

PUBLIC TRANSIT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Christopher N. Herrod

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 before July 1, 2011; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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 **-- Annexation of a local district that provides transportation services.**

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

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

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

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

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

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

55 (b) For purposes of this section:

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

58 (ii) a municipality included within the boundaries of the local district providing public
59 transportation service shall be considered to be acquiring that wholesale service from the local
60 district and providing it as a retail service and to be providing that retail service after the
61 annexation or other addition to the annexed or added area, even though the municipality does
62 not in fact provide that service.

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

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

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

- 74 (a) the area is within a county that has levied a sales and use tax under Section
75 59-12-2216; and
- 76 (b) the county legislative body has adopted a resolution approving the annexation of
77 the areas outside of the local district.

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

82 [~~4~~] (5) Subsections 17B-1-414(2) and (3) apply to an annexation under this section.

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

84 **17B-2a-804. Additional public transit district powers.**

85 (1) In addition to the powers conferred on a public transit district under Section

86 17B-1-103, a public transit district may:

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

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

91 (i) principal and interest of bonded indebtedness of the public transit district; or

92 (ii) a final judgment against the public transit district if:

93 (A) the amount of the judgment exceeds the amount of any collectable insurance or
94 indemnity policy; and

95 (B) the district is required by a final court order to levy a tax to pay the judgment;

96 (c) insure against:

97 (i) loss of revenues from damage to or destruction of some or all of a public transit
98 system from any cause;

99 (ii) public liability;

100 (iii) property damage; or

101 (iv) any other type of event, act, or omission;

102 (d) acquire, contract for, lease, construct, own, operate, control, or use:

103 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
104 parking lot, or any other facility necessary or convenient for public transit service; or

105 (ii) any structure necessary for access by persons and vehicles;

106 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
107 equipment, service, employee, or management staff of an operator; and

108 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
109 public interest;

110 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;

111 (g) accept a grant, contribution, or loan, directly through the sale of securities or
112 equipment trust certificates or otherwise, from the United States, or from a department,
113 instrumentality, or agency of the United States, to:

114 (i) establish, finance, participate as a limited partner or member in a development with
115 limited liabilities in accordance with Subsection (1)(l), construct, improve, maintain, or operate
116 transit facilities, equipment, and transit-oriented developments or transit-supportive
117 developments; or

118 (ii) study and plan transit facilities in accordance with any legislation passed by
119 Congress;

120 (h) cooperate with and enter into an agreement with the state or an agency of the state
121 to establish transit facilities and equipment or to study or plan transit facilities;

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

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

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

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

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

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

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

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

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

141 (b) A public transit district may not invest in a transit-oriented development or

142 transit-supportive development as a limited partner or other limited liability entity under the
143 provisions of Subsection (1)(1)(i), unless the partners, developer, or other investor in the entity,
144 makes an equity contribution equal to no less than 25% of the appraised value of the property
145 to be contributed by the public transit district.

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

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

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

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

154 **17B-2a-814. Public transit district trustees, officers, and employees subject to**
155 **Utah Public Officers' and Employees' Ethics Act.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 **59-12-2213. County, city, or town option sales and use tax to fund a system for**
197 **public transit -- Base -- Rate.**

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

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

203 ~~[(2)]~~ (b) for a county, city, or town within which a tax is not imposed under Section
204 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the
205 county, city, or town, to fund a system for public transit.

206 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not
207 required to submit an opinion question to the county's, city's, or town's registered voters in
208 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the
209 county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July
210 1, 2011.