

RESOLUTION # 3132-A-2018

**A RESOLUTION OF THE GRAND COUNTY COUNCIL, STATE OF UTAH,
DESIGNATING NOVEMBER 6, 2018 FOR A SPECIAL ELECTION
AND DESIGNATING THE PURPOSE OF SUCH SPECIAL ELECTION TO ASK VOTERS,
"SHALL A STUDY COMMITTEE BE APPOINTED TO CONSIDER AND POSSIBLY
RECOMMEND A CHANGE IN GRAND COUNTY'S FORM OF GOVERNMENT?"**

WHEREAS, House Bill 224 (H.B. 224), "County Government Change Election Amendments," was signed by the Governor of the State of Utah on March 15, 2018;

WHEREAS, Section 43 of H.B. 224 provides an effective date of the bill, "If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor...;"

WHEREAS, H.B. 224 "highlighted provisions" are summarized within the bill introduction to include:

"reorganizes and recodifies Title 17, Chapter 52, Changing Forms of County Government;

amends provisions related to the appointment of an appointment council;
prohibits a person from initiating a process to change a county's form of government when a process to change the county's form of government is pending;
requires that registered voters who wish to initiate the process to change a county's form of government file a notice of intent to gather signatures;
establishes a deadline by which the sponsors of a petition to create a study committee are required to file the petition;
requires only certain counties to comply with a provision that requires an optional plan to be approved by the county legislative body or subjected to a petition before the optional plan is submitted to the voters;

requires a county clerk to post an optional plan on the county's website for a specified period of time before an election on the optional plan;
provides that an optional plan is adopted if approved by a majority of voters that vote on the optional plan;
requires a study committee to submit a report to the county clerk;
provides that if a study committee recommends that the form of a county's government not change, the process to change the county's form of government is concluded;
establishes a deadline after which an optional plan may not be repealed without initiating a new process to change the county's form of government;
provides a grandfather provision for counties that have initiated the process to change the county's form of government as of the effective date of this bill;
requires a county that operates under a form of government that is not authorized by statute to change the county's form of government;"

among other housekeeping provisions.

WHEREAS, H.B. 224 defines “optional plan” as a plan establishing an alternate form of government for a county as provided in Section 17-52a-404 (renumbered from Utah Code Ann. Section 17-52-401);

WHEREAS, H.B. 224 states in Section 17-52a-103 (renumbered from Utah Code Ann. Section 17-52-102),

- (1) “Subject to Subsection (2), each county shall operate under one of the following forms of county government:
 - (a) The county commission form under Section 17-52a-201 (renumbered from Section 17-52-501);
 - (b) the expanded county commission form under Section 17-52a-202 (renumbered from Section 17-52-502);
 - (c) the county executive and council form under Section 17-52a-203 (renumbered from Section 17-52-504); or
 - (d) the council-manager form under Section 17-52a-204 (renumbered from Section 17-52-505).”

WHEREAS, H.B. 224 further states in Section 17-52a-103 (renumbered from Utah Code Ann. Section 17-52-102):

- (2) “Unless a county adopts another form of government as provided in this chapter, the county shall operate under the county commission form of government under Section 17-52a-201 (renumbered from Section 17-52-501).”

WHEREAS, H.B. 224 further states in Section 17-52a-103 (renumbered from Section 17-52-102):

- (3) (a) “In a county that operates under a form of government that is not described in Subsection (2):
 - (i) the county’s legislative body shall, before July 1, 2018, initiate the process under Section 17-52a-302 (renumbered from Section 17-52-202) of changing the county’s form of government;
 - (ii) the county shall hold a special election described in Section 17-52a-304 (renumbered from Section 17-52-203.5) on November 6, 2018;
 - (iii) if the voters approve the appointment of a study committee at the special election described in Subsection (3)(a)(ii):
 - (A) the study committee may not recommend under Section 17-52a-403 (renumbered from Section 17-52-102) that the county retain the county’s current form of government; and
 - (B) the county shall hold an election described in Section 17-52a-501 (renumbered from Section 17-52-206) before December 31, 2020, on an optional plan that the study committee creates; and
 - (iv) the registered voters of the county may not repeal an optional plan under Section 17-52a-505 (renumbered from Section 17-52-405) that is adopted at an election described in Subsection (3)(a)(iii)(B).”

WHEREAS, H.B. 224 further states in Section 17-52a-103 (renumbered from Section 17-52-102):

- (3) (b) “If the voters of a county described in Subsection (3)(a) do not approve a change in the county’s form of government at an election described in Subsection (3)(a)(iii)(B) before December 31, 2020:
 - i. The county shall operate under the county commission form of government under Section 17-52a-201 (renumbered from Section 17-52-501) in the same

- manner that a county is required under Subsection 17--52a-102(2) (renumbered from Section 17-52-101 to operate under that form of government if the county does not adopt another form of government; and
- ii. The county shall transition to the form of government described in Subsection (3)(b)(i) in the same manner as if the voters of the county had approved the change in the form of government described in Subsection (3)(b)(i) in the applicable election described in Subsection (3)(b)."

WHEREAS, Utah Code Ann. Section 20A-1-203(1) states that "(1) ... local special elections may be held for any purpose authorized by law."

WHEREAS, Utah Code Ann. Section 20A-1-203(5)(b) states, "The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates: (i) the date for the local special election as authorized by Section 20A-1-204; and (ii) the purpose for the local special election."

WHEREAS, H.B. 224 states in Section 17-52a-304 (renumbered from Section 17-52-203.5):

- (1) "The county legislative body shall hold an election under this section if:
 - (a) the county legislative body adopts a resolution under Subsection 17-52a-302(1)(a) (renumbered from Section 17-52-202(1)); or
 - (b) the county clerk certifies, in accordance with Subsection 17-52a-303(3) (renumbered from Section 17-52-203(3)), a petition described in Subsection 17-52a-303(1)(a)(i) (renumbered from Section 17-52-203).
- (2) An election described in Subsection (1) shall be a special election, called and held in accordance with Sections 20A-1-203 and 20A-1-204.
- (3) The county clerk shall prepare the ballot for an election described in Subsection (1) with a question that asks substantially the following: 'Shall a study committee be appointed to consider and possibly recommend a change in Grand County's form of government?'"

WHEREAS, Utah Code Ann. Section 20A-1-204(1)(c) states, "(i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

- (A) determines and declares that there is a disaster, as defined in Section 53-2a-102 requiring that a special election be held on a date other than the ones authorized in statute;
- (B) Identifies specifically the nature of the disaster as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and
- (C) votes unanimously to hold the special election on that other date."

WHEREAS, H.B. 224 states in Section 17-52a-403 (renumbered from Section 17-52-303):

- (1) (a) "A study committee consists of seven members."
- (3) (a) "Each study committee shall:
 - (i) study the form of government within the county and compare it with other forms available under this chapter;
 - (ii) determine whether the administration of local government in 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 county government;

- (iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and
- (iv) file a written report of the study committee's findings and recommendations with the county executive, the county legislative body, and the county clerk no later than one year after the convening of the study committee's first meeting under Section 17-52a-402 (renumbered from Section 17-52-302)."

(3) (b) "Within 10 days after the day on which the study committee submits the study committee's report under Section 17-52a-403 Subsection (3)(a)(iv) (renumbered from Section 17-52-303) to the county legislative body, if the report recommends a change in the form of county government, the county clerk shall send to the county attorney... a copy of each optional plan recommended in the report for review in accordance with Section 17-52a-406 (renumbered from Section 17-52--204)."

WHEREAS, H.B. 224 continues in Section 17-52a-403 (renumbered from Section 17-52-303):

- (4) Each study committee report under Subsection (3)(a)(iv) [corrected from (3)(d)] shall include:
- (a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;
 - (b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and
 - (c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county."

WHEREAS, H.B. 224 continues in Section 17-52a-403 (renumbered from 17-52-303):

- (5) (a) "If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(a)(iv) [corrected from (3)(d)] and, following the hearings and subject to Subsection (5)(b), alter the report.
- (5) (b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:
 - (i) that would recommend the adoption of an optional form different from that recommended in the original report; or
 - (ii) within the 120-day period before the election under Section 17-52a-501 (renumbered from Section 17-52-206).
- (6) Each meeting that the study committee holds shall be open to the public.
- (7) If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.
- (8) The county legislative body shall provide for the study committee:
 - (a) suitable meeting facilities;
 - (b) necessary secretarial services;
 - (c) necessary printing and photocopying services;
 - (d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.”

WHEREAS, H.B. 224 stipulates in Section 17-52a-401 (renumbered from Section 17-52-301) a procedure for appointing members to the study committee if a majority of voters voting in an election vote in favor of appointing a study committee.

WHEREAS, H.B. 224 stipulates in Section 17-52a-406 (renumbered from Section 17-52-204) a process for the county attorney to determine as to whether implementation of the optional plan would result in a violation of any applicable statutory or constitutional provision.

WHEREAS, H.B. 224 stipulates a process in Part 5, “Adoption and Implementation of Optional Plan” Section 17-52a-501 (renumbered from 17-52-206) regarding the question on adopting a specific alternate form of government that the study committee recommends (if so done).

WHEREAS, H.B. 224 provides definitions in Section 17-52a-102 (renumbered from Section 17-52-101) as to “appointment council;” “commission-initiated appointment council;” “optional plan;” “petition-initiated appointment council;” and “study committee.”

NOW THEREFORE, be it resolved that the Grand County Council hereby sets the date of November 6, 2018 for a special election for the purpose of asking voters, “Shall a study committee be appointed to consider and possibly recommend a change in Grand County’s form of government?”

APPROVED and ADOPTED by the Grand County Council in open session this 26th day of March, 2018 by the following vote:

Those voting aye: Clapper, Halliday, Hawks, McGann

Those voting nay: Paxman, Trim, Wells

Those absent: _____

ATTEST

GRAND COUNTY COUNCIL



Diana Carroll, Clerk/Auditor



Mary McGann, Chair