

1st Sub. H.B. 227
SPECIAL DISTRICT ELECTIONS

SENATE FLOOR AMENDMENTS

FEBRUARY 11, 1998 4:45 PM

Senator **Waddoups** proposes the following amendments:

1. Page 1, Line 1: After "**DISTRICT**" delete "**ELECTIONS**" and insert "**CHANGES**"

2. Page 1, Line 8: After line 8 insert:

"REMOVING EXEMPTION FROM SPECIAL DISTRICT BOARD SELECTION PROCEDURES FOR WATER CONSERVANCY AND METROPOLITAN WATER DISTRICTS; REQUIRING MEMBERS OF BOARD OF DIRECTORS OF WATER CONSERVANCY AND METROPOLITAN WATER DISTRICTS TO BE ELECTED;"

3. Page 1, Line 11: After line 11 insert:

"**17A-1-301**, as last amended by Chapter 30, Laws of Utah 1992"

4. Page 1, Line 12: After line 12 insert:

"**17A-2-819**, as last amended by Chapter 10, Laws of Utah 1997"
"**17A-2-1409**, as last amended by Chapter 268, Laws of Utah 1997"

5. Page 1, Line 21: After line 21 insert:

"Section 1. Section **17A-1-301** is amended to read:
17A-1-301. Exemptions.
This part does not apply to:
(1) public transit districts established under authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
[(2) water conservancy districts established under Title 17A, Chapter 2, Part 14, Water Conservancy Districts;]

~~[(3)]~~ (2) soil conservation districts created under the authority of Title 17A, Chapter 3, Part 8, Soil Conservation Districts;
~~[(4)]~~ (3) neighborhood redevelopment agencies established under authority of Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act;
~~[(5)]~~ ~~metropolitan water districts established under authority of Title 17A, Chapter 2, Part 8, Metropolitan Water District Act;~~
~~[(6)]~~ (4) any dependent special district established under the authority of Title 17A, Chapter 3; and
~~[(7)]~~ (5) Hazardous Waste Facilities Management Authorities established under authority of Title 17A, Chapter 2, Part 17, Hazardous Waste Facilities Management Act."

6. Page 5, Line 3:

After line 3 insert:

"Section 3. Section **17A-2-819** is amended to read:

17A-2-819. Directors -- Representation -- Voting -- Organization and membership -- Terms.

(1) (a) All powers, privileges and duties vested in or imposed upon any district incorporated under this part shall be exercised and performed by and through a board of directors~~[, all the members of which]~~.

(b) Each member of a board of directors shall serve without compensation [for the terms of office as provided] and [who, in all events,] shall be [designated and appointed by the legislative body or bodies, respectively, of a city or cities the area of which is within a metropolitan water district] elected as provided in Chapter 1, Part 3, Special District Board Selection Procedures.

(c) The exercise of any and all executive, administrative, and ministerial powers may be by the board of directors delegated and redelegated to any of the offices created by this part or by the board of directors acting under this part.

(2) ~~[If the district is organized to comprise the area of two or more cities, the board of directors shall consist of at least one representative from each municipality, the area of which shall lie within the metropolitan water district. As a]~~ A member of the board of directors~~[, each representative]~~ may vote on all questions, orders,

resolutions, and ordinances coming before the board[, and may cast one vote for each \$10,000,000, or major fractional part of that amount, of the taxable value of property taxable for district purposes in the city represented by the representative as shown by the assessment records of the county and evidenced by the certificate of the county auditor. Each city shall have at least one vote. In lieu of one representative any city may at its option designate and appoint several representatives not exceeding one additional representative for each \$1,000,000 of taxable value, but the representative shall cast the vote to which the city would otherwise be entitled as a unit and as a majority of such representatives present shall determine]. The affirmative vote of [members representing] more than 50% of the total number of [votes of all the] members shall be necessary and, except as otherwise provided, shall be sufficient to carry any order, resolution, or ordinance coming before the board of directors. [For the purposes of this section, the term "major fractional part" means a fractional part larger than one-half.]

(3) If a district includes the area of only one municipality, the board of directors may consist of either five or seven members, as determined by the legislative body of the municipality. Each director may cast one vote on all matters coming before the board; on a board of five members, the affirmative vote of three, and on a board of seven members, the affirmative vote of four, shall, except as otherwise provided, be necessary and sufficient to carry any order, resolution, or ordinance coming before the board.

(4) Members of the board of directors of any metropolitan water district who have been [~~appointed as provided~~] elected shall convene at the time and place fixed by the presiding officer of the municipality initiating the proceedings, and immediately upon convening, the board of directors shall elect from its membership a chairman, a vice-chairman, and a secretary, who shall serve for a period of two years, or until sooner recalled or resigning, or until a successor is elected and qualified.

(5) Every member of the board of directors of a metropolitan water district shall be a registered voter[, a property taxpayer,] and a resident of the [municipality by the legislative body of which the

member is appointed] metropolitan water district. [In each municipality, the area of which is in a metropolitan water district, except in districts occupying the area of more than one city, one of the directors appointed by its legislative body to the board of directors shall be the commissioner of water supply and waterworks, or other comparable officer, however designated, who is in charge of the municipality's water supply and distribution system, if municipally owned, and who shall be known as the ex officio director. Except for the ex officio director, all other elected or appointed officers, or the employees of the municipality shall be ineligible for appointment to any district board; and except for the ex officio director, any member of the metropolitan water district board of directors who at a time after appointment to the board becomes elected or appointed to office in, or who becomes an employee of, the municipality in which the member resides shall immediately become disqualified as a director and shall forfeit the office, and the legislative body of the municipality shall immediately appoint a successor to serve the unexpired portion of the term of office.] The [appointment] election of directors [by the legislative body of a municipality] shall be made without regard to partisan political affiliations [from among citizens of the highest integrity, attainment, competence, and standing in the community, and it is the intent of this part that each municipality shall adhere so far as possible to a policy of continuing reappointment, at the expiration of their terms of office, of directors of high character and proven competence].

- (6) [Except as to an ex officio director, the] The terms of office of members of the board of directors are as follows:
- (a) in metropolitan water districts comprising the area of two or more cities, six years;
 - (b) in metropolitan water districts comprising the area of only one city where the number of members of the board of directors is five, one member shall be [appointed] elected for a two-year term; one for a three-year term; one for a five-year term; one for a six-year term all as determined by lot; and upon the expiration of these terms, the ensuing terms of office for each shall be six years; and
 - (c) in metropolitan water districts comprising the area of only one

city where the number of members of the board of directors is seven, two members shall be ~~[appointed]~~ elected for a two-year term; two for a four-year term and two for a six-year term, all as determined by lot; and upon the expiration of these terms, the ensuing terms of office for each shall be six years.

(7) Every member of a board of directors shall serve until the member resigns or until a successor has been duly ~~[appointed]~~ elected and qualified. Before assuming office, every director~~[-other than an ex-officio director,]~~ shall first subscribe to the constitutional oath of office of the state, and the oath shall be delivered to and retained among the records of the secretary of the district.

(8) Members of the board of directors of any metropolitan water district who are serving as such on the effective date of this ~~[amendment]~~ section and who are otherwise qualified as provided in Subsection (5), shall ~~[immediately be reappointed to office by the legislative body or bodies, respectively, of the city or cities the area of which is included in a metropolitan water district, and for the terms of office provided in Subsection (6)]~~ continue to serve until their term expires.

Section 4. Section **17A-2-1409** is amended to read:

17A-2-1409. Board of directors -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Meetings -- Reports.

(1) ~~[(a)]~~ Within 45 days after entry of the decree incorporating the district, the board of directors shall be ~~[selected]~~ elected as provided in ~~[this Subsection (1)]~~ Chapter 1, Part 3, Special District Board Selection Procedures.

~~[(b) For a district that consists of a single county, the county legislative body of that county shall appoint each director.]~~

~~[(c) (i) For a district that consists of more than a single county, the governor, with the advice and consent of the Senate, shall appoint each director from nominees submitted as provided in this Subsection (c).]~~

~~[(ii) (A) Except as provided in Subsection (1)(c)(ii)(B), in a division composed solely of incorporated cities, the legislative body of each~~

city within the division shall submit two nominees per director.]

~~[(B) Notwithstanding Subsection (1)(c)(ii)(A), the legislative body of a city may submit fewer than two nominees per director if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as director.]~~

~~[(iii) (A) Except as provided in Subsection (1)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per director.]~~

~~[(B) Notwithstanding Subsection (1)(c)(iii)(A), the county legislative body may submit fewer than three nominees per director if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as director.]~~

~~[(iv) If a director represents a division located in more than one county, the county governing bodies of those counties shall collectively compile the list of three nominees.]~~

~~[(d) In districts where substantial water is allocated for irrigated agriculture, one director appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.]~~

(2) (a) ~~[(i)]~~ The ~~[terms]~~ term of office ~~[shall be fixed so that: (A) approximately 1/4 of the directors first appointed, after organization of the district, shall serve for one year; (B) approximately 1/4 of the directors first appointed shall serve for two years; (C) approximately 1/4 of the directors first appointed shall serve for three years; and (D) the remainder of the directors shall serve for four years. (ii) All succeeding terms of office]~~ of each director shall be four years.

(b) The court shall establish the number, representation, and votes of directors for each district in the decree creating the district. The board of directors of the district shall consist of not more than 11 persons who are residents of the district. If the district consists of five or more counties, the board of directors shall consist of not more than 21 persons who are residents of the district.

~~[(c) At least 90 days before expiration of a director's term, the secretary of the board shall:]~~

~~[(i) give written notice of vacancies in any office of director and of the expiration date of terms of office of directors to the county legislative body in single county districts and to the nominating entities and the governor in all other districts; and]~~

~~[(ii) publish the notice in a newspaper having general circulation.]~~

~~[(d) (i) Upon receipt of the notice of the expiration of a director's term or notice of a vacancy in the office of director, the legislative body of the city or the county legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (1).]~~

~~[(ii) If the entity charged with nominating candidates for appointment by the governor has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the legislative body of the city or the county legislative body.]~~

~~[(iii) If the governor fails to appoint, the incumbent shall continue to serve until his successor is appointed and qualified.]~~

~~[(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of director, subject only to the advice and consent of the Senate.]~~

~~[(e)] (c) Each director shall hold office during the term for which [appointed] elected and until a successor is duly [appointed] elected and has qualified.~~

(3) Each director shall furnish a corporate surety bond at the expense of the district, in amount and form fixed and approved by the court, conditioned for the faithful performance of duties as a director.

(4) (a) An annual meeting of the board of directors shall be held on a date to be fixed by the court in the order incorporating the district. The board shall also hold special meetings at least quarterly.

(b) A report of the business transacted during the preceding year by the district, including a financial report prepared by certified public accountants, shall be filed with:

(i) the clerk of the district court;

(ii) the governing bodies of counties with lands within the district;

and

(iii) cities charged with nominating directors.

(c) No more than 14 days and no less than five days prior to the annual meeting, the district shall have published at least once in a newspaper having general circulation within the district:

(i) a notice of the annual meeting; and

(ii) the names of the directors.

(d) The district shall have published a summary of its financial report in a newspaper having general circulation within the district. The summary shall be published no later than 30 days after the date the audit report required under Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and Other Local Entities, is required to be filed with the state auditor.

(e) Subsections (4)(c) and (d) do not apply to districts with annual revenues of less than \$1,000,000."

Renumber remaining sections accordingly.