

HB0348S01 compared with HB0348

~~text~~ shows text that was in HB0348 but was deleted in HB0348S01.

text shows text that was not in HB0348 but was inserted into HB0348S01.

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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: _____

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:

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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

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

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

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

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

**17-27a-301. Ordinance establishing planning commission required -- Exception --
Ordinance requirements -- Planning advisory area planning commission --
Compensation.**

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

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

- (i) municipalities;
- (ii) planning advisory areas with their own planning commissions; and
- (iii) mountainous planning districts.

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

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

(A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and

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

(iii) The ordinance shall require that:

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

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

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

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

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

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

(ii) the mode of appointment;

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

(iv) the authority of the planning commission;

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

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

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

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

(A) appointment procedures;

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

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

(D) details relating to the organization and procedures of each planning advisory area

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planning commission.

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

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

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

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

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

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

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

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

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

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

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

(6) The legislative body may fix per diem compensation for the members of the

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planning commission, based on necessary and reasonable expenses and on meetings actually attended.

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

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

(i) (A) are adjacent to the mountainous planning district; and

(B) border the entrance to a canyon that is located within the boundaries of the mountainous planning district and accessed by a paved road maintained by the county or the state; or

(ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

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

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

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

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

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

17-27a-901. Mountainous planning district.

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

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

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

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

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

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

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

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

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

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

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

(A) the area contains less than 100 acres;

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

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

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

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

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

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

- (i) a mountainous planning district; and
- (ii) a municipality.

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

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

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

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

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

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

Section ~~11~~3. Section **63I-2-217** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(20)]~~ (19) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive

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as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

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

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

~~[(21)]~~ (20) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

"(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or

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sixth class is not subject to the provisions of this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

~~[(41)]~~ (40) On June 1, 2016, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2015, Chapter 465.

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Legislative Review Note

Office of Legislative Research and General Counsel