

HB0072S01 compared with HB0072

~~{deleted text}~~ shows text that was in HB0072 but was deleted in HB0072S01.

Inserted text shows text that was not in HB0072 but was inserted into HB0072S01.

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Representative Stephen G. Handy proposes the following substitute bill:

LOCAL DISTRICT BOARD AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: ~~{~~ Todd Weiler

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a county legislative body appointing one of the body's own members to the board of trustees of a local district in certain circumstances;
- ▶ 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

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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.

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 2018, Chapter 112](#)

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

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

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

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

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

[Section 1. Section 17B-1-302 is amended to read:](#)

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

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

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

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

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the

member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that

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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.

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

(A) that is located within the local district;

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

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

(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)(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:

(i) receives service from the district; and

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

(3) (a) For a board of trustees member in a basic local district, or in any other type of local district that is located solely within a county of the fifth or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) is may be replaced [with] by 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.

(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)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

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

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

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(B) for an appointment to fill a midterm vacancy, ~~[Subsections 20A-1-512(1)(a) and (b)]~~ Subsection 20A-1-512(1)(a)(ii) or 20A-1-512(2);

(ii) ~~[no]~~ fewer qualified ~~[candidate]~~ candidates timely ~~[files]~~ file to be considered for appointment to the local district board than are necessary to fill the board; [and]

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

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

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

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

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

(d) If it is necessary to reconstitute the board of trustees of a local district located solely within a county of the fifth or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the local district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

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

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

(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

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

(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 (6)(a) may:

(i) violate Subsection (4); or

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

Section ~~17B-1-303~~². 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), (d), and (e), the term of each member of a board of trustees [~~shall begin~~] begins 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~~] begins:

(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 the member is elected, for an elected member.

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

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

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

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for

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office.

(2) (a) (i) Except as provided in Subsection (8), and subject to [~~Subsection~~] Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees [~~shall be~~] is 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)~~] (2)(a)(iii), to result in the terms of their successors complying with:

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

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

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

[~~(B)~~] (iv) An adjustment under Subsection [~~(2)(a)(ii)(A)~~] (2)(a)(ii) 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 shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

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

(b) ~~[Each]~~ The member of the board of trustees taking the oath of office shall file the 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]~~ under Subsection (3)(a) does not invalidate any official act of that member.

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

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

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 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 that is 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]~~ that the board of trustees prescribes.

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

(8) (a) 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 17B-1-306(13).

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

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

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

(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~~ date 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 ~~2}3~~3. Section **17B-1-308** is amended to read:

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

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

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

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

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

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member;

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

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

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

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

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

Section ~~{3}~~4. Section **17B-2a-704** is amended to read:

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

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

(i) the board of trustees of a mosquito abatement district ~~[shall consist]~~ consists 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]~~ consists of five members; and

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

(2) ~~[The]~~ Except as provided in Subsection (1), 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) the county may appoint one member ~~[may be appointed]~~ if:

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

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

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

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district is an even number less than nine; and

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

(b) subject to Subsection (3), the county may appoint 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) a municipality appoints at least four members of the board of trustees [~~are appointed by a municipality~~].

(3) A [~~member appointed~~] county may not appoint a member in accordance with Subsection (2)(b) [~~may not reside~~] who resides 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), and subject to Subsection (1)(b):

(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, the county legislative body shall appoint 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~~] is appointed in accordance with Section 17B-1-304.

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

Section ~~(4)~~5. Section **20A-1-512** is amended to read:

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

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

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

- (i) the local district board, if the person vacating the position was elected; or
- (ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position [~~was appointed~~].

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

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

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

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

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

(ii) identify, in the notice:

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

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

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

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

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

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

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