

Senator Jerry W. Stevenson proposes the following substitute bill:

AMENDMENTS TO TRANSPORTATION PROVISIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill modifies provisions relating to Public Transit Districts.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that a public transit district may:
 - establish, finance, participate as a limited partner or member in a development with limited liabilities, construct, improve, maintain, or operate a transit-oriented development or transit-supportive development; and
 - assist in a transit-oriented development or transit-supportive development in connection with the economic development of areas in proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot;
- ▶ provides that a public transit district may only assist in the economic development of certain areas in certain ways and on no more than five transit-oriented developments or transit-supportive development;
- ▶ provides that a public transit district may not invest in a transit-oriented development or a transit-support development as a limited partner or other limited liability unless certain circumstances apply;

H→ ▶ provides that a current board member of a public transit district may not have any interest in certain transactions engaged in by the public transit district; ←H



26 ▶ increases the number of members on the board of trustees of a public transit district
27 with more than 200,000 people residing within the boundaries of the public transit
28 district and amends apportionment provisions relating to the board of trustees;

29 ~~HB~~ → [→ ~~repeals certain term limitation requirements for board of trustees members;~~] ← ~~HB~~

30 ▶ authorizes a board of trustees to appoint a chief executive officer in place of or in
31 addition to a general manager and allows the board of trustees to allocate duties
32 between the general manager and the chief executive officer;

33 ▶ repeals certain public notice requirements relating to a public transit district bidding
34 certain construction projects;

35 ▶ amends provisions relating to criminal background checks for public transit district
36 employees;

37 ▶ exempts a public transit pass issued by a public transit district from the requirement
38 that a document may only be issued to a United States Citizen, a national, or a legal
39 permanent resident alien; and

40 ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides an immediate effective date.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **17B-2a-802**, as last amended by Laws of Utah 2009, Chapter 364

48 **17B-2a-804**, as last amended by Laws of Utah 2008, Chapter 360

49 **17B-2a-807**, as last amended by Laws of Utah 2009, Chapter 364

50 **17B-2a-808**, as last amended by Laws of Utah 2008, Chapter 39

51 **17B-2a-810**, as last amended by Laws of Utah 2008, Chapter 39

52 **17B-2a-811**, as enacted by Laws of Utah 2007, Chapter 329

53 **17B-2a-818**, as last amended by Laws of Utah 2009, Chapter 13

54 **17B-2a-825**, as enacted by Laws of Utah 2009, Chapter 364

55 **63G-11-102**, as last amended by Laws of Utah 2009, Chapter 315



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

58 Section 1. Section **17B-2a-802** is amended to read:

59 **17B-2a-802. Definitions.**

60 As used in this part:

61 (1) "Appointing entity" means the person, county, unincorporated area of a county, or
62 municipality appointing a member to a public transit district board of trustees.

63 (2) (a) "Chief executive officer" means a person appointed by the board of trustees to
64 serve as chief executive officer.

65 (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities
66 defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and
67 responsibilities assigned to the general manager but prescribed by the board of trustees to be
68 fulfilled by the chief executive officer.

69 [~~2~~] (3) "Department" means the Department of Transportation created in Section
70 72-1-201.

71 (4) (a) "General manager" means a person appointed by the board of trustees to serve
72 as general manager.

73 (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in
74 Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees.

75 [~~3~~] (5) (a) "Locally elected public official" means a person who holds an elected
76 position with a county or municipality.

77 (b) "Locally elected public official" does not include a person who holds an elected
78 position if the elected position is not with a county or municipality.

79 [~~4~~] (6) "Multicounty district" means a public transit district located in more than one
80 county.

81 [~~5~~] (7) "Operator" means a public entity or other person engaged in the transportation
82 of passengers for hire.

83 [~~6~~] (8) "Public transit" means the transportation of passengers only and their
84 incidental baggage by means other than:

85 (a) chartered bus;

86 (b) sightseeing bus;

87 (c) taxi; or

88 (d) other vehicle not on an individual passenger fare paying basis.

89 [~~7~~] (9) "Transit facility" means a transit vehicle, transit station, depot, passenger

90 loading or unloading zone, parking lot, or other facility:

91 (a) leased by or operated by or on behalf of a public transit district; and

92 (b) related to the public transit services provided by the district, including:

93 (i) railway or other right-of-way;

94 (ii) railway line; and

95 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by

96 a transit vehicle.

97 (10) "Transit-oriented development" means a mixed-use residential or commercial area

98 that is designed to maximize access to public transit.

99 [~~8~~] (11) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle

100 operated as public transportation by a public transit district.

101 Section 2. Section **17B-2a-804** is amended to read:

102 **17B-2a-804. Additional public transit district powers.**

103 (1) In addition to the powers conferred on a public transit district under Section

104 17B-1-103, a public transit district may:

105 (a) provide a public transit system for the transportation of passengers and their

106 incidental baggage;

107 (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817,

108 levy and collect property taxes only for the purpose of paying:

109 (i) principal and interest of bonded indebtedness of the public transit district; or

110 (ii) a final judgment against the public transit district if:

111 (A) the amount of the judgment exceeds the amount of any collectable insurance or

112 indemnity policy; and

113 (B) the district is required by a final court order to levy a tax to pay the judgment;

114 (c) insure against:

115 (i) loss of revenues from damage to or destruction of some or all of a public transit

116 system from any cause;

117 (ii) public liability;

118 (iii) property damage; or

- 119 (iv) any other type of event, act, or omission;
- 120 (d) acquire, contract for, lease, construct, own, operate, control, or use:
- 121 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
- 122 parking lot, or any other facility necessary or convenient for public transit service; or
- 123 (ii) any structure necessary for access by persons and vehicles;
- 124 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
- 125 equipment, service, employee, or management staff of an operator; and
- 126 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
- 127 public interest;
- 128 (f) operate feeder bus lines and other feeder services as necessary;
- 129 (g) accept a grant, contribution, or loan, directly through the sale of securities or
- 130 equipment trust certificates or otherwise, from the United States, or from a department,
- 131 instrumentality, or agency of the United States, to:
- 132 (i) establish, finance, participate as a limited partner or member in a development with
- 133 limited liabilities in accordance with Subsection (1)(l), construct, improve, maintain, or operate
- 134 transit facilities [~~and~~], equipment, and transit-oriented developments or transit-supportive
- 135 developments; or
- 136 (ii) study and plan transit facilities in accordance with any legislation passed by
- 137 Congress;
- 138 (h) cooperate with and enter into an agreement with the state or an agency of the state
- 139 to establish transit facilities and equipment or to study or plan transit facilities;
- 140 (i) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds,
- 141 to carry out the purposes of the district;
- 142 (j) from bond proceeds or any other available funds, reimburse the state or an agency of
- 143 the state for an advance or contribution from the state or state agency; [~~and~~]
- 144 (k) do anything necessary to avail itself of any aid, assistance, or cooperation available
- 145 under federal law, including complying with labor standards and making arrangements for
- 146 employees required by the United States or a department, instrumentality, or agency of the
- 147 United States[-]; and
- 148 (l) subject to the restriction in Subsection (2), assist in a transit-oriented development
- 149 or a transit-supportive development in connection with the economic development of areas in

150 proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot, by:

151 (i) investing in a project as a limited partner or a member, with limited liabilities; or

152 (ii) subordinating an ownership interest in real property owned by the public transit

153 district.

154 (2) (a) A public transit district may only assist in the economic development of areas
155 under Subsection (1)(l):

156 (i) in the manner described in Subsection (1)(l)(i) or (ii); and

157 (ii) on no more than five transit-oriented developments or transit-supportive
158 developments selected by the board of trustees.

159 (b) A public transit district may not invest in a transit-oriented development or
160 transit-supportive development as a limited partner or other limited liability entity under the
161 provisions of Subsection (1)(l)(i), unless the partners, developer, or other investor in the entity,
162 makes an equity contribution equal to no less than 25% of the appraised value of the property
163 to be contributed by the public transit district.

163a **Ĥ→ (c) A current board member of a public transit district to which the board member**
163b **is appointed may not have any interest in the transactions engaged in by the public transit**
163c **district pursuant to Subsection (1)(l), except as may be required by the board member's**
163d **fiduciary duty as a board member. ←Ĥ**

164 ~~[(2)]~~ (3) A public transit district may be funded from any combination of federal, state,
165 or local funds.

166 ~~[(3)]~~ (4) A public transit district may not acquire property by eminent domain.

167 Section 3. Section **17B-2a-807** is amended to read:

168 **17B-2a-807. Public transit district board of trustees -- Appointment --**
169 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

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

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

179 (c) The board of trustees of a public transit district under this Subsection (1) may
180 include a member that is a commissioner on the Transportation Commission created in Section

181 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex
182 officio member.

183 (d) Members appointed under this Subsection (1) shall be appointed and added to the
184 board or omitted from the board at the time scheduled routes are changed, or as municipalities,
185 counties, or unincorporated areas of counties annex to or withdraw from the district using the
186 same appointment procedures.

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

193 (2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the
194 boundaries of a public transit district, the board of trustees shall consist of:

195 (i) [~~10~~] 11 members:

196 (A) appointed as described under this Subsection (2); or

197 (B) retained in accordance with Section 17B-2a-807.5;

198 (ii) three members appointed as described in Subsection (4); and

199 (iii) one voting member appointed as provided in Subsection (11).

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

202 (i) the proportion of population included in the district and residing within each county,
203 rounded to the nearest [~~1/10~~] 1/11 of the total transit district population; and

204 (ii) the cumulative proportion of transit sales and use tax collected from areas included
205 in the district and within each county, rounded to the nearest [~~1/10~~] 1/11 of the total cumulative
206 transit sales and use tax collected for the transit district.

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

211 (d) (i) If rounding to the nearest [~~1/10~~] 1/11 of the total public transit district

212 apportionment basis under Subsection (2)(b) results in an apportionment of more than ~~[+]~~ 11
213 members, the county or combination of counties with the smallest additional fraction of a
214 whole member proportion shall have one less member apportioned to it.

215 (ii) If rounding to the nearest ~~[+]~~ 1/11 of the total public transit district
216 apportionment basis under Subsection (2)(b) results in an apportionment of less than ~~[+]~~ 11
217 members, the county or combination of counties with the largest additional fraction of a whole
218 member proportion shall have one more member apportioned to it.

219 (e) If the population in the unincorporated area of a county is at least ~~[+]~~ 140,000 of the
220 ~~district's population]~~ 140,000, the county executive, with the advice and consent of the county
221 legislative body, shall appoint one voting member to represent ~~[each 1/10 of]~~ the ~~[district's]~~
222 population within a county's unincorporated area ~~[population]~~.

223 (f) If a municipality's population is at least 160,000, the chief municipal executive,
224 with the advice and consent of the municipal legislative body, shall appoint one voting member
225 to represent the population within a municipality.

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

229 (ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member
230 appointed by an appointing entity may be a locally elected public official.

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

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

237 (j) (i) Except as provided under Subsections (2)(e) and (f), voting members
238 representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities
239 within the county shall be designated and appointed by a simple majority of the chief
240 executives of the municipalities within the county or combinations of counties if Subsection
241 (2)(c) applies.

242 (ii) The appointments shall be made by joint written agreement of the appointing

243 municipalities, with the consent and approval of the county legislative body of the county that
244 has at least [~~1/10~~] 1/11 of the district's apportionment basis.

245 (k) Voting members representing a municipality or combination of municipalities shall
246 be designated and appointed by the chief executive officer of the municipality or simple
247 majority of chief executive officers of municipalities with the consent of the legislative body of
248 the municipality or municipalities.

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

251 (m) Each voting member shall be a bona fide resident of the municipality, county, or
252 unincorporated area or areas which the voting member is to represent for at least six months
253 before the date of appointment, and must continue in that residency to remain qualified to serve
254 as a voting member.

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

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

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

262 (o) (i) The board shall be apportioned as provided under this section in conjunction
263 with the decennial United States Census Bureau report every 10 years.

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

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

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

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

273 (vi) The appointing entities losing a board member shall inform the board of which

274 member currently serving on the board will step down:

275 (A) upon appointment of a new member under Subsection (2)(o)(v); or

276 (B) in accordance with Section 17B-2a-807.5.

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

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

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

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

284 (c) one member appointed by the governor.

285 (5) (a) Except as provided in Section 17B-2a-807.5, the terms of office of the voting
286 members of the board shall be four years or until a successor is appointed, qualified, seated,
287 and has taken the oath of office.

288 (b) ~~H~~→ [F] (i) [H] ←~~H~~ A voting member may not be appointed for more than three
288a successive full

289 terms ~~H~~→ [F] regardless of the appointing entity that appoints the voting member [H] ←~~H~~ .

290 ~~H~~→ [F] (ii) A person: [H]

291 [F] (A) may serve no more than 12 years on a public transit district board of trustees
292 described in Subsection (2)(a) regardless of the appointing entity that appoints the member;
293 and [H]

294 [F] (B) that has served 12 years on a public transit district board of trustees described in
295 Subsection (2)(a) is ineligible for reappointment to a public transit board of trustees described
296 in Subsection (2)(a). [H] ←~~H~~

297 (6) (a) Vacancies for voting members shall be filled by the official appointing the
298 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy
299 within 90 days.

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

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

304 (7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and

305 ordinances coming before the board of trustees.

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

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

311 (8) Each public transit district shall pay to each voting member:

312 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed
313 \$200 in any calendar month to any voting member; and

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

316 (9) (a) Members of the initial board of trustees shall convene at the time and place
317 fixed by the chief executive officer of the entity initiating the proceedings.

318 (b) The board of trustees shall elect from its voting membership a chair, vice chair, and
319 secretary.

320 (c) The members elected under Subsection (9)(b) shall serve for a period of two years
321 or until their successors shall be elected and qualified.

322 (d) On or after January 1, 2011, a locally elected public official is not eligible to serve
323 as the chair, vice chair, or secretary of the board of trustees.

324 (10) Except as otherwise authorized under Subsection (2)(g) and Section
325 17B-2a-807.5, at the time of a voting member's appointment or during a voting member's
326 tenure in office, a voting member may not hold any employment, except as an independent
327 contractor or locally elected public official, with a county or municipality within the district.

328 (11) The Transportation Commission created in Section 72-1-301:

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

332 (b) for a public transit district serving a population of more than 200,000 people, shall
333 appoint a commissioner of the Transportation Commission to serve on the board of trustees as
334 a voting member.

335 (12) (a) (i) Each member of the board of trustees of a public transit district is subject to

336 recall at any time by the legislative body of the county or municipality from which the member
337 is appointed.

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

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

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

344 (c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or
345 resigns under this Subsection (12), the vacancy shall be filled as provided in Subsection (6).

346 Section 4. Section **17B-2a-808** is amended to read:

347 **17B-2a-808. Public transit district board of trustees powers and duties --**

348 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

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

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

352 (a) appoint and fix the salary of a general manager, a chief executive officer, or both, as
353 provided in Section 17B-2a-811;

354 (b) determine the transit facilities that the district should acquire or construct;

355 (c) supervise and regulate each transit facility that the district owns and operates,
356 including:

357 (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals,
358 and charges; and

359 (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or
360 in connection with a transit facility that the district owns or controls;

361 (d) control the investment of all funds assigned to the district for investment, including
362 funds:

363 (i) held as part of a district's retirement system; and

364 (ii) invested in accordance with the participating employees' designation or direction
365 pursuant to an employee deferred compensation plan established and operated in compliance
366 with Section 457 of the Internal Revenue Code;

367 (e) invest all funds according to the procedures and requirements of Title 51, Chapter
368 7, State Money Management Act;

369 (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's
370 services from the interest earnings of the investment fund for which the custodian is appointed;

371 (g) (i) cause an annual audit of all district books and accounts to be made by an
372 independent certified public accountant;

373 (ii) as soon as practicable after the close of each fiscal year, submit to the chief
374 administrative officer and legislative body of each county and municipality with territory
375 within the district a financial report showing:

376 (A) the result of district operations during the preceding fiscal year; and

377 (B) the district's financial status on the final day of the fiscal year; and

378 (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon
379 request in a quantity that the board considers appropriate;

380 (h) report at least annually to the Transportation Commission created in Section
381 72-1-301 the district's short-term and long-range public transit plans, including the transit
382 portions of applicable regional transportation plans adopted by a metropolitan planning
383 organization established under 23 U.S.C. Sec. 134;

384 (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits
385 that the board of trustees determines to be the most critical to the success of the organization;
386 and

387 (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).

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

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

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

393 (ii) necessary for:

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

395 (B) the execution of district powers; and

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

397 (b) provide by resolution, under terms and conditions the board considers fit, for the

398 payment of demands against the district without prior specific approval by the board, if the
399 payment is:

- 400 (i) for a purpose for which the expenditure has been previously approved by the board;
- 401 (ii) in an amount no greater than the amount authorized; and
- 402 (iii) approved by the general manager or other officer or deputy as the board prescribes;
- 403 (c) (i) hold public hearings and subpoena witnesses; and
- 404 (ii) appoint district officers to conduct a hearing and require the officers to make
405 findings and conclusions and report them to the board; and
- 406 (d) appoint a custodian for the funds and securities under its control, subject to
407 Subsection (2)(f).

408 (4) A member of the board of trustees of a public transit district or a hearing officer
409 designated by the board may administer oaths and affirmations in a district investigation or
410 proceeding.

411 (5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote
412 with each affirmative and negative vote recorded.

413 (b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or
414 order by voice vote.

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

417 (c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public
418 transit district may not adopt an ordinance unless it is:

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

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

422 (ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote
423 of all board members present at a meeting at which at least 3/4 of all board members are
424 present.

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

427 Section 5. Section **17B-2a-810** is amended to read:

428 **17B-2a-810. Officers of a public transit district.**

429 (1) (a) The officers of a public transit district shall consist of:
430 (i) the members of the board of trustees;
431 (ii) a [~~president~~] chair and vice [~~president~~] chair, appointed by the board of trustees,
432 subject to Subsection (1)[~~(b)~~](c);
433 (iii) a secretary, appointed by the board of trustees;
434 (iv) a general manager, appointed by the board of trustees as provided in Section
435 17B-2a-811[~~;~~], whose duties may be allocated by the board of trustees, at the board of trustees'
436 discretion, to a chief executive officer, or both;
437 (v) a chief executive officer appointed by the board of trustees, as provided in Section
438 17B-2a-811;
439 [~~(vi)~~] (vi) a general counsel, appointed by the board of trustees, subject to Subsection
440 (1)[~~(c)~~](d);
441 [~~(vii)~~] (vii) a treasurer, appointed as provided in Section 17B-1-633;
442 [~~(viii)~~] (viii) a comptroller, appointed by the board of trustees, subject to Subsection
443 (1)[~~(d)~~](e);
444 [~~(viii)~~] (ix) an internal auditor, appointed by the board of trustees, subject to
445 Subsection (1)[~~(c)~~](f); and
446 [~~(ix)~~] (x) other officers, assistants, and deputies that the board of trustees considers
447 necessary.
448 (b) The board of trustees may, at its discretion, appoint a president, who shall also be
449 considered an officer of a public transit district.
450 [~~(b)~~] (c) The district [~~president~~] chair and vice [~~president~~] chair shall be members of
451 the board of trustees.
452 [~~(c)~~] (d) The person appointed as general counsel shall:
453 (i) be admitted to practice law in the state; and
454 (ii) have been actively engaged in the practice of law for at least seven years next
455 preceding the appointment.
456 [~~(d)~~] (e) The person appointed as comptroller shall have been actively engaged in the
457 practice of accounting for at least seven years next preceding the appointment.
458 [~~(e)~~] (f) The person appointed as internal auditor shall be a licensed certified internal
459 auditor or certified public accountant with at least five years experience in the auditing or

460 public accounting profession, or the equivalent, prior to appointment.

461 (2) (a) The district's general manager or chief executive officer, as the board prescribes,
462 shall appoint all officers and employees not specified in Subsection (1).

463 (b) Each officer and employee appointed by the district's general manager or chief
464 executive officer serves at the pleasure of the appointing general manager or chief executive
465 officer.

466 (3) The board of trustees shall by ordinance or resolution fix the compensation of all
467 district officers and employees, except as otherwise provided in this part.

468 (4) (a) Each officer appointed by the board of trustees or by the district's general
469 manager or chief executive officer shall take the oath of office specified in Utah Constitution
470 Article IV, Section 10.

471 (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district
472 secretary no later than 15 days after the commencement of the officer's term of office.

473 Section 6. Section **17B-2a-811** is amended to read:

474 **17B-2a-811. General manager or chief executive officer of a public transit**
475 **district.**

476 (1) (a) The board of trustees of a public transit district shall appoint a person as a
477 general manager.

478 (b) The board of trustees of a public transit district may, at its discretion, appoint a
479 person as a chief executive officer.

480 (c) The board of trustees of a public transit district shall allocate the responsibilities
481 defined in Subsection (2) between the general manager and the chief executive officer, if the
482 board of trustees appoints a chief executive officer.

483 (d) The chief executive officer shall have the same rights allocated to the general
484 manager under Subsections (3) and (4).

485 [~~(b)~~] (e) The appointment of a general manager, chief executive officer, or both, shall
486 be by the affirmative vote of a majority of all members of the board of trustees.

487 [~~(c)~~] (f) The board's appointment of a person as general manager, chief executive
488 officer, or both, shall be based on the person's qualifications, with special reference to the
489 person's actual experience in or knowledge of accepted practices with respect to the duties of
490 the office.

491 [~~(d)~~] (g) A person appointed as general manager or chief executive officer of a public
492 transit district is not required to be a resident of the state at the time of appointment.

493 (2) [~~Each~~] A general manager or chief executive officer of a public transit district shall
494 have the following responsibilities as allocated by the board of trustees:

495 (a) be a full-time officer and devote full time to the district's business;

496 (b) ensure that all district ordinances are enforced;

497 (c) prepare and submit to the board of trustees, as soon as practical but not less than 45
498 days after the end of each fiscal year, a complete report on the district's finances and

499 administrative activities for the preceding year;

500 (d) keep the board of trustees advised as to the district's needs;

501 (e) prepare or cause to be prepared all plans and specifications for the construction of
502 district works;

503 (f) cause to be installed and maintained a system of auditing and accounting that
504 completely shows the district's financial condition at all times; and

505 (g) attend meetings of the board of trustees.

506 (3) A general manager of a public transit district:

507 (a) serves at the pleasure of the board of trustees;

508 (b) holds office for an indefinite term;

509 (c) may be removed by the board of trustees upon the adoption of a resolution by the
510 affirmative vote of a majority of all members of the board, subject to Subsection (5);

511 (d) has full charge of:

512 (i) the acquisition, construction, maintenance, and operation of district facilities; and

513 (ii) the administration of the district's business affairs;

514 (e) is entitled to participate in the deliberations of the board of trustees as to any matter
515 before the board; and

516 (f) may not vote at a meeting of the board of trustees.

517 (4) The board of trustees may not reduce the general manager's salary below the
518 amount fixed at the time of original appointment unless:

519 (a) the board adopts a resolution by a vote of a majority of all members; and

520 (b) if the general manager demands in writing, the board gives the general manager the
521 opportunity to be publicly heard at a meeting of the board before the final vote on the

522 resolution reducing the general manager's salary.

523 (5) (a) Before adopting a resolution providing for a general manager's removal as
524 provided in Subsection (3)(c), the board shall, if the manager makes a written demand:

525 (i) give the general manager a written statement of the reasons alleged for the general
526 manager's removal; and

527 (ii) allow the general manager to be publicly heard at a meeting of the board of
528 trustees.

529 (b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district
530 may suspend a general manager from office pending and during a hearing under Subsection
531 (5)(a)(ii).

532 (6) The action of a board of trustees suspending or removing a general manager or
533 reducing the general manager's salary is final.

534 Section 7. Section **17B-2a-818** is amended to read:

535 **17B-2a-818. Requirements applicable to public transit district contracts.**

536 [~~(1) If the expenditure required to construct district facilities or works exceeds:~~]

537 [~~(a) \$25,000, the construction shall be let as provided in Title 63G, Chapter 6, Utah
538 Procurement Code; and]~~

539 (1) A public transit district shall comply with the applicable provisions of Title 63G,
540 Chapter 6, Utah Procurement Code.

541 [~~(b)~~] (2) If construction of a district facility or work exceeds \$750,000, the construction
542 shall be let as provided in:

543 [~~(i)~~] (a) Title 63G, Chapter 6, Utah Procurement Code; and

544 [~~(ii)~~] (b) Section 17B-2a-818.5.

545 [~~(2) (a) The board of trustees of a public transit district shall advertise each bid or
546 proposal through public notice as the board determines:]~~

547 [~~(b) A notice under Subsection (2)(a) may:]~~

548 [~~(i) include publication in:]~~

549 [~~(A) a newspaper of general circulation in the district;]~~

550 [~~(B) a trade journal; or]~~

551 [~~(C) other method determined by the board; and]~~

552 [~~(ii) be made at least once, not less than 10 days before the expiration of the period~~

553 ~~within which bids or proposals are received.]~~

554 ~~[(3) (a) The board of trustees may, in its discretion:]~~

555 ~~[(i) reject any or all bids or proposals; and]~~

556 ~~[(ii) readvertise or give notice again.]~~

557 ~~[(b) If, after rejecting bids or proposals, the board of trustees determines and declares~~

558 ~~by a two-thirds vote of all members present that in the board's opinion the supplies, equipment,~~

559 ~~and materials may be purchased at a lower price in the open market, the board may purchase~~

560 ~~the supplies, equipment, and materials in the open market, notwithstanding any provisions~~

561 ~~requiring contracts, bids, proposals, advertisement, or notice.]~~

562 ~~[(4) The board of trustees of a public transit district may let a contract without~~

563 ~~advertising for or inviting bids if:]~~

564 ~~[(a) the board finds, upon a two-thirds vote of all members present, that a repair,~~

565 ~~alteration, or other work or the purchase of materials, supplies, equipment, or other property is~~

566 ~~of urgent necessity; or]~~

567 ~~[(b) the district's general manager certifies by affidavit that there is only one source for~~

568 ~~the required supplies, equipment, materials, or construction items.]~~

569 ~~[(5) If a public transit district retains or withholds any payment on a contract with a~~

570 ~~private contractor to construct facilities under this section, the board shall retain or withhold~~

571 ~~and release the payment as provided in Section 13-8-5.]~~

572 Section 8. Section **17B-2a-825** is amended to read:

573 **17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

574 (1) A public transit district may require an individual described in Subsection (2) to:

575 (a) submit a fingerprint card in a form acceptable to the public transit district; and

576 (b) consent to a fingerprint background check by:

577 (i) the Utah Bureau of Criminal Identification; and

578 (ii) the Federal Bureau of Investigation.

579 (2) A person shall comply with the requirements of Subsection (1) if the person:

580 (a) is applying for or continuing employment with the public transit district:

581 (i) working in a safety-sensitive position or other position that may affect:

582 (A) the safety or well-being of patrons of the public transit district; or

583 (B) the safety or security of the transit buildings, stations, platforms, railways, bus

584 systems, and transit vehicles;

585 (ii) handling personally identifiable information, financial information, or other
586 sensitive information including personal health information;

587 (iii) working in security-sensitive areas; or

588 (iv) handling security-sensitive information, including information system
589 technologies; or

590 (b) is seeking access to designated security-sensitive areas.

591 (3) A public transit district may use the information obtained in accordance with this
592 section only for one or more of the following purposes:

593 (a) to determine whether or not an individual is convicted of:

594 (i) a felony under federal or state law within the last 10 years;

595 (ii) a violation of a federal law, state law, or local ordinance concerning the sale,
596 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
597 beverage;

598 (iii) a crime involving moral turpitude; or

599 (iv) two or more convictions for a violation of driving under the influence of alcohol,
600 any drug, or the combined influence of alcohol and any drug;

601 (b) to determine whether or not an individual has accurately disclosed the person's
602 criminal history on an application or document filed with the public transit district;

603 (c) to approve or deny an application for employment with the public transit district; or

604 (d) to take disciplinary action against an employee of the public transit district,
605 including possible termination of employment.

606 (4) A person is not eligible for employment with a public transit district in a capacity
607 described in Subsection (2) if the person has been convicted of any of the offenses described in
608 Subsection (3).

609 Section 9. Section **63G-11-102** is amended to read:

610 **63G-11-102. Creation of identity documents -- Issuance to citizens, nationals, and**
611 **legal permanent resident aliens -- Exceptions.**

612 (1) The following entities may create, publish, or otherwise manufacture an
613 identification document, identification card, or identification certificate and possess an
614 engraved plate or other device for the printing of an identification document:

615 (a) a federal, state, or local government agency for employee identification, which is
616 designed to identify the bearer as an employee;

617 (b) a federal, state, or local government agency for purposes authorized or required by
618 law or a legitimate purpose consistent with the duties of the agency, including such documents
619 as voter identification cards, identification cards, passports, birth certificates, and Social
620 Security cards; and

621 (c) a public school or state or private educational institution to identify the bearer as an
622 administrator, faculty member, student, or employee.

623 (2) The name of the issuing entity shall be clearly printed upon the face of the
624 identification document.

625 (3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity
626 providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue
627 the document, card, or certificate only to:

628 (a) a United States citizen;

629 (b) a national; or

630 (c) a legal permanent resident alien.

631 (4) (a) Subsection (3) does not apply to an applicant for an identification document
632 who presents, in person, valid documentary evidence of the applicant's:

633 (i) unexpired immigrant or nonimmigrant visa status for admission into the United
634 States;

635 (ii) pending or approved application for asylum in the United States;

636 (iii) admission into the United States as a refugee;

637 (iv) pending or approved application for temporary protected status in the United
638 States;

639 (v) approved deferred action status; or

640 (vi) pending application for adjustment of status to legal permanent resident or
641 conditional resident.

642 (b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c)
643 identification document to an applicant who satisfies the requirements of Subsection (4)(a).

644 (ii) Except as otherwise provided by federal law, the document is valid only:

645 (A) during the period of time of the individual's authorized stay in the United States; or

646 (B) for one year from the date of issuance if there is no definite end to the individual's
647 period of authorized stay.

648 (iii) An entity issuing an identification document under this Subsection (4) shall clearly
649 indicate on the document:

650 (A) that it is temporary; and

651 (B) its expiration date.

652 (c) An individual may renew a document issued under this Subsection (4) only upon
653 presentation of valid documentary evidence that the status by which the individual originally
654 qualified for the identification document has been extended by the United States Citizenship
655 and Immigration Services or other authorized agency of the United States Department of
656 Homeland Security.

657 (5) (a) Subsection (3) does not apply to an identification document issued under
658 Subsection (1)(c) that [~~is only~~]:

659 (i) is only valid for use on the educational institution's campus or facility; and

660 (ii) includes a statement of the restricted use conspicuously printed upon the face of the
661 identification document.

662 (b) Subsection (3) does not apply to a license certificate, driving privilege card, or
663 identification card issued or renewed under Title 53, Chapter 3, Uniform Driver License Act.

664 (c) Subsection (3) does not apply to a public transit pass issued by a public transit
665 district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:

666 (i) is only valid for use on the public transit system; and

667 (ii) includes a statement of the restricted use conspicuously printed on the face of the
668 public transit pass.

669 (6) This section shall be enforced without regard to race, religion, gender, ethnicity, or
670 national origin.

671 Section 10. **Effective date.**

672 If approved by two-thirds of all the members elected to each house, this bill takes effect
673 upon approval by the governor, or the day following the constitutional time limit of Utah
674 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
675 the date of veto override.

S.B. 272 2nd Sub. (Salmon) - Amendments to Transportation Provisions

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Certain local service districts may incur costs and accrue benefits under the bill.
