

1                   **MOUNTAINOUS PLANNING DISTRICT AMENDMENTS**

2                                   2017 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Mike Schultz**

5                           Senate Sponsor: Todd Weiler

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions relating to mountainous planning districts.

10 **Highlighted Provisions:**

11           This bill:

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

20 **Money Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           This bill provides revisor instructions.

24           This bill provides a coordination clause.

25 **Utah Code Sections Affected:**

26 AMENDS:

27           **10-9a-304**, as last amended by Laws of Utah 2015, Chapter 465

28           **17-27a-301**, as last amended by Laws of Utah 2016, Chapter 411

29           **17-27a-901**, as last amended by Laws of Utah 2016, Chapter 411

30 **63I-2-210**, as last amended by Laws of Utah 2016, Chapter 14

31 **63I-2-217**, as last amended by Laws of Utah 2016, Chapters 348 and 411

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

33 **63I-2-217**, as last amended by Laws of Utah 2016, Chapters 348 and 411

34 **Utah Code Sections Affected by Coordination Clause:**

35 **63I-2-210**, as last amended by Laws of Utah 2016, Chapter 14



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

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

39 **10-9a-304. State and federal property -- Mountainous planning district.**

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

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

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

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

50 (B) the municipality was incorporated before 1971;

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

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

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

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

58           **17-27a-301. Ordinance establishing planning commission required -- Exception --**  
59 **Ordinance requirements -- Planning advisory area planning commission --**  
60 **Compensation.**

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

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

- 66           (i) municipalities;
- 67           (ii) planning advisory areas with their own planning commissions; and
- 68           (iii) mountainous planning districts.

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

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

75           (A) does not have jurisdiction over a municipality described in Subsection  
76 [10-9a-304\(2\)\(b\)](#); and

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

80           (iii) The ordinance shall require that:

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

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

85           (C) at least one member of the planning commission resides within the mountainous

86 planning district and another member either resides or owns property within the mountainous  
87 planning district; and

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

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

91 (i) the number and terms of the members and, if the county chooses, alternate  
92 members;

93 (ii) the mode of appointment;

94 (iii) the procedures for filling vacancies and removal from office;

95 (iv) the authority of the planning commission;

96 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the  
97 planning commission in a public meeting; and

98 (vi) other details relating to the organization and procedures of the planning  
99 commission.

100 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with  
101 Title 52, Chapter 4, Open and Public Meetings Act.

102 (3) (a) (i) If the county establishes a planning advisory area planning commission, the  
103 county legislative body shall enact an ordinance that defines:

104 (A) appointment procedures;

105 (B) procedures for filling vacancies and removing members from office;

106 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the  
107 planning advisory area planning commission in a public meeting; and

108 (D) details relating to the organization and procedures of each planning advisory area  
109 planning commission.

110 (ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning  
111 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

112 (b) The planning commission for each planning advisory area shall consist of seven  
113 members who shall be appointed by:

114 (i) in a county operating under a form of government in which the executive and  
115 legislative functions of the governing body are separated, the county executive with the advice  
116 and consent of the county legislative body; or

117 (ii) in a county operating under a form of government in which the executive and  
118 legislative functions of the governing body are not separated, the county legislative body.

119 (c) (i) Members shall serve four-year terms and until their successors are appointed and  
120 qualified.

121 (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first  
122 planning commissions shall be appointed so that, for each commission, the terms of at least one  
123 member and no more than two members expire each year.

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

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

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

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

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

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

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

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

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

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

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

151 (c) When there is a vacancy in a planning commission seat described in Subsection  
152 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in  
153 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy  
154 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

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

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

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

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

163 **17-27a-901. Mountainous planning district.**

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

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

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

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

174 (iv) the area is within the unincorporated area of the county or was within the  
175 unincorporated area of the county before May 12, 2015[-]; and

176 (v) the area includes land designated as part of a national forest on or before May 9,  
177 2017.

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

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

183 (A) the area of the incorporated municipality that is located in the mountainous  
184 planning district is included within the mountainous planning district boundaries; and

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

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

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

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

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

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

197 (D) the county determines that the area is not used by individuals for recreational

198 purposes.

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

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

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

206 (2) (a) Notwithstanding Subsection [10-9a-102\(2\)](#), [17-34-1\(2\)\(a\)](#), or [17-50-302\(1\)\(b\)](#), or  
207 Section [17-50-314](#), a county may adopt a general plan and adopt a zoning or subdivision  
208 ordinance for a property that is located within:

209 (i) a mountainous planning district; and

210 (ii) a municipality.

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

213 (3) A planning commission with jurisdiction over a mountainous planning district in a  
214 county of the first class shall submit a report that summarizes actions the planning commission  
215 has taken and any recommendations regarding the mountainous planning district to the  
216 Legislature's Natural Resources, Agriculture, and Environment Interim Committee by no later  
217 than November 30 of each year.

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

219 **63I-2-210. Repeal dates -- Title 10.**

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

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

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

224 [~~(4)~~ (1) Subsection [10-9a-304\(2\)](#) is repealed June 1, [2016] 2020.

225 (2) When repealing Subsection [10-9a-304\(2\)](#), the Office of Legislative Research and



226 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
227 necessary changes to subsection numbering and cross references.

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

229 **63I-2-217. Repeal dates -- Title 17.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

250 (d) Subsection **17-27a-403**(2)(c)(i), the language that states "or mountainous planning  
251 district" is repealed June 1, [~~2017~~] 2020.

252 (9) Subsection **17-27a-502**(1)(d)(i)(B) is repealed June 1, [~~2017~~] 2020.

253 (10) Subsection **17-27a-505.5**(2)(a)(iii) is repealed June 1, [~~2017~~] 2020.

254 (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a  
255 mountainous planning district, the mountainous planning district" is repealed June 1, [2017]  
256 2020.

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

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

260 (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,  
261 [2017] 2020.

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

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

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

270 Section 6. **Revisor instructions.**

271 The Legislature intends that the Office of Legislative Research and General Counsel, in  
272 preparing the Utah Code database for publication, replace the language "this bill" in Subsection  
273 63I-2-217(15)(b) with the bill's designated chapter number in the Laws of Utah.

274 Section 7. **Coordinating H.B. 293 with H.B. 193 -- Superseding technical and**  
275 **substantive amendments.**

276 If this H.B. 293 and H.B. 193, Revisor's Technical Corrections to Utah Code, both pass  
277 and become law, it is the intent of the Legislature that the amendments to Section 63I-2-210 in  
278 this bill supersede the amendments to Section 63I-2-210 in H.B. 193, when the Office of  
279 Legislative Research and General Counsel prepares the Utah Code database for publication.