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LOCAL DISTRICT BOARD AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

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.

Money Appropriated in this Bill:

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

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

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

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

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

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

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

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

84 (c) If a member of a board of trustees no longer meets the qualifications of Subsection
85 [17B-1-302](#)(1), (2), or (3), or if the member's term expires without a duly elected or appointed
86 successor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 (7) (a) Each member of a board of trustees shall give a bond for the faithful

121 performance of the member's duties, in the amount and with the sureties [~~prescribed by~~] that
122 the board of trustees prescribes.

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

124 (8) (a) The lieutenant governor may extend the term of an elected district board
125 member by one year in order to compensate for a change in the election year under Subsection
126 17B-1-306(13).

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

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

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

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

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

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

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

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

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

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

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

144 **17B-1-308. Boards of trustees composed of county or municipal legislative body**
145 **members.**

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

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

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

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

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

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

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

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

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

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

165 **17B-2a-704. Mosquito abatement district board of trustees.**

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

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

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

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

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

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

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

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

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

- 183 (B) Subsection (2)(b) does not apply; or
- 184 (ii) (A) the number of municipalities that are entirely or partly included within the
- 185 district is an even number less than nine; and
- 186 (B) Subsection (1)(b) does not apply; or
- 187 (b) subject to Subsection (3), the county may appoint up to and including three
- 188 members [~~may be appointed~~] if:
- 189 (i) more than 25% of the population of the mosquito abatement district resides outside
- 190 the boundaries of all municipalities that may appoint members to the board of trustees; and
- 191 (ii) a municipality appoints at least four members of the board of trustees [~~are~~
- 192 ~~appointed by a municipality~~].
- 193 (3) A [~~member appointed~~] county may not appoint a member in accordance with
- 194 Subsection (2)(b) [~~may not reside~~] who resides within a municipality that may appoint a
- 195 member to the board of trustees.
- 196 (4) If the number of board members appointed by application of Subsections (1) and
- 197 (2)(a) is an even number less than nine, the legislative body of the county in which the district
- 198 is located shall appoint an additional member.
- 199 (5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):
- 200 (a) if the mosquito abatement district is located entirely within one county and, in
- 201 accordance with this section, only one municipality may appoint a member of the board of
- 202 trustees, the county legislative body shall appoint at least four members to the district's board
- 203 of trustees; and
- 204 (b) if the mosquito abatement district is located entirely within one county and no
- 205 municipality may appoint a member of the board of trustees, the county legislative body shall
- 206 appoint all of the members of the board [~~shall be appointed by the county legislative body~~].
- 207 (6) Each board of trustees member [~~shall be appointed as provided in~~] is appointed in
- 208 accordance with Section 17B-1-304.
- 209 (7) [~~Each~~] The applicable appointing authority shall fill each vacancy on a mosquito
- 210 abatement district board of trustees [~~shall be filled by the applicable appointing authority as~~
- 211 ~~provided~~] in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, [~~as~~
- 212 ~~provided~~] in accordance with Section 20A-1-512.
- 213 Section 4. Section 20A-1-512 is amended to read:

214 **20A-1-512. Midterm vacancies on local district boards.**

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

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

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

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

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

225 (A) if there is a newspaper of general circulation, as that term is defined in Section
226 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

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

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

229 (ii) identify, in the notice:

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

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

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

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

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

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

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