

1 **RESOURCE MANAGEMENT PLANNING BY LOCAL**
2 **GOVERNMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Keven J. Stratton**

6 Senate Sponsor: Ralph Okerlund

8 **LONG TITLE**

9 **General Description:**

10 This bill requires a county to develop a resource management plan.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a county to develop a resource management plan as a part of the county's
- 14 general plan;
- 15 ▶ establishes content requirements for a county's resource management plan;
- 16 ▶ requires the state to provide information and technical assistance to a county;
- 17 ▶ requires a county planning commission to coordinate with other counties;
- 18 ▶ establishes a county's general plan as a basis for coordinating with the federal
- 19 government;
- 20 ▶ establishes administrative duties of the Public Lands Policy Coordinating Office
- 21 with regard to county resource management plans; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **17-27a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254

- 30 **17-27a-403**, as last amended by Laws of Utah 2014, Chapter 176
- 31 **17-27a-404**, as last amended by Laws of Utah 2010, Chapter 90
- 32 **17-27a-405**, as enacted by Laws of Utah 2005, Chapter 254
- 33 **17-27a-409**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 34 **17-34-6**, as last amended by Laws of Utah 2005, Chapter 254

35 ENACTS:

36 **63J-4-607**, Utah Code Annotated 1953

37 REPEALS AND REENACTS:

38 **17-27a-402**, as last amended by Laws of Utah 2008, Chapter 382



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

41 Section 1. Section **17-27a-401** is amended to read:

42 **17-27a-401. General plan required -- Content -- Resource management plan --**
 43 **Provisions related to radioactive waste facility.**

44 (1) ~~[In order to]~~ To accomplish the purposes of this chapter, each county shall prepare
 45 and adopt a comprehensive, long-range general plan ~~[for]~~:

- 46 (a) for present and future needs of the county; ~~[and]~~
- 47 (b) for growth and development of all or any part of the land within the unincorporated
 48 portions of the county~~[-]~~; and
- 49 (c) as a basis for communicating and coordinating with the federal government on land
 50 and resource management issues.

51 (2) The general plan may provide for:

- 52 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
 53 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 54 (b) the reduction of the waste of physical, financial, or human resources that result
 55 from either excessive congestion or excessive scattering of population;
- 56 (c) the efficient and economical use, conservation, and production of the supply of:
 57 (i) food and water; and

- 58 (ii) drainage, sanitary, and other facilities and resources;
- 59 (d) the use of energy conservation and solar and renewable energy resources;
- 60 (e) the protection of urban development;
- 61 (f) the protection or promotion of moderate income housing;
- 62 (g) the protection and promotion of air quality;
- 63 (h) historic preservation;
- 64 (i) identifying future uses of land that are likely to require an expansion or significant
- 65 modification of services or facilities provided by each affected entity; and
- 66 (j) an official map.

67 (3) (a) The general plan shall contain a resource management plan to provide for the
68 protection, conservation, development, and managed use of resources that are critical to the
69 health, safety, and welfare of the citizens of the county and of the state.

70 (b) The resource management plan shall:

71 (i) be centered on the following core resources:

72 (A) energy;

73 (B) air; and

74 (C) water; and

75 (ii) contain detailed plans regarding:

76 (A) mining;

77 (B) land use;

78 (C) livestock and grazing;

79 (D) irrigation;

80 (E) agriculture;

81 (F) fire management;

82 (G) noxious weeds;

83 (H) forest management;

84 (I) water rights;

85 (J) ditches and canals;

- 86 (K) water quality and hydrology;
- 87 (L) flood plains and river terraces;
- 88 (M) wetlands;
- 89 (N) riparian areas;
- 90 (O) predator control;
- 91 (P) wildlife;
- 92 (Q) fisheries;
- 93 (R) recreation and tourism;
- 94 (S) energy resources;
- 95 (T) mineral resources;
- 96 (U) cultural, historical, geological, and paleontological resources;
- 97 (V) wilderness;
- 98 (W) wild and scenic rivers;
- 99 (X) threatened, endangered, and sensitive species;
- 100 (Y) land access;
- 101 (Z) law enforcement; and
- 102 (AA) economic considerations.

103 (c) For each item listed under Subsection (3)(b), a county's resource management plan
104 shall:

- 105 (i) establish any relevant findings pertaining to the item;
- 106 (ii) establish clearly defined objectives; and
- 107 (iii) outline general policies and guidelines on how the objectives described in
108 Subsection (3)(c)(ii) are to be accomplished.

109 ~~[(3)]~~ (4) (a) The general plan shall include specific provisions related to any areas
110 within, or partially within, the exterior boundaries of the county, or contiguous to the
111 boundaries of a county, which are proposed for the siting of a storage facility or transfer facility
112 for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste,
113 as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the

114 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 115 (i) the information identified in Section 19-3-305;
- 116 (ii) information supported by credible studies that demonstrates that the provisions of
- 117 Subsection 19-3-307(2) have been satisfied; and

118 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
 119 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

120 (b) A county may, in lieu of complying with Subsection ~~(3)~~ (4)(a), adopt an ordinance
 121 indicating that all proposals for the siting of a storage facility or transfer facility for the
 122 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
 123 partially within the county are rejected.

124 (c) A county may adopt the ordinance listed in Subsection ~~(3)~~ (4)(b) at any time.

125 (d) The county shall send a certified copy of the ordinance ~~under~~ described in
 126 Subsection ~~(3)~~ (4)(b) to the executive director of the Department of Environmental Quality by
 127 certified mail within 30 days of enactment.

128 (e) If a county repeals an ordinance adopted ~~pursuant to~~ under Subsection ~~(3)~~ (4)(b)
 129 the county shall:

- 130 (i) comply with Subsection ~~(3)~~ (4)(a) as soon as reasonably possible; and
- 131 (ii) send a certified copy of the repeal to the executive director of the Department of
- 132 Environmental Quality by certified mail within 30 days after the repeal.

133 ~~(4)~~ (5) The general plan may define the county's local customs, local culture, and the
 134 components necessary for the county's economic stability.

135 ~~(5)~~ (6) Subject to Subsection 17-27a-403(2), the county may determine the
 136 comprehensiveness, extent, and format of the general plan.

137 (7) Nothing in this part may be construed to limit the authority of the state to manage
 138 and protect wildlife under Title 23, Wildlife Resources Code of Utah.

139 Section 2. Section 17-27a-402 is repealed and reenacted to read:

140 **17-27a-402. Information and technical assistance from the state.**

141 (1) A county may request that the state, including any agency, department, division,

142 institution, or official of the state, provide the county with information that would assist the
143 county in creating the county's general plan.

144 (2) The state or an agency, department, division, institution, or official of the state from
145 which a county has requested information under Subsection (1) shall provide the county with:

146 (a) the information requested by the county, unless providing the information is
147 prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and

148 (b) any other technical assistance or advice the county needs with regards to the
149 county's general plan, without any additional cost to the county.

150 Section 3. Section **17-27a-403** is amended to read:

151 **17-27a-403. Plan preparation.**

152 (1) (a) The planning commission shall provide notice, as provided in Section
153 **17-27a-203**, of its intent to make a recommendation to the county legislative body for a general
154 plan or a comprehensive general plan amendment when the planning commission initiates the
155 process of preparing its recommendation.

156 (b) The planning commission shall make and recommend to the legislative body a
157 proposed general plan for the unincorporated area within the county.

158 (c) (i) The plan may include planning for incorporated areas if, in the planning
159 commission's judgment, they are related to the planning of the unincorporated territory or of
160 the county as a whole.

161 (ii) Elements of the county plan that address incorporated areas are not an official plan
162 or part of a municipal plan for any municipality, unless it is recommended by the municipal
163 planning commission and adopted by the governing body of the municipality.

164 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
165 and descriptive and explanatory matter, shall include the planning commission's
166 recommendations for the following plan elements:

167 (i) a land use element that:

168 (A) designates the long-term goals and the proposed extent, general distribution, and
169 location of land for housing, business, industry, agriculture, recreation, education, public

170 buildings and grounds, open space, and other categories of public and private uses of land as
171 appropriate; and

172 (B) may include a statement of the projections for and standards of population density
173 and building intensity recommended for the various land use categories covered by the plan;

174 (ii) a transportation and traffic circulation element consisting of the general location
175 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and
176 any other modes of transportation that the planning commission considers appropriate, all
177 correlated with the population projections and the proposed land use element of the general
178 plan; [~~and~~]

179 (iii) an estimate of the need for the development of additional moderate income
180 housing within the unincorporated area of the county, and a plan to provide a realistic
181 opportunity to meet estimated needs for additional moderate income housing if long-term
182 projections for land use and development occur[-]; and

183 (iv) before July 1, 2016, a resource management plan detailing the findings, objectives,
184 and policies required by Subsection 17-27a-401(3).

185 (b) In drafting the moderate income housing element, the planning commission:

186 (i) shall consider the Legislature's determination that counties should facilitate a
187 reasonable opportunity for a variety of housing, including moderate income housing:

188 (A) to meet the needs of people desiring to live there; and

189 (B) to allow persons with moderate incomes to benefit from and fully participate in all
190 aspects of neighborhood and community life; and

191 (ii) may include an analysis of why the recommended means, techniques, or
192 combination of means and techniques provide a realistic opportunity for the development of
193 moderate income housing within the planning horizon, which means or techniques may include
194 a recommendation to:

195 (A) rezone for densities necessary to assure the production of moderate income
196 housing;

197 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the

198 construction of moderate income housing;

199 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
200 income housing;

201 (D) consider county general fund subsidies to waive construction related fees that are
202 otherwise generally imposed by the county;

203 (E) consider utilization of state or federal funds or tax incentives to promote the
204 construction of moderate income housing;

205 (F) consider utilization of programs offered by the Utah Housing Corporation within
206 that agency's funding capacity; and

207 (G) consider utilization of affordable housing programs administered by the
208 Department of Workforce Services.

209 (c) In drafting the land use element, the planning commission shall:

210 (i) identify and consider each agriculture protection area within the unincorporated area
211 of the county; and

212 (ii) avoid proposing a use of land within an agriculture protection area that is
213 inconsistent with or detrimental to the use of the land for agriculture.

214 (d) In drafting the resource management plan required under Section 17-27a-401, the
215 planning commission shall:

216 (i) identify any common interests the county shares with any other proximate county
217 with regards to the elements of the resource management plan as described in Subsection
218 17-27a-401(3)(b); and

219 (ii) coordinate with the other proximate county to establish, to the greatest extent
220 possible, consistent objectives and policies with regards to the common interests identified
221 under Subsection (2)(d)(i).

222 (3) The proposed general plan may include:

223 (a) an environmental element that addresses:

224 (i) to the extent not covered by the county's resource management plan, the protection,
225 conservation, development, and use of natural resources, including the quality of air, forests,

226 soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;
227 and

228 (ii) the reclamation of land, flood control, prevention and control of the pollution of
229 streams and other waters, regulation of the use of land on hillsides, stream channels and other
230 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
231 protection of watersheds and wetlands, and the mapping of known geologic hazards;

232 (b) a public services and facilities element showing general plans for sewage, water,
233 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
234 police and fire protection, and other public services;

235 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
236 programs for:

237 (i) historic preservation;

238 (ii) the diminution or elimination of blight; and

239 (iii) redevelopment of land, including housing sites, business and industrial sites, and
240 public building sites;

241 (d) an economic element composed of appropriate studies and forecasts, as well as an
242 economic development plan, which may include review of existing and projected county
243 revenue and expenditures, revenue sources, identification of basic and secondary industry,
244 primary and secondary market areas, employment, and retail sales activity;

245 (e) recommendations for implementing all or any portion of the general plan, including
246 the use of land use ordinances, capital improvement plans, community development and
247 promotion, and any other appropriate action;

248 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

249 (g) any other element the county considers appropriate.

250 Section 4. Section 17-27a-404 is amended to read:

251 **17-27a-404. Public hearing by planning commission on proposed general plan or**
252 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**
253 **by legislative body.**

254 (1) (a) After completing its recommendation for a proposed general plan, or proposal to
255 amend the general plan, the planning commission shall schedule and hold a public hearing on
256 the proposed plan or amendment.

257 (b) The planning commission shall provide notice of the public hearing, as required by
258 Section 17-27a-204.

259 (c) After the public hearing, the planning commission may modify the proposed
260 general plan or amendment.

261 (2) The planning commission shall forward the proposed general plan or amendment to
262 the legislative body.

263 (3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body
264 shall provide notice of its intent to consider the general plan proposal.

265 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative
266 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan
267 regarding Subsection 17-27a-401~~(3)~~(4). The hearing procedure shall comply with this
268 Subsection (3)(b).

269 (ii) The hearing format shall allow adequate time for public comment at the actual
270 public hearing, and shall also allow for public comment in writing to be submitted to the
271 legislative body for not fewer than 90 days after the date of the public hearing.

272 (c) (i) The legislative body shall give notice of the hearing in accordance with this
273 Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401~~(3)~~(4)
274 are complete.

275 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
276 the state Legislature, executive director of the Department of Environmental Quality, the state
277 planning coordinator, the Resource Development Coordinating Committee, and any other
278 citizens or entities who specifically request notice in writing.

279 (iii) Public notice shall be given by publication:

280 (A) in at least one major Utah newspaper having broad general circulation in the state;

281 (B) in at least one Utah newspaper having a general circulation focused mainly on the

282 county where the proposed high-level nuclear waste or greater than class C radioactive waste
283 site is to be located; and

284 (C) on the Utah Public Notice Website created in Section 63F-1-701.

285 (iv) The notice shall be published to allow reasonable time for interested parties and
286 the state to evaluate the information regarding the provisions of Subsection 17-27a-401~~(3)~~(4),
287 including:

288 (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before
289 the date of the hearing to be held under this Subsection (3); and

290 (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the
291 date of the hearing to be held under this Subsection (3).

292 (4) (a) After the public hearing required under this section, the legislative body may
293 make any revisions to the proposed general plan that it considers appropriate.

294 (b) The legislative body shall respond in writing and in a substantive manner to all
295 those providing comments as a result of the hearing required by Subsection (3).

296 (5) (a) The county legislative body may adopt or reject the proposed general plan or
297 amendment either as proposed by the planning commission or after making any revision the
298 county legislative body considers appropriate.

299 (b) If the county legislative body rejects the proposed general plan or amendment, it
300 may provide suggestions to the planning commission for its consideration.

301 (6) The legislative body shall adopt:

302 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

303 (b) a transportation and traffic circulation element as provided in Subsection
304 17-27a-403(2)(a)(ii); ~~and~~

305 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to
306 provide a realistic opportunity to meet estimated needs for additional moderate income housing
307 if long-term projections for land use and development occur[-]; and

308 (d) before January 1, 2017, a resource management plan as provided by Subsection
309 17-27a-403(2)(a)(iv).

310 Section 5. Section 17-27a-405 is amended to read:

311 **17-27a-405. Effect of general plan -- Coordination with federal government.**

312 (1) Except for the mandatory provisions in Subsection 17-27a-401~~(3)~~(4)(b) and
313 Section 17-27a-406, and except as provided in Subsection (3), the general plan is an advisory
314 guide for land use decisions, the impact of which shall be determined by ordinance.

315 (2) The legislative body may adopt an ordinance mandating compliance with the
316 general plan, and shall adopt an ordinance requiring compliance with all provisions of
317 Subsection 17-27a-401~~(3)~~(4)(b).

318 (3) (a) As used in this Subsection (3), "coordinate with" means an action taken by the
319 federal government on a given matter, pursuant to a federal law, rule, policy, or regulation, to:

- 320 (i) work with a county on the matter to achieve a consistent outcome;
- 321 (ii) make resource management plans in conjunction with a county on the matter;
- 322 (iii) make resource management plans consistent with a county's plans on the matter;
- 323 (iv) integrate a county's plans on the matter into the federal government's plans; or
- 324 (v) follow a county's plans when contemplating any action on the matter.

325 (b) If the federal government is required to coordinate with a county or a local
326 government on a matter, the county's general plan is the principle document through which the
327 coordination shall take place.

328 (c) The federal government is not considered to have coordinated with a county or a
329 local government on a matter unless the federal government has:

- 330 (i) kept the county apprised of the federal government's proposed plans, amendments,
331 policy changes, and management actions with regard to the matter;
- 332 (ii) worked with the county in developing and implementing plans, policies, and
333 management actions on the matter;
- 334 (iii) treated the county as an equal partner in negotiations related to the matter;
- 335 (iv) listened to and understood the county's position on the matter to determine whether
336 a conflict exists between the federal government's proposed plan, policy, rule, or action and the
337 county's general plan;

338 (v) worked with the county in an amicable manner to reconcile any differences or
339 disagreements, to the greatest extent possible under federal law, between the federal
340 government and the county with regards to plans, policies, rules, or proposed management
341 actions that relate to the matter;

342 (vi) engaged in a good-faith effort to reconcile any conflicts discovered under
343 Subsection (3)(c)(iv) to achieve, to the greatest extent possible under federal law, consistency
344 between the federal government's proposed plan, policy, rule, or action and the county's general
345 plan; and

346 (vii) given full consideration to a county's general plan to the extent that the general
347 plan addresses the matter.

348 Section 6. Section **17-27a-409** is amended to read:

349 **17-27a-409. State to indemnify county regarding refusal to site nuclear waste --**
350 **Terms and conditions.**

351 If a county is challenged in a court of law regarding its decision to deny siting of a
352 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
353 radioactive waste or its refusal to provide municipal-type services regarding the operation of
354 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
355 from any claims or damages, including court costs and attorney fees that are assessed as a result
356 of the county's action, if:

357 (1) the county has complied with the provisions of Subsection **17-27a-401**~~(3)~~(4)(b)
358 by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for
359 the placement of high-level nuclear waste or greater than class C radioactive waste wholly or
360 partially within the boundaries of the county;

361 (2) the county has complied with Subsection **17-34-1**(3) regarding refusal to provide
362 municipal-type services; and

363 (3) the court challenge against the county addresses the county's actions in compliance
364 with Subsection **17-27a-401**~~(3)~~(4)(b) or **17-34-1**(3).

365 Section 7. Section **17-34-6** is amended to read:

366 17-34-6. State to indemnify county regarding refusal to site nuclear waste --

367 **Terms and conditions.**

368 If a county is challenged in a court of law regarding its decision to deny siting of a
369 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
370 radioactive waste or its refusal to provide municipal-type services regarding the operation of
371 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
372 from any claims or damages, including court costs and attorney fees that are assessed as a result
373 of the county's action, if:

374 (1) the county has complied with the provisions of Subsection 17-27a-401~~(3)~~(4)(b)
375 by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for
376 the placement of high-level nuclear waste or greater than class C radioactive waste wholly or
377 partially within the boundaries of the county;

378 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
379 municipal-type services; and

380 (3) the court challenge against the county addresses the county's actions in compliance
381 with Subsection 17-27a-401~~(3)~~(4)(b) or 17-34-1(3).

382 Section 8. Section 63J-4-607 is enacted to read:

383 **63J-4-607. Resource management plan administration.**

384 (1) The office shall consult with the Commission for the Stewardship of Public Lands
385 before expending funds appropriated by the Legislature for the implementation of this section.

386 (2) To the extent that the Legislature appropriates sufficient funding, the office shall
387 procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah
388 Procurement Code, to assist the office with the office's responsibilities described in Subsection
389 (3).

390 (3) The office shall:

391 (a) assist each county with the creation of the county's resource management plan by:

392 (i) consulting with the county on policy and legal issues related to the county's resource
393 management plan;

394 (ii) helping the county ensure that the county's resource management plan meets the
395 requirements of Subsection 17-27a-401(3); and

396 (iii) facilitating coordination between counties as required by Subsection
397 17-27a-403(2)(d);

398 (b) to the greatest extent possible, promote consistent quality standards among all
399 counties' resource management plans; and

400 (c) calculate the estimated cost of providing the services described in this section to
401 each county.

402 (4) (a) A county shall cooperate with the office, or an entity procured by the office
403 under Subsection (2), with regards to the office's responsibilities under Subsection (3).

404 (b) A county that receives assistance from the office under this section shall place a
405 deposit with the office in an amount equal to 50% of the estimated cost calculated under
406 Subsection (3)(c).

407 (c) To the extent that the Legislature appropriates sufficient funding, the office shall
408 reimburse a county in the amount described in Subsection (4)(d) when a county's resource
409 management plan:

410 (i) meets the requirements described in Subsection 17-27a-401(3); and

411 (ii) is adopted under Subsection 17-27a-404(6)(d).

412 (d) The office shall reimburse a county under Subsection (4)(c) in an amount equal to
413 the lesser of:

414 (i) the cost estimated under Subsection (3)(c); or

415 (ii) \$50,000.

416 (5) To the extent that the Legislature appropriates sufficient funding, after the deadline
417 established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan,
418 the office shall:

419 (a) obtain a copy of each county's resource management plan; and

420 (b) create a statewide resource management plan that:

421 (i) meets the same requirements described in Subsection 17-27-401(3)(a); and

422 (ii) to the greatest extent possible, coordinates and is consistent with any resource
423 management plan or land use plan established under Chapter 8, State of Utah Resource
424 Management Plan for Federal Lands.

425 (6) To the extent that the Legislature appropriates sufficient funding, the office shall
426 provide legal support to a county that becomes involved in litigation with the federal
427 government over the requirements of Subsection [17-27a-405](#)(3).