

1 **LOCAL GOVERNMENT ADMINISTRATION AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: Eric K. Hutchings

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding the governance of metro townships and
10 municipal services districts.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ amends a provision regarding the entry of the election of a metro township mayor in
15 council meeting minutes;
- 16 ▶ amends a requirement that certain county officials fill certain metro township
17 offices or positions to be discretionary and subject to an agreement between the
18 county and the metro township;
- 19 ▶ repeals a provision regarding the initial membership of a municipal services district
20 board of trustees;
- 21 ▶ removes the county executive as the executive of a municipal services district; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-3b-503**, as last amended by Laws of Utah 2018, Chapter 174

- 30 **10-3c-203**, as last amended by Laws of Utah 2017, Chapter 13
- 31 **17B-2a-1106**, as last amended by Laws of Utah 2018, Chapters 68, 112, and 174
- 32 **20A-1-306**, as last amended by Laws of Utah 2016, Chapter 348
- 33 **68-3-12.5**, as last amended by Laws of Utah 2018, Chapter 68

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

36 Section 1. Section **10-3b-503** is amended to read:

37 **10-3b-503. Mayor in a metro township included in a municipal services district.**

38 (1) The mayor in a metro township that is included in a municipal services district:

- 39 (a) is a regular and voting member of the council;
- 40 (b) is elected by the members of the council from among the council members;
- 41 (c) is the chair of the council and presides at all council meetings;
- 42 (d) exercises ceremonial functions for the municipality;
- 43 (e) may not veto any ordinance, resolution, tax levy passed, or any other action taken

44 by the council;

45 (f) represents the metro township on the board of a municipal services district; and

46 (g) has other powers and duties described in this section and otherwise authorized by
47 law except as modified by ordinance under Subsection **10-3b-504**(2).

48 (2) Except as provided in Subsection (3), the mayor in a metro township that is
49 included in a municipal services district:

50 (a) shall:

- 51 (i) keep the peace and enforce the laws of the metro township;
- 52 (ii) ensure that all applicable statutes and metro township ordinances and resolutions
53 are faithfully executed and observed;
- 54 (iii) if the mayor remits a fine or forfeiture under Subsection (2)(b)(ii), report the
55 remittance to the council at the council's next meeting after the remittance;
- 56 (iv) perform all duties prescribed by statute or metro township ordinance or resolution;
- 57 (v) report to the council the condition and needs of the metro township;

- 58 (vi) report to the council any release granted under Subsection (2)(b)(iv); and
- 59 (b) may:
 - 60 (i) recommend for council consideration any measure that the mayor considers to be in
 - 61 the best interests of the municipality;
 - 62 (ii) remit fines and forfeitures;
 - 63 (iii) if necessary, call on residents of the municipality over the age of 21 years to assist
 - 64 in enforcing the laws of the state and ordinances of the municipality;
 - 65 (iv) release a person imprisoned for a violation of a municipal ordinance;
 - 66 (v) with the council's advice and consent appoint a person to fill a municipal office or a
 - 67 vacancy on a commission or committee of the municipality; and
 - 68 (vi) at any reasonable time, examine and inspect the official books, papers, records, or
 - 69 documents of:
 - 70 (A) the municipality; or
 - 71 (B) any officer, employee, or agency of the municipality.
 - 72 (3) The powers and duties in Subsection (1) are subject to the council's authority to
 - 73 limit or expand the mayor's powers and duties under Subsection 10-3b-504(2).
 - 74 (4) (a) If the mayor is absent, unable, or refuses to act, the council may elect a member
 - 75 of the council as mayor pro tempore, to:
 - 76 (i) preside at a council meeting; and
 - 77 (ii) perform during the mayor's absence, disability, or refusal to act, the duties and
 - 78 functions of mayor.
 - 79 (b) [~~In accordance with Section 10-3c-203, the county clerk of the county in which the~~
 - 80 ~~metro township is located shall enter in the minutes of the council meeting the~~] The council
 - 81 shall ensure that the election of a council member as mayor under Subsection (1)(b) or mayor
 - 82 pro tempore under Subsection (4)(a) is entered in the minutes of the council meeting.

83 Section 2. Section 10-3c-203 is amended to read:

84 **10-3c-203. Administrative and operational services -- Staff provided by county or**

85 **municipal services district -- Recording of open meetings.**

86 (1) (a) This section applies only to a metro township in which:

87 (i) the electors at an election under Section 10-2a-404 chose a metro township that is
88 included in a municipal services district and has limited municipal powers; or

89 (ii) the metro township is subsequently annexed into a municipal services district.

90 (b) This section does not apply to a metro township described in Subsection (7)(a) if
91 the municipal services district is dissolved.

92 ~~(1)~~ (2) (a) ~~The~~ Any of the following officials elected or appointed, or persons
93 employed by, the county in which a metro township is located ~~shall~~ may, for the purposes of
94 interpreting and complying with applicable law, fulfill the responsibilities and hold the
95 following metro township offices or positions if the county official and the metro township
96 agree:

97 (i) the county treasurer ~~shall~~ may fulfill the duties and hold the powers of treasurer
98 for the metro township;

99 (ii) the county clerk ~~shall~~ may fulfill the duties and hold the powers of recorder and
100 clerk for the metro township;

101 (iii) the county surveyor ~~shall~~ may fulfill, on behalf of the metro township, all
102 surveyor duties imposed by law;

103 (iv) the county engineer ~~shall~~ may fulfill the duties and hold the powers of engineer
104 for the metro township; and

105 (v) subject to Subsection ~~(1)~~ (2)(b), the county auditor ~~shall~~ may fulfill the duties
106 and hold the powers of auditor for the metro township.

107 (b) (i) The county auditor ~~shall~~ may fulfill the duties and hold the powers of auditor
108 for the metro township to the extent that the county auditor's powers and duties are described in
109 and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor,
110 and a municipal auditor's powers and duties described in this title are the same.

111 (ii) Notwithstanding Subsection ~~(1)~~ (2)(b), in a metro township, services described in
112 Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in
113 Subsection ~~(1)~~ (2)(b)(i) that are provided by a municipal auditor in accordance with this title

114 that are required by law, ~~shall~~ may be performed by county staff other than the county
115 auditor.

116 ~~[(2)]~~ (3) (a) Nothing in Subsection ~~[(1)]~~ (2) may be construed to relieve an official
117 described in Subsections ~~[(1)]~~ (2)(a)(i) through ~~[(iv)]~~ (v) of a duty to either the county or, if the
118 official and the metro township agree as provided in Subsection (2)(a), the metro township or a
119 duty to fulfill that official's position as required by law.

120 (b) Notwithstanding Subsection ~~[(2)]~~ (3)(a), an official or the official's deputy or other
121 person described in Subsections ~~[(1)]~~ (2)(a)(i) through ~~[(iv)]~~ (v):

122 (i) is elected, appointed, or otherwise employed, in accordance with the provisions of
123 Title 17, Counties, as applicable to that official's or person's county office;

124 (ii) is paid a salary and benefits and subject to employment discipline in accordance
125 with the provisions of Title 17, Counties, as applicable to that official's or person's county
126 office;

127 (iii) is not subject to:

128 (A) Chapter 3, Part 11, Personnel Rules and Benefits; or

129 (B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

130 (iv) is not required to provide a bond for the applicable municipal office if a bond for
131 the office is required by this title.

132 ~~[(3)]~~ (4) The district attorney of the county in which a metro township is located may
133 provide legal counsel to the metro township if the county and the metro township agree.

134 ~~[(4)]~~ (5) The metro township may establish a planning commission in accordance with
135 Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

136 ~~[(5)]~~ (6) A municipal services district established in accordance with Title 17B,
137 Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a
138 part, may provide staff to the metro township planning commission and appeal authority.

139 ~~[(6)]~~ (7) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, and
140 Section 10-6-137, if the county clerk and the metro township agree to the county clerk
141 providing recorder and clerk services to the metro township as provided in Subsection

142 10-3c-203(1)(a)(ii):

143 (a) the county clerk may choose to not attend an open meeting of the metro township
144 council; and

145 (b) if the county clerk does not attend an open meeting of the metro township council,
146 the county clerk shall ensure that the chair of the metro township council or a designee of the
147 county clerk, in accordance with Section 52-4-203, makes a recording of the meeting and
148 prepares written minutes of the meeting.

149 [~~(7) (a) This section applies only to a metro township in which:~~]

150 [~~(i) the electors at an election under Section 10-2a-404 chose a metro township that is
151 included in a municipal services district and has limited municipal powers; or]~~

152 [~~(ii) the metro township subsequently joins a municipal services district.]~~

153 [~~(b) This section does not apply to a metro township described in Subsection (6)(a) if
154 the municipal services district is dissolved.]~~

155 Section 3. Section **17B-2a-1106** is amended to read:

156 **17B-2a-1106. Municipal services district board of trustees -- Governance.**

157 (1) [~~Except as provided in Subsection (2), and notwithstanding~~] Notwithstanding any
158 other provision of law regarding the membership of a local district board of trustees, the initial
159 board of trustees of a municipal services district shall consist of the county legislative body.

160 [~~(2) (a) Notwithstanding any provision of law regarding the membership of a local
161 district board of trustees or the governance of a local district, and, except as provided in
162 Subsection (3), if a municipal services district is created in a county of the first class with the
163 county executive-council form of government, the initial governance of the municipal services
164 district is as follows:]~~

165 [~~(i) subject to Subsection (2)(b), the county council is the municipal services district
166 board of trustees; and]~~

167 [~~(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal
168 services district.]~~

169 [~~(b) Notwithstanding any other provision of law, the board of trustees of a municipal~~

170 services district described in Subsection (2)(a) shall:]

171 [(i) act as the legislative body of the district; and]

172 [(ii) exercise legislative branch powers and responsibilities established for county
173 legislative bodies in:]

174 [(A) Title 17, Counties; and]

175 [(B) an optional plan, as defined in Section 17-52a-102, adopted for a county
176 executive-council form of county government as described in Section 17-52a-203.]

177 [(c) Notwithstanding any other provision of law, in a municipal services district
178 described in Subsection (2)(a), the executive of the district shall:]

179 [(i) act as the executive of the district;]

180 [(ii) nominate a general manager of the municipal services district, subject to the
181 advice and consent of the board of trustees; and]

182 [(iii) exercise executive branch powers and responsibilities established for a county
183 executive in:]

184 [(A) Title 17, Counties; and]

185 [(B) an optional plan, as defined in Section 17-52a-102, adopted for a county
186 executive-council form of county government as described in Section 17-52a-203.]

187 [(3)] (2) (a) If, after the initial creation of a municipal services district, an area within
188 the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not
189 withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area
190 within the municipality is annexed into the municipal services district in accordance with
191 Section 17B-2a-1103, the district's board of trustees shall be as follows:

192 (i) subject to Subsection [(3)] (2)(b), a member of that municipality's governing body;

193 (ii) one member of the county council of the county in which the municipal services
194 district is located; and

195 (iii) the total number of board members is not required to be an odd number.

196 (b) A member described in Subsection [(3)] (2)(a)(i) shall be:

197 (i) for a municipality other than a metro township, designated by the municipal

198 legislative body; and

199 (ii) for a metro township, the mayor of the metro township or, during any period of
 200 time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro
 201 township council elects in accordance with Subsection 10-3b-503(4).

202 [~~(c) A member of the board of trustees has the powers and duties described in~~
 203 ~~Subsection (2)(b).]~~

204 [~~(d) The county executive is the executive and has the powers and duties as described~~
 205 ~~in Subsection (2)(c).]~~

206 [~~(4) The county council member described in Subsection (3)(a)(ii) may not be the~~
 207 ~~county mayor who, as the executive of the district, is not a member of the board of trustees.]~~

208 [~~(5)~~] (3) For a board of trustees described in Subsection [~~(3)~~] (2), each board member's
 209 vote is weighted using the proportion of the municipal services district population that resides:

210 (a) for each member described in Subsection [~~(3)~~] (2)(a)(i), within that member's
 211 municipality; and

212 (b) for the member described in Subsection [~~(3)~~] (2)(a)(ii), within the unincorporated
 213 county.

214 [~~(6)~~] (4) The board may adopt a resolution providing for future board members to be
 215 appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

216 [~~(7)(a)~~] (5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of
 217 trustees may adopt a resolution to determine the internal governance of the board.

218 [~~(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of~~
 219 ~~trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's~~
 220 ~~duties, powers, or responsibilities described in Subsection (2)(c).]~~

221 [~~(8)~~] (6) The municipal services district and the county may enter into an agreement for
 222 the provision of legal services to the municipal services district.

223 Section 4. Section 20A-1-306 is amended to read:

224 **20A-1-306. Electronic signatures prohibited.**

225 Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and

226 Subsections 68-3-12(1)(e) and 68-3-12.5[(27)](28) and [(38)] (40), an electronic signature may
227 not be used to sign a petition to:

228 (1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the
229 Voters;

230 (2) organize and register a political party under Chapter 8, Political Party Formation
231 and Procedures; or

232 (3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and
233 Nominating Procedures.

234 Section 5. Section 68-3-12.5 is amended to read:

235 **68-3-12.5. Definitions for Utah Code.**

236 (1) The definitions listed in this section apply to the Utah Code, unless:

237 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant
238 to the context of the statute; or

239 (b) a different definition is expressly provided for the respective title, chapter, part,
240 section, or subsection.

241 (2) "Adjudicative proceeding" means:

242 (a) an action by a board, commission, department, officer, or other administrative unit
243 of the state that determines the legal rights, duties, privileges, immunities, or other legal
244 interests of one or more identifiable persons, including an action to grant, deny, revoke,
245 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

246 (b) judicial review of an action described in Subsection (2)(a).

247 (3) "Administrator" includes "executor" when the subject matter justifies the use.

248 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
249 commission, committee, or council that:

250 (a) is created by, and whose duties are provided by, statute or executive order;

251 (b) performs its duties only under the supervision of another person as provided by
252 statute; and

253 (c) provides advice and makes recommendations to another person that makes policy

254 for the benefit of the general public.

255 (5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps,
256 and Coast Guard.

257 (6) "City" includes, depending on population, a metro township as defined in Section
258 [10-3c-102](#).

259 ~~[(6)]~~ (7) "County executive" means:

260 (a) the county commission, in the county commission or expanded county commission
261 form of government established under Title 17, Chapter 52a, Changing Forms of County
262 Government;

263 (b) the county executive, in the county executive-council optional form of government
264 authorized by Section [17-52a-203](#); or

265 (c) the county manager, in the council-manager optional form of government
266 authorized by Section [17-52a-204](#).

267 ~~[(7)]~~ (8) "County legislative body" means:

268 (a) the county commission, in the county commission or expanded county commission
269 form of government established under Title 17, Chapter 52a, Changing Forms of County
270 Government;

271 (b) the county council, in the county executive-council optional form of government
272 authorized by Section [17-52a-203](#); and

273 (c) the county council, in the council-manager optional form of government authorized
274 by Section [17-52a-204](#).

275 ~~[(8)]~~ (9) "Depose" means to make a written statement made under oath or affirmation.

276 ~~[(9)]~~ (10) "Executor" includes "administrator" when the subject matter justifies the use.

277 ~~[(10)]~~ (11) "Guardian" includes a person who:

278 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary
279 or court appointment; or

280 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

281 ~~[(11)]~~ (12) "Highway" includes:

- 282 (a) a public bridge;
- 283 (b) a county way;
- 284 (c) a county road;
- 285 (d) a common road; and
- 286 (e) a state road.

287 [~~(12)~~] (13) "Intellectual disability" means a significant, subaverage general intellectual
288 functioning that:

- 289 (a) exists concurrently with deficits in adaptive behavior; and
- 290 (b) is manifested during the developmental period as defined in the current edition of
291 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
292 Psychiatric Association.

293 [~~(13)~~] (14) "Intermediate care facility for people with an intellectual disability" means
294 an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social
295 Security Act.

296 [~~(14)~~] (15) "Land" includes:

- 297 (a) land;
- 298 (b) a tenement;
- 299 (c) a hereditament;
- 300 (d) a water right;
- 301 (e) a possessory right; and
- 302 (f) a claim.

303 [~~(15)~~] (16) "Month" means a calendar month, unless otherwise expressed.

304 [~~(16)~~] (17) "Oath" includes "affirmation."

305 [~~(17)~~] (18) "Person" means:

- 306 (a) an individual;
- 307 (b) an association;
- 308 (c) an institution;
- 309 (d) a corporation;

- 310 (e) a company;
 - 311 (f) a trust;
 - 312 (g) a limited liability company;
 - 313 (h) a partnership;
 - 314 (i) a political subdivision;
 - 315 (j) a government office, department, division, bureau, or other body of government;
 - 316 and
 - 317 (k) any other organization or entity.
- 318 [~~(18)~~] (19) "Personal property" includes:
- 319 (a) money;
 - 320 (b) goods;
 - 321 (c) chattels;
 - 322 (d) effects;
 - 323 (e) evidences of a right in action;
 - 324 (f) a written instrument by which a pecuniary obligation, right, or title to property is
 - 325 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
 - 326 (g) a right or interest in an item described in Subsections [~~(18)~~] (19)(a) through (f).
- 327 [~~(19)~~] (20) "Personal representative," "executor," and "administrator" include:
- 328 (a) an executor;
 - 329 (b) an administrator;
 - 330 (c) a successor personal representative;
 - 331 (d) a special administrator; and
 - 332 (e) a person who performs substantially the same function as a person described in
 - 333 Subsections [~~(19)~~] (20)(a) through (d) under the law governing the person's status.
- 334 [~~(20)~~] (21) "Policy board," "policy commission," or "policy council" means a board,
- 335 commission, or council that:
- 336 (a) is authorized to make policy for the benefit of the general public;
 - 337 (b) is created by, and whose duties are provided by, the constitution or statute; and

338 (c) performs its duties according to its own rules without supervision other than under
339 the general control of another person as provided by statute.

340 [~~(21)~~] (22) "Population" is shown by the most recent state or national census, unless
341 expressly provided otherwise.

342 [~~(22)~~] (23) "Process" means a writ or summons issued in the course of a judicial
343 proceeding.

344 [~~(23)~~] (24) "Property" includes both real and personal property.

345 [~~(24)~~] (25) "Real estate" or "real property" includes:

- 346 (a) land;
- 347 (b) a tenement;
- 348 (c) a hereditament;
- 349 (d) a water right;
- 350 (e) a possessory right; and
- 351 (f) a claim.

352 [~~(25)~~] (26) "Review board," "review commission," and "review council" mean a board,
353 commission, committee, or council that:

- 354 (a) is authorized to approve policy made for the benefit of the general public by another
355 body or person;
- 356 (b) is created by, and whose duties are provided by, statute; and
- 357 (c) performs its duties according to its own rules without supervision other than under
358 the general control of another person as provided by statute.

359 [~~(26)~~] (27) "Road" includes:

- 360 (a) a public bridge;
- 361 (b) a county way;
- 362 (c) a county road;
- 363 (d) a common road; and
- 364 (e) a state road.

365 [~~(27)~~] (28) "Signature" includes a name, mark, or sign written with the intent to

366 authenticate an instrument or writing.

367 ~~[(28)]~~ (29) "State," when applied to the different parts of the United States, includes a
368 state, district, or territory of the United States.

369 ~~[(29)]~~ (30) "Swear" includes "affirm."

370 ~~[(30)]~~ (31) "Testify" means to make an oral statement under oath or affirmation.

371 (32) "Town" includes, depending on population, a metro township as defined in
372 Section 10-3c-102.

373 ~~[(31)]~~ (33) "Uniformed services" means:

374 (a) the armed forces;

375 (b) the commissioned corps of the National Oceanic and Atmospheric Administration;

376 and

377 (c) the commissioned corps of the United States Public Health Service.

378 ~~[(32)]~~ (34) "United States" includes each state, district, and territory of the United
379 States of America.

380 ~~[(33)]~~ (35) "Utah Code" means the 1953 recodification of the Utah Code, as amended,
381 unless the text expressly references a portion of the 1953 recodification of the Utah Code as it
382 existed:

383 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

384 (b) (i) after the day described in Subsection ~~[(33)]~~ (35)(a); and

385 (ii) before the most recent amendment to the referenced portion of the 1953
386 recodification of the Utah Code.

387 ~~[(34)]~~ (36) "Vessel," when used with reference to shipping, includes a steamboat, canal
388 boat, and every structure adapted to be navigated from place to place.

389 ~~[(35)]~~ (37) (a) "Veteran" means an individual who:

390 (i) has served in the United States Armed Forces for at least 180 days:

391 (A) on active duty; or

392 (B) in a reserve component, to include the National Guard; or

393 (ii) has incurred an actual service-related injury or disability while in the United States

394 Armed Forces regardless of whether the individual completed 180 days; and
395 (iii) was separated or retired under conditions characterized as honorable or general.
396 (b) This definition is not intended to confer eligibility for benefits.
397 [~~36~~] (38) "Will" includes a codicil.
398 [~~37~~] (39) "Writ" means an order or precept in writing, issued in the name of:
399 (a) the state;
400 (b) a court; or
401 (c) a judicial officer.
402 [~~38~~] (40) "Writing" includes:
403 (a) printing;
404 (b) handwriting; and
405 (c) information stored in an electronic or other medium if the information is retrievable
406 in a perceivable format.