

SB0143S01 compared with SB0143

~~{deleted text}~~ shows text that was in SB0143 but was deleted in SB0143S01.

Inserted text shows text that was not in SB0143 but was inserted into SB0143S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

LOCAL DISTRICT BOARD AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

~~{ → clarifies the definition of elected official for purposes of membership on certain local boards;~~

- ‡ ▶ modifies the number of voters required to approve a certain tax or levy;
- ▶ clarifies the application of certain residency requirements for appointed members of local district boards of trustees;
- ▶ clarifies when appointment procedures apply in the case of a board vacancy; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

SB0143S01 compared with SB0143

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

17B-1-303, as last amended by Laws of Utah 2016, Chapter 233

17B-1-304, as last amended by Laws of Utah 2014, Chapter 377

17B-1-1001, as last amended by Laws of Utah 2013, Chapter 415

17B-2a-404, as last amended by Laws of Utah 2015, Chapter 258

17B-2a-405, as last amended by Laws of Utah 2015, Chapter 258

17B-2a-604, as last amended by Laws of Utah 2010, Chapter 159

17B-2a-608, as last amended by Laws of Utah 2013, Chapters 278 and 415

17B-2a-704, as last amended by Laws of Utah 2012, Chapter 97

17B-2a-905, as last amended by Laws of Utah 2014, Chapter 189

17B-2a-1009, as last amended by Laws of Utah 2013, Chapter 415

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

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

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

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

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

(i) is located within the proposed local district;

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

(iii) is equal in value to at least 25% of the value of all private real property within the

SB0143S01 compared with SB0143

proposed local district as a whole and within each applicable area; and

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

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

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

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

(c) if the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:

(i) are diverted within the proposed local district;

(ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area; and

(iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(d) a resolution proposing the creation of a local district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed local district; or

(e) a resolution proposing the creation of a local district, adopted by the board of trustees of an existing local district whose boundaries completely encompass the proposed local district, if:

(i) the proposed local district is being created to provide one or more components of the same service that the initiating local district is authorized to provide; and

(ii) the initiating local district is not providing to the area of the proposed local district any of the components that the proposed local district is being created to provide.

(2) (a) Each resolution under Subsection (1)(d) or (e) shall:

(i) describe the area proposed to be included in the proposed local district;

(ii) be accompanied by a map that shows the boundaries of the proposed local district;

SB0143S01 compared with SB0143

- (iii) describe the service proposed to be provided by the proposed local district;
 - (iv) if the resolution proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;
 - (v) explain the anticipated method of paying the costs of providing the proposed service;
 - (vi) state the estimated average financial impact on a household within the proposed local district;
 - (vii) state the number of members that the board of trustees of the proposed local district will have, consistent with the requirements of Subsection 17B-1-302~~[(2)]~~(4);
 - (viii) for a proposed basic local district:
 - (A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
 - (B) if one or more members will be elected, state the basis upon which each elected member will be elected; and
 - (C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
 - (ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and
 - (x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
 - (A) the county legislative body;
 - (B) appointed as provided in Section 17B-1-304; or
 - (C) elected as provided in Section 17B-1-306.
- (b) Each county or municipal legislative body adopting a resolution under Subsection (1)(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same local district.

SB0143S01 compared with SB0143

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

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

(1) Each petition shall:

(a) be filed with the responsible clerk;

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

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

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

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

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

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

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

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

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

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

(4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is

SB0143S01 compared with SB0143

considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

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

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

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

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

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

~~(A)~~ (i) the boundaries of the local district; and

~~(B)~~ (ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

~~(b)~~ ~~(i)~~ (2) (a) As used in this Subsection ~~(1)(b)~~ (2):

~~(A)~~ (i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

~~(B)~~ (ii) "Seasonally occupied home" means a single-family residence:

~~(i)~~ (A) that is located within the local district;

~~(ii)~~ (B) that receives service from the local district; and

~~(iii)~~ (C) whose owner ~~(A)~~ does not reside permanently at the residence ~~and~~ ~~(B)~~ but may occupy the residence on a temporary or seasonal basis.

~~(ii)~~ (b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1) ~~(a)(ii)~~ (b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

~~(A)~~ (i) receives service from the district; and

~~(B)~~ (ii) is located within ~~(i)~~ the local district ~~and~~ ~~(ii)~~ and, if applicable, the division from which the member is elected.

~~(c)~~ (3) (a) For a board of trustees member in a basic local district that has within its the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the

SB0143S01 compared with SB0143

requirement under Subsection (1)~~[(a)(ii)]~~(b) is replaced with the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

~~[(d)]~~ (b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)~~[(a)(ii)]~~(b) if the elected official was elected at large by the voters of the county.

~~[(2)]~~ (4) Except as otherwise provided by statute, the number of members of each board of trustees of a local district shall be an odd number that is no less than three.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) upon the member taking the oath of office after the canvass of the election at which

SB0143S01 compared with SB0143

the member is elected, for an elected member.

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

(i) begin on the later of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees

SB0143S01 compared with SB0143

shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection

SB0143S01 compared with SB0143

17B-1-306(13).

(9) (a) A local district shall:

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

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

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

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

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the day on which the change requiring the update occurs.

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

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

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

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

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

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

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

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

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

(b) The appointing authority shall:

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

(ii) ~~(A)~~ publish the notice of vacancy:

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

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

SB0143S01 compared with SB0143

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

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

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

(b) The appointing authority shall:

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

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

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

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

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

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

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

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

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

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

(1) Each local district that levies and collects property taxes shall levy and collect them

SB0143S01 compared with SB0143

according to the provisions of Title 59, Chapter 2, Property Tax Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) the legislative body of:

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

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

(4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b),

SB0143S01 compared with SB0143

members of the board of trustees of a local district shall be elected, if, subject to Subsection (4)(b):

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

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

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

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

(c) a local district in which:

(i) the board of trustees consists solely of:

(A) land owners or the land owners' agents; or

(B) as described in Subsection 17B-1-302~~[(1)(c)]~~(3), land owners or the land owners' agents or officers; and

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

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

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

(1) As used in this section:

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

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

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

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

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

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

SB0143S01 compared with SB0143

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302~~(1)(b)(i)(B)~~(2)(a)(ii);

SB0143S01 compared with SB0143

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

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

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

(a) the elected board has ceased to function;

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

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

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

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

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

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

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

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

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

(d) (i) at least 90 days before the municipal general election or regular general election,

SB0143S01 compared with SB0143

as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

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

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

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

(8) (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population;

or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):

(a) a person may file a declaration of candidacy if:

SB0143S01 compared with SB0143

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

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

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

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

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

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

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

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

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

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

(1) As used in this section:

(a) "Jurisdictional boundaries" means:

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

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

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

SB0143S01 compared with SB0143

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

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

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

(ii) is not a qualified municipality.

(c) "Qualified county" means a county:

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

(ii) which includes within its boundaries a nonappointing municipality.

(d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).

(e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:

(i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and

(ii) more than half of:

(A) the municipality's land area; or

(B) the assessed value of all private real property within the municipality.

(f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).

(g) "Sewer improvement district" means an improvement district that:

(i) provides sewage collection, treatment, and disposal service; and

(ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.

(2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.

(b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a time when there is no vacancy on the board.

(3) (a) The board of trustees of each sewer improvement district shall consist of:

SB0143S01 compared with SB0143

(i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and

(ii) at least one person but not more than three persons appointed by:

(A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or

(B) the county legislative body, for each other qualified county.

(b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.

(4) Notwithstanding Subsection 17B-1-302~~(2)~~(4), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).

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

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

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

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

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

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

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

SB0143S01 compared with SB0143

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

(a) elected in accordance with:

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

(ii) Section 17B-1-306;

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

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

(2) (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.

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

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

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

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

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

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

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

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

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

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

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

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

SB0143S01 compared with SB0143

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

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

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

(a) a registered voter;

(b) a property taxpayer; and

(c) a resident of:

(i) the metropolitan water district; and

(ii) the retail water service area of the municipality that:

(A) elects the member; or

(B) the member is appointed to represent.

(5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).

(b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.

(6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

(7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

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

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

(1) As used in this section, "elected official" means a metropolitan water district board of trustee member who is elected to the board of trustees by metropolitan water district voters at an election held for that purpose.

(2) The board of trustees of a metropolitan water district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

(a) the members of the board of trustees are all elected officials; or

SB0143S01 compared with SB0143

(b) the proposed tax levy has previously been approved by:

(i) a majority of the metropolitan water district voters [~~at~~] who vote in an election held for that purpose on a date specified in Section 20A-1-204; or

(ii) the legislative body of each municipality that appoints a member to the board of trustees under Section 17B-2a-604.

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

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

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

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

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

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

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

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

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

(a) one member may be appointed if:

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

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

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

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

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

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

SB0143S01 compared with SB0143

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

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

(5) Notwithstanding Subsection (2):

(a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and

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

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

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

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

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

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

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

(A) consist of the county legislative body;

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

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

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

(iii) members of the board of trustees of a service area shall be elected, as provided in

SB0143S01 compared with SB0143

Section 17B-1-306, if:

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

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

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

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

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

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

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

and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

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

(i) the service area was created to provide:

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

(B) law enforcement service;

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

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

(b) (i) Each county whose unincorporated area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint three members to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

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

SB0143S01 compared with SB0143

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0143S01 compared with SB0143

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

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

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

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

(b) holds ~~†~~, at the time of appointment to the board of trustees, ~~†~~ an elected position with a municipality, county, or local district that is partially or completely included within the boundaries of the water conservancy district; or

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

(2) The board of trustees of a water conservancy district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

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

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

(c) the proposed tax levy has previously been approved by:

(i) a majority of the water conservancy district voters ~~[at]~~ who vote in an election held for that purpose on a date specified in Section 20A-1-204; or

(ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

†

Legislative Review Note

~~Office of Legislative Research and General Counsel†~~