



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17A-2-1038**, as last amended by Chapter 9, Laws of Utah 2001

32 **17A-2-1039**, as last amended by Chapter 254, Laws of Utah 2000

33 **72-1-303**, as last amended by Chapter 131, Laws of Utah 2003



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

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

37 **17A-2-1038. Board of trustees -- Appointment -- Apportionment -- Qualifications**  
38 **-- Quorum -- Compensation -- Terms.**

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

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

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

44 (a) (i) the board of trustees shall consist of [trustees]:

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

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

52 (ii) the board of trustees may consist of a member that is a commissioner on the  
53 Transportation Commission created in Section 72-1-301 and appointed as provided in  
54 Subsection (10), who shall serve as a nonvoting, ex officio member;

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

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

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

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

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

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

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

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

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

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

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

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

101 ~~[(e)]~~ (g) The number of ~~[trustees]~~ voting members appointed from a county and  
102 municipalities within a county under Subsections ~~[(5)(a) and (b)]~~ (3)(e) and (3)(f) shall be  
103 subtracted from the county's total voting member apportionment under this Subsection ~~[(4)]~~  
104 (3).

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

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

111 ~~[(f)]~~ (j) Except as provided under Subsections ~~[(5)(a) and (b), trustees]~~ (3)(e) and  
112 (3)(f), voting members representing counties, combinations of counties if Subsection ~~[(4)(b)]~~  
113 (3)(c) applies, or municipalities within the county shall be designated and appointed by a  
114 simple majority of the chief executives of the municipalities within the county or combinations  
115 of counties if Subsection ~~[(4)(b)]~~ (3)(c) applies. The appointments shall be made by joint  
116 written agreement of the appointing municipalities, with the consent and approval of the county  
117 legislative body of the county that has at least 1/15 of the district's apportionment basis.

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

121 the legislative body of the municipality or municipalities.

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

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

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

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

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

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

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

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

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

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

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

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

148 ~~[(6)]~~ (4) (a) Except the initial ~~[trustees]~~ members of the board, the terms of office of  
149 the ~~[trustees]~~ voting members of the board shall be three years or until ~~[their successors are]~~ a  
150 successor is appointed, qualified, seated, and ~~[have]~~ has taken the oath of office.

151 (b) At the first meeting of the initial ~~[trustees, the directors]~~ members of the board,

152 voting members of the board shall designate by the drawing of lots for 1/3 of their number to  
153 serve for;

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

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

156 (iii) three-year terms.

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

159 ~~[(7)]~~ (5) (a) Vacancies for voting members shall be filled by the official appointing the  
160 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy  
161 within 90 days.

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

164 (c) If the appointing official under Subsection ~~[(5)]~~ (3) does not fill the vacancy within  
165 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

166 ~~[(8)]~~ (6) (a) Each ~~[trustee]~~ voting member may cast one vote on all questions, orders,  
167 resolutions, and ordinances coming before the board of trustees.

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

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

174 ~~[(9)]~~ (7) The district shall pay to each ~~[trustee]~~ voting member:

175 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed  
176 \$200 in any calendar month to any trustee; and

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

179 ~~[(10)]~~ (8) (a) Members of the initial board of trustees shall convene at the time and  
180 place fixed by the chief executive officer of the entity initiating the proceedings.

181 (b) Immediately upon convening, the board of trustees shall elect from its voting  
182 membership a president, vice president, and secretary who shall serve for a period of two years

183 or until their successors shall be elected and qualified.

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

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

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

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

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

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

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

198 **17A-2-1039. Board of trustees -- Powers and duties.**

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

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

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

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

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

213 (c) Resolutions and orders may be adopted by voice vote of the board, but on demand

214 of any member the roll shall be called. [~~No ordinance shall be adopted~~]

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

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

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

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

227 [~~(d) Shall~~] (6) (a) The board shall cause an annual audit be made of all books and  
228 accounts of the district by an independent certified public accountant, and shall as soon as  
229 practicable after the close of each fiscal year submit to the chief administrative officers and  
230 legislative bodies of cities and counties within the district a financial report showing the result  
231 of operations during the preceding fiscal year and the financial status of the district on the final  
232 day [~~thereof~~] of the fiscal year.

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

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

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

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

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

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



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

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

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

252 ~~[(2)]~~ (11) The provisions of Title 17B, Chapter 2, Part 4, Board of Trustees, except  
253 Sections 17B-2-402, 17B-2-403, and 17B-2-404, apply to each public transit district to the  
254 same extent as if the public transit district were a local district under Title 17B, Chapter 2,  
255 Local Districts.

256 Section 3. Section **72-1-303** is amended to read:

257 **72-1-303. Duties of commission.**

258 The commission has the following duties:

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

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

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

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

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

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

272 (7) approving settlement agreements of condemnation cases subject to Section  
273 63-38b-401[-];

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

276           (9) in accordance with Section 17A-2-1039, reviewing, at least annually, the short-term  
277 and long-range public transit plans; and  
278           (10) reviewing administrative rules made, amended, or repealed by the department.

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**Legislative Review Note**  
**as of 2-6-04 6:33 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0157**

**Transportation Amendments**

*12-Feb-04*

*8:29 AM*

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**State Impact**

Provisions of this bill can be enacted within existing budgets.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**