

**PUBLIC TRANSIT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Christopher N. Herrod

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to public transit.

**Highlighted Provisions:**

This bill:

▶ authorizes a local district that provides transportation services to adopt a resolution approving the annexation of the area outside of the local district's boundaries if:

- the area is within a county that has levied a certain local option sales and use tax; and
- the county legislative body has adopted a resolution approving the annexation of the areas outside of the local district;

▶ repeals certain public transit district conflict of interest provisions and clarifies that each trustee, officer, and employee of a public transit district is subject to the Utah Public Officers' and Employees' Ethics Act;

▶ provides that a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters to impose a certain sales and use tax to fund public transit if the county, city, or town imposes a certain sales and use tax ~~on or after July 1, 2010, but~~ on or before July 1, 2011; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17B-1-415**, as last amended by Laws of Utah 2009, Chapter 350

33 **17B-2a-804**, as last amended by Laws of Utah 2010, Chapter 281

34 **17B-2a-814**, as renumbered and amended by Laws of Utah 2007, Chapter 329

35 **59-12-2213**, as enacted by Laws of Utah 2010, Chapter 263



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

38 Section 1. Section **17B-1-415** is amended to read:

39 **17B-1-415. Annexation of wholesale district through expansion of retail provider.**

40 (1) (a) A local district that provides a wholesale service may adopt a resolution  
41 approving the annexation of an area outside the local district's boundaries if:

42 (i) the area is annexed by or otherwise added to, or is added to the retail service area of,  
43 a municipality or another local district that:

44 (A) acquires the wholesale service from the local district and provides it as a retail  
45 service;

46 (B) is, before the annexation or other addition, located at least partly within the local  
47 district; and

48 (C) after the annexation or other addition will provide to the annexed or added area the  
49 same retail service that the local district provides as a wholesale service to the municipality or  
50 other local district; and

51 (ii) except as provided in Subsection (2), no part of the area is within the boundaries of  
52 another local district that provides the same wholesale service as the proposed annexing local  
53 district.

54 (b) For purposes of this section:

55 (i) a local district providing public transportation service shall be considered to be  
56 providing a wholesale service; and

57 (ii) a municipality included within the boundaries of the local district providing public  
58 transportation service shall be considered to be acquiring that wholesale service from the local

59 district and providing it as a retail service and to be providing that retail service after the  
60 annexation or other addition to the annexed or added area, even though the municipality does  
61 not in fact provide that service.

62 (2) Notwithstanding Subsection (1)(a)(ii), an area outside the boundaries of a local  
63 district providing a wholesale service and located partly or entirely within the boundaries of  
64 another local district that provides the same wholesale service may be annexed to the local  
65 district if:

66 (a) the conditions under Subsection (1)(a)(i) are present; and

67 (b) the proposed annexing local district and the other local district follow the same  
68 procedure as is required for a boundary adjustment under Section 17B-1-417, including both  
69 district boards adopting a resolution approving the annexation of the area to the proposed  
70 annexing local district and the withdrawal of that area from the other district.

71 (3) A local district that provides transportation services may adopt a resolution  
72 approving the annexation of the area outside of the local district's boundaries if:

73 (a) the area is within a county that has levied a sales and use tax under Section  
74 59-12-2216; and

75 (b) the county legislative body has adopted a resolution approving the annexation of  
76 the areas outside of the local district.

77 [~~(3)~~] (4) Upon the adoption of an annexation resolution under this section, the board of  
78 the annexing local district shall comply with the requirements of Subsection 17B-1-414(2), and  
79 the lieutenant governor shall issue a certificate of annexation and send a copy of notice as  
80 provided in Section 67-1a-6.5.

81 [~~(4)~~] (5) Subsections 17B-1-414(2) and (3) apply to an annexation under this section.

82 Section 2. Section **17B-2a-804** is amended to read:

83 **17B-2a-804. Additional public transit district powers.**

84 (1) In addition to the powers conferred on a public transit district under Section  
85 17B-1-103, a public transit district may:

86 (a) provide a public transit system for the transportation of passengers and their  
87 incidental baggage;

88 (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817,  
89 levy and collect property taxes only for the purpose of paying:

- 90 (i) principal and interest of bonded indebtedness of the public transit district; or
- 91 (ii) a final judgment against the public transit district if:
  - 92 (A) the amount of the judgment exceeds the amount of any collectable insurance or
  - 93 indemnity policy; and
  - 94 (B) the district is required by a final court order to levy a tax to pay the judgment;
  - 95 (c) insure against:
    - 96 (i) loss of revenues from damage to or destruction of some or all of a public transit
    - 97 system from any cause;
    - 98 (ii) public liability;
    - 99 (iii) property damage; or
    - 100 (iv) any other type of event, act, or omission;
  - 101 (d) acquire, contract for, lease, construct, own, operate, control, or use:
    - 102 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
    - 103 parking lot, or any other facility necessary or convenient for public transit service; or
    - 104 (ii) any structure necessary for access by persons and vehicles;
  - 105 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
  - 106 equipment, service, employee, or management staff of an operator; and
  - 107 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
  - 108 public interest;
  - 109 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
  - 110 (g) accept a grant, contribution, or loan, directly through the sale of securities or
  - 111 equipment trust certificates or otherwise, from the United States, or from a department,
  - 112 instrumentality, or agency of the United States, to:
    - 113 (i) establish, finance, participate as a limited partner or member in a development with
    - 114 limited liabilities in accordance with Subsection (1)(l), construct, improve, maintain, or operate
    - 115 transit facilities, equipment, and transit-oriented developments or transit-supportive
    - 116 developments; or
    - 117 (ii) study and plan transit facilities in accordance with any legislation passed by
    - 118 Congress;
    - 119 (h) cooperate with and enter into an agreement with the state or an agency of the state
    - 120 to establish transit facilities and equipment or to study or plan transit facilities;

121 (i) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds,  
122 to carry out the purposes of the district;

123 (j) from bond proceeds or any other available funds, reimburse the state or an agency of  
124 the state for an advance or contribution from the state or state agency;

125 (k) do anything necessary to avail itself of any aid, assistance, or cooperation available  
126 under federal law, including complying with labor standards and making arrangements for  
127 employees required by the United States or a department, instrumentality, or agency of the  
128 United States; and

129 (l) subject to the restriction in Subsection (2), assist in a transit-oriented development  
130 or a transit-supportive development in connection with the economic development of areas in  
131 proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot, by:

132 (i) investing in a project as a limited partner or a member, with limited liabilities; or

133 (ii) subordinating an ownership interest in real property owned by the public transit  
134 district.

135 (2) (a) A public transit district may only assist in the economic development of areas  
136 under Subsection (1)(l):

137 (i) in the manner described in Subsection (1)(l)(i) or (ii); and

138 (ii) on no more than five transit-oriented developments or transit-supportive  
139 developments selected by the board of trustees.

140 (b) A public transit district may not invest in a transit-oriented development or  
141 transit-supportive development as a limited partner or other limited liability entity under the  
142 provisions of Subsection (1)(l)(i), unless the partners, developer, or other investor in the entity,  
143 makes an equity contribution equal to no less than 25% of the appraised value of the property  
144 to be contributed by the public transit district.

145 (c) A current board member of a public transit district to which the board member is  
146 appointed may not have any interest in the transactions engaged in by the public transit district  
147 pursuant to Subsection (1)(l)(i) or (ii), except as may be required by the board member's  
148 fiduciary duty as a board member.

149 (3) A public transit district may be funded from any combination of federal, state, or  
150 local funds.

151 (4) A public transit district may not acquire property by eminent domain.

152 Section 3. Section **17B-2a-814** is amended to read:

153 **17B-2a-814. Conflict of interests prohibited -- Disclosure -- Violation -- Penalty.**

154 [~~(1) As used in this section, "relative" means a parent, spouse, child, grandparent,~~  
155 ~~grandchild, great grandparent, great grandchild, or sibling of a trustee, officer, or employee.]~~

156 [~~(2) Except as provided in this section, a trustee, officer, or employee of a public transit~~  
157 ~~district may not be interested in any manner, directly or indirectly, in a contract or in the profits~~  
158 ~~derived from a contract:]~~

159 [~~(a) awarded by the board of trustees; or]~~

160 [~~(b) made by an officer or employee pursuant to discretionary authority vested in the~~  
161 ~~officer or employee.]~~

162 [~~(3) Notwithstanding Subsection (2), if a trustee, officer, or employee of a public~~  
163 ~~transit district is a stockholder, bondholder, director, or other officer or employee of a~~  
164 ~~corporation contracting with the district, the district may contract with that corporation for its~~  
165 ~~general benefit unless the trustee, officer, or employee of the district owns or controls, directly~~  
166 ~~or indirectly, stock or bonds in an amount greater than 5% of the total amount of outstanding~~  
167 ~~stock or bonds.]~~

168 [~~(4) (a) (i) A trustee, officer, or employee of a public transit district who has, or whose~~  
169 ~~relative has, a substantial interest in a contract with, sale to, purchase from, or service to the~~  
170 ~~district shall disclose that interest to the board of trustees of the district in a public meeting of~~  
171 ~~the board.]~~

172 [~~(ii) The board of trustees of the district shall disclose that interest in the minutes of its~~  
173 ~~meeting.]~~

174 [~~(b) A trustee, officer, or employee of a public transit district who has, or whose~~  
175 ~~relative has, a substantial interest in a contract with, sale to, purchase from, or service to the~~  
176 ~~district may not vote upon or otherwise participate in any manner as a trustee, officer, or~~  
177 ~~employee in the contract, sale, purchase, or service.]~~

178 [~~(5) A trustee, officer, or employee of a public transit district, in contemplation of~~  
179 ~~official action by the trustee, officer, or employee or by the district or in reliance on~~  
180 ~~information to which the trustee, officer, or employee has access in an official capacity and~~  
181 ~~which has not been made public, commits misuse of official information if the trustee, officer,~~  
182 ~~or employee:]~~

183 ~~[(a) acquires a pecuniary interest in any property, transaction, or enterprise that may be~~  
 184 ~~affected by the information or official action;]~~

185 ~~[(b) speculates or wagers on the basis of the information or official action; or]~~

186 ~~[(c) aids, advises, or encourages another to do so with intent to confer upon any person~~  
 187 ~~a special pecuniary benefit.]~~

188 ~~[(6) Each trustee, officer, and employee who violates this section:]~~

189 ~~[(a) is guilty of a class B misdemeanor; and]~~

190 ~~[(b) if convicted, shall be terminated from board appointment or district employment.]~~

191 Each trustee, officer, and employee of a public transit district is subject to the  
 192 provisions of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

193 Section 4. Section **59-12-2213** is amended to read:

194 **59-12-2213. County, city, or town option sales and use tax to fund a system for**  
 195 **public transit -- Base -- Rate.**

196 (1) Subject to the other provisions of this part, a county, city, or town may impose a  
 197 sales and use tax under this section of up to:

198 ~~[(1)]~~ (a) for a county, city, or town other than a county, city, or town described in  
 199 Subsection ~~[(2)]~~ (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located  
 200 within the county, city, or town to fund a system for public transit; or

201 ~~[(2)]~~ (b) for a county, city, or town within which a tax is not imposed under Section  
 202 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the  
 203 county, city, or town, to fund a system for public transit.

204 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not  
 205 required to submit an opinion question to the county's, city's, or town's registered voters in  
 206 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the  
 207 county, city, or town imposes the sales and use tax under Section 59-12-2216 ~~§~~→ [on or after July 1,  
 208 [2010, but] ←~~§~~ on or before July 1, 2011.

**Legislative Review Note**  
 as of 2-9-11 10:51 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 222

SHORT TITLE: **Public Transit Amendments**

SPONSOR: **Bramble, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.