

Representative Brad L. Dee proposes the following substitute bill:

MOUNTAINOUS PLANNING DISTRICT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to mountainous planning districts.

Highlighted Provisions:

This bill:

- ▶ modifies the procedure for selecting certain members of a planning commission that has jurisdiction over a mountainous planning district;
- ▶ addresses the circumstances under which an area may withdraw from a mountainous planning district;
- ▶ requires a county legislative body that designates a mountainous planning district to submit a report to the Political Subdivisions Interim Committee; and
- ▶ removes a repeal date for provisions relating to mountainous planning districts.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-301, as last amended by Laws of Utah 2015, Chapters 352 and 465



26 17-27a-901, as enacted by Laws of Utah 2015, Chapter 465

27 63I-2-217, as enacted by Laws of Utah 2015, Chapter 465 and further amended by

28 Revisor Instructions, Laws of Utah 2015, Chapter 465

29

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

31 Section 1. Section 17-27a-301 is amended to read:

32 **17-27a-301. Ordinance establishing planning commission required -- Exception --**

33 **Ordinance requirements -- Planning advisory area planning commission --**

34 **Compensation.**

35 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
36 establishing a countywide planning commission for the unincorporated areas of the county not
37 within a planning advisory area.

38 (b) Subsection (1)(a) does not apply if all of the county is included within any
39 combination of:

40 (i) municipalities;

41 (ii) planning advisory areas with their own planning commissions; and

42 (iii) mountainous planning districts.

43 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection
44 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,
45 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over
46 the entire mountainous planning district, including areas of the mountainous planning district
47 that are also located within a municipality or are unincorporated.

48 (ii) A planning commission described in Subsection (1)(c)(i):

49 (A) does not have jurisdiction over a municipality described in Subsection

50 10-9a-304(2)(b); and

51 (B) has jurisdiction subject to a local health department exercising its authority in
52 accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising
53 the municipality's authority in accordance with Section 10-8-15.

54 (iii) The ordinance shall require that:

55 (A) members of the planning commission represent areas located in the unincorporated
56 and incorporated county;

57 (B) members of the planning commission be registered voters who reside either in the
58 unincorporated or incorporated county; [~~and~~]

59 (C) at least one member of the planning commission resides within the mountainous
60 planning district[-]; and

61 (D) the county designate up to four seats on the planning commission, and fill each
62 vacancy in the designated seats in accordance with the procedure described in Subsection (7).

63 (2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

64 (i) the number and terms of the members and, if the county chooses, alternate
65 members;

66 (ii) the mode of appointment;

67 (iii) the procedures for filling vacancies and removal from office;

68 (iv) the authority of the planning commission;

69 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
70 planning commission in a public meeting; and

71 (vi) other details relating to the organization and procedures of the planning
72 commission.

73 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
74 Title 52, Chapter 4, Open and Public Meetings Act.

75 (3) (a) (i) If the county establishes a planning advisory area planning commission, the
76 county legislative body shall enact an ordinance that defines:

77 (A) appointment procedures;

78 (B) procedures for filling vacancies and removing members from office;

79 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
80 planning advisory area planning commission in a public meeting; and

81 (D) details relating to the organization and procedures of each planning advisory area
82 planning commission.

83 (ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning
84 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

85 (b) The planning commission for each planning advisory area shall consist of seven
86 members who shall be appointed by:

87 (i) in a county operating under a form of government in which the executive and

88 legislative functions of the governing body are separated, the county executive with the advice
89 and consent of the county legislative body; or

90 (ii) in a county operating under a form of government in which the executive and
91 legislative functions of the governing body are not separated, the county legislative body.

92 (c) (i) Members shall serve four-year terms and until their successors are appointed and
93 qualified.

94 (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first
95 planning commissions shall be appointed so that, for each commission, the terms of at least one
96 member and no more than two members expire each year.

97 (d) (i) Each member of a planning advisory area planning commission shall be a
98 registered voter residing within the planning advisory area.

99 (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if
100 that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory
101 area.

102 (4) (a) A member of a planning commission who was elected to and served on a
103 planning commission on May 12, 2015, shall serve out the term to which the member was
104 elected.

105 (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant
106 seat shall be filled by appointment in accordance with this section.

107 (5) Upon the appointment of all members of a planning advisory area planning
108 commission, each planning advisory area planning commission under this section shall begin to
109 exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all
110 matters then pending that previously had been under the jurisdiction of the countywide
111 planning commission or planning advisory area planning and zoning board.

112 (6) The legislative body may fix per diem compensation for the members of the
113 planning commission, based on necessary and reasonable expenses and on meetings actually
114 attended.

115 (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning
116 commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

117 (b) If a county designates one or more planning commission seats under Subsection
118 (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

119 (i) (A) are adjacent to the mountainous planning district; and
120 (B) border the entrance to a canyon that is located within the boundaries of the
121 mountainous planning district and accessed by a paved road maintained by the county or the
122 state; or

123 (ii) exercise extraterritorial jurisdiction in accordance with Section [10-8-15](#).

124 (c) When there is a vacancy in a planning commission seat described in Subsection
125 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in
126 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy
127 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

128 (d) The city shall respond to a written request described in Subsection (7)(c) within 60
129 days after the day on which the city receives the written request.

130 (e) After the county receives the city's list of three individuals, the county shall submit
131 one of the individuals on the list for appointment to the vacant planning commission seat in
132 accordance with county ordinance.

133 (f) The county shall fill the vacancy in accordance with the county's standard procedure
134 if the city fails to timely respond to the written request.

135 Section 2. Section **17-27a-901** is amended to read:

136 **17-27a-901. Mountainous planning district.**

137 (1) (a) The legislative body of a county of the first class may adopt an ordinance
138 designating an area located within the county as a mountainous planning district if the
139 legislative body determines that:

140 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski
141 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;

142 (ii) the area is used by residents of the county who live inside and outside the limits of
143 a municipality;

144 (iii) the total resident population in the proposed mountainous planning district is equal
145 to or less than 5% of the population of the county; and

146 (iv) the area is within the unincorporated area of the county or was within the
147 unincorporated area of the county before May 12, 2015.

148 (b) (i) A mountainous planning district may include within its boundaries a
149 municipality, whether in whole or in part.

150 (ii) [H] Except as provided in Subsection (1)(b)(iv), if a mountainous planning district
151 includes within its boundaries an unincorporated area, and that area subsequently incorporates
152 as a municipality:

153 (A) the area of the incorporated municipality that is located in the mountainous
154 planning district is included within the mountainous planning district boundaries; and

155 (B) property within the municipality that is also within the mountainous planning
156 district is subject to the authority of the mountainous planning district.

157 (iii) A subdivision and zoning ordinance that governs property located within a
158 mountainous planning district shall control over any subdivision or zoning ordinance, as
159 applicable, that a municipality may adopt.

160 (iv) A county shall allow an area within the boundaries of a mountainous planning
161 district to withdraw from the mountainous planning district if:

162 (A) the area contains less than 100 acres;

163 (B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4,
164 Annexation; and

165 (C) the county determines that the area does not contain United States Forest Service
166 land or land that is designated as watershed and not used by individuals for recreational
167 purposes.

168 (v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous
169 planning district is not subject to the authority of the mountainous planning district.

170 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a
171 population estimate by the Utah Population Estimates Committee.

172 (d) If any portion of a proposed mountainous planning district includes a municipality
173 with a land base of five square miles or less, the county shall ensure that all of that municipality
174 is wholly located within the boundaries of the mountainous planning district.

175 (2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or
176 Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision
177 ordinance for a property that is located within:

178 (i) a mountainous planning district; and

179 (ii) a municipality.

180 (b) A county plan or zoning or subdivision ordinance governs a property described in

181 Subsection (2)(a).

182 (3) (a) Each legislative body of a county of the first class that adopts an ordinance
183 designating an area as a mountainous planning district shall submit a report to the Political
184 Subdivisions Interim Committee no later than the October 31 immediately following the fourth
185 anniversary of the effective date of the mountainous planning district.

186 (b) The report described in Subsection (3)(a) shall:

187 (i) address whether the mountainous planning district is effective in fulfilling the
188 mountainous planning district's purpose; and

189 (ii) recommend any legislation to modify one or more provisions governing the
190 mountainous planning district.

191 (c) In response to a recommendation under Subsection (3)(b)(ii), the Political
192 Subdivisions Interim Committee may prepare and recommend legislation for consideration by
193 the Legislature in the next general session.

194 Section 3. Section **63I-2-217** is amended to read:

195 **63I-2-217. Repeal dates -- Title 17.**

196 (1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and"
197 and ", as applicable," is repealed January 1, 2015.

198 (2) Section 17-15-30 is repealed July 1, 2015.

199 (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

200 (4) Subsection 17-24-1(4)(b), the language that states ", as applicable, Sections
201 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

202 (5) Subsection 17-24-4(2), the language that states ", as applicable, Subsection
203 17-19-3(3)(b) or" is repealed January 1, 2015.

204 (6) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous
205 planning district" is repealed June 1, 2016.

206 (7) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2016.

207 (b) Subsection 17-27a-103(34) is repealed June 1, 2016.

208 (8) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning
209 district area" is repealed June 1, 2016.

210 (9) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2016.

211 (b) Subsection 17-27a-301(1)(c) is repealed June 1, 2016.

212 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
213 (1)(a) or (c)" is repealed June 1, 2016.

214 (10) Subsection 17-27a-302(1), the language that states ", or mountainous planning
215 district" and "or the mountainous planning district," is repealed June 1, 2016.

216 (11) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning
217 district or" and ", as applicable" is repealed June 1, 2016.

218 (12) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2016.

219 (b) Subsection 17-27a-401(6) is repealed June 1, 2016.

220 (13) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2016.

221 (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2016.

222 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
223 district" is repealed June 1, 2016.

224 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
225 district" is repealed June 1, 2016.

226 (14) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2016.

227 (15) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2016.

228 (16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
229 mountainous planning district, the mountainous planning district" is repealed June 1, 2016.

230 (17) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2016.

231 (18) Subsection 17-27a-605(1), the language that states "or mountainous planning
232 district land" is repealed June 1, 2016.

233 [~~(19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,~~
234 ~~2016.~~]

235 [~~(20)~~] (19) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the
236 second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive
237 as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

238 (b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is
239 repealed January 1, 2015.

240 (c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or 17-24-4, as
241 applicable" is repealed January 1, 2015.

242 [~~(21)~~] (20) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as

243 applicable, or" is repealed January 1, 2015.

244 ~~[(22)]~~ (21) Subsection 17-36-10(1), the language that states the following is repealed
245 January 1, 2015:

246 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
247 sixth class is not subject to the provisions of this section; and

248 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
249 is subject to the provisions of this section."

250 ~~[(23)]~~ (22) Section 17-36-10.1 is repealed January 1, 2015.

251 ~~[(24)]~~ (23) Subsection 17-36-11(1), the language that states the following is repealed
252 January 1, 2015:

253 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
254 sixth class is not subject to the provisions of this section; and

255 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
256 is subject to the provisions of this section."

257 ~~[(25)]~~ (24) Section 17-36-11.1 is repealed January 1, 2015.

258 ~~[(26)]~~ (25) Subsection 17-36-15(1), the language that states the following is repealed
259 January 1, 2015:

260 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
261 sixth class is not subject to the provisions of this section; and

262 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
263 is subject to the provisions of this section."

264 ~~[(27)]~~ (26) Section 17-36-15.1 is repealed January 1, 2015.

265 ~~[(28)]~~ (27) Subsection 17-36-20(1), the language that states the following is repealed
266 January 1, 2015:

267 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
268 sixth class is not subject to the provisions of this section; and

269 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
270 is subject to the provisions of this section."

271 ~~[(29)]~~ (28) Section 17-36-20.1 is repealed January 1, 2015.

272 ~~[(30)]~~ (29) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as
273 applicable, and" is repealed January 1, 2015.

274 [~~(31)~~] (30) Subsection 17-36-43(1), the language that states the following is repealed
275 January 1, 2015:

276 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
277 sixth class is not subject to the provisions of this section; and

278 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
279 is subject to the provisions of this section."

280 [~~(32)~~] (31) Section 17-36-43.1 is repealed January 1, 2015.

281 [~~(33)~~] (32) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is
282 repealed January 1, 2015.

283 [~~(34)~~] (33) Subsection 17-50-401(1), the language that states the following is repealed
284 January 1, 2015:

285 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
286 sixth class is not subject to the provisions of this section; and

287 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
288 is subject to the provisions of this section."

289 [~~(35)~~] (34) Section 17-50-401.1 is repealed January 1, 2015.

290 [~~(36)~~] (35) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as
291 applicable" is repealed January 1, 2015.

292 [~~(37)~~] (36) Subsection 17-52-401(1), the language that states the following is repealed
293 January 1, 2015:

294 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
295 sixth class is not subject to the provisions of this section; and

296 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
297 is subject to the provisions of this section."

298 [~~(38)~~] (37) Section 17-52-401.1 is repealed January 1, 2015.

299 [~~(39)~~] (38) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(c),
300 as applicable" is repealed January 1, 2015.

301 [~~(40)~~] (39) On January 1, 2015, when making the changes in this section, the Office of
302 Legislative Research and General Counsel shall:

303 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
304 necessary to ensure that sections and subsections identified in this section are complete

305 sentences and accurately reflect the office's perception of the Legislature's intent; and
306 (b) identify the text of the affected sections and subsections based upon the section and
307 subsection numbers used in Laws of Utah 2012, Chapter 17.
308 [~~41~~] (40) On June 1, 2016, when making the changes in this section, the Office of
309 Legislative Research and General Counsel shall:
310 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
311 necessary to ensure that sections and subsections identified in this section are complete
312 sentences and accurately reflect the office's perception of the Legislature's intent; and
313 (b) identify the text of the affected sections and subsections based upon the section and
314 subsection numbers used in Laws of Utah 2015, Chapter 465.