

1 **LOCAL DISTRICT BOARD AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jerry W. Stevenson**

5 House Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9 This bill clarifies appointment provisions regarding local district boards of trustees.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies the definition of elected official for purposes of membership on certain
- 13 local boards;
- 14 ▶ modifies the number of voters required to approve a certain tax or levy;
- 15 ▶ clarifies the application of certain residency requirements for appointed members of
- 16 local district boards of trustees;
- 17 ▶ clarifies when appointment procedures apply in the case of a board vacancy; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **17B-1-203**, as last amended by Laws of Utah 2013, Chapter 70

26 **17B-1-208**, as renumbered and amended by Laws of Utah 2007, Chapter 329

27 **17B-1-302**, as last amended by Laws of Utah 2016, Chapter 140



- 28           17B-1-303, as last amended by Laws of Utah 2016, Chapter 233
- 29           17B-1-304, as last amended by Laws of Utah 2014, Chapter 377
- 30           17B-1-1001, as last amended by Laws of Utah 2013, Chapter 415
- 31           17B-2a-404, as last amended by Laws of Utah 2015, Chapter 258
- 32           17B-2a-405, as last amended by Laws of Utah 2015, Chapter 258
- 33           17B-2a-604, as last amended by Laws of Utah 2010, Chapter 159
- 34           17B-2a-608, as last amended by Laws of Utah 2013, Chapters 278 and 415
- 35           17B-2a-704, as last amended by Laws of Utah 2012, Chapter 97
- 36           17B-2a-905, as last amended by Laws of Utah 2014, Chapter 189
- 37           17B-2a-1009, as last amended by Laws of Utah 2013, Chapter 415

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

40           Section 1. Section 17B-1-203 is amended to read:

41           **17B-1-203. Process to initiate the creation of a local district -- Petition or**  
 42 **resolution.**

43           (1) The process to create a local district may be initiated by:

44           (a) unless the proposed local district is a local district to acquire or assess a  
 45 groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition  
 46 signed by the owners of private real property that:

47           (i) is located within the proposed local district;

48           (ii) covers at least 33% of the total private land area within the proposed local district  
 49 as a whole and within each applicable area;

50           (iii) is equal in value to at least 25% of the value of all private real property within the  
 51 proposed local district as a whole and within each applicable area; and

52           (iv) complies with the requirements of Subsection 17B-1-205(1) and Section  
 53 17B-1-208;

54           (b) subject to Section 17B-1-204, a petition that:

55           (i) is signed by registered voters residing within the proposed local district as a whole  
 56 and within each applicable area, equal in number to at least 33% of the number of votes cast in  
 57 the proposed local district as a whole and in each applicable area, respectively, for the office of  
 58 governor at the last regular general election prior to the filing of the petition; and

- 59 (ii) complies with the requirements of Subsection 17B-1-205(1) and Section  
60 17B-1-208;
- 61 (c) if the proposed local district is a local district to acquire or assess a groundwater  
62 right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the  
63 owners of groundwater rights that:
- 64 (i) are diverted within the proposed local district;
- 65 (ii) cover at least 33% of the total amount of groundwater diverted in accordance with  
66 groundwater rights within the proposed local district as a whole and within each applicable  
67 area; and
- 68 (iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
- 69 (d) a resolution proposing the creation of a local district, adopted by the legislative  
70 body of each county whose unincorporated area, whether in whole or in part, includes and each  
71 municipality whose boundaries include any of the proposed local district; or
- 72 (e) a resolution proposing the creation of a local district, adopted by the board of  
73 trustees of an existing local district whose boundaries completely encompass the proposed  
74 local district, if:
- 75 (i) the proposed local district is being created to provide one or more components of  
76 the same service that the initiating local district is authorized to provide; and
- 77 (ii) the initiating local district is not providing to the area of the proposed local district  
78 any of the components that the proposed local district is being created to provide.
- 79 (2) (a) Each resolution under Subsection (1)(d) or (e) shall:
- 80 (i) describe the area proposed to be included in the proposed local district;
- 81 (ii) be accompanied by a map that shows the boundaries of the proposed local district;
- 82 (iii) describe the service proposed to be provided by the proposed local district;
- 83 (iv) if the resolution proposes the creation of a specialized local district, specify the  
84 type of specialized local district proposed to be created;
- 85 (v) explain the anticipated method of paying the costs of providing the proposed  
86 service;
- 87 (vi) state the estimated average financial impact on a household within the proposed  
88 local district;
- 89 (vii) state the number of members that the board of trustees of the proposed local

90 district will have, consistent with the requirements of Subsection [17B-1-302](#)~~(2)~~(4);

91 (viii) for a proposed basic local district:

92 (A) state whether the members of the board of trustees will be elected or appointed or  
93 whether some members will be elected and some appointed, as provided in Section

94 [17B-1-1402](#);

95 (B) if one or more members will be elected, state the basis upon which each elected  
96 member will be elected; and

97 (C) if applicable, explain how the election or appointment of board members will  
98 transition from one method to another based on stated milestones or events, as provided in  
99 Section [17B-1-1402](#);

100 (ix) for a proposed improvement district whose remaining area members or county  
101 members, as those terms are defined in Section [17B-2a-404](#), are to be elected, state that those  
102 members will be elected; and

103 (x) for a proposed service area that is entirely within the unincorporated area of a single  
104 county, state whether the initial board of trustees will be:

105 (A) the county legislative body;

106 (B) appointed as provided in Section [17B-1-304](#); or

107 (C) elected as provided in Section [17B-1-306](#).

108 (b) Each county or municipal legislative body adopting a resolution under Subsection  
109 (1)(d) shall, on or before the first public hearing under Section [17B-1-210](#), mail or deliver a  
110 copy of the resolution to the responsible body if the county or municipal legislative body's  
111 resolution is one of multiple resolutions adopted by multiple county or municipal legislative  
112 bodies proposing the creation of the same local district.

113 Section 2. Section **17B-1-208** is amended to read:

114 **17B-1-208. Additional petition requirements and limitations.**

115 (1) Each petition shall:

116 (a) be filed with the responsible clerk;

117 (b) separately group signatures by county and municipality, so that all signatures of the  
118 owners of real property located within or of registered voters residing within each county  
119 whose unincorporated area includes and each municipality whose boundaries include part of  
120 the proposed local district are grouped separately; and

121 (c) state the number of members that the board of trustees of the proposed local district  
122 will have, consistent with the requirements of Subsection 17B-1-302~~(2)~~(4).

123 (2) (a) A petition may not propose the creation of a local district that includes an area  
124 located within the unincorporated part of a county or within a municipality if the legislative  
125 body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1)  
126 indicating that the county or municipality will provide to that area the service proposed to be  
127 provided by the proposed local district.

128 (b) Subsection (2)(a) does not apply if the county or municipal legislative body is  
129 considered to have declined to provide the requested service under Subsection 17B-1-212(3).

130 (c) Subsection (2)(a) may not be construed to prevent the filing of a petition that  
131 proposes the creation of a local district whose area excludes that part of the unincorporated area  
132 of a county or that part of a municipality to which the county or municipality has indicated, in a  
133 resolution adopted under Section 17B-1-212, it will provide the requested service.

134 (3) A petition may not propose the creation of a local district whose area includes:

135 (a) some or all of an area described in a previously filed petition that, subject to  
136 Subsection 17B-1-202(4)(b):

137 (i) proposes the creation of a local district to provide the same service as proposed by  
138 the later filed petition; and

139 (ii) is still pending at the time the later petition is filed; or

140 (b) some or all of an area within a political subdivision that provides in that area the  
141 same service proposed to be provided by the proposed local district.

142 (4) A petition may not be filed more than 12 months after a county or municipal  
143 legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is  
144 considered to have declined to provide the requested service under Subsection 17B-1-212(2) or  
145 (3).

146 Section 3. Section 17B-1-302 is amended to read:

147 **17B-1-302. Board member qualifications -- Number of board members.**

148 (1) ~~(a)~~ Each member of a local district board of trustees shall be:

149 ~~(i)~~ (a) a registered voter at the location of the member's residence; and

150 ~~(ii)~~ (b) except as otherwise provided in ~~this~~ Subsection ~~(1)~~ (2) or (3), a resident  
151 within:

152           ~~[(A)]~~ (i) the boundaries of the local district; and  
153           ~~[(B)]~~ (ii) if applicable, the boundaries of the division of the local district from which  
154 the member is elected or appointed.  
155           ~~[(b)(i)]~~ (2) (a) As used in this Subsection ~~[(1)(b)]~~ (2):  
156           ~~[(A)]~~ (i) "Proportional number" means the number of members of a board of trustees  
157 that bears, as close as mathematically possible, the same proportion to all members of the board  
158 that the number of seasonally occupied homes bears to all residences within the district that  
159 receive service from the district.  
160           ~~[(B)]~~ (ii) "Seasonally occupied home" means a single-family residence:  
161           ~~[(F)]~~ (A) that is located within the local district;  
162           ~~[(H)]~~ (B) that receives service from the local district; and  
163           ~~[(H)]~~ (C) whose owner~~[-(Aa)]~~ does not reside permanently at the residence~~[-and~~  
164 ~~(Bb)]~~ but may occupy the residence on a temporary or seasonal basis.  
165           ~~[(i)]~~ (b) If over 50% of the residences within a local district that receive service from  
166 the local district are seasonally occupied homes, the requirement under Subsection  
167 (1)~~[(a)(ii)]~~(b) is replaced, for a proportional number of members of the board of trustees, with  
168 the requirement that the member be an owner of land, or an agent or officer of the owner of  
169 land, that:  
170           ~~[(A)]~~ (i) receives service from the district; and  
171           ~~[(B)]~~ (ii) is located within~~[-(F)]~~ the local district~~[-and (H)]~~ and, if applicable, the  
172 division from which the member is elected.  
173           ~~[(e)]~~ (3) (a) For a board of trustees member in a basic local district that has within ~~[its]~~  
174 the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the  
175 requirement under Subsection (1)~~[(a)(ii)]~~(b) is replaced with the requirement that the member  
176 be an owner of land within the local district that receives service from the district, or an agent  
177 or officer of the owner.  
178           ~~[(d)]~~ (b) A member of the board of trustees of a service area described in Subsection  
179 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is  
180 not subject to the requirements described in Subsection (1)~~[(a)(ii)]~~(b) if the elected official was  
181 elected at large by the voters of the county.  
182           ~~[(2)]~~ (4) Except as otherwise provided by statute, the number of members of each

183 board of trustees of a local district shall be an odd number that is no less than three.

184 ~~[(3)]~~ (5) For a newly created local district, the number of members of the initial board  
185 of trustees shall be the number specified:

186 (a) for a local district whose creation was initiated by a petition under Subsection  
187 17B-1-203(1)(a), (b), or (c), in the petition; or

188 (b) for a local district whose creation was initiated by a resolution under Subsection  
189 17B-1-203(1)(d) or (e), in the resolution.

190 ~~[(4)]~~ (6) (a) For an existing local district, the number of members of the board of  
191 trustees may be changed by a two-thirds vote of the board of trustees.

192 (b) No change in the number of members of a board of trustees under Subsection ~~[(4)]~~  
193 (6)(a) may:

194 (i) violate Subsection ~~[(2)]~~ (4); or

195 (ii) serve to shorten the term of any member of the board.

196 Section 4. Section 17B-1-303 is amended to read:

197 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice**  
198 **of board member contact information.**

199 (1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a  
200 board of trustees shall begin at noon on the January 1 following the member's election or  
201 appointment.

202 (b) The term of each member of the initial board of trustees of a newly created local  
203 district shall begin:

204 (i) upon appointment, for an appointed member; and

205 (ii) upon the member taking the oath of office after the canvass of the election at which  
206 the member is elected, for an elected member.

207 (c) The term of each water conservancy district board member appointed by the  
208 governor as provided in Subsection 17B-2a-1005(2)(c) shall:

209 (i) begin on the later of the following:

210 (A) the date on which the Senate consents to the appointment; or

211 (B) the expiration date of the prior term; and

212 (ii) end on the February 1 that is approximately four years after the date described in  
213 Subsection (1)(c)(i)(A) or (B).

214 (2) (a) (i) Except as provided in Subsection (8), and subject to Subsection (2)(a)(ii), the  
215 term of each member of a board of trustees shall be four years, except that approximately half  
216 the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that  
217 the term of approximately half the board members expires every two years.

218 (ii) (A) If the terms of members of the initial board of trustees of a newly created local  
219 district do not begin on January 1 because of application of Subsection (1)(b), the terms of  
220 those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in  
221 the terms of their successors complying with:

222 (I) the requirement under Subsection (1)(a) for a term to begin on January 1 following  
223 a member's election or appointment; and

224 (II) the requirement under Subsection (2)(a)(i) that terms be four years.

225 (B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or  
226 subtract more than a year from a member's term.

227 (b) Each board of trustees member shall serve until a successor is duly elected or  
228 appointed and qualified, unless the member earlier is removed from office or resigns or  
229 otherwise leaves office.

230 (c) If a member of a board of trustees no longer meets the qualifications of Subsection  
231 [17B-1-302\(1\), \(2\), or \(3\)](#), or if the member's term expires without a duly elected or appointed  
232 successor:

233 (i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

234 (ii) the member may continue to serve until a successor is duly elected or appointed  
235 and qualified.

236 (3) (a) (i) Before entering upon the duties of office, each member of a board of trustees  
237 shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

238 (ii) An oath of office may be administered by a judge, county clerk, notary public, or  
239 the local district clerk.

240 (b) Each oath of office shall be filed with the clerk of the local district.

241 (c) The failure of a board of trustees member to take the oath required by Subsection  
242 (3)(a) does not invalidate any official act of that member.

243 (4) A board of trustees member is not limited in the number of terms the member may  
244 serve.



245 (5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees  
246 position shall be filled as provided in Section [20A-1-512](#).

247 (6) (a) For purposes of this Subsection (6):

248 (i) "Appointed official" means a person who:

249 (A) is appointed as a member of a local district board of trustees by a county or  
250 municipality entitled to appoint a member to the board; and

251 (B) holds an elected position with the appointing county or municipality.

252 (ii) "Appointing entity" means the county or municipality that appointed the appointed  
253 official to the board of trustees.

254 (b) The board of trustees shall declare a midterm vacancy for the board position held  
255 by an appointed official if:

256 (i) during the appointed official's term on the board of trustees, the appointed official  
257 ceases to hold the elected position with the appointing entity; and

258 (ii) the appointing entity submits a written request to the board to declare the vacancy.

259 (c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the  
260 appointing entity shall appoint another person to fill the remaining unexpired term on the board  
261 of trustees.

262 (7) (a) Each member of a board of trustees shall give a bond for the faithful  
263 performance of the member's duties, in the amount and with the sureties prescribed by the  
264 board of trustees.

265 (b) The local district shall pay the cost of each bond required under Subsection (7)(a).

266 (8) The lieutenant governor may extend the term of an elected district board member  
267 by one year in order to compensate for a change in the election year under Subsection  
268 [17B-1-306](#)(13).

269 (9) (a) A local district shall:

270 (i) post on the Utah Public Notice Website created in Section [63F-1-701](#) the name,  
271 phone number, and email address of each member of the local district's board of trustees;

272 (ii) update the information described in Subsection (9)(a)(i) when:

273 (A) the membership of the board of trustees changes; or

274 (B) a member of the board of trustees' phone number or email address changes; and

275 (iii) post any update required under Subsection (9)(a)(ii) within 30 days after the day

276 on which the change requiring the update occurs.

277 (b) This Subsection (9) applies regardless of whether the county or municipal  
278 legislative body also serves as the board of trustees of the local district.

279 Section 5. Section **17B-1-304** is amended to read:

280 **17B-1-304. Appointment procedures for appointed members.**

281 (1) The appointing authority may, by resolution, appoint persons to serve as members  
282 of a local district board by following the procedures established by this section.

283 (2) (a) In any calendar year when appointment of a new local district board member is  
284 required, the appointing authority shall prepare a notice of vacancy that contains:

285 (i) the positions that are vacant that shall be filled by appointment;

286 (ii) the qualifications required to be appointed to those positions;

287 (iii) the procedures for appointment that the governing body will follow in making  
288 those appointments; and

289 (iv) the person to be contacted and any deadlines that a person shall meet who wishes  
290 to be considered for appointment to those positions.

291 (b) The appointing authority shall:

292 (i) post the notice of vacancy in four public places within the local district at least one  
293 month before the deadline for accepting nominees for appointment; ~~[and]~~

294 (ii) ~~[(A)]~~ publish the notice of vacancy:

295 ~~[(H)]~~ (A) in a daily newspaper of general circulation within the local district for five  
296 consecutive days before the deadline for accepting nominees for appointment; or

297 ~~[(H)]~~ (B) in a local weekly newspaper circulated within the local district in the week  
298 before the deadline for accepting nominees for appointment; and

299 ~~[(B)]~~ (iii) publish the notice of vacancy in accordance with Section 45-1-101 for five  
300 days before the deadline for accepting nominees for appointment.

301 (c) The appointing authority may bill the local district for the cost of preparing,  
302 printing, and publishing the notice.

303 (3) (a) Not sooner than two months after the appointing authority is notified of the  
304 vacancy, the appointing authority shall select a person to fill the vacancy from the applicants  
305 who meet the qualifications established by law.

306 (b) The appointing authority shall:

307 (i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the  
308 appointment;

309 (ii) allow any interested persons to be heard; and

310 (iii) adopt a resolution appointing a person to the local district board.

311 (c) If no candidate for appointment to fill the vacancy receives a majority vote of the  
312 appointing authority, the appointing authority shall select the appointee from the two top  
313 candidates by lot.

314 (4) Persons appointed to serve as members of the local district board serve four-year  
315 terms, but may be removed for cause at any time after a hearing by two-thirds vote of the  
316 appointing body.

317 (5) (a) At the end of each board member's term, the position is considered vacant, and,  
318 after following the appointment procedures established in this section, the appointing authority  
319 may either reappoint the ~~[old]~~ incumbent board member or appoint a new member ~~[after~~  
320 ~~following the appointment procedures established in this section]~~.

321 (b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a  
322 successor is ~~[duly]~~ elected or appointed and qualified in accordance with Subsection  
323 17B-1-303(2)(b).

324 (6) Notwithstanding any other provision of this section, if the appointing authority  
325 appoints one of its own members and that member meets all applicable statutory board member  
326 qualifications, the appointing authority need not comply with Subsection (2) or (3).

327 Section 6. Section **17B-1-1001** is amended to read:

328 **17B-1-1001. Provisions applicable to property tax levy.**

329 (1) Each local district that levies and collects property taxes shall levy and collect them  
330 according to the provisions of Title 59, Chapter 2, Property Tax Act.

331 (2) As used in this section, "elected official" means a local district board of trustees  
332 member who:

333 (a) is elected to the board of trustees by local district voters at an election held for that  
334 purpose, including a member elected under Subsection (4);

335 (b) holds~~[-at the time of appointment to the board of trustees,]~~ an elected position with  
336 a municipality, county, or another local district that is partially or completely included within  
337 the boundaries of the local district;

338 (c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f); or

339 (d) is considered to be elected in accordance with Subsection 17B-1-306(4)(g).

340 (3) (a) Except as provided in Subsection (3)(b), a local district may not levy or collect  
341 property tax revenue that exceeds the certified tax rate during a taxable year that begins on or  
342 after January 1, 2011.

343 (b) Notwithstanding Subsection (3)(a), a local district may levy or collect property tax  
344 revenue that exceeds the certified tax rate during a taxable year that begins on or after January  
345 1, 2011, if:

346 (i) and to the extent that the revenue from the property tax was pledged before January  
347 1, 2011, to pay for bonds or other obligations of the local district;

348 (ii) the members of the board of trustees are all elected officials;

349 (iii) the majority of the board of trustees are elected officials; or

350 (iv) the proposed tax or increase in the property tax rate has been approved by:

351 (A) a majority of the registered voters within the local district ~~[at]~~ who vote in an  
352 election held for that purpose on a date specified in Section 20A-1-204;

353 (B) the legislative body of the appointing authority; or

354 (C) the legislative body of:

355 (I) a majority of the municipalities partially or completely included within the  
356 boundary of the specified local district; or

357 (II) the county in which the specified local district is located, if the county has some or  
358 all of its unincorporated area included within the boundary of the specified local district.

359 (4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions  
360 Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b),  
361 members of the board of trustees of a local district shall be elected, if, subject to Subsection  
362 (4)(b):

363 (i) two-thirds of all members of the board of trustees of the local district vote in favor  
364 of changing to an elected board; and

365 (ii) the legislative body of each municipality or county that appoints a member to the  
366 board of trustees adopts a resolution approving the change to an elected board.

367 (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten  
368 the term of any member of the board of trustees serving at the time of the change.

- 369 (5) Subsections (2), (3), and (4) do not apply to:
- 370 (a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;
- 371 (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or
- 372 (c) a local district in which:
- 373 (i) the board of trustees consists solely of:
- 374 (A) land owners or the land owners' agents; or
- 375 (B) as described in Subsection ~~17B-1-302(1)(c)~~(3), land owners or the land owners'
- 376 agents or officers; and

377 (ii) there are no residents within the local district at the time a property tax is levied.

378 Section 7. Section **17B-2a-404** is amended to read:

379 **17B-2a-404. Improvement district board of trustees.**

380 (1) As used in this section:

381 (a) "County district" means an improvement district that does not include within its  
382 boundaries any territory of a municipality.

383 (b) "County member" means a member of a board of trustees of a county district.

384 (c) "Electric district" means an improvement district that was created for the purpose of  
385 providing electric service.

386 (d) "Included municipality" means a municipality whose boundaries are entirely  
387 contained within but do not coincide with the boundaries of an improvement district.

388 (e) "Municipal district" means an improvement district whose boundaries coincide  
389 with the boundaries of a single municipality.

390 (f) "Regular district" means an improvement district that is not a county district,  
391 electric district, or municipal district.

392 (g) "Remaining area" means the area of a regular district that:

393 (i) is outside the boundaries of an included municipality; and

394 (ii) includes the area of an included municipality whose legislative body elects, under  
395 Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

396 (h) "Remaining area member" means a member of a board of trustees of a regular  
397 district who is appointed, or, if applicable, elected to represent the remaining area of the  
398 district.

399 (2) The legislative body of the municipality included within a municipal district may:

400 (a) elect, at the time of the creation of the district, to be the board of trustees of the  
401 district; and

402 (b) adopt at any time a resolution providing for:

403 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

404 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

405 (3) (a) The legislative body of a county whose unincorporated area is partly or  
406 completely within a county district may:

407 (i) elect, at the time of the creation of the district, to be the board of trustees of the  
408 district, even though a member of the legislative body of the county may not meet the  
409 requirements of Subsection 17B-1-302(1)(~~a~~);

410 (ii) adopt at any time a resolution providing for:

411 (A) the election of board of trustees members, as provided in Section 17B-1-306; or

412 (B) except as provided in Subsection (4), the appointment of board of trustees  
413 members, as provided in Section 17B-1-304; and

414 (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative  
415 body of the county to the board of trustees, except that the legislative body of the county may  
416 not appoint more than three members of the legislative body of the county to the board of  
417 trustees.

418 (b) A legislative body of a county whose unincorporated area is partly or completely  
419 within a county district may take an action under Subsection (3)(a)(iii) if:

420 (i) more than 35% of the residences within a county district that receive service from  
421 the district are seasonally occupied homes, as defined in Subsection

422 17B-1-302(~~(1)(b)(i)(B)~~)(2)(a)(ii);

423 (ii) the board of trustees are appointed by the legislative body of the county; and

424 (iii) there are at least two appointed board members who meet the requirements of  
425 [~~Subsection~~] Subsections 17B-1-302(1), (2), and (3), except that a member of the legislative  
426 body of the county need not satisfy the requirements of [~~Subsection~~] Subsections

427 17B-1-302(1), (2), and (3).

428 (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a  
429 resolution providing for the appointment of board of trustees members as provided in  
430 Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of

431 trustees unless:

432 (a) the elected board has ceased to function;

433 (b) the terms of all of the elected board members have expired without the board  
434 having called an election; or

435 (c) the elected board of trustees unanimously adopts a resolution approving the change  
436 from an elected to an appointed board.

437 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each  
438 included municipality shall each appoint one member to the board of trustees of a regular  
439 district.

440 (ii) The legislative body of an included municipality may elect not to appoint a member  
441 to the board under Subsection (5)(a)(i).

442 (b) Except as provided in Subsection (6), the legislative body of each county whose  
443 boundaries include a remaining area shall appoint all other members to the board of trustees of  
444 a regular district.

445 (6) Notwithstanding Subsection (3), each remaining area member of a regular district  
446 and each county member of a county district shall be elected, as provided in Section  
447 [17B-1-306](#), if:

448 (a) the petition or resolution initiating the creation of the district provides for remaining  
449 area or county members to be elected;

450 (b) the district holds an election to approve the district's issuance of bonds;

451 (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii),  
452 not to appoint a member to the board of trustees; or

453 (d) (i) at least 90 days before the municipal general election or regular general election,  
454 as applicable, a petition is filed with the district's board of trustees requesting remaining area  
455 members or county members, as the case may be, to be elected; and

456 (ii) the petition is signed by registered voters within the remaining area or county  
457 district, as the case may be, equal in number to at least 10% of the number of registered voters  
458 within the remaining area or county district, respectively, who voted in the last gubernatorial  
459 election.

460 (7) Subject to Section [17B-1-302](#), the number of members of a board of trustees of a  
461 regular district shall be:

- 462 (a) the number of included municipalities within the district, if:
- 463 (i) the number is an odd number; and
- 464 (ii) the district does not include a remaining area;
- 465 (b) the number of included municipalities plus one, if the number of included
- 466 municipalities within the district is even; and
- 467 (c) the number of included municipalities plus two, if:
- 468 (i) the number of included municipalities is odd; and
- 469 (ii) the district includes a remaining area.
- 470 (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the
- 471 board of trustees of a regular district shall reside within the remaining area.
- 472 (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining
- 473 area member shall be chosen from the district at large if:
- 474 (i) the population of the remaining area is less than 5% of the total district population;
- 475 or
- 476 (ii) (A) the population of the remaining area is less than 50% of the total district
- 477 population; and
- 478 (B) the majority of the members of the board of trustees are remaining area members.
- 479 (c) Application of Subsection (8)(b) may not prematurely shorten the term of any
- 480 remaining area member serving the remaining area member's elected or appointed term on May
- 481 11, 2010.
- 482 (9) If the election of remaining area or county members of the board of trustees is
- 483 required because of a bond election, as provided in Subsection (6)(b):
- 484 (a) a person may file a declaration of candidacy if:
- 485 (i) the person resides within:
- 486 (A) the remaining area, for a regular district; or
- 487 (B) the county district, for a county district; and
- 488 (ii) otherwise qualifies as a candidate;
- 489 (b) the board of trustees shall, if required, provide a ballot separate from the bond
- 490 election ballot, containing the names of candidates and blanks in which a voter may write
- 491 additional names; and
- 492 (c) the election shall otherwise be governed by Title 20A, Election Code.



493 (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric  
494 district.

495 (ii) Subsections (2) through (9) do not apply to an electric district.

496 (b) The legislative body of the county in which an electric district is located may  
497 appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

498 (c) After the initial board of trustees is appointed as provided in Subsection (10)(b),  
499 each member of the board of trustees of an electric district shall be elected by persons using  
500 electricity from and within the district.

501 (d) Each member of the board of trustees of an electric district shall be a user of  
502 electricity from the district and, if applicable, the division of the district from which elected.

503 (e) The board of trustees of an electric district may be elected from geographic  
504 divisions within the district.

505 (f) A municipality within an electric district is not entitled to automatic representation  
506 on the board of trustees.

507 Section 8. Section 17B-2a-405 is amended to read:

508 **17B-2a-405. Board of trustees of certain sewer improvement districts.**

509 (1) As used in this section:

510 (a) "Jurisdictional boundaries" means:

511 (i) for a qualified county, the boundaries that include:

512 (A) the area of the unincorporated part of the county that is included within a sewer  
513 improvement district; and

514 (B) the area of each nonappointing municipality that is included within the sewer  
515 improvement district; and

516 (ii) for a qualified municipality, the boundaries that include the area of the municipality  
517 that is included within a sewer improvement district.

518 (b) "Nonappointing municipality" means a municipality that:

519 (i) is partly included within a sewer improvement district; and

520 (ii) is not a qualified municipality.

521 (c) "Qualified county" means a county:

522 (i) some or all of whose unincorporated area is included within a sewer improvement  
523 district; or

- 524 (ii) which includes within its boundaries a nonappointing municipality.
- 525 (d) "Qualified county member" means a member of a board of trustees of a sewer  
526 improvement district appointed under Subsection (3)(a)(ii).
- 527 (e) "Qualified municipality" means a municipality that is partly or entirely included  
528 within a sewer improvement district that includes:
- 529 (i) all of the municipality that is capable of receiving sewage treatment service from the  
530 sewer improvement district; and
- 531 (ii) more than half of:
- 532 (A) the municipality's land area; or
- 533 (B) the assessed value of all private real property within the municipality.
- 534 (f) "Qualified municipality member" means a member of a board of trustees of a sewer  
535 improvement district appointed under Subsection (3)(a)(i).
- 536 (g) "Sewer improvement district" means an improvement district that:
- 537 (i) provides sewage collection, treatment, and disposal service; and
- 538 (ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to  
539 continue to appoint its board of trustees members as provided in this section.
- 540 (2) (a) Notwithstanding Section [17B-2a-404](#), the board of trustees members of a sewer  
541 improvement district shall be appointed as provided in this section.
- 542 (b) The board of trustees of a sewer improvement district may revoke the election  
543 under Subsection (1)(d) and become subject to the provisions of Section [17B-2a-404](#) only by  
544 the unanimous vote of all members of the sewer improvement district's board of trustees at a  
545 time when there is no vacancy on the board.
- 546 (3) (a) The board of trustees of each sewer improvement district shall consist of:
- 547 (i) at least one person but not more than three persons appointed by the mayor of each  
548 qualified municipality, with the consent of the legislative body of that municipality; and
- 549 (ii) at least one person but not more than three persons appointed by:
- 550 (A) the county executive, with the consent of the county legislative body, for a  
551 qualified county operating under a county executive-council form of county government; or
- 552 (B) the county legislative body, for each other qualified county.
- 553 (b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent  
554 the area within the jurisdictional boundaries of the qualified county.

555 (4) Notwithstanding Subsection ~~17B-1-302~~(4), the number of board of trustees  
556 members of a sewer improvement district shall be the number that results from application of  
557 Subsection (3)(a).

558 (5) Except as provided in this section, an appointment to the board of trustees of a  
559 sewer improvement district is governed by Section 17B-1-304.

560 (6) A quorum of a board of trustees of a sewer improvement district consists of  
561 members representing more than 50% of the total number of qualified county and qualified  
562 municipality votes under Subsection (7).

563 (7) (a) Subject to Subsection (7)(b), each qualified county and each qualified  
564 municipality is entitled to one vote on the board of trustees of a sewer improvement district for  
565 each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of  
566 private real property taxable for district purposes within the respective jurisdictional  
567 boundaries, as shown by the assessment records of the county and evidenced by a certificate of  
568 the county auditor.

569 (b) Notwithstanding Subsection (7)(a), each qualified county and each qualified  
570 municipality shall have at least one vote.

571 (8) If a qualified county or qualified municipality appoints more than one board  
572 member, all the votes to which the qualified county or qualified municipality is entitled under  
573 Subsection (7) for an item of board business shall collectively be cast by a majority of the  
574 qualified county members or qualified municipal members, respectively, present at a meeting  
575 of the board of trustees.

576 Section 9. Section **17B-2a-604** is amended to read:

577 **17B-2a-604. Metropolitan water district board of trustees.**

578 (1) Members of the board of trustees of a metropolitan water district shall be:

579 (a) elected in accordance with:

580 (i) the petition or resolution that initiated the process of creating the metropolitan water  
581 district; and

582 (ii) Section 17B-1-306;

583 (b) appointed in accordance with Subsection (2); or

584 (c) elected under Subsection (3)(a).

585 (2) (a) This Subsection (2) shall apply to an appointed board of trustees of a

586 metropolitan water district.

587 (b) If a district contains the area of a single municipality:

588 (i) the legislative body of that municipality shall appoint each member of the board of  
589 trustees; and

590 (ii) one member shall be the officer with responsibility over the municipality's water  
591 supply and distribution system, if the system is municipally owned.

592 (c) If a district contains some or all of the retail water service area of more than one  
593 municipality:

594 (i) the legislative body of each municipality shall appoint the number of members for  
595 that municipality as determined under Subsection (2)(c)(ii);

596 (ii) subject to Subsection (2)(c)(iii), the number of members appointed by each  
597 municipality shall be determined:

598 (A) by agreement between the metropolitan water district and the municipalities,  
599 subject to the maximum stated in Subsection 17B-1-302[~~(2)~~](4); or

600 (B) as provided in Chapter 1, Part 3, Board of Trustees; and

601 (iii) at least one member shall be appointed by each municipality.

602 (d) Each trustee shall be appointed without regard to partisan political affiliations from  
603 among citizens of the highest integrity, attainment, competence, and standing in the  
604 community.

605 (3) (a) Members of the board of trustees of a metropolitan water district shall be  
606 elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

607 (i) three-fourths of all members of the board of trustees of the metropolitan water  
608 district vote in favor of changing to an elected board; and

609 (ii) the legislative body of each municipality that appoints a member to the board of  
610 trustees adopts a resolution approving the change to an elected board.

611 (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten  
612 the term of any member of the board of trustees serving at the time of the change.

613 (4) A member of the board of trustees of a metropolitan water district shall be:

614 (a) a registered voter;

615 (b) a property taxpayer; and

616 (c) a resident of:

- 617 (i) the metropolitan water district; and  
618 (ii) the retail water service area of the municipality that:  
619 (A) elects the member; or  
620 (B) the member is appointed to represent.
- 621 (5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the  
622 member's seat on the board of trustees if the member becomes elected or appointed to office in  
623 or becomes an employee of the municipality whose legislative body appointed the member  
624 under Subsection (2).
- 625 (b) The position of the member described in Subsection (5)(a) is vacant until filled as  
626 provided in Section 17B-1-304.
- 627 (6) Except as provided in Subsection (7), the term of office of each member of the  
628 board of trustees is as provided in Section 17B-1-303.
- 629 (7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under  
630 Subsection (2)(b)(ii).

631 Section 10. Section 17B-2a-608 is amended to read:

632 **17B-2a-608. Limit on property tax authority -- Exceptions.**

- 633 (1) As used in this section, "elected official" means a metropolitan water district board  
634 of trustee member who is elected to the board of trustees by metropolitan water district voters  
635 at an election held for that purpose.
- 636 (2) The board of trustees of a metropolitan water district may not collect property tax  
637 revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax  
638 rate under Section 59-2-924 unless:
- 639 (a) the members of the board of trustees are all elected officials; or  
640 (b) the proposed tax levy has previously been approved by:
- 641 (i) a majority of the metropolitan water district voters [at] who vote in an election held  
642 for that purpose on a date specified in Section 20A-1-204; or  
643 (ii) the legislative body of each municipality that appoints a member to the board of  
644 trustees under Section 17B-2a-604.

645 Section 11. Section 17B-2a-704 is amended to read:

646 **17B-2a-704. Mosquito abatement district board of trustees.**

- 647 (1) (a) Notwithstanding Subsection 17B-1-302[~~(2)~~](4):

648 (i) the board of trustees of a mosquito abatement district shall consist of no less than  
649 five members appointed in accordance with this section; and

650 (ii) subject to Subsection (1)(b), the legislative body of each municipality that is  
651 entirely or partly included within a mosquito abatement district shall appoint one member to  
652 the board of trustees.

653 (b) If 75% or more of the area of a mosquito abatement district is within the boundaries  
654 of a single municipality:

655 (i) the board of trustees shall consist of five members; and

656 (ii) the legislative body of that municipality shall appoint all five members of the  
657 board.

658 (2) The legislative body of each county in which a mosquito abatement district is  
659 located shall appoint at least one member but no more than three members to the district's  
660 board of trustees as follows:

661 (a) one member may be appointed if:

662 (i) some or all of the county's unincorporated area is included within the boundaries of  
663 the mosquito abatement district and Subsection (2)(b) does not apply; or

664 (ii) (A) the number of municipalities that are entirely or partly included within the  
665 district is an even number less than nine; and

666 (B) Subsection (1)(b) does not apply; or

667 (b) subject to Subsection (3), up to and including three members may be appointed if:

668 (i) more than 25% of the population of the mosquito abatement district resides outside  
669 the boundaries of all municipalities that may appoint members to the board of trustees; and

670 (ii) at least four members of the board of trustees are appointed by a municipality.

671 (3) A member appointed in accordance with Subsection (2)(b) may not reside within a  
672 municipality that may appoint a member to the board of trustees.

673 (4) If the number of board members appointed by application of Subsections (1) and  
674 (2)(a) is an even number less than nine, the legislative body of the county in which the district  
675 is located shall appoint an additional member.

676 (5) Notwithstanding Subsection (2):

677 (a) if the mosquito abatement district is located entirely within one county and, in  
678 accordance with this section, only one municipality may appoint a member of the board of

679 trustees, the county legislative body shall appoint at least four members to the district's board  
680 of trustees; and

681 (b) if the mosquito abatement district is located entirely within one county and no  
682 municipality may appoint a member of the board of trustees, all of the members of the board  
683 shall be appointed by the county legislative body.

684 (6) Each board of trustees member shall be appointed as provided in Section  
685 17B-1-304.

686 (7) Each vacancy on a mosquito abatement district board of trustees shall be filled by  
687 the applicable appointing authority as provided in Section 17B-1-304, or if the vacancy is a  
688 midterm vacancy, as provided in Section 20A-1-512.

689 Section 12. Section 17B-2a-905 is amended to read:

690 **17B-2a-905. Service area board of trustees.**

691 (1) (a) Except as provided in Subsection (2) or (3):

692 (i) the initial board of trustees of a service area located entirely within the  
693 unincorporated area of a single county may, as stated in the petition or resolution that initiated  
694 the process of creating the service area:

695 (A) consist of the county legislative body;

696 (B) be appointed, as provided in Section 17B-1-304; or

697 (C) be elected, as provided in Section 17B-1-306;

698 (ii) if the board of trustees of a service area consists of the county legislative body, the  
699 board may adopt a resolution providing for future board members to be appointed, as provided  
700 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

701 (iii) members of the board of trustees of a service area shall be elected, as provided in  
702 Section 17B-1-306, if:

703 (A) the service area is not entirely within the unincorporated area of a single county;

704 (B) a petition is filed with the board of trustees requesting that board members be  
705 elected, and the petition is signed by registered voters within the service area equal in number  
706 to at least 10% of the number of registered voters within the service area who voted at the last  
707 gubernatorial election; or

708 (C) an election is held to authorize the service area's issuance of bonds.

709 (b) If members of the board of trustees of a service area are required to be elected

710 under Subsection (1)(a)(iii)(C) because of a bond election:

711 (i) board members shall be elected in conjunction with the bond election;

712 (ii) the board of trustees shall:

713 (A) establish a process to enable potential candidates to file a declaration of candidacy

714 sufficiently in advance of the election; and

715 (B) provide a ballot for the election of board members separate from the bond ballot;

716 and

717 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided

718 in Section [17B-1-306](#).

719 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

720 (i) the service area was created to provide:

721 (A) fire protection, paramedic, and emergency services; or

722 (B) law enforcement service;

723 (ii) in the creation of the service area, an election was not required under Subsection

724 [17B-1-214](#)(3)(d); and

725 (iii) the service area is not a service area described in Subsection (3).

726 (b) (i) Each county whose unincorporated area is included within a service area

727 described in Subsection (2)(a), whether in conjunction with the creation of the service area or

728 by later annexation, shall appoint three members to the board of trustees.

729 (ii) Each municipality whose area is included within a service area described in

730 Subsection (2)(a), whether in conjunction with the creation of the service area or by later

731 annexation, shall appoint one member to the board of trustees.

732 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or

733 (ii) shall be an elected official of the appointing county or municipality, respectively.

734 (c) Notwithstanding Subsection [17B-1-302](#)~~(2)~~(4), the number of members of a board

735 of trustees of a service area described in Subsection (2)(a) shall be the number resulting from

736 application of Subsection (2)(b).

737 (3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013,

738 if:

739 (i) the service area was created to provide fire protection, paramedic, and emergency

740 services;



741 (ii) in the creation of the service area, an election was not required under Subsection  
742 17B-1-214(3)(d); and

743 (iii) each municipality whose area is included within the service area or county whose  
744 unincorporated area, whether in whole or in part, is included within a service area is a party to  
745 an agreement:

746 (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act  
747 with all the other municipalities or counties whose area is included in the service area;

748 (B) to provide the services described in Subsection (3)(a)(i); and

749 (C) at the time a resolution proposing the creation of the service area is adopted by  
750 each applicable municipal or county legislative body in accordance with Subsection  
751 17B-1-203(1)(d).

752 (b) (i) Each county whose unincorporated area, whether in whole or in part, is included  
753 within a service area described in Subsection (3)(a), whether in conjunction with the creation of  
754 the service area or by later annexation, shall appoint one member to the board of trustees.

755 (ii) Each municipality whose area is included within a service area described in  
756 Subsection (3)(a), whether in conjunction with the creation of the service area or by later  
757 annexation, shall appoint one member to the board of trustees.

758 (iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or  
759 (ii) shall be an elected official of the appointing county or municipality, respectively.

760 (iv) A vote by a member of the board of trustees may be weighted or proportional.

761 (c) Notwithstanding Subsection 17B-1-302[(2)](4), the number of members of a board  
762 of trustees of a service area described in Subsection (3)(a) shall be the number resulting from  
763 the application of Subsection (3)(b).

764 Section 13. Section 17B-2a-1009 is amended to read:

765 **17B-2a-1009. Limit on property tax authority -- Exceptions.**

766 (1) As used in this section, "elected official" means a water conservancy district board  
767 of trustee member who:

768 (a) is elected to the board of trustees by water conservancy district voters at an election  
769 held for that purpose;

770 (b) holds[~~at the time of appointment to the board of trustees,~~] an elected position with  
771 a municipality, county, or local district that is partially or completely included within the

772 boundaries of the water conservancy district; or  
773 (c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f) or (g).  
774 (2) The board of trustees of a water conservancy district may not collect property tax  
775 revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax  
776 rate under Section 59-2-924 unless:  
777 (a) the members of the board of trustees are all elected officials;  
778 (b) the majority of the board of trustees are elected officials; or  
779 (c) the proposed tax levy has previously been approved by:  
780 (i) a majority of the water conservancy district voters [at] who vote in an election held  
781 for that purpose on a date specified in Section 20A-1-204; or  
782 (ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**