

**WATER CONSERVANCY DISTRICT -
SELECTION OF BOARD OF TRUSTEES**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies a provision relating to water conservancy district boards of trustees.

Highlighted Provisions:

This bill:

- modifies the process of nominating persons for selection as board of trustees members for a water conservancy district comprised of five or more counties, at least one of which is a county of the first class; and
- authorizes political subdivisions in a county of the first class that have water contracts or petitions with the district to submit nominees for the selection of board of trustees members.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-1005, as renumbered and amended by Laws of Utah 2007, Chapter 329

ENACTS:

17B-2a-1005.3, Utah Code Annotated 1953



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

Section 1. Section **17B-2a-1005** is amended to read:

17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

(1) (a) Within 45 days after the creation of a water conservancy district as provided in Section 17B-1-215, the board of trustees shall be selected as provided in this Subsection (1) and, as applicable, Section 17B-2a-1005.3.

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c) (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (1)(c) and, as applicable, Section 17B-2a-1005.3.

(ii) (A) Except as provided in Subsection (1)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) Notwithstanding Subsection (1)(c)(ii)(A), the legislative body of a municipality may submit fewer than two nominees per trustee 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 trustee.

(iii) (A) Except as provided in Subsection (1)(c)(iii)(B) and Section 17B-2a-1005.3, in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) Notwithstanding Subsection (1)(c)(iii)(A), the county legislative body may submit fewer than three nominees per trustee 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 trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (1)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal

59 area is located than in any other county.

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

63 (2) (a) The board of trustees of a water conservancy district shall consist of:

64 (i) except as provided in Subsection (2)(a)(ii), not more than 11 persons who are
65 residents of the district; or

66 (ii) if the district consists of five or more counties, not more than 21 persons who are
67 residents of the district.

68 (b) At least 90 days before expiration of a trustee's term, the board shall:

69 (i) give written notice of the upcoming vacancy and the date when the trustee's term
70 expires to the county legislative body in single county districts and to the nominating entities
71 and the governor in all other districts; and

72 (ii) publish the notice in a newspaper having general circulation within the district.

73 (c) (i) Upon receipt of the notice of the expiration of a trustee's term or notice of a
74 vacancy in the office of trustee, the county or municipal legislative body, as the case may be,
75 shall nominate candidates to fill the unexpired term of office pursuant to Subsection (1).

76 (ii) If a trustee is to be appointed by the governor and the entity charged with
77 nominating candidates has not submitted the list of nominees within 90 days after service of
78 the notice, the governor shall make the appointment from qualified candidates without
79 consultation with the county or municipal legislative body.

80 (iii) If the governor fails to appoint, the incumbent shall continue to serve until a
81 successor is appointed and qualified.

82 (iv) Appointment by the governor vests in the appointee, upon qualification, the
83 authority to discharge the duties of trustee, subject only to the consent of the Senate.

84 (d) Each trustee shall hold office during the term for which appointed and until a
85 successor is duly appointed and has qualified.

86 (3) Each trustee shall furnish a corporate surety bond at the expense of the district,
87 conditioned for the faithful performance of duties as a trustee.

88 (4) (a) The board of trustees of a water conservancy district may:

89 (i) make and enforce all reasonable rules and regulations for the management, control,

90 delivery, use, and distribution of water;

91 (ii) withhold the delivery of water with respect to which there is a default or
92 delinquency of payment;

93 (iii) provide for and declare a forfeiture of the right to the use of water upon the default
94 or failure to comply with an order, contract, or agreement for the purchase, lease, or use of
95 water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has
96 been declared;

97 (iv) allocate and reallocate the use of water to lands within the district;

98 (v) provide for and grant the right, upon terms, to transfer water from lands to which
99 water has been allocated to other lands within the district;

100 (vi) create a lien, as provided in this part, upon land to which the use of water is
101 transferred;

102 (vii) discharge a lien from land to which a lien has attached; and

103 (viii) subject to Subsection (4)(b), enter into a written contract for the sale, lease, or
104 other disposition of the use of water.

105 (b) (i) A contract under Subsection (4)(a)(viii) may provide for the use of water
106 perpetually or for a specified term.

107 (ii) (A) If a contract under Subsection (4)(a)(viii) makes water available to the
108 purchasing party without regard to actual taking or use, the board may require that the
109 purchasing party give security for the payment to be made under the contract, unless the
110 contract requires the purchasing party to pay for certain specified annual minimums.

111 (B) The security requirement under Subsection (4)(b)[~~(iii)~~](ii)(A) in a contract with a
112 public entity may be met by including in the contract a provision for the public entity's levy of a
113 special assessment to make annual payments to the district.

114 Section 2. Section **17B-2a-1005.3** is enacted to read:

115 **17B-2a-1005.3. Nominating board of trustees candidates in certain multicounty**
116 **districts.**

117 (1) As used in this section:

118 (a) "Governing body" means:

119 (i) for a city or town, the legislative body of the city or town;

120 (ii) for a local district, the board of trustees of the local district;

121 (iii) for a special service district:

122 (A) the legislative body of the county or municipality that created the special service
123 district, to the extent that the county or municipal legislative body has not delegated authority
124 to an administrative control board appointed under Section 17A-2-1326; or

125 (B) the administrative control board of the special service district, to the extent that the
126 county or municipal legislative body has delegated authority to an administrative control board
127 appointed under Section 17A-2-1326; and

128 (iv) for each other political subdivision, the person, body, or board that exercises
129 policymaking authority for the political subdivision.

130 (b) "Multicounty district" means a water conservancy district located in five or more
131 counties, at least one of which is a county of the first class.

132 (c) "Nominating political subdivision" means a political subdivision of the state:

133 (i) within a county of the first class; and

134 (ii) that has a contract or petition with a multicounty district to receive water from the
135 multicounty district.

136 (2) (a) For a multicounty district with a single nominating political subdivision, the
137 governing body of the nominating political subdivision shall submit the three nominees for
138 each trustee for the county in which the nominating political subdivision is located.

139 (b) For a multicounty district with two or more nominating political subdivisions:

140 (i) except as provided in Subsection (2)(b)(ii):

141 (A) the governing body of each nominating political subdivision shall submit the three
142 nominees for each of an equal number of trustees for the county in which the nominating
143 political subdivisions are located; and

144 (B) if the number of trustees to be nominated is odd, the county legislative body shall
145 submit the three nominees for the remaining trustee; and

146 (ii) notwithstanding Subsection (2)(b)(i), the governing bodies of all nominating
147 political subdivisions shall collectively submit the three nominees for each trustee for the
148 county in which the nominating political subdivisions are located, if there are fewer trustees to
149 be nominated for the county than nominating political subdivisions.

Legislative Review Note
as of 1-18-08 11:04 AM

Office of Legislative Research and General Counsel

S.B. 141 - Water Conservancy District - Selection of Board of Trustees

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
