

1 **PUBLIC TRANSIT EMPLOYEE COLLECTIVE BARGAINING**

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jon Hawkins**

6 Senate Sponsor: Michael K. McKell

7

8 **LONG TITLE**

9 **General Description:**

10 This bill makes changes to provisions related to collective bargaining for employees of
11 a public transit district.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ excludes confidential employees, managerial employees, and supervisors of a public
15 transit district from certain employee rights and benefits, including the right to:

- 16 • self-organization;
- 17 • form, join, or assist a labor organization; and
- 18 • bargain collectively through representatives of their choosing;

19 ▶ defines terms; and

20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **17B-2a-802**, as last amended by Laws of Utah 2022, Chapters 69, 406



28 **17B-2a-813**, as last amended by Laws of Utah 2013, Chapter 448



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

31 Section 1. Section **17B-2a-802** is amended to read:

32 **17B-2a-802. Definitions.**

33 As used in this part:

34 (1) "Affordable housing" means housing occupied or reserved for occupancy by
35 households that meet certain gross household income requirements based on the area median
36 income for households of the same size.

37 (a) "Affordable housing" may include housing occupied or reserved for occupancy by
38 households that meet specific area median income targets or ranges of area median income
39 targets.

40 (b) "Affordable housing" does not include housing occupied or reserved for occupancy
41 by households with gross household incomes that are more than 60% of the area median
42 income for households of the same size.

43 (2) "Appointing entity" means the person, county, unincorporated area of a county, or
44 municipality appointing a member to a public transit district board of trustees.

45 (3) (a) "Chief executive officer" means a person appointed by the board of trustees of a
46 small public transit district to serve as chief executive officer.

47 (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities
48 defined in Sections **17B-2a-810** and **17B-2a-811** and includes all rights, duties, and
49 responsibilities assigned to the general manager but prescribed by the board of trustees to be
50 fulfilled by the chief executive officer.

51 (4) "Confidential employee" means a person who, in the regular course of the person's
52 duties:

53 (a) assists in and acts in a confidential capacity in relation to other persons who
54 formulate, determine, and effectuate management policies regarding labor relations; or

55 (b) has authorized access to information relating to effectuating or reviewing the
56 employer's collective bargaining policies.

57 [~~4~~] (5) "Council of governments" means a decision-making body in each county
58 composed of membership including the county governing body and the mayors of each

59 municipality in the county.

60 ~~[(5)]~~ (6) "Department" means the Department of Transportation created in Section
61 72-1-201.

62 ~~[(6)]~~ (7) "Executive director" means a person appointed by the board of trustees of a
63 large public transit district to serve as executive director.

64 ~~[(7)]~~ (8) "Fixed guideway" means the same as that term is defined in Section
65 59-12-102.

66 ~~[(8)]~~ (9) "Fixed guideway capital development" means the same as that term is defined
67 in Section 72-1-102.

68 ~~[(9)]~~ (10) (a) "General manager" means a person appointed by the board of trustees of a
69 small public transit district to serve as general manager.

70 (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in
71 Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public
72 transit district.

73 ~~[(10)]~~ (11) "Large public transit district" means a public transit district that provides
74 public transit to an area that includes:

75 (a) more than 65% of the population of the state based on the most recent official
76 census or census estimate of the United States Census Bureau; and

77 (b) two or more counties.

78 ~~[(11)]~~ (12) (a) "Locally elected public official" means a person who holds an elected
79 position with a county or municipality.

80 (b) "Locally elected public official" does not include a person who holds an elected
81 position if the elected position is not with a county or municipality.

82 (13) "Managerial employee" means a person who is:

83 (a) engaged in executive and management functions; and

84 (b) charged with the responsibility of directing, overseeing, or implementing the
85 effectuation of management policies and practices.

86 ~~[(12)]~~ (14) "Metropolitan planning organization" means the same as that term is
87 defined in Section 72-1-208.5.

88 ~~[(13)]~~ (15) "Multicounty district" means a public transit district located in more than
89 one county.

90 ~~[(14)]~~ (16) "Operator" means a public entity or other person engaged in the
91 transportation of passengers for hire.

92 ~~[(15)]~~ (17) (a) "Public transit" means regular, continuing, shared-ride, surface
93 transportation services that are open to the general public or open to a segment of the general
94 public defined by age, disability, or low income.

95 (b) "Public transit" does not include transportation services provided by:

96 (i) chartered bus;

97 (ii) sightseeing bus;

98 (iii) taxi;

99 (iv) school bus service;

100 (v) courtesy shuttle service for patrons of one or more specific establishments; or

101 (vi) intra-terminal or intra-facility shuttle services.

102 ~~[(16)]~~ (18) "Public transit district" means a local district that provides public transit
103 services.

104 ~~[(17)]~~ (19) "Small public transit district" means any public transit district that is not a
105 large public transit district.

106 ~~[(18)]~~ (20) "Station area plan" means a plan developed and adopted by a municipality
107 in accordance with Section [10-9a-403.1](#).

108 (21) (a) "Supervisor" means a person who has authority, in the interest of the employer,
109 to:

110 (i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or
111 discipline other employees; or

112 (ii) adjust another employee's grievance or recommend action to adjust another
113 employee's grievance.

114 (b) "Supervisor" does not include a person whose exercise of the authority described in
115 Subsection (21)(a):

116 (i) is of a merely routine or clerical nature; and

117 (ii) does not require the person to use independent judgment.

118 ~~[(19)]~~ (22) "Transit facility" means a transit vehicle, transit station, depot, passenger
119 loading or unloading zone, parking lot, or other facility:

120 (a) leased by or operated by or on behalf of a public transit district; and

121 (b) related to the public transit services provided by the district, including:
122 (i) railway or other right-of-way;
123 (ii) railway line; and
124 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
125 a transit vehicle.

126 [~~(20)~~] (23) "Transit vehicle" means a passenger bus, coach, railcar, van, or other
127 vehicle operated as public transportation by a public transit district.

128 [~~(21)~~] (24) "Transit-oriented development" means a mixed use residential or
129 commercial area that is designed to maximize access to public transit and includes the
130 development of land owned by a large public transit district.

131 [~~(22)~~] (25) "Transit-supportive development" means a mixed use residential or
132 commercial area that is designed to maximize access to public transit and does not include the
133 development of land owned by a large public transit district.

134 Section 2. Section **17B-2a-813** is amended to read:

135 **17B-2a-813. Rights, benefits, and protective conditions for employees of a public**
136 **transit district -- Strike prohibited -- Employees of an acquired transit system.**

137 (1) As used in this section:

138 (a) (i) "Employee" means an individual employed by an employer.

139 (ii) "Employee" does not include a person employed as a supervisor, managerial
140 employee, or confidential employee.

141 (b) "Employer" means a person that employs an employee.

142 (2) The rights, benefits, and other employee protective conditions and remedies of
143 Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as
144 determined by the Secretary of Labor, apply to a public transit district's establishment and
145 operation of a public transit service or system.

146 [~~(2)~~] (3) (a) Employees of a public transit system established and operated by a public
147 transit district have the right to:

148 (i) self-organization;

149 (ii) form, join, or assist labor organizations; and

150 (iii) bargain collectively through representatives of their own choosing.

151 (b) Employees of a public transit district and labor organizations may not join in a

152 strike against the public transit system operated by the public transit district.

153 (c) Each public transit district shall:

154 (i) recognize and bargain exclusively with any labor organization representing a
155 majority of the district's employees in an appropriate unit with respect to wages, salaries, hours,
156 working conditions, and welfare, pension, and retirement provisions; and

157 (ii) upon reaching agreement with the labor organization, enter into and execute a
158 written contract incorporating the agreement.

159 [~~(3)~~] (4) If a public transit district acquires an existing public transit system:

160 (a) all employees of the acquired system who are necessary for the operation of the
161 acquired system, except executive and administrative officers and employees, shall be:

162 (i) transferred to and appointed employees of the acquiring public transit district; and

163 (ii) given sick leave, seniority, vacation, and pension or retirement credits in
164 accordance with the acquired system's records;

165 (b) members and beneficiaries of a pension or retirement plan or other program of
166 benefits that the acquired system has established shall continue to have rights, privileges,
167 benefits, obligations, and status with respect to that established plan or program; and

168 (c) the public transit district may establish, amend, or modify, by agreement with
169 employees or their authorized representatives, the terms, conditions, and provisions of a
170 pension or retirement plan or of an amendment or modification of a pension or retirement plan.

171 [~~(4)~~] (5) A pension administrator for a retirement plan sponsored by a public transit
172 district or a person designated by the administrator shall maintain retirement records in
173 accordance with Subsection 49-11-618(2).

174 Section 3. **Effective date.**

175 If approved by two-thirds of all the members elected to each house, this bill takes effect
176 upon approval by the governor, or the day following the constitutional time limit of Utah
177 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
178 the date of veto override.