

**Representative Mike Schultz** proposes the following substitute bill:

**MOUNTAINOUS PLANNING DISTRICT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike Schultz**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to mountainous planning districts.

**Highlighted Provisions:**

This bill:

- ▶ addresses municipal jurisdiction over mountainous planning districts;
- ▶ modifies the number of board members of a planning commission that are required to have ties to a mountainous planning district;
- ▶ reduces the areas that a municipal legislative body may designate as a mountainous planning district;
- ▶ enacts and amends repeal dates for provisions relating to mountainous planning districts; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides revisor instructions.

⌘→ This bill provides a coordination clause. ←⌘

**Utah Code Sections Affected:**

AMENDS:



- 26 [10-9a-304](#), as last amended by Laws of Utah 2015, Chapter 465
- 27 [17-27a-301](#), as last amended by Laws of Utah 2016, Chapter 411
- 28 [17-27a-901](#), as last amended by Laws of Utah 2016, Chapter 411
- 29 [63I-2-210](#), as last amended by Laws of Utah 2016, Chapter 14
- 30 [63I-2-217](#), as last amended by Laws of Utah 2016, Chapters 348 and 411

31 **Utah Code Sections Affected by Revisor Instructions:**

- 32 [63I-2-217](#), as last amended by Laws of Utah 2016, Chapters 348 and 411

32a **H→ Utah Code Sections Affected by Coordination Clause:**

- 32b [63I-2-210](#), as last amended by Laws of Utah 2016, Chapter 14 ←H



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

35 Section 1. Section **10-9a-304** is amended to read:

36 **10-9a-304. State and federal property -- Mountainous planning district.**

37 (1) Unless otherwise provided by law, nothing contained in this chapter may be  
38 construed as giving a municipality jurisdiction over property owned by the state or the United  
39 States.

40 (2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a  
41 municipality, a municipal planning commission, or a municipal land use authority does not  
42 have jurisdiction over property located within a mountainous planning district, as that term is  
43 defined in Section [17-27a-103](#).

44 (b) Subsection (2)(a) does not apply to a municipality if:

45 (i) (A) the municipality is wholly located within the boundaries of a mountainous  
46 planning district; and

47 (B) the municipality was incorporated before 1971;

48 (ii) the municipality exercises the municipality's extraterritorial jurisdiction under  
49 Section [10-8-15](#); or

50 (iii) subject to Subsection (2)(c), a local health authority has granted the municipality  
51 joint authority to regulate the municipality's watershed areas.

52 (c) The exception under Subsection (2)(b)(iii) applies only for matters related to  
53 regulation of the watershed within a watershed area.

54 Section 2. Section **17-27a-301** is amended to read:

55 **17-27a-301. Ordinance establishing planning commission required -- Exception --**  
56 **Ordinance requirements -- Planning advisory area planning commission --**

57 **Compensation.**

58 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance  
59 establishing a countywide planning commission for the unincorporated areas of the county not  
60 within a planning advisory area.

61 (b) Subsection (1)(a) does not apply if all of the county is included within any  
62 combination of:

63 (i) municipalities;

64 (ii) planning advisory areas with their own planning commissions; and

65 (iii) mountainous planning districts.

66 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection  
67 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,  
68 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over  
69 the entire mountainous planning district, including areas of the mountainous planning district  
70 that are also located within a municipality or are unincorporated.

71 (ii) A planning commission described in Subsection (1)(c)(i):

72 (A) does not have jurisdiction over a municipality described in Subsection  
73 10-9a-304(2)(b); and

74 (B) has jurisdiction subject to a local health department exercising its authority in  
75 accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising  
76 the municipality's authority in accordance with Section 10-8-15.

77 (iii) The ordinance shall require that:

78 (A) members of the planning commission represent areas located in the unincorporated  
79 and incorporated county;

80 (B) members of the planning commission be registered voters who reside either in the  
81 unincorporated or incorporated county;

82 (C) at least one member of the planning commission resides within the mountainous  
83 planning district and another member either resides or owns property within the mountainous  
84 planning district; and

85 (D) the county designate up to four seats on the planning commission, and fill each  
86 vacancy in the designated seats in accordance with the procedure described in Subsection (7).

87 (2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

- 88 (i) the number and terms of the members and, if the county chooses, alternate
- 89 members;
- 90 (ii) the mode of appointment;
- 91 (iii) the procedures for filling vacancies and removal from office;
- 92 (iv) the authority of the planning commission;
- 93 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
- 94 planning commission in a public meeting; and
- 95 (vi) other details relating to the organization and procedures of the planning
- 96 commission.
- 97 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
- 98 Title 52, Chapter 4, Open and Public Meetings Act.
- 99 (3) (a) (i) If the county establishes a planning advisory area planning commission, the
- 100 county legislative body shall enact an ordinance that defines:
- 101 (A) appointment procedures;
- 102 (B) procedures for filling vacancies and removing members from office;
- 103 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
- 104 planning advisory area planning commission in a public meeting; and
- 105 (D) details relating to the organization and procedures of each planning advisory area
- 106 planning commission.
- 107 (ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning
- 108 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 109 (b) The planning commission for each planning advisory area shall consist of seven
- 110 members who shall be appointed by:
- 111 (i) in a county operating under a form of government in which the executive and
- 112 legislative functions of the governing body are separated, the county executive with the advice
- 113 and consent of the county legislative body; or
- 114 (ii) in a county operating under a form of government in which the executive and
- 115 legislative functions of the governing body are not separated, the county legislative body.
- 116 (c) (i) Members shall serve four-year terms and until their successors are appointed and
- 117 qualified.
- 118 (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first

119 planning commissions shall be appointed so that, for each commission, the terms of at least one  
120 member and no more than two members expire each year.

121 (d) (i) Each member of a planning advisory area planning commission shall be a  
122 registered voter residing within the planning advisory area.

123 (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if  
124 that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory  
125 area.

126 (4) (a) A member of a planning commission who was elected to and served on a  
127 planning commission on May 12, 2015, shall serve out the term to which the member was  
128 elected.

129 (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant  
130 seat shall be filled by appointment in accordance with this section.

131 (5) Upon the appointment of all members of a planning advisory area planning  
132 commission, each planning advisory area planning commission under this section shall begin to  
133 exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all  
134 matters then pending that previously had been under the jurisdiction of the countywide  
135 planning commission or planning advisory area planning and zoning board.

136 (6) The legislative body may fix per diem compensation for the members of the  
137 planning commission, based on necessary and reasonable expenses and on meetings actually  
138 attended.

139 (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning  
140 commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

141 (b) If a county designates one or more planning commission seats under Subsection  
142 (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

143 (i) (A) are adjacent to the mountainous planning district; and

144 (B) border the entrance to a canyon that is located within the boundaries of the  
145 mountainous planning district and accessed by a paved road maintained by the county or the  
146 state; or

147 (ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

148 (c) When there is a vacancy in a planning commission seat described in Subsection  
149 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in

150 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy  
151 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

152 (d) The city shall respond to a written request described in Subsection (7)(c) within 60  
153 days after the day on which the city receives the written request.

154 (e) After the county receives the city's list of three individuals, the county shall submit  
155 one of the individuals on the list for appointment to the vacant planning commission seat in  
156 accordance with county ordinance.

157 (f) The county shall fill the vacancy in accordance with the county's standard procedure  
158 if the city fails to timely respond to the written request.

159 Section 3. Section **17-27a-901** is amended to read:

160 **17-27a-901. Mountainous planning district.**

161 (1) (a) The legislative body of a county of the first class may adopt an ordinance  
162 designating an area located within the county as a mountainous planning district if the  
163 legislative body determines that:

164 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski  
165 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas within the  
166 Wasatch Range;

167 (ii) the area is used by residents of the county who live inside and outside the limits of  
168 a municipality;

169 (iii) the total resident population in the proposed mountainous planning district is equal  
170 to or less than 5% of the population of the county; [~~and~~]

171 (iv) the area is within the unincorporated area of the county or was within the  
172 unincorporated area of the county before May 12, 2015[.]; and

173 (v) the area includes land designated as part of a national forest on or before May 9,  
174 2017.

175 (b) (i) A mountainous planning district may include within its boundaries a  
176 municipality, whether in whole or in part.

177 (ii) Except as provided in Subsection (1)(b)(iv), if a mountainous planning district  
178 includes within its boundaries an unincorporated area, and that area subsequently incorporates  
179 as a municipality:

180 (A) the area of the incorporated municipality that is located in the mountainous

181 planning district is included within the mountainous planning district boundaries; and

182 (B) property within the municipality that is also within the mountainous planning  
183 district is subject to the authority of the mountainous planning district.

184 (iii) A subdivision and zoning ordinance that governs property located within a  
185 mountainous planning district shall control over any subdivision or zoning ordinance, as  
186 applicable, that a municipality may adopt.

187 (iv) A county shall allow an area within the boundaries of a mountainous planning  
188 district to withdraw from the mountainous planning district if:

189 (A) the area contains less than 100 acres;

190 (B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4,  
191 Annexation;

192 (C) the county determines that the area does not contain United States Forest Service  
193 land or land that is designated as watershed; and

194 (D) the county determines that the area is not used by individuals for recreational  
195 purposes.

196 (v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous  
197 planning district is not subject to the authority of the mountainous planning district.

198 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a  
199 population estimate by the Utah Population Estimates Committee.

200 (d) If any portion of a proposed mountainous planning district includes a municipality  
201 with a land base of five square miles or less, the county shall ensure that all of that municipality  
202 is wholly located within the boundaries of the mountainous planning district.

203 (2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or  
204 Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision  
205 ordinance for a property that is located within:

206 (i) a mountainous planning district; and

207 (ii) a municipality.

208 (b) A county plan or zoning or subdivision ordinance governs a property described in  
209 Subsection (2)(a).

209a **Ĥ→ (3) A planning commission with jurisdiction over a mountain planning district in a county**  
209b **of the first class shall submit a report that summarizes actions the planning commission has**  
209c **taken and any recommendations regarding the mountainous planing district to the**  
209d **Legislature's Natural Resources, Agriculture, and Environment Interim Committee by no later**  
209e **than November 30 of each year. ←Ĥ**

210 Section 4. Section 63I-2-210 is amended to read:

211 **63I-2-210. Repeal dates -- Title 10.**

212 [~~(1) Subsection 10-2a-106(2), the language that states ", including a township~~  
 213 ~~incorporation procedure as defined in Section 10-2a-105," is repealed July 1, 2016.]~~

214 [~~(2) Subsection 10-2a-410(3)(d)(ii) is repealed January 1, 2017.]~~

215 [~~(3) Section 10-2a-105 is repealed July 1, 2016.]~~

216 [~~(4)~~ (1) Subsection 10-9a-304(2) is repealed June 1, [2016] 2020.

217 (2) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and  
 218 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
 219 necessary changes to subsection numbering and cross references.

220 Section 5. Section 63I-2-217 is amended to read:

221 **63I-2-217. Repeal dates -- Title 17.**

222 (1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous  
 223 planning district" is repealed June 1, [2017] 2020.

224 (2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, [2017] 2020.

225 (b) Subsection 17-27a-103(34) is repealed June 1, [2017] 2020.

226 (3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning  
 227 district area" is repealed June 1, [2017] 2020.

228 (4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, [2017] 2020.

229 (b) Subsection 17-27a-301(1)(c) is repealed June 1, [2017] 2020.

230 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection  
 231 (1)(a) or (c)" is repealed June 1, [2017] 2020.

232 (5) Subsection 17-27a-302(1), the language that states ", or mountainous planning  
 233 district" and "or the mountainous planning district," is repealed June 1, [2017] 2020.

234 (6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning  
 235 district or" and ", as applicable" is repealed June 1, [2017] 2020.

236 (7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, [2017] 2020.

237 (b) Subsection 17-27a-401(6) is repealed June 1, [2017] 2020.

238 (8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, [2017] 2020.

239 (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, [2017] 2020.

240 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning  
 241 district" is repealed June 1, [2017] 2020.

242 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning



243 district" is repealed June 1, [2017] 2020.

244 (9) Subsection [17-27a-502\(1\)\(d\)\(i\)\(B\)](#) is repealed June 1, [2017] 2020.

245 (10) Subsection [17-27a-505.5\(2\)\(a\)\(iii\)](#) is repealed June 1, [2017] 2020.

246 (11) Subsection [17-27a-602\(1\)\(b\)](#), the language that states "or, in the case of a  
247 mountainous planning district, the mountainous planning district" is repealed June 1, [2017]  
248 2020.

249 (12) Subsection [17-27a-604\(1\)\(b\)\(i\)\(B\)](#) is repealed June 1, [2017] 2020.

250 (13) Subsection [17-27a-605\(1\)](#), the language that states "or mountainous planning  
251 district land" is repealed June 1, [2017] 2020.

252 (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,  
253 [2017] 2020.

254 (15) On June 1, [2016] 2020, when making the changes in this section, the Office of  
255 Legislative Research and General Counsel shall:

256 (a) in addition to its authority under Subsection [36-12-12\(3\)](#), make corrections  
257 necessary to ensure that sections and subsections identified in this section are complete  
258 sentences and accurately reflect the office's [perception] understanding of the Legislature's  
259 intent; and

260 (b) identify the text of the affected sections and subsections based upon the section and  
261 subsection numbers used in [~~Laws of Utah 2015, Chapter 465~~] this bill.

262 Section 6. **Revisor instructions.**

263 The Legislature intends that the Office of Legislative Research and General Counsel, in  
264 preparing the Utah Code database for publication, replace the language "this bill" in Subsection  
265 [63I-2-217\(15\)\(b\)](#) with the bill's designated chapter number in the Laws of Utah.

265a **Ĥ→ Section 7. Coordinating H.B. 293 with H.B. 193 and H.B. 408 -- Superseding technical and**  
265b **substantive amendments.**

265c **If this H.B. 293, H.B. 193, Revisor's Technical Corrections to Utah Code, and H.B. 408, State**  
265d **Property and School and Institutional Trust Land Amendments, all pass and become law, it is**  
265e **the intent of the Legislature that the amendments to Section 63I-2-210 in this bill supersede the**  
265f **amendments to Section 63I-2-210 in H.B. 193 and H.B. 408, when the Office of Legislative**  
265g **Research and General Counsel prepares the Utah Code database for publication. ←Ĥ**