

1 **PUBLIC TRANSIT DISTRICT AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: James M. Evans**

5

LONG TITLE

6
7 **General Description:**

8 This bill modifies the Utah Public Transit District Act to amend provisions relating to
9 transit districts serving a population of more than 200,000.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends provisions for a transit district serving a population of more than 200,000
13 by creating a five member executive council with final approval powers for hiring,
14 firing, and setting of compensation for certain officers, a line-item budget veto
15 power, and veto power over any action of the board; and
16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on July 1, 2004.

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **17A-2-1038**, as last amended by Chapter 9, Laws of Utah 2001

24 **17A-2-1039**, as last amended by Chapter 254, Laws of Utah 2000

25 **17A-2-1040**, as last amended by Chapter 254, Laws of Utah 2000

26 **17A-2-1041**, as renumbered and amended by Chapter 186, Laws of Utah 1990

27 **ENACTS:**



28 **17A-2-1040.5**, Utah Code Annotated 1953

29

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

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

32 **17A-2-1038. Board of trustees -- Appointment -- Apportionment -- Qualifications**
 33 **-- Quorum -- Compensation -- Terms.**

34 (1) (a) [AH] Except as provided under Section 17A-2-1040.5, all powers, privileges,
 35 and duties vested in any incorporated district shall be performed by a board of trustees.

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

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

39 (a) the board of trustees shall consist of [~~trustees~~] members appointed by the legislative
 40 bodies of each municipality, county, or unincorporated area within any county on the basis of
 41 one [~~trustee~~] member for each full unit of regularly scheduled passenger routes proposed to be
 42 served by the district in each municipality or unincorporated area within any county in the
 43 following calendar year;

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

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

50 (d) municipalities, counties, and unincorporated areas of counties in which regularly
 51 scheduled passenger routes proposed to be served by the district in the following calendar year
 52 is less than a full unit, as defined in Subsection (2)(a), may combine with any other similarly
 53 situated municipality or unincorporated area to form a whole unit and may appoint one trustee
 54 for each whole unit formed.

55 (3) (a) If more than 200,000 people reside within the district boundaries, the board of
 56 trustees shall consist of 15 [~~trustees~~] members appointed as described under [~~Subsections (4)~~
 57 ~~and (5)] this Subsection (3).~~

58 [~~(4)(a)~~] (b) Except as provided under Subsections [~~(4)(b) and~~] (3)(c) and (3)(d), the

59 board shall apportion members to each county within the district [~~based on: (i) from the~~
60 ~~effective date of this act until the apportionment following the year 2000 decennial United~~
61 ~~States Census Bureau report, the proportion of population included in the district and residing~~
62 ~~within each county, rounded to the nearest 1/15 of the total transit district population; and (ii)~~
63 ~~beginning with the first apportionment following the year 2000 decennial United States Census~~
64 ~~Bureau report;]~~ using an average of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 ~~[(A) by a municipality eligible to make an appointment under Subsection (5)(b);]~~
122 ~~[(B) by a county eligible to make an appointment for its unincorporated area under~~
123 ~~Subsection (5)(a); and]~~
124 ~~[(C) as otherwise provided under this section.]~~
125 ~~[(K)]~~ (n) (i) All population figures used under this section shall be derived from the
126 most recent official census or census estimate of the United States Bureau of the Census.
127 (ii) If population estimates are not available from the United States Bureau of Census,
128 population figures shall be derived from the estimate from the Utah Population Estimates
129 Committee.
130 (iii) All transit sales and use tax totals shall be obtained from the State Tax
131 Commission.
132 ~~[(I) After the initial apportionment immediately following the effective date of this act,~~
133 ~~the]~~
134 (o) The board shall be apportioned as provided under this section in conjunction with
135 the decennial United States Census Bureau report every ten years.
136 ~~[(6)]~~ (4) (a) Except the initial ~~[trustees]~~ members of the board, the terms of office of
137 ~~[the trustees]~~ members of the board shall be three years or until ~~[their successors are]~~ a
138 successor is appointed, qualified, seated, and [have] has taken the oath of office.
139 (b) At the first meeting of the initial ~~[trustees, the directors]~~ members of the board, the
140 board shall designate by the drawing of lots for 1/3 of their number to serve for:
141 (i) one-year terms~~[, 1/3 for]~~;
142 (ii) two-year terms~~[, and 1/3 for]~~; or
143 (iii) three-year terms.
144 (c) A ~~[trustee]~~ member of the board may not be appointed for more than two
145 successive full terms.
146 ~~[(7)]~~ (5) (a) ~~[Vacancies shall be filled by the official appointing the member creating~~
147 ~~the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.]~~
148 Except as provided under Subsections (4)(b) and (4)(c), a vacancy on the board shall be filled
149 for the unexpired term in the same manner as original appointments under this section.
150 (b) If the appointing official under Subsection (2) does not fill the vacancy within 90
151 days, the board ~~[of trustees of the authority]~~ shall fill the vacancy.

152 (c) If the appointing official under Subsection ~~[(5)]~~ (3) does not fill the vacancy within
153 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

154 ~~[(8)]~~ (6) (a) Each ~~[trustee]~~ member of the board may cast one vote on all questions,
155 orders, resolutions, and ordinances coming before the board ~~[of trustees]~~.

156 (b) A majority of all members of the board ~~[of trustees are]~~ is a quorum for the
157 transaction of business.

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

162 ~~[(9)]~~ (7) The district shall pay to each ~~[trustee]~~ member of the board:

163 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed
164 \$200 in any calendar month to any ~~[trustee]~~ member of the board; and

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

167 ~~[(10)]~~ (8) (a) Members of the initial board ~~[of trustees]~~ shall convene at the time and
168 place fixed by the chief executive officer of the entity initiating the proceedings.

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

172 ~~[(11)]~~ (9) At the time of a ~~[trustee's]~~ member of the board's appointment or during a
173 ~~[trustee's]~~ member of the board's tenure in office, a ~~[trustee]~~ member of the board may not
174 hold:

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

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

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

180 **17A-2-1039. Board of trustees -- Powers and duties.**

181 (1) ~~[The]~~ Subject to Section 17A-2-1040.5, the board of trustees~~[-(a)-Shall]~~ shall have
182 the powers and duties provided under this section.

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

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

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

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

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

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

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

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

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

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

214 day ~~[thereof]~~ of the fiscal year.

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

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

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

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

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

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

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

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

233 ~~[(2) The]~~ (10) Subject to Section 17A-2-1040.5, the provisions of Title 17B, Chapter
234 2, Part 4, Board of Trustees, except Sections 17B-2-402, 17B-2-403, and 17B-2-404, apply to
235 each public transit district to the same extent as if the public transit district were a local district
236 under Title 17B, Chapter 2, Local Districts.

237 Section 3. Section **17A-2-1040** is amended to read:

238 **17A-2-1040. District officers -- Appointment -- Duty -- Compensation -- Oath --**
239 **Bond.**

240 (1) The officers of the district shall consist of:

241 (a) the members of the board of trustees;

242 (b) a president and vice president who shall be members of the board;

243 (c) a secretary~~[-];~~

244 (d) a general manager~~[-];~~

245 (e) a general counsel[;];

246 (f) a treasurer[;];

247 (g) a comptroller[;]; and

248 (h) any other officers, assistants, and deputies the board considers necessary.

249 (2) (a) The general manager shall be a full-time officer appointed or, if Section
250 17A-2-1040.5 applies, recommended by the affirmative vote of a majority of the members of
251 the board. [~~The~~]

252 (b) Unless Section 17A-2-1040.5 applies, the general manager shall serve at the
253 pleasure of the board and may be removed by a majority vote of the board.

254 (c) (i) If Section 17A-2-1040.5 applies, all district officers specified under Subsections
255 (1)(c) through (h) shall serve at the pleasure of the board except as provided under Section
256 17A-2-1040.5.

257 (ii) If Section 17A-2-1040.5 applies, the board shall make recommendations to the
258 executive council for the appointment, dismissal, and compensation of the district officers
259 specified under Subsections (1)(c) through (h).

260 (d) All other officers and employees other than those [~~mentioned in Subsection (1)~~]
261 specified under Subsection (1) shall be appointed by the general manager and shall serve at
262 [~~his~~] the pleasure of the general manager.

263 (3) The compensation of all district officers and employees, except as provided under
264 Section 17A-2-1040.5 or as otherwise provided in this part, shall be fixed by ordinance or
265 resolution of the board.

266 (4) The general counsel shall be a person admitted to practice law in the state and shall
267 have been actively engaged in the practice of law for not less than seven years [~~next~~] preceding
268 [~~his~~] the appointment.

269 (5) The person appointed comptroller shall have been actively engaged in the practice
270 of accounting for not less than seven years [~~next~~] preceding [~~his~~] the appointment.

271 [~~(5)~~] (6) The oath of office of all officers appointed by the board of trustees or by the
272 general manager of the district shall be taken, subscribed, and filed with the secretary of the
273 district at any time after the officer has notice of [~~his~~] the appointment but not later than 15
274 days after the commencement of [~~his~~] the officer's term of office. No other filing is required.

275 [~~(6)~~] (7) The board may require officers, assistants, deputies, and employees to give

276 bonds and fix the amount [~~thereof~~] of the bonds.

277 ~~[(7)]~~ (8) The treasurer shall be the custodian of the funds of the district and make
278 payments only upon warrants duly and regularly signed by the president or vice president,
279 secretary, or general manager or other person authorized by the board. The treasurer shall keep
280 an account of all receipts and disbursements.

281 Section 4. Section **17A-2-1040.5** is enacted to read:

282 **17A-2-1040.5. Executive council creation -- Membership -- Terms -- Powers and**
283 **duties.**

284 (1) (a) If more than 200,000 people reside within the district boundaries, in addition to
285 the board of trustees, there is created an executive council composed of five members jointly
286 appointed by the municipalities and counties within the district.

287 (b) Each member of the executive council shall be a currently elected public official.

288 (c) (i) Except the initial members of the executive council, the terms of office of each
289 member of the executive council shall be two years or until a successor is appointed, qualified,
290 seated, and has taken the oath of office.

291 (ii) At the first meeting of the initial members of the executive council, the executive
292 council shall designate by the drawing of lots for three of their number to serve a one-year term
293 and two of their number to serve for a two-year term.

294 (d) A member of the executive council may not be appointed for more than one full
295 term.

296 (e) A vacancy on the executive council shall be filled for the unexpired term in the
297 same manner as original appointments under this section.

298 (2) (a) A majority of the executive council is a quorum for the transaction of business.

299 (b) Except as provided under Subsection (4), a simple majority vote constitutes an
300 action of the executive council.

301 (c) The executive council shall select a chair and vice chair from among its members.

302 (d) A meeting of the executive council may be held as needed if called by the chair or
303 by a majority of the executive council.

304 (3) Notwithstanding any other provisions of this part, the executive council:

305 (a) from recommendations by the board, shall have final approval on the appointment
306 and dismissal of district officers specified under Subsections 17A-2-1040(1)(c) through (h);

307 (b) from recommendation by the board, shall have final approval on fixing
308 compensation for the district officers specified under Subsections 17A-2-1040(1)(c) through
309 (h);

310 (c) may impose a line-item veto over any budget item within a budget approved by the
311 board; and

312 (d) may impose a veto over any action by the board as provided under Subsection (4).

313 (4) A veto imposed by the executive council of an action by the board under
314 Subsection (3)(d) shall be by unanimous vote of all members of the executive council.

315 Section 5. Section **17A-2-1041** is amended to read:

316 **17A-2-1041. General manager -- Duties -- Term and removal -- Salary to be fixed.**

317 ~~[The]~~ (1) Unless Section 17A-2-1040.5 applies, the board shall appoint and fix the
318 salary of a general manager~~[-who]~~.

319 (2) The general manager shall have full charge of the acquisition, construction,
320 maintenance, and operation of the facilities of the district and of the administration of the
321 business affairs of the district.

322 (3) The general manager shall be chosen on the basis of [his] the general manager's
323 qualifications with special reference to [his] the general manager's actual experience in or [his]
324 knowledge of accepted practices with respect to the duties of [his] the office [as hereinafter set
325 forth].

326 (4) The general manager need not be a resident of this state at the time of [his] the
327 general manager's appointment. [The]

328 (5) (a) (i) Unless Section 17A-2-1040.5 applies, the general manager shall hold office
329 for an indefinite term and may be removed or suspended by the board upon the adoption of a
330 resolution by the affirmative vote of a majority of all members of the board. [Before]

331 (ii) Unless Section 17A-2-1040.5 applies, before the general manager may be
332 removed~~[- he shall, if he makes written demand therefor, be given]~~ by the board, the general
333 manager has a right to:

334 (A) a written statement provided by the board of the reasons alleged for [his] the
335 removal; and ~~[he shall have the right to]~~

336 (B) be publicly heard at a meeting of the board prior to the final vote on the resolution
337 providing for [his] the general manager's removal~~[- but pending and during such].~~

338 (iii) Unless Section 17A-2-1040.5 applies, pending and during a removal hearing, the
339 board may suspend ~~[him]~~ the general manager from office. ~~[The]~~

340 (iv) Unless Section 17A-2-1040.5 applies, the board may not reduce the salary of the
341 general manager below the amount fixed at the time of ~~[his]~~ the general manager's original
342 appointment except:

343 (A) upon the adoption of a resolution by a vote of a majority of all members of the
344 board; and

345 (B) after ~~[a like]~~ an opportunity for the general manager to be heard. ~~[The]~~

346 (v) Unless Section 17A-2-1040.5 applies, the action of the board in suspending or
347 removing the general manager or reducing ~~[his]~~ the general manager's salary is final.

348 (b) (i) If Section 17A-2-1040.5 applies, the district officers specified under Subsections
349 17A-2-1040(1)(c) through (h) shall hold office for an indefinite term and may be removed or
350 suspended upon recommendation of the board and final approval of the executive council
351 under Section 17A-2-1040.5.

352 (ii) Subject to Subsection (5)(b)(i) and Section 17A-2-1040.5, the board may provide
353 procedures for suspension, removal, and compensation adjustments of district officers specified
354 under Subsections 17A-2-1040(1)(c) through (h).

355 Section 6. **Effective date.**

356 This bill takes effect on July 1, 2004.

Legislative Review Note
as of 2-3-04 8:33 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0170

Public Transit District Amendments

09-Feb-04

12:55 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst