

LOCAL GOVERNING BODY VOTING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts language related to the minimum vote requirements of a local governing body.

Highlighted Provisions:

This bill:

► requires a majority vote of the total number of voting members to pass an ordinance or resolution or take other action for the following local governing bodies:

- a municipal council;
- a county legislative body;
- a local district board of trustees;
- the board of a community development and renewal agency;
- a taxing entity committee; and
- a conservation district board of supervisors; and

► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 [10-3-507](#), as last amended by Laws of Utah 2011, Chapter 176
- 29 [17-53-203](#), as renumbered and amended by Laws of Utah 2000, Chapter 133
- 30 [17B-1-310](#), as last amended by Laws of Utah 2013, Chapter 448
- 31 [17C-1-203](#), as last amended by Laws of Utah 2008, Chapter 125
- 32 [17C-1-402](#), as last amended by Laws of Utah 2013, Chapter 80
- 33 [17D-3-301](#), as enacted by Laws of Utah 2008, Chapter 360

34

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

36 Section 1. Section [10-3-507](#) is amended to read:

37 **[10-3-507. Minimum vote required.](#)**

38 (1) The minimum number of yes votes required to pass any ordinance or resolution, or
39 to take any action by the council, unless otherwise prescribed by law, is a majority of the total
40 number of voting members of the council, regardless of the number of voting members of the
41 council present at the meeting, and without considering any vacancy in the council.

42 (2) (a) Any ordinance, resolution, or motion of the council having fewer favorable
43 votes than required in this section is defeated and invalid.

44 (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a
45 specific time by a majority vote of the council even though the majority vote is less than that
46 required in this section.

47 (3) A majority of the council members, regardless of number, may fill any vacancy in
48 the council as provided under Section [20A-1-510](#).

49 Section 2. Section [17-53-203](#) is amended to read:

50 **[17-53-203. Chair -- Oaths -- Minimum vote required.](#)**

51 (1) Each county legislative body shall elect one of their number chair and may elect a
52 vice chair.

53 (2) (a) The chair shall preside at all meetings of the county legislative body, and in case
54 of the chair's absence or inability to act, the vice chair, if there is one, shall preside.

55 (b) If both the chair and vice chair, if there is one, are absent or unable to act, the
56 members present shall, by an order entered in their minutes, select one of their number to act as
57 chair temporarily.

58 (3) Any member of the county legislative body may administer oaths to any person

59 when necessary in the performance of official duties.

60 (4) Not less than a majority of members shall constitute a quorum for the transaction of
61 business~~[, and no act of the county legislative body shall be valid or binding unless a majority
62 of members present when a quorum is present concurs therein].~~

63 (5) Unless otherwise prescribed by law, the minimum number of yes votes required to
64 pass any ordinance or resolution, or to take any action by the county legislative body, is a
65 majority of the total number of voting members of the legislative body, regardless of the
66 number of voting members of the legislative body present at the meeting, and without
67 considering any vacancy in the legislative body.

68 Section 3. Section **17B-1-310** is amended to read:

69 **17B-1-310. Minimum vote of board of trustees -- Meetings of the board.**

70 (1) (a) (i) Except as provided in Subsection (1)(b), a majority of the board of trustees
71 constitutes a quorum for the transaction of board business~~[, and action by a majority of a
72 quorum constitutes action of the board].~~

73 (ii) The minimum number of yes votes required to pass any ordinance or resolution, or
74 to take any action by the board of trustees, is a majority of the total number of voting members
75 of the board, regardless of the number of voting members of the board present at the meeting,
76 and without considering any vacancy in the board.

77 ~~[(ii)]~~ (iii) Except as otherwise required by law, an otherwise valid action of the board is
78 not made invalid because of the method chosen by the board to take or memorialize the action.

79 (b) (i) Subject to Subsection (1)(b)(ii), a board may adopt bylaws or other rules that
80 require more than a majority to constitute a quorum or that require action by more than a
81 majority ~~[of a quorum]~~ to constitute action by the board.

82 (ii) A board with five or more members may not adopt bylaws or rules that require a
83 vote of more than two-thirds of the board to constitute board action except for a board action to
84 dispose of real property owned by the local district.

85 (2) The board of trustees shall hold such regular and special meetings as the board
86 determines at a location that the board determines.

87 (3) (a) Each meeting of the board of trustees shall comply with Title 52, Chapter 4,
88 Open and Public Meetings Act.

89 (b) Subject to Subsection (3)(c), a board of trustees shall:

90 (i) adopt rules of order and procedure to govern a public meeting of the board of
91 trustees;

92 (ii) conduct a public meeting in accordance with the rules of order and procedure
93 described in Subsection (3)(b)(i); and

94 (iii) make the rules of order and procedure described in Subsection (3)(b)(i) available
95 to the public:

96 (A) at each meeting of the board of trustees; and

97 (B) on the local district's public website, if available.

98 (c) Subsection (3)(b) does not affect the board of trustees' duty to comply with Title 52,
99 Chapter 4, Open and Public Meetings Act.

100 Section 4. Section 17C-1-203 is amended to read:

101 **17C-1-203. Agency board -- Minimum vote required.**

102 (1) The governing body of an agency is a board consisting of the current members of
103 the legislative body of the community that created the agency.

104 (2) A majority of board members constitutes a quorum for the transaction of agency
105 business.

106 (3) An agency board may not adopt a resolution, pass a motion, or take any other
107 official board action without the concurrence of at least a majority of the total number of the
108 voting board members [present at a meeting at which a quorum is present], regardless of the
109 number of voting members of the board present at the meeting, and without considering any
110 vacancy in the board.

111 (4) The mayor of a municipality operating under a council-mayor form of government,
112 as defined in Section 10-3b-102:

113 (a) serves as the executive director of an agency created by the municipality; and

114 (b) exercises the executive powers of the agency.

115 Section 5. Section 17C-1-402 is amended to read:

116 **17C-1-402. Taxing entity committee.**

117 (1) Each agency that adopts or proposes to adopt a post-June 30, 1993, urban renewal
118 or economic development project area plan shall, and any other agency may, cause a taxing
119 entity committee to be created.

120 (2) (a) (i) Each taxing entity committee shall be composed of:

121 (A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

122 (B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives
123 appointed by resolution of the legislative body of the county in which the agency is located; or

124 (II) in a county of the first class, one representative appointed by the county executive
125 and one representative appointed by the legislative body of the county in which the agency is
126 located;

127 (C) if the agency was created by a city or town, two representatives appointed by
128 resolution of the legislative body of that city or town;

129 (D) one representative appointed by the State Board of Education; and

130 (E) one representative selected by majority vote of the legislative bodies or governing
131 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to
132 represent the interests of those taxing entities on the taxing entity committee.

133 (ii) (A) If the agency boundaries include only one school district, that school district
134 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

135 (B) If the agency boundaries include more than one school district, those school
136 districts shall jointly appoint the two school district representatives under Subsection
137 (2)(a)(i)(A).

138 (b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be
139 appointed within 30 days after the agency provides notice of the creation of the taxing entity
140 committee.

141 (ii) If a representative is not appointed within the time required under Subsection
142 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
143 place of the missing representative until that representative is appointed.

144 (c) (i) A taxing entity committee representative may be appointed for a set term or
145 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

146 (ii) Each taxing entity committee representative shall serve until a successor is
147 appointed and qualified.

148 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether
149 an initial appointment or an appointment to replace an already serving representative, the
150 appointing authority shall:

151 (A) notify the agency in writing of the name and address of the newly appointed

152 representative; and

153 (B) provide the agency a copy of the resolution making the appointment or, if the
154 appointment is not made by resolution, other evidence of the appointment.

155 (ii) Each appointing authority of a taxing entity committee representative under
156 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a
157 representative appointed by that appointing authority.

158 (3) At its first meeting, a taxing entity committee shall adopt an organizing resolution:

159 (a) designating a chair and a secretary of the committee; and

160 (b) if the committee considers it appropriate, governing the use of electronic meetings
161 under Section 52-4-207.

162 (4) (a) A taxing entity committee represents all taxing entities regarding:

163 (i) an urban renewal project area; or

164 (ii) an economic development project area.

165 (b) A taxing entity committee may:

166 (i) cast votes that will be binding on all taxing entities;

167 (ii) negotiate with the agency concerning a draft project area plan;

168 (iii) approve or disapprove:

169 (A) an urban renewal project area budget as provided in Section 17C-2-204; or

170 (B) an economic development project area budget as provided in Section 17C-3-203;

171 (iv) approve or disapprove amendments to a project area budget as provided in:

172 (A) Section 17C-2-206 for an urban renewal project area budget; or

173 (B) Section 17C-3-205 for an economic development project area budget;

174 (v) approve exceptions to the limits on the value and size of a project area imposed
175 under this title;

176 (vi) approve:

177 (A) exceptions to the percentage of tax increment to be paid to the agency;

178 (B) the period of time that tax increment is to be paid to the agency; and

179 (C) exceptions to the requirement for an urban renewal or economic development

180 project area budget to include a maximum cumulative dollar amount of tax increment that the
181 agency may receive;

182 (vii) approve the use of tax increment for publicly owned infrastructure and

183 improvements outside of an urban renewal or economic development project area that the
 184 agency and community legislative body determine to be of benefit to the urban renewal or
 185 economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);

186 (viii) waive the restrictions imposed by Subsection 17C-2-202(1);

187 (ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic
 188 development project area budget the base taxable value for that project area budget; and

189 (x) give other taxing entity committee approval or consent required or allowed under
 190 this title.

191 (c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix)
 192 may not be a year that is earlier than the year during which the project area plan became
 193 effective.

194 (5) A quorum of a taxing entity committee for the transaction of business consists of:

195 (a) if the project area is located within a city or town, five members; or

196 (b) if the project area is not located within a city or town, four members.

197 (6) Taxing entity committee approval, consent, or other action requires~~[:]~~, unless
 198 otherwise prescribed by law, a majority of the total number of voting taxing entity committee
 199 members, regardless of the number of voting members of the taxing entity committee present at
 200 the meeting, and without considering any vacancy in the committee.

201 ~~[(a) the affirmative vote of a majority of all members present at a taxing entity~~
 202 ~~committee meeting:]~~

203 ~~[(i) at which a quorum is present; and]~~

204 ~~[(ii) considering an action relating to a project area budget for, or approval of a finding~~
 205 ~~of blight within, a project area or proposed project area that contains:]~~

206 ~~[(A) an inactive industrial site;]~~

207 ~~[(B) an inactive airport site; or]~~

208 ~~[(C) a closed military base; or]~~

209 ~~[(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of~~
 210 ~~two-thirds of all members present at a taxing entity committee meeting at which a quorum is~~
 211 ~~present:]~~

212 (7) (a) An agency may call a meeting of the taxing entity committee by sending written
 213 notice to the members of the taxing entity committee at least 10 days before the date of the

214 meeting.

215 (b) Each notice under Subsection (7)(a) shall be accompanied by:

216 (i) the proposed agenda for the taxing entity committee meeting; and

217 (ii) if not previously provided and if they exist and are to be considered at the meeting:

218 (A) the project area plan or proposed plan;

219 (B) the project area budget or proposed budget;

220 (C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

221 (D) the blight study;

222 (E) the agency's resolution making a finding of blight under Subsection

223 17C-2-102(1)(a)(ii)(B); and

224 (F) other documents to be considered by the taxing entity committee at the meeting.

225 (c) (i) An agency may not schedule a taxing entity committee meeting to meet on a day
226 on which the Legislature is in session.

227 (ii) Notwithstanding Subsection (7)(c)(i), the taxing entity committee may, by
228 unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

229 (8) (a) A taxing entity committee may not vote on a proposed project area budget or
230 proposed amendment to a project area budget at the first meeting at which the proposed budget
231 or amendment is considered unless all members of the taxing entity committee present at the
232 meeting consent.

233 (b) A second taxing entity committee meeting to consider a project area budget or a
234 proposed amendment to a project area budget may not be held within 14 days after the first
235 meeting unless all members of the taxing entity committee present at the first meeting consent.

236 (9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall
237 meet at least annually during the time that the agency receives tax increment under an urban
238 renewal or economic development project area budget in order to review the status of the
239 project area.

240 (b) A taxing entity committee is not required under Subsection (9)(a) to meet if the
241 agency submits on or before November 1 of each year to the county auditor, the State Tax
242 Commission, the State Board of Education, and each taxing entity that levies a tax on property
243 from which the agency collects tax increment, a report containing the following:

244 (i) an assessment of growth of incremental values for each active project area,

245 including:

246 (A) the base year assessed value;

247 (B) the prior year's assessed value;

248 (C) the estimated current year assessed value for the project area; and

249 (D) a narrative description of the relative growth in assessed value within the project

250 area;

251 (ii) a description of the amount of tax increment received by the agency and passed

252 through to other taxing entities from each active project area, including:

253 (A) a comparison of the original forecasted amount of tax increment to actual receipts;

254 (B) a narrative discussion regarding the use of tax increment; and

255 (C) a description of the benefits derived by the taxing entities;

256 (iii) a description of activity within each active project area, including:

257 (A) a narrative of any significant development activity, including infrastructure

258 development, site development, and vertical construction within the project area; and

259 (B) a narrative discussion regarding the status of any agreements for development

260 within the project area;

261 (iv) a revised multi-year tax increment budget related to each active project area,

262 including:

263 (A) the prior year's tax increment receipts;

264 (B) the base year value and adjusted base year value, as applicable;

265 (C) the applicable tax rates within the project area; and

266 (D) a description of private and public investment within the project area;

267 (v) an estimate of the tax increment to be paid to the agency for the calendar years

268 ending December 31 and beginning the next January 1; and

269 (vi) any other project highlights included by the agency.

270 (10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and

271 Public Meetings Act.

272 (11) Each time a school district representative or a representative of the State Board of

273 Education votes as a member of a taxing entity committee to allow an agency to be paid tax

274 increment or to increase the amount or length of time that an agency may be paid tax

275 increment, that representative shall, within 45 days after the vote, provide to the

276 representative's respective school board an explanation in writing of the representative's vote
277 and the reasons for the vote.

278 (12) (a) The auditor of each county in which the agency is located shall provide a
279 written report to the taxing entity committee stating, with respect to property within each urban
280 renewal and economic development project area:

281 (i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408;
282 and

283 (ii) the assessed value.

284 (b) With respect to the information required under Subsection (12)(a), the auditor shall
285 provide:

286 (i) actual amounts for each year from the adoption of the project area plan to the time
287 of the report; and

288 (ii) estimated amounts for each year beginning the year after the time of the report and
289 ending the time that the agency expects no longer to be paid tax increment from property
290 within the urban renewal and economic development project area.

291 (c) The auditor of the county in which the agency is located shall provide a report
292 under this Subsection (12):

293 (i) at least annually; and

294 (ii) upon request of the taxing entity committee, before a taxing entity committee
295 meeting at which the committee will consider whether to allow the agency to be paid tax
296 increment or to increase the amount of tax increment that the agency may be paid or the length
297 of time that the agency may be paid tax increment.

298 (13) This section does not apply to a community development project area plan.

299 (14) A taxing entity committee resolution, whether adopted before, on, or after May 10,
300 2011, approving a blight finding, approving a project area budget, or approving an amendment
301 to a project area budget:

302 (a) is final; and

303 (b) is not subject to repeal, amendment, or reconsideration unless the agency first
304 consents by resolution to the proposed repeal, amendment, or reconsideration.

305 Section 6. Section 17D-3-301 is amended to read:

306 **17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers --**

307 **Minimum vote required -- Compensation.**

308 (1) Each conservation district shall be governed by a board of supervisors.

309 (2) (a) The board of supervisors of a conservation district consists of five members
310 elected as provided in this part, at least three of whom shall be private agricultural land
311 operators.

312 (b) If the board of supervisors divides the conservation district into watershed voting
313 areas under Section 17D-3-308, at least one member of the board of supervisors shall reside
314 within each watershed voting area.

315 (3) (a) The term of office of each member of a board of supervisors is four years.

316 (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are
317 consolidated or a single conservation district divided or dissolved under Part 2, Creation,
318 Consolidation, Division, and Dissolution of Conservation Districts:

319 (i) the term of each member of the board of supervisors of the consolidated
320 conservation districts or the divided or dissolved conservation district terminates immediately
321 upon consolidation, division, or dissolution; and

322 (ii) (A) the commission shall hold an election, as provided in this part, for all board of
323 supervisors members of the consolidated conservation district or divided conservation districts,
324 as the case may be; and

325 (B) the term of the two candidates receiving the highest number of votes at an election
326 under Subsection (3)(b)(ii)(A) shall be four years, and the term of the three candidates
327 receiving the next highest number of votes shall be two years.

328 (4) The board of supervisors shall elect a chair from among their number, and may
329 elect other officers from among their number that the board considers necessary.

330 (5) (a) A majority of the board of supervisors constitutes a quorum for the transaction
331 of board business~~[-and action by a majority of a quorum present at a meeting of the board
332 constitutes action of the board].~~

333 (b) Unless otherwise prescribed by law, the minimum number of yes votes required for
334 the transaction of business by the board of supervisors is a majority of the total number of
335 voting members of the board, regardless of the number of voting members of the board of
336 supervisors present at the meeting, and without considering any vacancy in the board.

337 (6) For performing official duties, each member of the board of supervisors of a

338 conservation district shall receive:

339 (a) compensation for travel and time, as fixed by the commission; and

340 (b) actual and necessary expenses.

Legislative Review Note

as of 1-3-14 9:22 AM

Office of Legislative Research and General Counsel