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this co-investment, but in no event may the funds to furnish municipal-type services and functions or the income from their investment be used for purposes other than those described in § 17-34-2;

(c) Expenditures shall be made in the same manner as other expenditures of the county are made; and

(d) Any taxes levied under this chapter shall be levied at the same time and in the same manner as other taxes of the county are levied.

History: C. 1953, 17-34-5, enacted by L. 1982, ch. 71, § 11.

Meaning of "county commission". — See note under same catchline following § 17-34-3.

Cross-References. — County taxation for general and local purposes, § 17-5-54.

Tax Stability and Tax Fund Act, §§ 17-4-12 to 17-4-17.

CHAPTER 35

OPTIONAL PLANS FOR COUNTY GOVERNMENT

(Repealed by Laws 1973, ch. 26, § 16)

17-35-1 to 17-35-15. Repealed.

Repeals. — Laws 1973, ch. 26, § 16 repeals §§ 17-35-1 to 17-35-15, as enacted by Laws 1971, ch. 23, §§ 1 to 15, relating to optional

plans for the government of counties. For present comparable provisions, see 17-35a-1 to 17-35a-16.

CHAPTER 35a

OPTIONAL PLANS FOR COUNTY GOVERNMENT

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17-35a-1. Legislative intent.

The Legislature of the state of Utah hereby finds and determines that greater economy and efficiency in providing local governmental services can be achieved in certain counties of the state by modernizing the existing form of county government in these counties to conform more closely to the needs and desires of their citizens. In order to accomplish this purpose, optional plans of county government embodying specified forms of citizen representation, or specified forms for the organization, administration, and allocation of governmental powers, duties, functions and services, or both, may be proposed, approved, and placed in operation in counties wishing to do so.

History: L. 1973, ch. 26, § 1.

COLLATERAL REFERENCES

Am. Jur. 2d. — 56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions §§ 17, 18.

C.J.S. — 20 C.J.S. Counties §§ 42 to 47, 49.
Key Numbers. — Counties ⇌ 20 to 21½.

17-35a-2. Proceedings for adoption — General requirements.

(1) Proceedings for the adoption of an optional plan of county government authorized by this act may be initiated in accordance with any one of the alternative methods provided in this act. When a proceeding has been initiated, no other proceeding may thereafter be initiated except by petition unless the first proceeding: (a) has been concluded by a negative vote of the governing body of the county; (b) has been concluded by either an affirmative or negative vote of the electors; or (c) has been pending for at least two years since its initiation.

(2) Whenever the voters of any county shall have adopted an optional plan of government pursuant to this act, no subsequent proposal leading to possible adoption of a different plan may be initiated until at least six years shall have elapsed after the date of the election at which such plan was adopted.

(3) "Initiation," within the meaning of this section, occurs when the governing body of the county duly adopts a resolution commencing proceedings under § 17-35a-3, or when a petition, signed by the requisite number of qualified voters, is filed with the county clerk under § 17-35a-4.

History: L. 1973, ch. 26, § 2.

Meaning of "this act". — The term "this act," referred to in this section, means Laws 1973, ch. 26, which appears as §§ 17-35a-1 to 17-35a-15.

Cross-References. — County clerk, Chapter 20 of this title.

17-35a-3. Proceedings for adoption by governing body — Methods.

The governing body of the county may initiate proceedings for adoption of an optional plan of county government by one of the following methods:

(1) Adopting a resolution of intent to approve an optional plan described in the resolution, fixing the time and place for holding a public hearing or series of public hearings thereon commencing not less than ninety days after the adoption of the resolution, and providing for the giving of a reasonable notice of such hearing or hearings. The optional plan proposal need not be set forth in full in the resolution or in any published or posted notices concerning it if at least three full and complete copies are made available for public inspection and copying in the office of the county clerk, and reference to it is made in the resolution and in all notices of the hearing or hearings. After the conclusion of the last of the hearings, and within six months after the adoption of the resolution, of intent, the county governing body may by final resolution approve the optional plan, amend the optional plan and approve it as amended, or reject it.

(2) Adopting a resolution submitting to the voters of the county, not less than ninety days after the date of the resolution, at a general or special election to be designated by the county governing body the question: "Shall a study commission be established to study the present form of government in _____ county, and to consider and make recommendations respecting the adoption of an optional plan of county government?" The resolution shall specify the total membership of the proposed study commission at not less than seven nor more than eleven persons and shall designate whether the members are to be elected or appointed if the question receives an affirmative vote. If the resolution provides that the members are to be elected, it shall also provide procedures for nonpartisan nomination and election of the members at the same election at which the question of the establishment of the study commission is submitted to the voters. If the resolution provides that the members are to be appointed, the appointing process shall be governed by Subsection (2) of § 17-35a-5.

(3) Adopting a resolution establishing a study commission with an appointed membership to study the present form of government in the county, specifying the total membership of the commission at not less than seven nor more than eleven persons, and providing for the appointment of the membership of the commission in the manner provided by Subsection (2) of § 17-35a-5.

History: L. 1973, ch. 26, § 3.

17-35a-4. Proceedings for adoption by citizens of county — Methods.

The citizens of a county may initiate proceedings for the adoption of an optional plan of county government by one of the following methods:

(1) Filing with the county clerk a petition bearing signatures of registered voters, equal to or exceeding in number 15% of the total number of votes cast in the county at the next preceding gubernatorial election, calling upon the governing body of the county to submit to the voters of the county the question of adoption of an optional plan of county government described in, or annexed to, the petition. The full and complete text of the proposed optional plan is not required to be included in, or to be annexed to, the petition at the time of its circulation to or signature by the voters, if it and each of its parts contains a general description of the proposed optional plan, and makes reference to full and complete copies of it, not less than three in number, which prior to circulation of the petition shall have been filed and made available for public inspection in the office of the county clerk.

Within thirty days after the date of filing of the petition, the clerk shall report to the governing body of the county whether it is signed by a sufficient number of qualified voters. If the clerk reports that the petition is insufficient, the governing body shall publicly so declare, and the asserted insufficiencies may thereafter be cured by filing an amended or supplementary petition within twenty days after the date of such declaration of insufficiency. When the clerk reports to the governing body that a sufficient petition, as amended or supplemented, is on file, the petition shall be deemed to be a final proposal, and the governing body shall, within thirty days thereafter, take action with respect to the proposed optional plan, without change in it, pursuant to § 17-35a-6.

(2) (a) Filing with the county clerk a petition bearing the signatures of registered voters equal to or exceeding in number 10% of the total number of votes cast in the county in the next preceding gubernatorial election, calling upon the governing body of the county either (i) to adopt a resolution, after public hearing or hearings, establishing a study commission of not less than seven nor more than eleven members and causing its members to be appointed pursuant to Subsection (2) of § 17-35a-5, or (ii) to submit to the voters of the county at either a general or special election to be designated by the governing body, but not later than the next general election held more than 90 days after the filing of the petition, the question: "Shall a study commission be established to study the present form of government in _____ county, and to consider and make recommendations respecting the adoption of an optional plan of county government?"

(b) Within thirty days after the date of the filing of the petition, the county clerk shall report to the county governing body whether the petition is signed by a sufficient number of qualified voters. If the clerk reports that the petition is insufficient, the governing body shall publicly so declare, and the insufficiencies may thereafter be cured by the filing of amended or supplementary petitions within twenty days after the date of the declaration of insufficiency. When the clerk reports to the governing body that a sufficient petition, as

amended or supplemented, is on file, it shall provide by resolution for the holding of one or more duly noticed public hearings upon the petition within ninety days after the date of filing of the petition, or of the last amended or supplemental petition, as the case may be.

(c) At the conclusion of the last hearing on the petition, the governing body shall either: (i) adopt a resolution establishing the study commission, as proposed in the petition, and convening within ten days thereafter a meeting of the committee of appointment pursuant to Subsection (2) of § 17-35a-5, or (ii) adopt a resolution in conformity with Subsection (2) of § 17-35a-3 submitting to the voters of the county the question specified in the petition.

History: L. 1973, ch. 26, § 4.

17-35a-5. Study commission — Appointment — Powers and duties — Meetings — Final report.

(1) If a majority of the votes cast on the question of the establishment of a study commission with an elected membership, as duly submitted to the voters pursuant to Subsection (2) of § 17-35a-3 or Subsection (2) of § 17-35a-4, are in the affirmative, the county governing body shall proceed immediately to organize the study commission and convene the first meeting of its elected members within thirty days after the election.

(2) If a resolution by the governing body provides for the establishment of a study commission pursuant to Subsection (3) of § 17-35a-3 or Subsection (2) (c) of § 17-35a-4, or if a majority of the votes cast on the question of the establishment of a study commission with an appointed membership, duly submitted to the voters pursuant to Subsection (2) of § 17-35a-3 or Subsection (2) of § 17-35a-4, are in the affirmative, the county governing body shall, within 10 days after the election, convene a meeting of a committee of appointment composed of: (a) the governor, or his designee; (b) the speaker of the House of Representatives, or his designee; (c) the president of the Senate, or his designee; (d) a resident of the county designated by the governing body of the county; (e) a resident of the county designated by majority vote of the mayors and town presidents of all cities and towns in the county; and (f) four other residents of the county designated by majority vote of the first five. The committee of appointment shall, within ten days after its initial meeting, appoint the members of a broadly representative study commission, each of whom must be a qualified elector of the county not then holding any public office or employment other than membership on the committee of appointment, and shall convene the first meeting of the study commission within fifty days after the date of the election.

(3) It shall be the duty of the study commission to study the form of government of and existing procedures for delivery of local governmental services within the county and compare them with other forms available under the laws of the state of Utah to determine whether in its judgment the administration of local government within the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency, by a change in the form of such government.

(4) The study commission shall have the power to adopt rules for its own organization and procedure, and to fill vacancies in its membership. It may establish advisory boards and committees, including on them persons who are not members of the study commission which it deems to be conducive to the discharge of its duties and may request the assistance and advice of any officers or employees of any agency of state or local government. Members of the commission shall serve without compensation but shall be reimbursed by the county for necessary expenses incurred in the performance of their duties. The county governing body shall provide suitable meeting facilities, necessary secretarial, printing or photo-reproduction services, clerical and staff assistance, and reasonably adequate funds for the employment of independent legal counsel and professional consultants by the commission.

(5) All meetings of the commission shall be open to the public. The commission shall hold public hearings and community forums and may use other suitable means to disseminate information and stimulate public discussion of its purposes, progress, and conclusions. It shall report its findings and recommendations not later than one year after the date of its first organizational meeting by filing a final report in written form with the governing body.

(6) The study commission shall include in its final report: (a) a recommendation as to whether the form of government of the county should be changed to an optional form authorized by law; (b) if an optional form is recommended, a complete detailed draft of the proposed plan including all necessary implementing provisions authorized by law; and (c) any additional recommendations the commission deems appropriate to improve the efficient and economical administration of local government within the county.

(7) The study commission may make alterations in its final report, following public hearings, up to 120 days prior to the election, but shall make no alterations which would lead to adoption of an optional form different from that proposed in the final report. The commission shall be discharged 90 days prior to the election.

History: L. 1973, ch. 26, § 5; 1975, ch. 23, § 1.

Open and public meetings, Chapter 4 of Title 52.

Cross-References. — Administrative rule-making, Chapter 46a of Title 63.

COLLATERAL REFERENCES

A.L.R. — Validity, construction, and application of statutes making public proceedings open to the public, 38 A.L.R.3d 1070.

17-35a-6. Proceedings for election — Operation and effect of passage.

(1) Whenever an optional plan of county government has been finally proposed by any one of the methods provided in § 17-35a-3, 17-35a-4 or 17-35a-5, the county governing body: (a) shall cause the proposed optional plan of government to be submitted to the voters of the county for their approval or rejection at the next general election, or at a special election, to be held not less than three nor more than 18 months thereafter; (b) shall cause the com-

plete text of the proposed optional plan to be published in a newspaper of general circulation within the county, at least once during two different calendar weeks within the 30-day period immediately preceding the date of the election; and (c) shall cause the complete text of the optional plan, together with the rest of the report of the study commission, if any, to be printed and made available to the public at cost, not later than 30 days prior to the election, in sufficient number to equal at least 1% of the number of voters in the county who were registered to vote at the next preceding gubernatorial election. The question to the ballot at the election shall be framed in a manner which fairly and adequately describes the substance of the proposed plan.

(2) If the proposed optional plan is approved by a majority of the votes cast at the election upon the question of its adoption, the plan shall go into effect in accordance with its own terms and provisions and at the time or times specified in it. All public officers and employees shall cooperate fully, and the county governing body may enact and enforce necessary ordinances, to bring about an orderly transition to the new plan of government, including any transfers of powers, records, documents, properties, assets, funds, liabilities, or personnel which are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(3) When a proposed optional plan has been approved by the voters, the county clerk shall immediately file a copy of the plan, duly certified by him to be a true and correct copy, with the lieutenant governor. The approved plan shall then become the organic act for the government of the county and shall be a public record open to inspection of the public and judicially noticeable by all courts.

(4) Authorized provisions of an optional plan duly adopted by the voters supersede any conflicting provisions of statutes.

History: L. 1973, ch. 26, § 6; 1984, ch. 68, § 21.

Amendment Notes. — The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the first sentence of Subsection (3); and made minor changes in style.

Cross-References. — Inspection of public writings, § 78-26-2.

Requirements for county ordinances, § 17-15-1.

17-35a-7. Provisions to be included in plan — Effect of adoption — Amendment of plan.

(1) An optional plan may include, and shall be in conformity with: (a) one of the optional forms of structural arrangements provided in § 17-35a-8, joined with one of the optional forms of management arrangements provided in § 17-35a-12; (b) the structural arrangements for county government which are provided by Title 17, or other general laws applicable to county government, joined with one of the optional forms of management arrangements provided in § 17-35a-12; or (c) both the structural and management arrangements for county government provided by Title 17, or other general laws applicable to county government, without the inclusion of any optional form specified in § 17-35a-8 or 17-35a-12.

(2) An optional plan submitted to the voters pursuant to § 17-35a-6 may include additional detailed provisions authorized by or consistent with, but not included in, §§ 17-35a-8 through 17-35a-15 which are deemed by the

sponsors of the proposal to be necessary and proper to the effective promulgation and operation of the proposed optional plan.

(3) Detailed provisions relating to the transition from the existing form of county government to the form contemplated in the proposed optional plan shall be included in the plan submitted to the voters including provisions relating to: (a) election of new officers; (b) continuity of existing offices and officers; (c) continuity of existing ordinances and regulations; (d) continuation of pending legislative, administrative, or judicial proceedings; (e) making of interim and temporary appointments; and (f) preparation, approval and adjustment of necessary budget appropriations.

(4) Adoption of a plan for an optional form of county government pursuant to this act does not alter or affect the boundaries, organization, powers, duties, or functions of any school district or of any circuit court or justice of the peace court within the county, as they exist upon the effective date of the plan.

(5) An optional plan which has been approved by the voters and has taken effect may be amended by the county legislative body, established as provided in the plan, by a two-thirds vote of all its members but an amendment which is contrary to a specific requirement of this act applicable to the plan shall not be effective unless submitted to and approved by a majority of the voters casting a vote on the question at a general or special election.

History: L. 1973, ch. 26, § 7; 1977, ch. 77, § 13.

Meaning of "this act". — See note under same catchline following § 17-35a-2.

17-35a-8. Optional structural forms of government available for adoption.

Optional structural forms of county government, available for adoption by the voters of a county, include: the general county (modified) form; the urban county form; the community council form; and the consolidated city and county form.

History: L. 1973, ch. 26, § 8; 1975, ch. 23, § 2; 1977, ch. 60, § 1.

17-35a-9. "General county (modified)" form of government.

(1) The structural form of county government known as the "general county (modified)" form retains, without change or modification, except to the extent that changes or modifications may be effectuated under other proceedings authorized by law, all existing incorporated cities and towns, special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county. Under this form of government, the county remains vested with all powers and duties vested in counties by general law, but the governing body of the county, together with such other officers as may be specified in the optional plan, shall be elected or appointed in the manner authorized by this act and as provided in the optional plan.

(2) An optional plan for this form of county government shall provide for the election of a county council, composed of not less than three members,

which shall be the governing body of the county and shall exercise all legislative powers authorized by law. The plan shall specify: (a) whether the members of the council are to be elected from districts, at large, or by a combination of district and at-large constituencies; (b) their qualifications and terms of office, and whether such terms are concurrent or overlapping; (c) grounds for and methods of removal of council members from office; (d) procedures for filling vacancies on the council, provided that the procedures shall conform with § 17-5-4; and (e) the compensation, if any, of council members together with procedures for prescribing and changing such compensation from time to time.

History: L. 1973, ch. 26, § 9; 1979, ch. 27, § 10.

Cross-References. — County service areas, Chapter 29 of this title.

Meaning of "this act". — See note under same catchline following § 17-35a-2.

17-35a-10. "Urban county" form of government.

(1) The structural form of county government known as the "urban county" form retains, without change or modification, except to the extent that changes or modifications may be effectuated under other proceedings authorized by law, all existing incorporated cities and towns, special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county. Under this form of government, the county remains vested with all powers and duties vested in counties by general law, but in addition is vested with and empowered to exercise within the unincorporated territory of the county all powers and duties which, by general law, are conferred upon cities whose population is equal to that of the unincorporated territory of such county.

(2) The urban county is empowered to enter into contractual arrangements for the joint exercise of powers or for performance of services and, for that purpose, may employ and be subject to the provisions of the Interlocal Cooperation Act, Chapter 13 of Title 11. By contract, the urban county may perform for any city, town, special taxing district, public authority, county service area, or other local public entity within the county any governmental service or function which such entity is lawfully empowered to perform for itself within its own territory, or which the county is lawfully empowered to perform anywhere within the county boundaries. No contract service or function shall be performed by the county except for a consideration which is at least substantially equal to the cost of performing it.

(3) The plan for an urban county form of county government may provide for organization of the unincorporated territory of the county into one or more county service areas and, for this purpose, may provide for special organizing or implementing procedures which differ from those provided in the County Service Area Act, Chapter 29 of Title 17. Except to the extent that the plan provides to the contrary, all noncontract services and functions lawfully performed by the county solely within unincorporated territory and not on a county-wide basis shall, after the effective date of the plan, be deemed performed and extended solely as services of, and financed by and through, the county service area or areas subject to the County Service Area Act. The plan may provide for, limit, or condition the services and functions which the urban

county is authorized to perform and extend within the territory of incorporated cities and towns within the county and may provide procedures by which such provisions, limits, or conditions may be established and changed from time to time.

(4) The plan for the urban county shall provide for the election of a county council, composed of not less than three members. The council shall be the governing body of the county and shall exercise all legislative powers authorized by law. The plan shall specify: (a) whether the members of the council are to be elected from districts, at large, or by a combination of district and at-large constituencies; (b) their qualifications and terms of office, and whether such terms are concurrent or overlapping; (c) grounds for and methods for removal of council members from office; (d) procedures for filling vacancies on the council, provided that the procedures shall conform with § 17-5-4; and (e) the compensation, if any, of council members together with procedures for prescribing and changing such compensation from time to time.

History: L. 1973, ch. 26, § 10; 1973 (1st S.S.), ch. 2, § 1; 1979, ch. 27, § 11.

Cross-References. — Powers and duties of cities, Chapters 7 and 8 of Title 10.

17-35a-11. "Community council" form of government.

(1) The structural form of county government known as the "community council" form unites in a single consolidated city and county government the powers, duties, and functions which, immediately prior to its effective date, are vested in the county, the largest city in the county, such other cities and towns as elect to merge in it, and all special taxing districts, public authorities, county service areas, and other local public entities functioning within the boundaries of the county, except school districts. The consolidated government shall have power to extend on a county-wide basis any governmental service or function which is authorized by law or which the previous county, cities, and other local public agencies included therein were empowered to provide for their residents, but no such service shall be provided within an incorporated municipality which continues to provide that service for its own inhabitants, except upon a contract basis for the municipality, and no taxes, assessments, fees, or other charges shall be extended or collected within the municipality for the purpose of financing any service which is not provided by the consolidated government within the municipality. "Largest city," as used in this section, means a city or cities the population of which, as shown by the most recent decennial or special census, exceeds 35% of the total county population.

(2) The incorporated cities and towns, other than the largest city, in the county shall retain independent corporate existence and shall continue to provide local services to their inhabitants of the type and to the extent provided in the plan, but any such city or town, by majority vote of its qualified voters, cast either concurrently with the election at which the plan is approved or subsequently to it, as provided by the governing body of the city or town, may cause the city or town to be dissolved and its powers, duties, and functions vested in the county-wide government.

(3) The governing body of the county-wide government shall be a council composed of not less than five persons as specified in the plan, elected respectively from communities, which collectively include all of the territory within

the county, having boundaries described in the plan embracing substantially equal populations. In addition to other powers vested in the county-wide government by law or pursuant to this act, the county council shall have all of the legislative and policy-making powers which it is possible for the governing body of a county or a city to possess and which are not expressly denied by the constitution, by a general law applicable to all cities or all counties, or by a specific restriction in the plan itself.

(4) The voters of each community shall elect a community council composed of the community's elected member of the county council, who shall be chairman of the community council, and not less than two nor more than four additional members elected either from districts of substantially equal population within the community, or at large therein, as may be provided in the plan. A community council shall have the power and duty, in conformity with guidelines prescribed by the county council, to adopt policies and formulate specific programs relating to and defining the kinds and levels of local governmental services necessary to satisfy the needs and desires of the citizens within the community, but a community council shall have no power to engage personnel or to acquire facilities, property, or equipment for the administration or performance of such services. Authorized programs for local governmental services which have been approved by a community council shall be submitted to the county council for implementation and shall be carried into effect by the county council and county executive unless, by a vote of not less than three-fourths of its entire membership, the county council determines that a particular program, in whole or in part, should be rejected as contrary to the general welfare of the county. A community council program for local governmental services within a community: (a) shall include a method or methods for financing such services; (b) may provide for supplying of such services by contract or by joint or co-operative action pursuant to the Inter-local Co-operation Act, Chapter 13 of Title 11, in which case the community council shall be deemed a "public agency" within the meaning of said act; and (c) may provide for supplying of such services through the creation of county service areas pursuant to the County Service Area Act, Chapter 29 of Title 17.

(5) Notwithstanding Subsection (4) of this section, in any community which includes, in whole or in part, the territory of any incorporated city or town, no community council program for local government services above the minimum level of area-wide services provided county-wide shall be submitted to the county council for implementation unless it first is submitted to the governing body of each such city or town for review. Within thirty days after such submission, the governing body of the city or town (a) may file with the community council a written statement of its comments, suggestions, and recommendations relating to the program, and the community council shall give due consideration thereto: or (b) may, by resolution or ordinance, provide that any designated part of the community council program relating to a service to be provided within the city or town shall be submitted to the voters thereof at a general or special election to be held therein within sixty days after the date of the resolution or ordinance. Any part of the program submitted to the voters of a city or town pursuant to this subsection shall not be included in the program as submitted to the county council unless it receives an approving vote at such election by majority of all votes cast on the question.

(6) Except as provided herein, the qualifications, mode of election, term of office, method of removal, procedure to fill vacancies, compensation, and other appropriate provisions relating to membership on the county council or community councils shall be provided in the plan.

(7) Upon the effective date of the plan and as provided in it, all properties and assets, whether tangible or intangible, and all obligations, debts, and liabilities, of those governmental entities which are merged into the new county-wide government shall become vested and transferred by operation of law in and to the new county-wide government. The properties, assets, obligations, debts, and liabilities of any city or town not merged into the new county-wide government, so far as allocated, used, or incurred primarily to discharge a function which under the plan will no longer be a responsibility of the city or town, shall likewise be vested in and transferred to the new county-wide government. All transfers under this subsection shall be subject to equitable adjustments, conditions, and limitations provided in the plan and determined by procedures specified in the plan; but the contractual rights of any bondholder or creditor shall not be impaired.

(8) Upon the effective date of the plan and as provided in it, non-elective officers and employees of governmental entities which are merged into the new county-wide government and such officers and employees of nonmerged cities or towns whose qualifications and duties relate primarily to functions which under the plan will no longer be a responsibility of those cities or towns, shall be blanketed in and transferred to the new county-wide government as officers and employees of it. Standards and procedures relating to such personnel transfers, and for resolving disputes or grievances relating thereto, shall be provided in the plan.

History: L. 1973, ch. 26, § 11.

Meaning of "this act". — See note under same catchline following § 17-35a-2.

Cross-References. — Municipal powers,

and restrictions thereon, Art. XI, Secs. 5 and 6, Utah Const.

Municipal-type services to unincorporated areas, Chapter 34 of this title.

17-35a-12. Optional forms of management arrangements.

Optional forms of management arrangements for county government, available for adoption by the voters of a county, include: the county executive and chief administrative officer-council form, the county executive council form, and the council manager form.

History: L. 1973, ch. 26, § 12.

17-35a-12.5. Consolidated city and county — Structural form.

(1) The structural form of county government known as the "consolidated city and county" form unites in a single consolidated city and county government the powers, duties, and functions which, immediately prior to its effective date, are vested in the county, the largest city in the county, such other cities and towns as elect to merge in it, and all special taxing districts, public authorities, county service areas, and other local public entities functioning

within the boundaries of the county, except school districts. The consolidated government shall with the consent of the continuing municipalities have power to extend on a county-wide basis any governmental service or function which is authorized by law or which the previous county, cities, and other local public agencies included in them were empowered to provide for their residents. No such service, however, shall be provided within an incorporated municipality which continues to provide that such service for its own inhabitants, except upon a contract basis for the municipality. No taxes, assessments, fees, or other charges shall be extended or collected by the consolidated government within any municipality for the purpose of financing any service which is not provided by the consolidated government within the municipality. "Largest city," as used in this section, means a city or cities the population of which, as shown by the most recent decennial or special census, exceeds 35% of the total county population.

(2) The incorporated cities and towns, other than the largest city in the county, shall retain independent corporate existence and shall continue to provide local services to their inhabitants of the type and to the extent provided in the plan; but any such city or town by majority vote of its qualified voters cast either concurrently with the election at which the plan is approved or subsequently to it, as provided by the governing body of the city or town, may cause the city or town to be dissolved and its powers, duties, and functions vested in the consolidated government.

(3) The governing body of the consolidated government shall be a council composed of not less than five persons elected as specified in the plan. In addition to other powers vested in the consolidated government by law or pursuant to this act, the county council shall have all the legislative and policy-making powers which it is possible for the governing body of a county or a city to possess and which are not expressly denied by the constitution, by general law applicable to all cities or all counties, or by a specific restriction in the plan itself.

(4) Except as provided in this act, the qualifications, mode of election, term of office, method of removal, procedure to fill vacancies, compensation, or other appropriate provisions relating to membership on the county council shall be provided in the plan.

(5) Upon the effective date of the plan, as provided in it, all properties and assets, whether tangible or intangible, and all obligations, debts, and liabilities of those governmental entities which are merged into the consolidated government shall become vested and transferred by operation of law in and to the consolidated government. The properties, assets, obligations, debts, and liabilities of any city or town not merged into the consolidated government, so far as allocated, used, or incurred primarily to discharge a function which under the plan will no longer be a responsibility of the city or town, shall likewise be vested in and transferred to the consolidated government. All transfers under this subsection shall be subject to equitable adjustments, conditions, and limitations provided in the plan and determined by procedures specified in the plan; but the contractual rights of any bondholder or creditor shall not be impaired.

(6) Upon the effective date of the plan, and as provided in it, non-elective officers and employees of the governmental entities which are merged into the consolidated government and such officers and employees of nonmerged cities or towns whose qualifications and duties relate primarily to functions which

under the plan will no longer be a responsibility of those cities or towns shall be blanketed in and transferred to the consolidated government as officers and employees of it. Standards and procedures relating to such personnel transfers and for resolving disputes or grievances relating to them shall be provided in the plan.

History: C. 1953, 17-35a-12.5, enacted by L. 1975, ch. 23, § 3; L. 1977, ch. 60, § 2.

Meaning of "this act". — See note under same catchline following § 17-35a-2.

Cross-References. — Municipal powers,

and restrictions thereon, Art. XI, Secs. 5 and 6, Utah Const.

Municipal-type services to unincorporated areas, Chapter 34 of this title.

17-35a-13. "County executive and chief administrative officer-council" form of management arrangement.

(1) A county operating under the management arrangement known as the "county executive and chief administrative officer-council" form shall be governed by the county council, a county executive elected at large by the voters of the county, an appointed chief administrative officer, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of election, term of office, compensation, and removal of the county executive.

(2) The county executive shall be the chief executive officer of the county, and shall: (a) direct and organize the management of the county in a manner consistent with the optional plan; (b) carry out programs and policies established by the council; (c) faithfully enforce all applicable laws and county ordinances; (d) exercise supervisory and co-ordinating control over all departments of county government; (e) except as otherwise provided in the optional plan, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions; (f) exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county; (g) serve as and perform the duties of the budget officer of the county, as provided in the Uniform Municipal Fiscal Procedures Act, which shall be applicable except as otherwise provided in the optional plan; (h) supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county; (i) conduct planning studies and make recommendations to the council relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government; and (j) exercise a power of veto over ordinances enacted by the council, including an item veto upon budget appropriations, in the manner provided in the optional plan.

(3) The chief administrative officer shall be appointed and removed by the county executive, with the approval of the council, except that the plan may specifically provide for his appointment and removal by the council. He shall have the qualifications, training, and experience and receive compensation as provided in the optional plan. He shall be principal staff assistant to the county executive, and under the direction and supervision of the county executive shall: (a) exercise supervisory control over all functions of the executive branch (b) study and make recommendations to the county executive with respect to the administration of county affairs and the efficiency and economy of county programs and operations; (c) maintain a continuing review of expen-

ditures and of the effectiveness of departmental budgetary controls; (d) develop systems and procedures, not inconsistent with statutes, for planning, programming, budgeting, and accounting for all activities of the county; and (e) perform any other functions and duties required of him by the optional plan, by any applicable statutes or ordinances, or by the county executive.

(4) All powers and duties of the county shall be allocated for administrative and executive purposes to departments of the county as designated by the optional plan. Transfers of employees and reallocation of powers and duties between departments may be made by the county executive in his discretion, except as otherwise provided in the plan or by ordinance.

History: L. 1973, ch. 26, § 13.

Uniform Municipal Fiscal Procedures Act. — The Uniform Municipal Fiscal Proce-

dures Act, referred to in Subsection (2)(g), was repealed in 1979. See §§ 10-10-23 to 10-10-75 and notes thereto.

17-35a-14. "County executive-council" form of management arrangement.

(1) A county operating under the management arrangement known as the "county executive-council" form shall be governed by the county council, a county executive elected at large by the voters of the county, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of election, term of office, compensation, and removal of the county executive.

(2) The county executive shall be the chief executive officer of the county and shall have the powers and duties provided in Subsection (2) of § 17-35a-13.

History: L. 1973, ch. 26, § 14.

17-35a-15. "Council-manager" form of management arrangement.

(1) A county operating under the management arrangement known as the "council-manager" form shall be governed by the county council, a county manager appointed by the council, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of appointment, term of office, compensation, and removal of the county manager.

(2) The county manager shall be the administrative head of the county government and shall have the powers and duties of a county executive, Subsection (2) of § 17-35a-13, except that the county manager shall not have any power of veto over ordinances enacted by the council.

(3) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies, attempt to exact any promise relative to any appointment from any candidate for manager, or discuss directly or indirectly with him the matter of specific appointments to any county office or employment. A violation of the foregoing provisions of this subsection shall forfeit the office of the offending

member of the council. Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county. Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office. The optional plan may provide procedures for implementing this subsection.

History: L. 1973, ch. 26, § 15.

Cross-References. — Political activities of employees under merit system.

17-35a-16. Restricted-taxing-authority form of government — Procedure for adoption.

(1) In addition to the optional forms of county government specified in § 17-35a-8, there is authorized an additional form of county government; the structure and power of which may differ from the forms expressly provided under this chapter.

(2) Under the optional form of county government allowed by this section, the county shall possess all powers granted to county government by the constitution, the general law, or by the county government charter; except, it shall possess no power to levy any tax, unless the Legislature has expressly authorized the several counties to levy such tax.

(3) The optional form of county government allowed by this section may be proposed by any one of the methods specified in § 17-35a-3 or 17-35a-4. If the optional form of county government allowed by this section is finally proposed, the governing body of the county shall cause the proposal to be submitted to the voters of the county for their approval or rejection in conformance with the requirements of § 17-35a-6.

(4) The structure and management of the optional form of county government allowed by this section shall be set forth in the charter.

History: C. 1953, 17-35a-16, enacted by L. 1981, ch. 87, § 1.

and restrictions thereon, Art. XI, Secs. 5 and 6, Utah Const.

Cross-References. — Municipal powers,

CHAPTER 36

UNIFORM FISCAL PROCEDURES

Section

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