

**Representative Stephen G. Handy** proposes the following substitute bill:

**LOCAL DISTRICT BOARD AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: Jerry W. Stevenson

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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;
  - ▶ clarifies a provision related to a county or municipal legislative body that serves as the local district board of trustees;
  - ▶ 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.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17B-1-303**, as last amended by Laws of Utah 2017, Chapter 112

33 **17B-1-308**, as enacted by Laws of Utah 2007, Chapter 329

34 **17B-2a-704**, as last amended by Laws of Utah 2017, Chapter 112

35 **20A-1-512**, as last amended by Laws of Utah 2014, Chapter 377



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

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

39 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice**  
40 **of board member contact information.**

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

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

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

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

- 52 (i) [~~begin~~] begins on the later of the following:  
53 (A) the date on which the Senate consents to the appointment; or  
54 (B) the expiration date of the prior term; and
- 55 (ii) [~~end~~] ends on the February 1 that is approximately four years after the date  
56 described in Subsection (1)(c)(i)(A) or (B).

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

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

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

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

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

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

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

75 (c) If a member of a board of trustees no longer meets the qualifications of Subsection  
76 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed  
77 successor:

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

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

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

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

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

87 (c) The failure of a board of trustees member to take the oath ~~[required by]~~ under

88 Subsection (3)(a) does not invalidate any official act of that member.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (8) (a) The lieutenant governor may extend the term of an elected district board  
116 member by one year in order to compensate for a change in the election year under Subsection  
117 17B-1-306(13).

118 (b) When the number of members of a board of trustees increases in accordance with

119 Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members  
120 expires every two years in accordance with Subsection (2)(a):

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

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

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

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

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

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

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

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

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

134 Section 2. Section 17B-1-308 is amended to read:

135 **17B-1-308. Boards of trustees composed of county or municipal legislative body**  
136 **members.**

137 (1) If a county or municipal legislative body [~~by statute~~] also serves as the board of  
138 trustees of a local district:

139 (a) the board of trustees shall hold district meetings and keep district minutes,  
140 accounts, and other records separate from those of the county or municipality;

141 (b) subject to Subsection (2), the board of trustees may use, respectively, existing  
142 county or municipal facilities and personnel for district purposes;

143 (c) notwithstanding Subsections 17B-1-303(1) and (2), the term of office of each board  
144 of trustees member coincides with the member's term as a county or municipal legislative body  
145 member;

146 (d) each board of trustees member represents the district at large; and

147 (e) board members may not receive compensation for [~~their~~]  
148 in addition to compensation [~~they~~] the board members receive as members of a county or  
149 municipal legislative body.

150 (2) The county or municipal legislative body, as the case may be, shall charge the local  
151 district, and the local district shall pay to the county or municipality, a reasonable amount for:

152 (a) the county or municipal facilities that the district uses; and

153 (b) except for services ~~rendered by~~ that the county or municipal legislative body  
154 members render, the services that the county or municipality renders to the local district.

155 Section 3. Section **17B-2a-704** is amended to read:

156 **17B-2a-704. Mosquito abatement district board of trustees.**

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

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

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

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

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

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

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

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

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

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

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

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

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

180 (i) more than 25% of the population of the mosquito abatement district resides outside

181 the boundaries of all municipalities that may appoint members to the board of trustees; and

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

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

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

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

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

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

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

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

204 Section 4. Section 20A-1-512 is amended to read:

205 **20A-1-512. Midterm vacancies on local district boards.**

206 (1) (a) Whenever a vacancy occurs on any local district board for any reason, the  
207 following shall appoint a replacement to serve out the unexpired term [~~shall be appointed as~~  
208 ~~provided~~] in accordance with this section [~~by~~]:

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

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

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

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

216 (A) if there is a newspaper of general circulation, as that term is defined in Section  
217 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

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

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

220 (ii) identify, in the notice:

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

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

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

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

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

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

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