

HB0209S01 compared with HB0209

~~{deleted text}~~ shows text that was in HB0209 but was deleted in HB0209S01.

inserted text shows text that was not in HB0209 but was inserted into HB0209S01.

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Senator Wayne A. Harper proposes the following substitute bill:

PUBLIC TRANSIT DISTRICT ~~{BOARD COUNTY}~~ ~~APPOINTMENT~~ } AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: ~~{_____}~~ Brian E. Shiozawa

LONG TITLE

General Description:

This bill ~~{modifies the Public Transit District Act by amending}~~ amends and enacts provisions relating to ~~{a}~~ public transit ~~{district board of trustees}~~ districts.

Highlighted Provisions:

This bill:

- ▶ ~~{amends}~~ modifies the membership for a board of ~~{a}~~ trustees of certain public transit ~~{district board of trustees for a public transit district with more than 200,000 people residing within the boundaries of the public transit district, and~~
→ ~~makes}~~ districts;
- ▶ creates the Public Transit District Governance and Accountability Commission;

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- ▶ specifies membership of the commission;
- ▶ provides for expenses of commission members;
- ▶ provides for commission duties, meetings, and reports;
- ▶ provides for a sunset of the commission provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-807, as last amended by Laws of Utah 2014, Chapter 377

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409,
and 424

ENACTS:

63C-17-101, Utah Code Annotated 1953

63C-17-102, Utah Code Annotated 1953

63C-17-103, Utah Code Annotated 1953

63C-17-104, Utah Code Annotated 1953

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

Section 1. Section **17B-2a-807** is amended to read:

**17B-2a-807. Public transit district board of trustees -- Appointment --
Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of

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service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) [~~11~~] 12 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest [~~1/11~~] 1/12 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest [~~1/11~~] 1/12 of the total cumulative transit sales and use tax collected for the transit district.

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(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest ~~[+11]~~ 1/12 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than ~~[+1]~~ 12 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest ~~[+11]~~ 1/12 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than ~~[+1]~~ 12 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) ~~[If the population in the unincorporated area of a county is at least 140,000]~~ If the population of a county is at least 750,000, the county executive, with the advice and consent of the county legislative body, shall appoint ~~[one]~~ two voting ~~[member]~~ members to represent the population ~~[within a county's unincorporated area {.]~~ If the population of a county is at least 750,000, the county executive, with the advice and consent of the county legislative body, shall appoint two voting members to represent the population of the county.] of the county.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall

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represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least [~~1/11~~] 1/12 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

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

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

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(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

(A) upon appointment of a new member under Subsection (2)(o)(v); or

(B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

(a) one member appointed by the speaker of the House of Representatives;

(b) one member appointed by the president of the Senate; and

(c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the

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transaction of business.

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

(8) Each public transit district shall pay to each member:

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

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

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

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(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

†

Legislative Review Note

~~Office of Legislative Research and General Counsel~~

Section 2. Section 63C-17-101 is

enacted to read:

CHAPTER 17. PUBLIC TRANSIT DISTRICT GOVERNANCE AND ACCOUNTABILITY COMMISSION ACT

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63C-17-101. Title.

This chapter is known as the "Public Transit District Governance and Accountability Commission Act."

Section 3. Section 63C-17-102 is enacted to read:

63C-17-102. Definitions.

As used in this section:

(1) "Commission" means the Public Transit District Governance and Accountability Commission created in Section 63C-17-103.

(2) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, with more than 200,000 people residing within the boundaries of the public transit district.

(3) "Transit-oriented development" means the same as that term is defined in Section 17B-2a-802.

Section 4. Section 63C-17-103 is enacted to read:

63C-17-103. Public Transit District Governance and Accountability Commission

-- Membership.

(1) There is created the Public Transit District Governance and Accountability Commission consisting of the following 17 members:

(a) two members shall be members of the Senate appointed by the president of the Senate;

(b) two members shall be members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) one member shall be the mayor of Salt Lake City, Utah, or the mayor's designee;

(d) one member shall be the chair of the board of a public transit district;

(e) one member shall be the vice-chair of the board of a public transit district;

(f) one member shall be an appointee of the Utah County legislative body;

(g) one member shall be the mayor of Salt Lake County or the mayor's designee;

(h) one member shall be an appointee of the Davis County legislative body;

(i) one member shall be an appointee of the Weber County legislative body;

(j) one member representing Wasatch Front Regional Council, appointed by the governor;

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(k) one member representing Mountainland Association of Governments, appointed by the governor;

(l) one member representing a transit riders union within the state, appointed by the governor;

(m) one member of the public experienced in transit or a transit user, appointed by the governor; and

(n) two members representing the executive branch, appointed by the governor.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(3) Any vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(4) Each member of the commission shall serve until a successor is appointed and qualified.

(5) (a) A majority of members constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(6) A member of the commission may not receive compensation for the member's work associated with the commission, but may receive per diem and reimbursement for travel expenses incurred as a member of the commission at the rates established by the Division of Finance under Section 63A-3-107.

(7) The Governor's Office of Management and Budget shall provide staff support to the commission.

(8) A public transit district shall provide additional staffing, resources, assistance, information, and materials to the commission and the Governor's Office of Management and Budget staff to support the commission and the purposes of this study.

Section 5. Section **63C-17-104** is enacted to read:

63C-17-104. Commission duties -- Meetings -- Report.

(1) The commission shall review and make recommendations on public transit district governance and accountability issues for a public transit district, including the following issues:

(a) the current governance structure of a public transit district, including the existing

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board appointment procedures, board member composition, the amount of time that a board member is expected to dedicate to board and transit activities on a weekly or monthly basis, board membership requirements, and board member qualifications;

(b) the existing sales and use tax funding for a public transit district and whether property tax should be part of the funding balance for a public transit district;

(c) the number and types of existing transit-oriented development projects in the state;

(d) the oversight requirements, policy directives, goals, and benchmarks for transit-oriented development projects, including whether:

(i) internal audits to routinely review how transit-oriented development projects' processes, functions, and contracts are conducted;

(ii) a transit-oriented development is subject to external independent review before any contracts for the development are signed; and

(iii) current and future transit-oriented developments should be overseen by local governments or private developers rather than a public transit district;

(e) improving coordination with:

(i) city and county priorities and efforts; and

(ii) public transit users;

(f) executive director selection, including selection methodology, duties, qualifications, and total compensation, including salary, benefits, and bonuses and appropriate benchmark comparisons;

(g) lobbying restriction requirements of a public transit district;

(h) any other issues relating to a public transit district that the commission determines appropriate; and

(i) recommendations, if any, to amend Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) The commission:

(a) is authorized to meet as many times as needed;

(b) may create working groups; and

(c) shall meet at least eight times before October 31, 2016.

(3) The commission shall present a final report, including any proposed legislation, to the Governor, the public transit district board, and the Transportation Interim Committee

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before November 30, 2016.

Section 6. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Public Transit District Governance and Accountability Commission Act, is repealed December 31, 2016.

[~~(6)~~] (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

[~~(7)~~] (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[~~(8)~~] (9) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

[~~(9)~~] (10) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

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(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;
and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

~~[(10)]~~ (11) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

~~[(11)]~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

~~[(12)]~~ (13) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

~~[(13)]~~ (14) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(13)]~~ (14)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(13)]~~ (14)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

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(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[(14)] (15) Section 63N-2-512 is repealed on July 1, 2021.

[(15)] (16) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(15)] (16)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[(16)] (17) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

Section 7. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 10, 2016.

(2) The amendments to Section 17B-2a-807 in this bill take effect on July 1, 2017.