

**Representative Wayne A. Harper** proposes the following substitute bill:

**TRANSIT REVISIONS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

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

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**LONG TITLE**

**General Description:**

This bill modifies the Public Transit District Act and the Transportation Code by amending provisions relating to public transit.

**Highlighted Provisions:**

This bill:

- ▶ for a public transit district that has 200,000 or more people residing within its boundaries:
  - increases the number of members on the board of trustees; and
  - changes the Transportation Commission member on the board of trustees from a nonvoting, ex officio member to a voting member;
- ▶ provides that a member of the board of trustees that has served three successive full terms may not be reappointed for at least four years;
- ▶ amends certain duties of a public transit district board of trustees;
- ▶ prohibits a public transit district from delegating duties assigned to the board of trustees to the officers of the district;
- ▶ establishes requirements for a board of trustees to consider when fixing rates and charges for service provided by the district; and
- ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17B-2a-807**, as renumbered and amended by Laws of Utah 2007, Chapter 329

33 **17B-2a-808**, as enacted by Laws of Utah 2007, Chapter 329

34 **17B-2a-815**, as enacted by Laws of Utah 2007, Chapter 329

35 **72-1-303**, as last amended by Laws of Utah 2007, Chapter 329



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

38 Section 1. Section **17B-2a-807** is amended to read:

39 **17B-2a-807. Public transit district board of trustees -- Appointment --**  
40 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

41 (1) (a) If 200,000 people or fewer reside within the boundaries of a public transit  
42 district, the board of trustees shall consist of members appointed by the legislative bodies of  
43 each municipality, county, or unincorporated area within any county on the basis of one  
44 member for each full unit of regularly scheduled passenger routes proposed to be served by the  
45 district in each municipality or unincorporated area within any county in the following calendar  
46 year.

47 (b) For purposes of determining membership under Subsection (1)(a), the number of  
48 service miles comprising a unit shall be determined jointly by the legislative bodies of the  
49 municipalities or counties comprising the district.

50 (c) The board of trustees of a public transit district under this Subsection (1) may  
51 include a member that is a commissioner on the Transportation Commission created in Section  
52 72-1-301 and appointed as provided in Subsection [~~(10)~~] (11), who shall serve as a nonvoting,  
53 ex officio member.

54 (d) Members appointed under this Subsection (1) shall be appointed and added to the  
55 board or omitted from the board at the time scheduled routes are changed, or as municipalities,  
56 counties, or unincorporated areas of counties annex to or withdraw from the district using the

57 same appointment procedures.

58 (e) For purposes of appointing members under this Subsection (1), municipalities,  
59 counties, and unincorporated areas of counties in which regularly scheduled passenger routes  
60 proposed to be served by the district in the following calendar year is less than a full unit, as  
61 defined in Subsection (1)(b), may combine with any other similarly situated municipality or  
62 unincorporated area to form a whole unit and may appoint one member for each whole unit  
63 formed.

64 (2) (a) If more than 200,000 people reside within the boundaries of a public transit  
65 district, the board of trustees shall consist of 15 members appointed as described under this  
66 Subsection (2), three members appointed as described in Subsection (4), and one [~~nonvoting~~  
67 ~~ex-officio~~] voting member appointed as provided in Subsection [~~(10)~~] (11).

68 (b) Except as provided in Subsections (2)(c) and(d), the board shall apportion voting  
69 members to each county within the district using an average of:

70 (i) the proportion of population included in the district and residing within each county,  
71 rounded to the nearest 1/15 of the total transit district population; and

72 (ii) the proportion of transit sales and use tax collected from areas included in the  
73 district and within each county, rounded to the nearest 1/15 of the total transit sales and use tax  
74 collected for the transit district.

75 (c) The board shall join an entire or partial county not apportioned a voting member  
76 under this Subsection (2) with an adjacent county for representation. The combined  
77 apportionment basis included in the district of both counties shall be used for the  
78 apportionment.

79 (d) (i) If rounding to the nearest 1/15 of the total public transit district apportionment  
80 basis under Subsection (2)(b) results in an apportionment of more than 15 members, the county  
81 or combination of counties with the smallest additional fraction of a whole member proportion  
82 shall have one less member apportioned to it.

83 (ii) If rounding to the nearest 1/15 of the total public transit district apportionment  
84 basis under Subsection (2)(b) results in an apportionment of less than 15 members, the county  
85 or combination of counties with the largest additional fraction of a whole member proportion  
86 shall have one more member apportioned to it.

87 (e) If the population in the unincorporated area of a county is at least 1/15 of the

88 district's population, the county executive, with the advice and consent of the county legislative  
89 body, shall appoint one voting member to represent each 1/15 of the district's population within  
90 a county's unincorporated area population.

91 (f) If a municipality's population is at least 1/15 of the district's population, the chief  
92 municipal executive, with the advice and consent of the municipal legislative body, shall  
93 appoint one voting member to represent each 1/15 of the district's population within a  
94 municipality.

95 (g) The number of voting members appointed from a county and municipalities within  
96 a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting  
97 member apportionment under this Subsection (2).

98 (h) If the entire county is within the district, the remaining voting members for the  
99 county shall represent the county or combination of counties, if Subsection (2)(c) applies, or  
100 the municipalities within the county.

101 (i) If the entire county is not within the district, and the county is not joined with  
102 another county under Subsection (2)(c), the remaining voting members for the county shall  
103 represent a municipality or combination of municipalities.

104 (j) Except as provided under Subsections (2)(e) and (f), voting members representing  
105 counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the  
106 county shall be designated and appointed by a simple majority of the chief executives of the  
107 municipalities within the county or combinations of counties if Subsection (2)(c) applies. The  
108 appointments shall be made by joint written agreement of the appointing municipalities, with  
109 the consent and approval of the county legislative body of the county that has at least 1/15 of  
110 the district's apportionment basis.

111 (k) Voting members representing a municipality or combination of municipalities shall  
112 be designated and appointed by the chief executive officer of the municipality or simple  
113 majority of chief executive officers of municipalities with the consent of the legislative body of  
114 the municipality or municipalities.

115 (l) The appointment of voting members shall be made without regard to partisan  
116 political affiliation from among citizens in the community.

117 (m) Each voting member shall be a bona fide resident of the municipality, county, or  
118 unincorporated area or areas which the voting member is to represent for at least six months

119 before the date of appointment, and must continue in that residency to remain qualified to serve  
120 as a voting member.

121 (n) (i) All population figures used under this section shall be derived from the most  
122 recent official census or census estimate of the United States Bureau of the Census.

123 (ii) If population estimates are not available from the United States Bureau of Census,  
124 population figures shall be derived from the estimate from the Utah Population Estimates  
125 Committee.

126 (iii) All transit sales and use tax totals shall be obtained from the State Tax  
127 Commission.

128 (o) (i) The board shall be apportioned as provided under this section in conjunction  
129 with the decennial United States Census Bureau report every ten years.

130 (ii) Within 120 days following the receipt of the population estimates under this  
131 Subsection (2)(o), the district shall reapportion representation on the board of trustees in  
132 accordance with this section.

133 (iii) The board shall adopt by resolution a schedule reflecting the current and proposed  
134 apportionment.

135 (iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to  
136 each of its constituent entities as defined under Section 17B-1-701.

137 (v) The appointing entities gaining a new board member shall appoint a new member  
138 within 30 days following receipt of the resolution.

139 (vi) The appointing entities losing a board member shall inform the board of which  
140 member currently serving on the board will step down upon appointment of a new member  
141 under Subsection (2)(o)(v).

142 (3) Upon the completion of an annexation to a public transit district under Chapter 1,  
143 Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the  
144 same basis as if the area had been included in the district as originally organized.

145 (4) In addition to the voting members appointed in accordance with Subsection (2), the  
146 board shall consist of three voting members appointed as follows:

147 (a) one member appointed by the speaker of the House of Representatives;

148 (b) one member appointed by the president of the Senate; and

149 (c) one member appointed by the governor.

150           ~~[(4)]~~ (5) (a) Except the initial members of the board, the terms of office of the voting  
151 members of the board shall be two years or until a successor is appointed, qualified, seated, and  
152 has taken the oath of office.

153           (b) At the first meeting of the initial members of the board held after July 1, 2004,  
154 voting members of the board shall designate by the drawing of lots for 1/2 of their number to  
155 serve for one-year terms and 1/2 for two-year terms.

156           (c) (i) A voting member may not be appointed for more than three successive full  
157 terms.

158           (ii) A voting member that has served three successive full terms may not be  
159 reappointed as a member of the board for at least four years after the voting member's final day  
160 of service of the voting member's third full term on the board.

161           ~~[(5)]~~ (6) (a) Vacancies for voting members shall be filled by the official appointing the  
162 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy  
163 within 90 days.

164           (b) If the appointing official under Subsection (1) does not fill the vacancy within 90  
165 days, the board of trustees of the authority shall fill the vacancy.

166           (c) If the appointing official under Subsection (2) does not fill the vacancy within 90  
167 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

168           ~~[(6)]~~ (7) (a) Each voting member may cast one vote on all questions, orders,  
169 resolutions, and ordinances coming before the board of trustees.

170           (b) A majority of all voting members of the board of trustees are a quorum for the  
171 transaction of business.

172           (c) The affirmative vote of a majority of all voting members present at any meeting at  
173 which a quorum was initially present shall be necessary and, except as otherwise provided, is  
174 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

175           ~~[(7)]~~ (8) Each public transit district shall pay to each voting member:

176           (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed  
177 \$200 in any calendar month to any voting member; and

178           (b) reasonable mileage and expenses necessarily incurred to attend board or committee  
179 meetings.

180           ~~[(8)]~~ (9) (a) Members of the initial board of trustees shall convene at the time and place

181 fixed by the chief executive officer of the entity initiating the proceedings.

182 (b) Immediately upon convening, the board of trustees shall elect from its voting  
183 membership a president, vice president, and secretary who shall serve for a period of two years  
184 or until their successors shall be elected and qualified.

185 [~~(9)~~] (10) At the time of a voting member's appointment or during a voting member's  
186 tenure in office, a voting member may not hold any employment, except as an independent  
187 contractor or elected public official, with a county or municipality within the district.

188 [~~(10)~~] (11) The Transportation Commission created in Section 72-1-301:

189 (a) for a public transit district serving a population of 200,000 people or fewer, may  
190 appoint a commissioner of the Transportation Commission to serve on the board of trustees as  
191 a nonvoting, ex officio member; and

192 (b) for a public transit district serving a population of more than 200,000 people, shall  
193 appoint a commissioner of the Transportation Commission to serve on the board of trustees as  
194 a [~~nonvoting, ex officio~~] voting member.

195 [~~(11)~~] (12) (a) (i) Each member of the board of trustees of a public transit district is  
196 subject to recall at any time by the legislative body of the county or municipality from which  
197 the member is appointed.

198 (ii) Each recall of a board of trustees member shall be made in the same manner as the  
199 original appointment.

200 (iii) The legislative body recalling a board of trustees member shall provide written  
201 notice to the member being recalled.

202 (b) Upon providing written notice to the board of trustees, a member of the board may  
203 resign from the board of trustees.

204 (c) If a board member is recalled or resigns under this Subsection [~~(11)~~] (12), the  
205 vacancy shall be filled as provided in Subsection [~~(5)~~] (6).

206 Section 2. Section **17B-2a-808** is amended to read:

207 **17B-2a-808. Public transit district board of trustees powers and duties --**  
208 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

209 (1) The powers and duties of a board of trustees of a public transit district stated in this  
210 section are in addition to the powers and duties stated in Section 17B-1-301.

211 (2) The board of trustees of each public transit district shall:

- 212 (a) appoint and fix the salary of a general manager, as provided in Section 17B-2a-811;
- 213 (b) determine the transit facilities that the district should acquire or construct;
- 214 (c) supervise and regulate each transit facility that the district owns and operates,
- 215 including:
  - 216 (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals,
  - 217 and charges subject to the restrictions in Section 17B-2a-815; and
  - 218 (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or
  - 219 in connection with a transit facility that the district owns or controls;
- 220 (d) control the investment of all funds assigned to the district for investment, including
- 221 funds:
  - 222 (i) held as part of a district's retirement system; and
  - 223 (ii) invested in accordance with the participating employees' designation or direction
  - 224 pursuant to an employee deferred compensation plan established and operated in compliance
  - 225 with Section 457 of the Internal Revenue Code;
- 226 (e) invest all funds according to the procedures and requirements of Title 51, Chapter
- 227 7, State Money Management Act;
- 228 (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's
- 229 services from the interest earnings of the investment fund for which the custodian is appointed;
- 230 (g) (i) cause an annual audit of all district books and accounts to be made by an
- 231 independent certified public accountant;
- 232 (ii) as soon as practicable after the close of each fiscal year, submit to the chief
- 233 administrative officer and legislative body of each county and municipality with territory
- 234 within the district a financial report showing:
  - 235 (A) the result of district operations during the preceding fiscal year; and
  - 236 (B) the district's financial status on the final day of the fiscal year; and
- 237 (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon
- 238 request in a quantity that the board considers appropriate; and
- 239 (iv) ensure policies are in place so that all public reports and data and statistics
- 240 included in public reports are accurate;
- 241 (h) annually review, modify, and approve the public transit district's short-term and
- 242 long-range public transit plans, including the transit portions of applicable regional

243 transportation plans adopted by a metropolitan planning organization established under 23  
244 U.S.C. Sec. 134;

245 ~~[(h) report]~~ (i) submit at least annually to the Transportation Commission created in  
246 Section 72-1-301 the district's short-term and long-range public transit plans, including the  
247 transit portions of applicable regional transportation plans adopted by a metropolitan planning  
248 organization established under 23 U.S.C. Sec. 134[-];

249 (j) conduct an annual review of ridership and allocate funds and routes based on  
250 ridership and needs;

251 (k) set minimum performance standards for a bus route and revise as needed to reflect  
252 the public transit system demographics, congestion and pollution mitigation strategies, and  
253 ridership needs and changes;

254 (l) direct the internal auditor to conduct audits that the board of trustees determines to  
255 be the most critical to the success of the organization; and

256 (m) hear audit reports for audits conducted in accordance with Subsection (2)(l).

257 (3) A board of trustees of a public transit district may:

258 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that  
259 are:

260 (i) not repugnant to the United States Constitution, the Utah Constitution, or the  
261 provisions of this part; and

262 (ii) necessary for:

263 (A) the government and management of the affairs of the district;

264 (B) the execution of district powers; and

265 (C) carrying into effect the provisions of this part;

266 (b) provide by resolution, under terms and conditions the board considers fit, for the  
267 payment of demands against the district without prior specific approval by the board, if the  
268 payment is:

269 (i) for a purpose for which the expenditure has been previously approved by the board;

270 (ii) in an amount no greater than the amount authorized; and

271 (iii) approved by the general manager or other officer or deputy as the board prescribes;

272 (c) (i) hold public hearings and subpoena witnesses; and

273 (ii) appoint district officers to conduct a hearing and require the officers to make

274 findings and conclusions and report them to the board; and

275 (d) appoint a custodian for the funds and securities under its control, subject to

276 Subsection (2)(f).

277 (4) The board of trustees of a public transit district may not delegate any of the powers

278 or duties of the board specified under Subsection (2).

279 [~~4~~] (5) A member of the board of trustees of a public transit district or a hearing  
280 officer designated by the board may administer oaths and affirmations in a district investigation  
281 or proceeding.

282 [~~5~~] (6) (a) The vote of the board of trustees on each ordinance shall be by roll call  
283 vote with each affirmative and negative vote recorded.

284 (b) (i) Subject to Subsection [~~5~~] (6)(b)(ii), the board of trustees may adopt a  
285 resolution or order by voice vote.

286 (ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if  
287 a member of the board so demands.

288 (c) (i) Except as provided in Subsection [~~5~~] (6)(c)(ii), the board of trustees of a public  
289 transit district may not adopt an ordinance unless it is:

290 (A) introduced at least a day before the board of trustees adopts it; or

291 (B) mailed by registered mail, postage prepaid, to each member of the board of trustees  
292 at least five days before the day upon which the ordinance is presented for adoption.

293 (ii) Subsection [~~5~~] (6)(c)(i) does not apply if the ordinance is adopted by a unanimous  
294 vote of all board members present at a meeting at which at least 3/4 of all board members are  
295 present.

296 (d) Each ordinance adopted by a public transit district's board of trustees shall take  
297 effect upon adoption, unless the ordinance provides otherwise.

298 Section 3. Section **17B-2a-815** is amended to read:

299 **17B-2a-815. Rates and charges for service.**

300 (1) The board of trustees of a public transit district shall fix rates and charges for  
301 service provided by the district by a two-thirds vote of all board members[-] considering:

302 (a) a basis and pricing strategy for how subsidized fares and passes are set for all  
303 service modes; and

304 (b) an acceptable subsidy level for all service modes.

- 305 (2) Rates and charges shall:
- 306 (a) be reasonable and equitable; and
- 307 (b) to the extent practicable:
- 308 (i) result in enough revenue to make the public transit system self supporting; and
- 309 (ii) be sufficient to:
- 310 (A) pay for district operating expenses;
- 311 (B) provide for repairs, maintenance, and depreciation of works and property that the
- 312 district owns or operates;
- 313 (C) provide for the purchase, lease, or acquisition of property and equipment;
- 314 (D) pay the interest and principal of bonds that the district issues; and
- 315 (E) pay for contracts, agreements, leases, and other legal liabilities that the district
- 316 incurs.

317 Section 4. Section **72-1-303** is amended to read:

318 **72-1-303. Duties of commission.**

319 The commission has the following duties:

- 320 (1) determining priorities and funding levels of projects in the state transportation
- 321 systems for each fiscal year based on project lists compiled by the department;
- 322 (2) determining additions and deletions to state highways under Chapter 4, Designation
- 323 of State Highways Act;
- 324 (3) holding public hearings and otherwise providing for public input in transportation
- 325 matters;
- 326 (4) making policies and rules in accordance with Title 63, Chapter 46a, Utah
- 327 Administrative Rulemaking Act, necessary to perform the commission's duties described under
- 328 this section;
- 329 (5) in accordance with Section 63-46b-12, reviewing orders issued by the executive
- 330 director in adjudicative proceedings held in accordance with Title 63, Chapter 46b,
- 331 Administrative Procedures Act;
- 332 (6) advising the department in state transportation systems policy;
- 333 (7) approving settlement agreements of condemnation cases subject to Section
- 334 63-38b-401;
- 335 (8) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a

336 nonvoting, ex officio member or a voting member on the board of trustees of a public transit  
337 district;

338 (9) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term  
339 and long-range public transit plans; and

340 (10) reviewing administrative rules made, amended, or repealed by the department.

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**H.B. 188 1st Sub. (Buff) - Transit Revisions**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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