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LOCAL GOVERNMENT MODIFICATIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the required number of board members for a local district board of trustees.

Highlighted Provisions:

This bill:

► provides that a local district board of trustees is not required to have an odd number of members once the board reaches a certain size.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-302, as last amended by Laws of Utah 2017, Chapters 112 and 263

17B-2a-404, as last amended by Laws of Utah 2017, Chapter 112

17B-2a-604, as last amended by Laws of Utah 2017, Chapter 112

17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176

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

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



28 **17B-1-302. Board member qualifications -- Number of board members.**
29 (1) Each member of a local district board of trustees shall be:
30 (a) a registered voter at the location of the member's residence; and
31 (b) except as otherwise provided in Subsection (2) or (3), a resident within:
32 (i) the boundaries of the local district; and
33 (ii) if applicable, the boundaries of the division of the local district from which the
34 member is elected or appointed.
35 (2) (a) As used in this Subsection (2):
36 (i) "Proportional number" means the number of members of a board of trustees that
37 bears, as close as mathematically possible, the same proportion to all members of the board that
38 the number of seasonally occupied homes bears to all residences within the district that receive
39 service from the district.
40 (ii) "Seasonally occupied home" means a single-family residence:
41 (A) that is located within the local district;
42 (B) that receives service from the local district; and
43 (C) whose owner does not reside permanently at the residence but may occupy the
44 residence on a temporary or seasonal basis.
45 (b) If over 50% of the residences within a local district that receive service from the
46 local district are seasonally occupied homes, the requirement under Subsection (1)(b) is
47 replaced, for a proportional number of members of the board of trustees, with the requirement
48 that the member be an owner of land, or an agent or officer of the owner of land, that:
49 (i) receives service from the district; and
50 (ii) is located within the local district and, if applicable, the division from which the
51 member is elected.
52 (3) (a) For a board of trustees member in a basic local district that has within the
53 district's boundaries fewer than one residential dwelling unit per 10 acres of land, the
54 requirement under Subsection (1)(b) is replaced with the requirement that the member be an
55 owner of land within the local district that receives service from the district, or an agent or
56 officer of the owner.
57 (b) A member of the board of trustees of a service area described in Subsection
58 [17B-2a-905](#)(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is

59 not subject to the requirements described in Subsection (1)(b) if the elected official was elected
60 at large by the voters of the county.

61 (c) Notwithstanding Subsection (1)(b), the county legislative body may appoint to the
62 local district board one of the county legislative body's own members, regardless of whether the
63 member resides within the boundaries described in Subsection (1)(b), if:

64 (i) the county legislative body satisfies the procedures to fill a vacancy described in:

65 (A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

66 (B) for an appointment to fill a midterm vacancy, Subsections 20A-1-512(1)(a) and

67 (b);

68 (ii) no qualified candidate timely files to be considered for appointment to the local
69 district board; and

70 (iii) the county legislative body appoints a member of the body to the local district
71 board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

72 (A) elected at large by the voters of the county;

73 (B) elected from a division of the county that includes more than 50% of the
74 geographic area of the local district; or

75 (C) if the local district is divided into divisions under Section 17B-1-306.5, elected
76 from a division of the county that includes more than 50% of the geographic area of the
77 division of the local district in which there is a board vacancy.

78 (4) (a) Except as otherwise provided by statute, the number of members of each board
79 of trustees of a local district that has nine or fewer members shall ~~[be]~~ have an odd number of
80 members that is no ~~[less]~~ fewer than three.

81 (b) If a board of trustees of a local district has more than nine members, the number of
82 members may be odd or even.

83 (5) For a newly created local district, the number of members of the initial board of
84 trustees shall be the number specified:

85 (a) for a local district whose creation was initiated by a petition under Subsection
86 17B-1-203(1)(a), (b), or (c), in the petition; or

87 (b) for a local district whose creation was initiated by a resolution under Subsection
88 17B-1-203(1)(d) or (e), in the resolution.

89 (6) (a) For an existing local district, the number of members of the board of trustees

90 may be changed by a two-thirds vote of the board of trustees.

91 (b) No change in the number of members of a board of trustees under Subsection (6)(a)

92 may:

93 (i) violate Subsection (4); or

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

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

96 **17B-2a-404. Improvement district board of trustees.**

97 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

160 (6) Notwithstanding Subsection (3), each remaining area member of a regular district
161 and each county member of a county district shall be elected, as provided in Section
162 17B-1-306, if:

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

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

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

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

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

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

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

178 (i) the number of included municipalities is greater than nine or is an odd number that
179 is not greater than nine; and

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

181 (b) the number of included municipalities plus one, if the number of included
182 municipalities within the district is an even number that is less than nine; and

- 183 (c) the number of included municipalities plus two, if:
- 184 (i) the number of included municipalities is an odd number that is less than nine; and
- 185 (ii) the district includes a remaining area.
- 186 (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the
- 187 board of trustees of a regular district shall reside within the remaining area.
- 188 (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining
- 189 area member shall be chosen from the district at large if:
- 190 (i) the population of the remaining area is less than 5% of the total district population;
- 191 or
- 192 (ii) (A) the population of the remaining area is less than 50% of the total district
- 193 population; and
- 194 (B) the majority of the members of the board of trustees are remaining area members.
- 195 (c) Application of Subsection (8)(b) may not prematurely shorten the term of any
- 196 remaining area member serving the remaining area member's elected or appointed term on May
- 197 11, 2010.
- 198 (9) If the election of remaining area or county members of the board of trustees is
- 199 required because of a bond election, as provided in Subsection (6)(b):
- 200 (a) a person may file a declaration of candidacy if:
- 201 (i) the person resides within:
- 202 (A) the remaining area, for a regular district; or
- 203 (B) the county district, for a county district; and
- 204 (ii) otherwise qualifies as a candidate;
- 205 (b) the board of trustees shall, if required, provide a ballot separate from the bond
- 206 election ballot, containing the names of candidates and blanks in which a voter may write
- 207 additional names; and
- 208 (c) the election shall otherwise be governed by Title 20A, Election Code.
- 209 (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric
- 210 district.
- 211 (ii) Subsections (2) through (9) do not apply to an electric district.
- 212 (b) The legislative body of the county in which an electric district is located may
- 213 appoint the initial board of trustees of the electric district as provided in Section [17B-1-304](#).

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

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

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

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

223 Section 3. Section **17B-2a-604** is amended to read:

224 **17B-2a-604. Metropolitan water district board of trustees.**

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

226 (a) elected in accordance with:

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

229 (ii) Section [17B-1-306](#);

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

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

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

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

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

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

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

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

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

- 245 (A) by agreement between the metropolitan water district and the municipalities,
246 subject to ~~[the maximum stated in]~~ Subsection 17B-1-302(4); or
- 247 (B) as provided in Chapter 1, Part 3, Board of Trustees; and
- 248 (iii) at least one member shall be appointed by each municipality.
- 249 (d) Each trustee shall be appointed without regard to partisan political affiliations from
250 among citizens of the highest integrity, attainment, competence, and standing in the
251 community.
- 252 (3) (a) Members of the board of trustees of a metropolitan water district shall be
253 elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):
- 254 (i) three-fourths of all members of the board of trustees of the metropolitan water
255 district vote in favor of changing to an elected board; and
- 256 (ii) the legislative body of each municipality that appoints a member to the board of
257 trustees adopts a resolution approving the change to an elected board.
- 258 (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten
259 the term of any member of the board of trustees serving at the time of the change.
- 260 (4) A member of the board of trustees of a metropolitan water district shall be:
- 261 (a) a registered voter;
- 262 (b) a property taxpayer; and
- 263 (c) a resident of:
- 264 (i) the metropolitan water district; and
- 265 (ii) the retail water service area of the municipality that:
- 266 (A) elects the member; or
- 267 (B) the member is appointed to represent.
- 268 (5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the
269 member's seat on the board of trustees if the member becomes elected or appointed to office in
270 or becomes an employee of the municipality whose legislative body appointed the member
271 under Subsection (2).
- 272 (b) The position of the member described in Subsection (5)(a) is vacant until filled as
273 provided in Section 17B-1-304.
- 274 (6) Except as provided in Subsection (7), the term of office of each member of the
275 board of trustees is as provided in Section 17B-1-303.

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

278 Section 4. Section **17B-2a-1106** is amended to read:

279 **17B-2a-1106. Municipal services district board of trustees -- Governance.**

280 (1) Except as provided in Subsection (2), and notwithstanding any other provision of
281 law regarding the membership of a local district board of trustees, the initial board of trustees
282 of a municipal services district shall consist of the county legislative body.

283 (2) (a) Notwithstanding any provision of law regarding the membership of a local
284 district board of trustees or the governance of a local district, and, except as provided in
285 Subsection (3), if a municipal services district is created in a county of the first class with the
286 county executive-council form of government, the initial governance of the municipal services
287 district is as follows:

288 (i) subject to Subsection (2)(b), the county council is the municipal services district
289 board of trustees; and

290 (ii) subject to Subsection (2)(c), the county executive is the executive of the municipal
291 services district.

292 (b) Notwithstanding any other provision of law, the board of trustees of a municipal
293 services district described in Subsection (2)(a) shall:

294 (i) act as the legislative body of the district; and

295 (ii) exercise legislative branch powers and responsibilities established for county
296 legislative bodies in:

297 (A) Title 17, Counties; and

298 (B) an optional plan, as defined in Section [17-52-101](#), adopted for a county
299 executive-council form of county government as described in Section [17-52-504](#).

300 (c) Notwithstanding any other provision of law, in a municipal services district
301 described in Subsection (2)(a), the executive of the district shall:

302 (i) act as the executive of the district;

303 (ii) nominate a general manager of the municipal services district, subject to the advice
304 and consent of the board of trustees; and

305 (iii) exercise executive branch powers and responsibilities established for a county
306 executive in:

307 (A) Title 17, Counties; and

308 (B) an optional plan, as defined in Section 17-52-101, adopted for a county
309 executive-council form of county government as described in Section 17-52-504.

310 (3) (a) If, after the initial creation of a municipal services district, an area within the
311 district is incorporated as a municipality as defined in Section 10-1-104 and the area is not
312 withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area
313 within the municipality is annexed into the municipal services district in accordance with
314 Section 17B-2a-1103, the district's board of trustees shall be as follows:

315 (i) subject to Subsection (3)(b), a member of that municipality's governing body;

316 (ii) subject to Subsection (4), two members of the county council of the county in
317 which the municipal services district is located; and

318 (iii) except as provided in Subsection 17B-1-302(2), the total number of board
319 members shall be an odd number.

320 (b) A member described in Subsection (3)(a)(i) shall be:

321 (i) for a municipality other than a metro township, designated by the municipal
322 legislative body; and

323 (ii) for a metro township, the chair of the metro township.

324 (c) A member of the board of trustees has the powers and duties described in
325 Subsection (2)(b).

326 (d) The county executive is the executive and has the powers and duties as described in
327 Subsection (2)(c).

328 (4) (a) The number of county council members may be increased or decreased to meet
329 the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

330 (b) The number of county council members described in Subsection (3)(a)(ii) does not
331 include the county mayor.

332 (5) For a board of trustees described in Subsection (3), each board member's vote is
333 weighted using the proportion of the municipal services district population that resides:

334 (a) for each member described in Subsection (3)(a)(i), within that member's
335 municipality; and

336 (b) for each member described in Subsection (3)(a)(ii), within the unincorporated
337 county, with the members' weighted vote divided evenly if there is more than one member on

338 the board described in Subsection (3)(a)(ii).

339 (6) The board may adopt a resolution providing for future board members to be
340 appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

341 (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of
342 trustees may adopt a resolution to determine the internal governance of the board.

343 (b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of
344 trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's
345 duties, powers, or responsibilities described in Subsection (2)(c).

346 (8) The municipal services district and the county may enter into an agreement for the
347 provision of legal services to the municipal services district.

Legislative Review Note
Office of Legislative Research and General Counsel