

**PUBLIC TRANSIT DISTRICT AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: James M. Evans**

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**LONG TITLE**

**General Description:**

This bill modifies the Special Districts Code and the Utah Public Transit District Act to amend provisions relating to transit districts serving a population of more than 200,000 people.

**Highlighted Provisions:**

This bill:

- ▶ requires transit districts serving a population of more than 200,000 people to send a copy of its tentative budget and notice of the time and place for its budget hearing to each of its constituent entities 30 days prior to final adoption;
- ▶ requires transit districts serving a population of more than 200,000 people to send a copy of its annual audit report within 30 days after its presentation to the board;
- ▶ provides procedures for reapportioning representation on the board of trustees following a decennial census;
- ▶ provides board members for transit districts serving a population of more than 200,000 people shall serve for two-year terms instead of three-year terms and for up to three consecutive terms instead of two consecutive terms;
- ▶ repeals a prohibition that an elected official may not serve on the board of trustees;
- ▶ allows board members to be recalled for any reason, not just for cause, and provides procedures for recalls and resignations of board members;
- ▶ requires the board to submit agendas, notices, and minutes of board meetings to each constituent entity within certain time frames;
- ▶ provides that a municipality or county is not prohibited from providing certain transportation services; and

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**17A-1-502**, as last amended by Chapter 145, Laws of Utah 1997

**17A-1-503**, as last amended by Chapter 145, Laws of Utah 1997

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

**17A-2-1051**, as last amended by Chapter 254, Laws of Utah 2000

**17A-2-1063**, as enacted by Chapter 217, Laws of Utah 1998

ENACTS:

**17A-2-1060.1**, Utah Code Annotated 1953

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

Section 1. Section **17A-1-502** is amended to read:

**17A-1-502. Special districts to submit budgets.**

(1) (a) [~~Within~~] Except as provided in Subsection (1)(b), within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of each independent special district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

- (i) each of its constituent entities that has in writing requested a copy; and
- (ii) to each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of a public transit district serving a population of more than 200,000 people shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

(i) each of its constituent entities; and

(ii) to each of its customer agencies that has in writing requested a copy.

~~[(b)]~~ (c) The special district shall include with the tentative budget a signature sheet that includes:

(i) language that the constituent entity or customer agency received the tentative budget and has no objection to it; and

(ii) a place for the chairperson or other designee of the constituent entity or customer agency to sign.

(2) Each constituent entity and each customer agency that receives the tentative budget shall review the tentative budget submitted by the district and either:

(a) sign the signature sheet and return it to the district; or

(b) attend the budget hearing or other meeting scheduled by the district to discuss the objections to the proposed budget.

(3) (a) If any constituent entity or customer agency that received the tentative budget has not returned the signature sheet to the special district within 15 calendar days after the tentative budget was mailed, the special district shall send a written notice of the budget hearing to each constituent entity or customer agency that did not return a signature sheet and invite them to attend that hearing.

(b) If requested to do so by any constituent entity or customer agency, the special district shall schedule a meeting to discuss the budget with the constituent entities and customer agencies.

(c) At the budget hearing, the special district board shall:

(i) explain its budget and answer any questions about it;

(ii) specifically address any questions or objections raised by the constituent entity, customer agency, or those attending the meeting; and

(iii) seek to resolve the objections.

(4) Nothing in this part prevents any special district board from approving or implementing a budget over any or all constituent entity's or customer agency's protests, objections, or failure to respond.

Section 2. Section **17A-1-503** is amended to read:

**17A-1-503. Special districts to submit audit reports.**

(1) (a) ~~[Within]~~ Except as provided in Subsection (1)(b), within 30 days after it is presented to the board, the board of each independent special district with an annual budget of \$50,000 or more shall send a copy of any audit report to:

~~[(a)]~~ (i) each of its constituent entities that has in writing requested a copy; and

~~[(b)]~~ (ii) each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is presented to the board, the board of a public transit district serving a population of more than 200,000 people shall send a copy of its annual audit report to:

(i) each of its constituent entities; and

(ii) each of its customer agencies that has in writing requested a copy.

(2) Each constituent entity and each customer agency that received the audit report shall review the audit report submitted by the district and, if necessary, request a meeting with the independent special district board to discuss the audit report.

(3) At the meeting, the special district board shall:

(a) answer any questions about the audit report; and

(b) discuss their plans to implement suggestions made by the auditor.

Section 3. 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) the board of trustees shall consist of trustees appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one trustee 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;

(b) the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district;

(c) trustees 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) 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 for each whole unit formed.

(3) If more than 200,000 people reside within the district boundaries, the board of trustees shall consist of 15 trustees appointed as described under Subsections (4) and (5).

(4) (a) Except as provided under Subsections (4)(b) and (c), the board shall apportion members to each county within the district ~~[based on]~~ using an average of:

~~[(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, 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) The board shall join an entire or partial county not apportioned a member under this subsection with an adjacent county for representation. The combined apportionment basis

included in the district of both counties shall be used for the apportionment.

(c) If rounding to the nearest 1/15 of the total transit district apportionment basis under Subsection (4)(a) 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) 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 to represent each 1/15 of the district's population within a county's unincorporated area population.

(b) 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 to represent each 1/15 of the district's population within a municipality.

(c) The number of trustees appointed from a county and municipalities within a county under Subsections (5)(a) and (b) shall be subtracted from the county's total member apportionment under Subsection (4).

(d) If the entire county is within the district, the remaining trustees for the county shall represent the county or combination of counties if Subsection (4)(b) applies, or the municipalities within the county.

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

(f) Except as provided under Subsections (5)(a) and (b), trustees representing counties, combinations of counties if Subsection (4)(b) 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) 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 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) The appointment of trustees shall be made without regard to partisan political affiliation from among citizens in the community.

(i) Each trustee shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the trustee 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.

~~[(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)]~~ (j) (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 Tax Commission.

~~[(h)]~~ (k) ~~[After the initial apportionment immediately following the effective date of this act, the]~~ The board shall be apportioned as provided under this section in conjunction with the

decennial United States Census Bureau report every ten years.

(i) Within 120 days following the receipt of the population estimates under this Subsection (5)(k), the district shall reapportion representation on the board of trustees in accordance with this section.

(ii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iii) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17A-1-501.

(iv) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(v) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down upon appointment of a new member under Subsection (5)(k)(iv).

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

(b) At the first meeting of the initial trustees held after July 1, 2004, the directors shall designate by the drawing of lots [~~1/3~~] for 1/2 of their number to serve for one-year terms[~~, 1/3~~] and for 1/2 for two-year terms[~~, and 1/3 for three-year terms~~].

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

(7) (a) Vacancies 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) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

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

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



business.

(c) The affirmative vote of a majority of all trustees 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) The district shall pay to each trustee:

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

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

(10) (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 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) At the time of a trustee's appointment or during a trustee's tenure in office, a trustee 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 or elected public official, with a county or municipality within the district.

Section 4. Section **17A-2-1051** is amended to read:

**17A-2-1051. Members of board subject to recall.**

(1) (a) ~~[Every]~~ A member of the board of trustees of a district ~~[shall be]~~ is subject to recall ~~[for cause]~~ at any time by the governing body of the municipality, county, or unincorporated county area from which ~~[he]~~ the member is appointed~~[, and any]~~.

(b) A recall of a member of the board of trustees shall be made in the same manner as original appointment.

(c) The appointing entities shall provide written notice to the member of the board of trustees being recalled.

(2) Upon written notice to the board, a member [upon notice] may resign [his] the board

member's position as trustee.

(3) If a member of the board is recalled or resigns under this section, the vacancy shall be filled in accordance with Subsection 17A-2-1038(7).

Section 5. Section **17A-2-1060.1** is enacted to read:

**17A-2-1060.1. Transit districts to submit agendas and minutes of board meetings.**

(1) The board shall submit to each constituent entity as defined in Section 17A-1-501:

(a) a copy of the board agenda and a notice of the location and time of the board meeting within the same time frame provided to members of the board prior to the meeting; and

(b) a copy of the minutes of board meetings within five working days following approval of the minutes.

(2) The board may submit notices, agendas, and minutes by electronic mail if agreed to by the constituent entity as defined under Section 17A-1-501.

Section 6. Section **17A-2-1063** is amended to read:

**17A-2-1063. Transit district special services.**

(1) As used in this section, "bureau" means a recreational, tourist, or convention bureau established under Section 17-31-2.

(2) (a) A district may lease its buses to private certified public carriers or operate transit services requested by a governmental entity when a bureau certifies that privately-owned carriers furnishing like services or operating like equipment within the area served by the bureau have declined to provide the service or do not have the equipment necessary to provide the service.

(b) A district may lease its buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.

(3) A district may provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district, or may provide the transportation of passengers covered by an elderly or disabled persons program within the district where all or part of the transportation services are paid for by public funds.

(4) Notwithstanding the provisions in Subsection (3), a municipality or county is not

prohibited from providing the transportation services identified in Subsection (3).

**Section 7. Coordinating 1st Sub. S.B. 170 with H.B. 157.**

If this 1st Sub. S.B. 170 and H.B. 157, Transportation Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication, shall rewrite Subsection 17A-2-1038(6) in 1st Sub. S.B. 170 to read as follows:

"(6) (a) Except the initial members of the board, the terms of office of the voting members of the board shall be two years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(b) At the first meeting of the initial members of the board held after July 1, 2004, voting members of the board shall designate by the drawing of lots for 1/2 of their number to serve for one-year terms and 1/2 for two-year terms."