

**Representative Phil Lyman** proposes the following substitute bill:

**FORM OF COUNTY GOVERNMENT AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Phil Lyman**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to forms of county government.

**Highlighted Provisions:**

This bill:

- ▶ limits the available options for a county of the fifth or sixth class that initiates a change in the county's form of government;
- ▶ amends a provision regarding the effect of a repeal of an optional plan in certain circumstances;
- ▶ repeals outdated provisions regarding structural forms of county government; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17-52a-405**, as renumbered and amended by Laws of Utah 2018, Chapter 68

**17-52a-503**, as renumbered and amended by Laws of Utah 2018, Chapter 68



26 **17-52a-505**, as renumbered and amended by Laws of Utah 2018, Chapter 68

27 REPEALS:

28 **17-35b-301**, as last amended by Laws of Utah 2000, Chapter 133

29 **17-35b-302**, as last amended by Laws of Utah 2007, Chapter 329

30 **17-35b-303**, as last amended by Laws of Utah 2011, Chapter 297

31 **17-35b-304**, as last amended by Laws of Utah 2011, Chapter 297

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

34 Section 1. Section **17-52a-405** is amended to read:

35 **17-52a-405. Plan may propose changing forms of county government -- Partisan**  
 36 **elections.**

37 (1) (a) The optional plan proponent described in Subsection **17-52a-404**(1) shall ensure  
 38 that each optional plan proposes changing the form of county government to:

39 (i) for a county of any class ~~Ĥ→ [±] , ←Ĥ~~

40 [(†)] ~~Ĥ→ [(A)] ←Ĥ~~ the county commission form under Section **17-52a-201**; or

41 [(††)] ~~Ĥ→ [(B)] the expanded county commission form under Section **17-52a-202**; or] ←Ĥ~~

42 (ii) for a county of the first, second, third, or fourth class, or for ~~Ĥ→~~ **an optional plan**

42a **in ←Ĥ** a county of the fifth or

43 sixth class that initiated ~~Ĥ→ [a] the ←Ĥ~~ change in the county's form of government ~~Ĥ→~~ **that the**

43a **optional plan describes ←Ĥ** before May 14, 2019:

43b ~~Ĥ→~~ **(A) the expanded county commission form under Section **17-52a-202**; ←Ĥ**

44 [(†††)] ~~Ĥ→ [(A)] (B) ←Ĥ~~ the county executive and council form under Section **17-52a-203**;

44a or

45 [(††††)] ~~Ĥ→ [(B)] (C) ←Ĥ~~ the council-manager form under Section **17-52a-204**.

46 (b) The optional plan proponent described in Subsection **17-52a-404**(1) may not  
 47 recommend an optional plan that:

48 (i) proposes changing the form of government to a form not included in Subsection  
 49 (1)(a);

50 (ii) provides for the nonpartisan election of elected officers;

51 (iii) imposes a limit on the number of terms or years that an elected officer may serve;

52 (iv) provides for elected officers to be subject to a recall election; or

53 (v) provides, in a county with a population of 225,000 or more, for a full-time county

54 commission in an expanded county commission form of government under Section

55 **17-52a-202.**

56 ~~[(2)] In addition to proposing the adoption of any one of the optional forms of county~~

57 ~~government under Subsection (1)(a), an optional plan may also propose the adoption of any~~  
58 ~~one of the structural forms of county government provided under Chapter 35b, Part 3,~~  
59 ~~Structural Forms of County Government.]~~

60 [(3)] (2) A county that provides for the election of the county's elected officers through  
61 a partisan election may not change to a process that provides for the election of the county's  
62 elected officers through a nonpartisan election.

63 Section 2. Section 17-52a-503 is amended to read:

64 **17-52a-503. Adoption of optional plan -- Election of new county officers -- Effect**  
65 **of adoption.**

66 (1) If a proposed optional plan is approved at an election held under Section  
67 17-52a-501:

68 (a) the elected county officers specified in the plan shall be elected at the next regular  
69 general election following the election under Section 17-52a-501, according to the procedure  
70 and schedule established under Title 20A, Election Code, for the election of county officers;

71 (b) the proposed optional plan:

72 (i) becomes effective according to the optional plan's terms;

73 (ii) subject to Subsection 17-52a-404(1)(c), at the time specified in the optional plan, is  
74 a public record open to inspection by the public; and

75 (iii) is judicially noticeable by all courts;

76 (c) the county clerk shall, within 10 days of the canvass of the election, file with the  
77 lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct  
78 copy;

79 (d) all public officers and employees shall cooperate fully in making the transition  
80 between forms of county government; and

81 (e) the county legislative body may enact and enforce necessary ordinances to bring  
82 about an orderly transition to the new form of government, including any transfer of power,  
83 records, documents, properties, assets, funds, liabilities, or personnel that are consistent with  
84 the approved optional plan and necessary or convenient to place it into full effect.

85 (2) Adoption of an optional plan changing [only] the form of county government  
86 [without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of  
87 County Government,] does not alter or affect the boundaries, organization, powers, duties, or

88 functions of any:

89 (a) school district;

90 (b) justice court;

91 (c) local district under Title 17B, Limited Purpose Local Government Entities - Local

92 Districts;

93 (d) special service district under Title 17D, Chapter 1, Special Service District Act;

94 (e) city or town; or

95 (f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal

96 Cooperation Act.

97 (3) After the adoption of an optional plan, the county remains vested with all powers

98 and duties vested generally in counties by statute.

99 Section 3. Section **17-52a-505** is amended to read:

100 **17-52a-505. Repeal of optional plan.**

101 (1) An optional plan that the voters in an election adopt under this chapter may be

102 repealed as provided in this section.

103 (2) Registered voters of a county that has adopted an optional plan may initiate the

104 process of repealing an optional plan by filing a petition for the repeal of the optional plan.

105 (3) (a) Registered voters of a county may not file a petition to repeal an optional plan

106 sooner than four years or more than five years after the election of county officers under

107 Section **17-52a-503**.

108 (b) (i) If the registered voters file a petition to repeal an optional plan under this

109 section, the petition is certified, and the optional plan is not repealed at an election described in

110 Subsection (8), the voters may not circulate or file a subsequent petition to repeal until at least

111 four, and not more than five, years after the certification of the original petition.

112 (ii) If, after four years, the voters file a subsequent petition under Subsection (3)(b)(i),

113 the voters:

114 (A) may not circulate or file another petition to repeal until at least four, and not more

115 than five, years after certification of the subsequent petition; and

116 (B) shall wait an additional four, and not more than five, years after the date of

117 certification of the previous petition for each petition filed thereafter.

118 (4) A petition described in Subsection (2) shall:

- 119 (a) be signed by registered voters residing in the county:  
120 (i) equal in number to at least 15% of the total number of votes cast in each precinct  
121 described in Subsection (4)(a)(ii) for all candidates for president of the United States at the  
122 most recent election in which a president of the United States was elected; and  
123 (ii) who represent at least 85% of the voting precincts located within the county;
- 124 (b) designate up to five of the petition signers as sponsors, designating one petition  
125 signer as the contact sponsor, with the mailing address and telephone number of each; and  
126 (c) be filed in the office of the clerk of the county in which the petition signers reside.
- 127 (5) Within 30 days after the filing of a petition under Subsection (2) or an amended  
128 petition under Subsection (6), the county clerk shall:
- 129 (a) determine whether the required number of voters have signed the petition or  
130 amended petition has been signed by the required number of registered voters; and  
131 (b) (i) if a sufficient number of voters have signed the petition, certify the petition or  
132 amended petition and deliver it to the county legislative body, and notify in writing the contact  
133 sponsor of the certification; or  
134 (ii) if a sufficient number of voters have not signed the petition, reject the petition or  
135 the amended petition and notify the county legislative body and the contact sponsor in writing  
136 of the rejection and the reasons for the rejection.
- 137 (6) If a county clerk rejects a petition or an amended petition under Subsection  
138 (5)(b)(ii), the petition may be amended or an amended petition may be further amended with  
139 additional signatures and refiled within 20 days of the date of rejection.
- 140 (7) If a county clerk certifies a petition under Subsection (2), the county legislative  
141 body shall hold an election on the proposal to repeal the optional plan at the next regular  
142 general election that is at least 60 days after the day on which the county clerk certifies the  
143 petition.
- 144 (8) If, at an election held under Subsection (7), a majority of voters voting on the  
145 proposal to repeal the optional plan vote in favor of repealing:
- 146 (a) the optional plan is repealed, effective January 1 of the year following the election  
147 of county officers under Subsection (8)(c);  
148 (b) except as provided in Subsection (9), upon the effective date of the repeal under  
149 Subsection (8)(a), the form of government under which the county operates reverts to the form

150 it had before the optional plan was adopted; and

151 (c) the county officers under the form of government to which the county reverts, who  
152 are different than the county officers under the repealed optional plan, shall be elected at the  
153 next regular general election following the election under Subsection (7).

154 (9) If, as a result of a reversion described in Subsection (8)(b), a county of the fifth or  
155 sixth class would revert to ~~H→ [the county executive and council] any ←H~~ form of county  
155a government ~~H→~~ **[under**

156 ~~Section 17-52a-203 or the council-manager form of county government under Section~~  
157 ~~17-52a-202]~~ **other than the county commission form of county government under Section**

157a **17-52a-201 ←H** , the county shall instead operate under the county commission form of county  
158 government ~~H→ [under Section 17-52a-201] ←H~~ as a result of the repeal vote.

159 Section 4. **Repealer.**

160 This bill repeals:

161 Section **17-35b-301, "General county (modified)" structural form of county**  
162 **government.**

163 Section **17-35b-302, Urban county structural form of county government.**

164 Section **17-35b-303, Community council form of county government.**

165 Section **17-35b-304, Consolidated city and county -- Structural form.**