

**LOCAL DISTRICT BOARD AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses the membership of a board of trustees of a local district.

**Highlighted Provisions:**

This bill:

- ▶ establishes the procedure for filling open board member positions when the number of board members increases;
  - ▶ addresses when the term begins for a board member who joins a board because the number of board members increases;
  - ▶ requires adjusting the lengths of terms of new board members who join a board because the number of board members increases to ensure that term expiration occurs biannually;
  - ▶ addresses the entity that appoints members to a mosquito abatement board of trustees;
  - ▶ requires certain notice in the event of a vacancy on a local district board of trustees;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17B-1-303**, as last amended by Laws of Utah 2017, Chapter 112

31 **17B-2a-704**, as last amended by Laws of Utah 2017, Chapter 112

32 **20A-1-512**, as last amended by Laws of Utah 2014, Chapter 377



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

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

36 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice**  
37 **of board member contact information.**

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

41 (b) The term of each member of the initial board of trustees of a newly created local  
42 district [~~shall begin~~] begins:

- 43 (i) upon appointment, for an appointed member; and
- 44 (ii) upon the member taking the oath of office after the canvass of the election at which  
45 the member is elected, for an elected member.

46 (c) The term of each water conservancy district board member [~~appointed by~~] whom  
47 the governor [~~as provided in~~] appoints in accordance with Subsection **17B-2a-1005(2)(c)**  
48 [~~shall~~]:

- 49 (i) [~~begin~~] begins on the later of the following:  
50 (A) the date on which the Senate consents to the appointment; or  
51 (B) the expiration date of the prior term; and

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

54 (d) The term of a member of a board of trustees whom an appointing authority appoints  
55 in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

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

59 that the term of approximately half the board members expires every two years.

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

64 ~~[(F)]~~ (A) the requirement under Subsection (1)(a) for a term to begin on January 1  
 65 following a member's election or appointment; and

66 ~~[(H)]~~ (B) the requirement under Subsection (2)(a)(i) that terms be four years.

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

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

72 (c) If a member of a board of trustees no longer meets the qualifications of Subsection  
 73 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed  
 74 successor:

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

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

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

80 (ii) ~~[An oath of office may be administered by a]~~ A judge, county clerk, notary public,  
 81 or the local district clerk may administer an oath of office.

82 (b) ~~[Each]~~ The member of the board of trustees taking the oath of office shall file the  
 83 oath of office ~~[shall be filed]~~ with the clerk of the local district.

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

86 (4) A board of trustees member ~~[is not limited in the]~~ may serve any number of terms  
 87 ~~[the member may serve]~~.

88 (5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of  
 89 trustees position ~~[shall be filled as provided in]~~ is filled in accordance with Section 20A-1-512.

90 (b) When the number of members of a board of trustees increases in accordance with  
91 Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new  
92 board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

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

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

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

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

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

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

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

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

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

108 (7) (a) Each member of a board of trustees shall give a bond for the faithful  
109 performance of the member's duties, in the amount and with the sureties [~~prescribed by~~] that  
110 the board of trustees prescribes.

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

112 (8) (a) The lieutenant governor may extend the term of an elected district board  
113 member by one year in order to compensate for a change in the election year under Subsection  
114 17B-1-306(13).

115 (b) When the number of members of a board of trustees increases in accordance with  
116 Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members  
117 expires every two years in accordance with Subsection (2)(a):

118 (i) the board shall set shorter terms for approximately half the new board members,  
119 chosen by lot; and

120 (ii) the initial term of a new board member position may be less than two or four years.

121 (9) (a) A local district shall:  
 122 (i) post on the Utah Public Notice Website created in Section 63F-1-701 the name,  
 123 phone number, and email address of each member of the local district's board of trustees;  
 124 (ii) update the information described in Subsection (9)(a)(i) when:  
 125 (A) the membership of the board of trustees changes; or  
 126 (B) a member of the board of trustees' phone number or email address changes; and  
 127 (iii) post any update required under Subsection (9)(a)(ii) within 30 days after the [day]  
 128 date on which the change requiring the update occurs.

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

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

132 **17B-2a-704. Mosquito abatement district board of trustees.**

133 (1) (a) Notwithstanding Subsection 17B-1-302(4):

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

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

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

141 (i) the board of trustees [~~shall consist~~] consists of five members; and

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

144 (2) [~~The~~] Except as provided in Subsection (1), the legislative body of each county in  
 145 which a mosquito abatement district is located shall appoint at least one member but no more  
 146 than three members to the district's board of trustees as follows:

147 (a) the county may appoint one member [~~may be appointed~~] if:

148 (i) (A) some or all of the county's unincorporated area is included within the  
 149 boundaries of the mosquito abatement district; and

150 (B) Subsection (2)(b) does not apply; or

151 (ii) (A) the number of municipalities that are entirely or partly included within the

152 district is an even number less than nine; and

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

154 (b) subject to Subsection (3), the county may appoint up to and including three  
155 members [~~may be appointed~~] if:

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

158 (ii) a municipality appoints at least four members of the board of trustees [~~are~~  
159 ~~appointed by a municipality~~].

160 (3) A [~~member appointed~~] county may not appoint a member in accordance with  
161 Subsection (2)(b) [~~may not reside~~] who resides within a municipality that may appoint a  
162 member to the board of trustees.

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

166 (5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):

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

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

174 (6) Each board of trustees member [~~shall be appointed as provided in~~] is appointed in  
175 accordance with Section 17B-1-304.

176 (7) [~~Each~~] The applicable appointing authority shall fill each vacancy on a mosquito  
177 abatement district board of trustees [~~shall be filled by the applicable appointing authority as~~  
178 ~~provided~~] in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, [~~as~~  
179 ~~provided~~] in accordance with Section 20A-1-512.

180 Section 3. Section 20A-1-512 is amended to read:

181 **20A-1-512. Midterm vacancies on local district boards.**

182 (1) (a) Whenever a vacancy occurs on any local district board for any reason, the

183 following shall appoint a replacement to serve out the unexpired term [~~shall be appointed as~~  
 184 ~~provided~~] in accordance with this section [~~by~~]:

185 (i) the local district board, if the person vacating the position was elected; or

186 (ii) the appointing authority, as that term is defined in Section [17B-1-102](#), if the  
 187 appointing authority appointed the person vacating the position [~~was appointed~~].

188 (b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local  
 189 district board or appointing authority shall:

190 (i) give public notice of the vacancy at least two weeks before the local district board  
 191 or appointing authority meets to fill the vacancy[~~;~~and] by:

192 (A) if there is a newspaper of general circulation, as that term is defined in Section  
 193 [45-1-201](#), within the district, publishing the notice in the newspaper of general circulation;

194 (B) posting the notice in three public places within the local district; and

195 (C) posting on the Utah Public Notice Website created under Section [63F-1-701](#); and

196 (ii) identify, in the notice:

197 (A) the date, time, and place of the meeting where the vacancy will be filled; [~~and~~]

198 (B) the [~~person~~] individual to whom [~~a person~~] an individual who is interested in  
 199 [~~being appointed~~] an appointment to fill the vacancy may submit [~~his~~] the individual's name for  
 200 consideration; and

201 (C) any submission deadline [~~for submitting it~~].

202 (c) An appointing authority is not subject to Subsection (1)(b) if:

203 (i) the appointing authority appoints one of [~~its~~] the appointing authority's own  
 204 members; and

205 (ii) that member meets all applicable statutory board member qualifications.

206 (2) If the local district board fails to appoint [~~a person~~] an individual to complete an  
 207 elected board member's term within 90 days, the legislative body of the county or municipality  
 208 that created the local district shall fill the vacancy [~~following~~] in accordance with the procedure  
 209 [~~set forth~~] for a local district described in Subsection (1)(b).