers elected at an election described in Subsection (2)(a) shall take office at
92 noon on the first Monday in January next following the special election described in
93 Subsection (2)(a).

94 Section 3. Section **20A-1-203** is amended to read:

95 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**
96 **limitations.**

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

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

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

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

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

106 (b) the purpose for the statewide special election.

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

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

110 (b) the purpose for the statewide special election.

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

113 (i) a vote on a bond or debt issue;

114 (ii) a vote on a voted local levy authorized by Section 53A-17a-133;

115 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

116 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

117 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
118 legal boundaries should be changed;

119 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

120 (vii) a vote to elect members to school district boards for a new school district and a

121 remaining school district, as defined in Section 53A-2-117, following the creation of a new
 122 school district under Section 53A-2-118.1; ~~or~~

123 (viii) an election for the incorporation of a town as authorized in Section 10-2-127; or
 124 ~~[(viii)]~~ (ix) an election of town officers of a newly incorporated town under Section
 125 10-2-128.

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

128 (i) the date for the local special election; and

129 (ii) the purpose for the local special election.

130 (c) A local political subdivision may not call a local special election unless the
 131 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
 132 two-thirds majority of all members of the legislative body, if the local special election is for:

133 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

134 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

135 (iii) a vote authorized or required for a sales tax issue as described in Subsection
 136 (5)(a)(vi).

137 Section 4. Section **20A-1-204** is amended to read:

138 **20A-1-204. Date of special election -- Legal effect.**

139 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
 140 calling a statewide special election or local special election under Section 20A-1-203 shall
 141 schedule the special election to be held on:

142 (i) the fourth Tuesday in June; or

143 (ii) the first Tuesday after the first Monday in November~~[-or]~~.

144 ~~[(iii) for an election of town officers of a newly incorporated town under Section~~
 145 ~~10-2-128, on any date that complies with the requirements of that subsection.]~~

146 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
 147 body of a local political subdivision calling a statewide special election or local special election
 148 under Section 20A-1-203 may not schedule a special election to be held on any other date.

149 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
 150 local political subdivision may call a local special election on a date other than those specified
 151 in this section if the legislative body:

152 (A) determines and declares that there is a disaster, as defined in Section 63K-3-102,
153 requiring that a special election be held on a date other than the ones authorized in statute;

154 (B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102,
155 and the reasons for holding the special election on that other date; and

156 (C) votes unanimously to hold the special election on that other date.

157 (ii) The legislative body of a local political subdivision may not call a local special
158 election for the date established in Chapter 9, Part 8, Western States Presidential Primary, for
159 Utah's Western States Presidential Primary.

160 (d) Nothing in this section prohibits:

161 (i) the governor or Legislature from submitting a matter to the voters at the regular
162 general election if authorized by law; or

163 (ii) a local government from submitting a matter to the voters at the regular municipal
164 election if authorized by law.

165 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
166 special election within a county on the same day as:

167 (i) another special election;

168 (ii) a regular general election; or

169 (iii) a municipal general election.

170 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

171 (i) polling places;

172 (ii) ballots;

173 (iii) election officials; and

174 (iv) other administrative and procedural matters connected with the election.

Legislative Review Note
as of 3-13-13 9:16 AM

Office of Legislative Research and General Counsel