

TRANSPORTATION AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies the Utah Public Transit District Act, the Sales and Use Tax Act, and the Transportation Code to amend provisions relating to public transit districts and the Transportation Commission.

Highlighted Provisions:

This bill:

- ▶ provides that a public transit district board of trustees representing a population of more than 200,000 people shall and a public transit district board of trustees representing a population of 200,000 people or fewer may have one nonvoting, ex officio member who is a commissioner on the Transportation Commission and is appointed by the Transportation Commission;
- ▶ provides that a public transit district board of trustees shall report, at least annually, to the Transportation Commission on short-term and long-range public transit plans;
- ▶ provides that a county, city, or town may impose a public transit tax of up to 1/4 of 1% rather than 1/4 of 1%;
- ▶ provides that the Transportation Commission duties include:
 - appointing one commissioner to serve as a nonvoting, ex officio member on the board of trustees of a transit district; and
 - reviewing, at least annually, the short-term and long-range public transit plans reported by a public transit district's board of trustees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes provides an effective date.

Utah Code Sections Affected:

AMENDS:

17A-2-1038, as last amended by Chapter 9, Laws of Utah 2001

17A-2-1039, as last amended by Chapter 254, Laws of Utah 2000

59-12-501 (Effective 07/01/04), as last amended by Chapters 89 and 312, Laws of Utah
2003

72-1-303, as last amended by Chapter 131, Laws of Utah 2003

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

Section 1. Section **17A-2-1038** is amended to read:

**17A-2-1038. Board of trustees -- Appointment -- Apportionment -- Qualifications
-- Quorum -- Compensation -- Terms.**

(1) (a) All powers, privileges, and duties vested in any incorporated district shall be performed by a board of trustees.

(b) The board may delegate the exercise of any duty to any of the offices created under this part.

(2) If 200,000 people or fewer reside within the district boundaries:

(a) (i) the board of trustees shall consist of [~~trustees~~];

(A) members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one [~~trustee~~] member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year; and

~~[(b)]~~ (B) for purposes of determining membership under Subsection (2)(a)(i)(A), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district; and

(ii) the board of trustees may consist of a member that is a commissioner on the

Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (10), who shall serve as a nonvoting, ex officio member;

~~[(c) trustees]~~ (b) members appointed under this Subsection (2) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures; and

~~[(d)]~~ (c) for purposes of appointing members under Subsection (2)(b), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (2)(a), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one ~~[trustee]~~ member for each whole unit formed.

(3) (a) If more than 200,000 people reside within the district boundaries, the board of trustees shall consist of 15 ~~[trustees]~~ members appointed as described under ~~[Subsections (4) and (5)]~~ this Subsection (3) and one nonvoting, ex officio member appointed as provided in Subsection (10).

~~[(4)(a)]~~ (b) Except as provided under Subsections ~~[(4)(b) and (c)]~~ (3)(c) and (3)(d), the board shall apportion voting members to each county within the district ~~[based on: (i) from the effective date of this act until the apportionment following the year 2000 decennial United States Census Bureau report, the proportion of population included in the district and residing within each county, rounded to the nearest 1/15 of the total transit district population; and (ii) beginning with the first apportionment following the year 2000 decennial United States Census Bureau report,]~~ using an average of:

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

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

~~[(b)]~~ (c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (3) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

~~[(e)]~~ (d) If rounding to the nearest 1/15 of the total transit district apportionment basis under Subsection ~~[(4)(a)]~~ (3)(b) results in an apportionment of:

(i) more than 15 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it; or

(ii) less than 15 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

~~[(5)(a)]~~ (e) If the unincorporated area of a county is at least 1/15 of the district's population, the county executive, with the advice and consent of the county legislative body, shall appoint one ~~[trustee]~~ voting member to represent each 1/15 of the district's population within a county's unincorporated area population.

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

~~[(e)]~~ (g) The number of ~~[trustees]~~ voting members appointed from a county and municipalities within a county under Subsections ~~[(5)(a) and (b)]~~ (3)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection ~~[(4)]~~ (3).

~~[(d)]~~ (h) If the entire county is within the district, the remaining ~~[trustees]~~ voting members for the county shall represent the county or combination of counties if Subsection ~~[(4)(b)]~~ (3)(c) applies, or the municipalities within the county.

~~[(e)]~~ (i) If the entire county is not within the district, and the county is not joined with another county under Subsection ~~[(4)(b)]~~ (3)(c), the remaining ~~[trustees]~~ voting members for the county shall represent a municipality or combination of municipalities.

~~[(f)]~~ (j) Except as provided under Subsections ~~[(5)(a) and (b), trustees]~~ (3)(e) and (f), voting members representing counties, combinations of counties if Subsection ~~[(4)(b)]~~ (3)(c)

applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection ~~[(4)(b)]~~ (3)(c) applies. The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/15 of the district's apportionment basis.

~~[(g) Trustees]~~ (k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

~~[(h)]~~ (l) The appointment of ~~[trustees]~~ voting members shall be made without regard to partisan political affiliation from among citizens in the community.

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

~~[(j) (i) Each trustee whose term has not expired and is serving on the effective date of this act shall continue to serve as a trustee until the expiration of the term for which the trustee was appointed, subject to the term limitations under which the trustee was initially appointed.]~~

~~[(ii) Beginning on the effective date of this act, any vacancy for which the successor has not taken the oath of office shall be filled in the following order:]~~

~~[(A) by a municipality eligible to make an appointment under Subsection (5)(b);]~~

~~[(B) by a county eligible to make an appointment for its unincorporated area under Subsection (5)(a); and]~~

~~[(C) as otherwise provided under this section.]~~

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

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

Committee.

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

~~[(1) After the initial apportionment immediately following the effective date of this act, the]~~

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

~~[(6)]~~ (4) (a) Except the initial [trustees] members of the board, the terms of office of the [trustees] voting members of the board shall be three years or until [their successors are] a successor is appointed, qualified, seated, and [have] has taken the oath of office.

(b) At the first meeting of the initial [trustees, the directors] members of the board, voting members of the board shall designate by the drawing of lots for 1/3 of their number to serve for:

(i) one-year terms[, 1/3 for];

(ii) two-year terms[, and 1/3 for]; or

(iii) three-year terms.

(c) A [trustee] voting member may not be appointed for more than two successive full terms.

~~[(7)]~~ (5) (a) Vacancies for voting members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection ~~[(5)]~~ (3) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

~~[(8)]~~ (6) (a) Each [trustee] voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

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

(c) The affirmative vote of a majority of all [trustees] voting members present at any

meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

~~[(9)]~~ (7) The district shall pay to each ~~[trustee]~~ voting member:

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

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

~~[(10)]~~ (8) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

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

~~[(11)]~~ (9) At the time of a ~~[trustee's]~~ voting member's appointment or during a ~~[trustee's]~~ voting member's tenure in office, a ~~[trustee]~~ voting member may not hold:

(a) any elected public office with the United States, the state, or any political subdivision of either; or

(b) any employment, except as an independent contractor, with a county or municipality within the district.

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

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

(b) for public transit districts serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member.

Section 2. Section **17A-2-1039** is amended to read:

17A-2-1039. Board of trustees -- Powers and duties.

(1) The board of trustees[+] shall have the powers and duties provided under this section.

~~[(a) Shall]~~ (2) The board shall determine [what] the transit facilities that should be acquired or constructed.

~~[(b) Shall]~~ (3) The board shall supervise and regulate every transit facility owned and operated by the district, including the fixing of rates, fares, rentals, charges, and classifications thereof, and making and enforcement of rules, regulations, contracts, practices, and schedules, for or in connection with any transit facility owned or controlled by the district.

~~[(c) May]~~ (4) (a) The board may make and pass ordinances, resolutions, and orders not repugnant to the Constitution of the United States or of the state, or of the provisions of this part, necessary for the government and management of the affairs of the district for the execution of the powers vested in the district and for carrying into effect the provisions of this part.

(b) On all votes on ordinances, the roll shall be called and the ayes and nays recorded.

(c) Resolutions and orders may be adopted by voice vote of the board, but on demand of any member the roll shall be called. ~~[No ordinance shall be adopted]~~

(d) (i) Except as provided under Subsection (4)(d)(ii), an ordinance may not be adopted by the board unless it is introduced at least a day prior to the time of adoption except by unanimous vote of all members of the board present at a meeting at which there is present [not less than] at least 3/4 of all [directors; provided, that in lieu of such previous introduction or unanimous vote, any] members of the board.

(ii) In lieu of the provisions of Subsection (4)(d)(i), an ordinance may be mailed by registered mail, postage prepaid, to each member of the board of directors at least five days prior to the day upon which the ordinance [shall be] is presented for adoption.

(e) All ordinances shall take effect upon their adoption by the board, unless otherwise provided [therein] in the ordinance.

(5) The board shall fix the location of the principal place of business of the district and the location of all offices and departments.

~~[(d) Shall]~~ (6) (a) The board shall cause an annual audit be made of all books and accounts of the district by an independent certified public accountant, and shall as soon as

practicable after the close of each fiscal year submit to the chief administrative officers and legislative bodies of cities and counties within the district a financial report showing the result of operations during the preceding fiscal year and the financial status of the district on the final day ~~[thereof]~~ of the fiscal year.

(b) Copies of the report shall be supplied to the general public upon request in the quantity ~~[deemed]~~ considered appropriate by the board.

~~[(e) May]~~ (7) The board may provide by resolution, under terms and conditions it considers fit, for the payment of demands against the district, without prior specific approval by the board if ~~[the demand]~~ the payment is:

(a) for a purpose for which ~~[an]~~ the expenditure has been previously approved by the board ~~[and]~~;

(b) in an amount no greater than the amount ~~[so]~~ authorized~~[-];~~ and ~~[if the demand is]~~

(c) approved by the general manager or ~~[such]~~ any other officer or deputy as the board may prescribe.

~~[(f) May]~~ (8) (a) The board may hold public hearings, subpoena witnesses, and perform all other acts necessary to properly carry out its duties.

(b) The board may appoint other officers of the district to conduct any hearing who shall make findings and conclusions and report ~~[thereon]~~ on the findings and conclusions to the board. ~~[Each director or]~~

(9) A member of the board or designated hearing officer may administer oaths and affirmations in any district investigation or proceeding.

(10) (a) The board shall report, at least annually, the short-term and long-range public transit plans to the Transportation Commission created in Section 72-1-301.

(b) The report shall include the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134.

~~[(2)]~~ (11) The provisions of Title 17B, Chapter 2, Part 4, Board of Trustees, except Sections 17B-2-402, 17B-2-403, and 17B-2-404, apply to each public transit district to the same extent as if the public transit district were a local district under Title 17B, Chapter 2, Local

Districts.

Section 3. Section **59-12-501 (Effective 07/01/04)** is amended to read:

59-12-501 (Effective 07/01/04). Public transit tax -- Base -- Rate -- Voter approval.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in addition to other sales and use taxes, any county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of up to 1/4 of 1% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(c) (i) A county, city, or town may impose a tax under this section only if the governing body of the county, city, or town, by resolution, submits the proposal to all the qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute.

(ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an area to a public transit district or local district and approving for that annexed area the sales and use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for the area to be annexed to the public transit district or local district.

(2) (a) If only a portion of a county is included within a public transit district, the proposal may be submitted only to the qualified voters residing within the boundaries of the proposed or existing public transit district.

(b) Notice of any such election shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

(c) If a majority of the voters voting in such election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax.

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

72-1-303. Duties of commission.

The commission has the following duties:

(1) determining priorities and funding levels of projects in the state transportation systems for each fiscal year based on project lists compiled by the department;

(2) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(3) holding public hearings and otherwise providing for public input in transportation matters;

(4) making policies and rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(5) in accordance with Section 63-46b-12, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63, Chapter 46b, Administrative Procedures Act;

(6) advising the department in state transportation systems policy; ~~and~~

(7) approving settlement agreements of condemnation cases subject to Section 63-38b-401[-];

(8) in accordance with Section 17A-2-1038, appointing a commissioner to serve as a nonvoting, ex officio member on the board of trustees of a public transit district;

(9) in accordance with Section 17A-2-1039, reviewing, at least annually, the short-term and long-range public transit plans; and

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

Section 5. **Effective date.**

This bill takes effect on May 3, 2004, except that Section 59-12-501 (Effective 07/01/04) takes effect on July 1, 2004.

