



**GRAND COUNTY CHANGE IN FORM OF GOVERNMENT
STUDY COMMITTEE MEMBERS
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November 1, 2019

Subject: Changing the Form of County Government – Proposed Legislative Amendments

To whom it may concern:

We are writing as the Study Committee appointed to draft an optional plan of county government for Grand County, pursuant to Chapter 17-52a of the Utah Code (HB224, 2018 Session). We began our duties on March 8, 2019, after being appointed based on the provisions of that law. Our purpose in writing to you is to explain some of the difficulties we have encountered along the way and to suggest several significant amendments to Chapter 17-52a which might help to avoid similar problems for other counties in the future.

The specific amendments we suggest are explained in detail in the attached outline “The Grand County Experience – Changing the Form of County Government.” As an introduction, we propose that there are two main problems with the current law: first, it is far too complex, especially regarding the procedures to initiate the process; second, it needs to be more specific about the role of the existing county government in preparing and implementing a proposed optional plan.

Regarding complexity – in our efforts to understand and apply the law, we found it dense, convoluted and filled with exceptions, twists and switch-backs. In places, it is almost impossible for lay persons or even attorneys to decide what the law requires. This confusion led to problems with Grand County’s efforts to even begin the process and litigation was immediately filed to contest the way the members of the appointment council were picked.

The statute contains several variations on the initial appointment procedures, with different options based on how the change in government is proposed, the size of the county, the percentage vote in favor of the change, and special rules governing Grand and Morgan Counties. We recommend the statute be simplified to create just two means of beginning the process – by citizen petition or by council/commission resolution – with either means leading to a simple way to name five members of an appointment council, and with both means leading to the creation of a study committee. There should be no exceptions based on county size or similar factors.

Because of the litigation, Grand County’s process was delayed nearly four months – this delay ultimately made it difficult to have a ballot question ready for the voters in November 2019 and contributed to postponing the vote of the people until 2020 at the earliest.

Regarding the role of existing county government – because of the delay caused by the lawsuit, we redoubled our efforts to draft an optional plan in time for the 2019 election. We engaged in community outreach using several methods and we felt that we had a good sense of

what the people of Grand County wanted in a new government. We adopted a plan including a county council comprised of two council members elected from districts and three members elected at large. We hired an expert to help draw up council district boundaries that were as equal in population as possible, in order to preserve “one person, one vote” ideals.

We were able to prepare a final draft optional plan by the late summer of 2019, close to the deadline for a vote that November. Based on the requirements of Chapter 17-52a, the draft plan was submitted to the Grand County Attorney for her legal examination and review to ensure the plan conformed to statutory and constitutional requirements. In that review, the attorney identified what she found to be disqualifying legal problems with the draft. Two of these problems maintained that the legal authority to include certain provisions in the plan required the intervention of the existing Grand County Council, namely, council district boundaries and election dates. The County Attorney determined that under the law, the creation of and establishing boundaries for council districts was not within the power of the Study Committee and could not be included in the optional plan; likewise, according to the attorney, only the county council could set the dates for the election and the adoption date of the optional plan could not be included in the plan.

The Study Committee disagreed with these conclusions and felt it important that something as vital as setting council district boundaries is an essential part of the optional plan. We further felt that, as an ideal, the existing county government should not have a role in either drafting or adopting the new plan of county government. Lastly, several provisions of Chapter 17-52a made us believe Legislative intent was that drafting a proposed optional plan – for the ultimate approval of the voters – was not within the authority of the existing government.

That said, we acknowledge that the law is unclear on where the districting power lies and it would be valuable for the Legislature to clearly explain that authority in Chapter 17-52a. We strongly feel that the power ought to be clearly delegated to the Committee, which is vested by the Legislature with significant powers and responsibilities to prepare the optional plan in a manner free from any allegations or perceptions of interference by the existing government.

Conclusion – based on the delay resulting from litigation at the beginning of the process and from the County Attorney’s rejection of the draft plan at the end, Grand County was not able to place the matter on the ballot in November 2019, and will need to wait until 2020. Under the current law, that will mean that new elected officials cannot run for office under the new form until November of 2022 and the new government will not go into effect until January 2023.

This unfortunate delay can be avoided for other counties in the future by simplifying the procedures for starting the process and by specifying the degree of involvement of the existing county government in drafting the optional plan. We are happy to answer questions about our experience and help in any way possible. Thank you for your attention to our concerns.

Sincerely,



Stephen Stocks, Chair
Grand County Change in Form of
Government Study Committee

Encl.