

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 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:

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **17B-1-302**, as last amended by Laws of Utah 2018, Chapter 112

35 **17B-1-303**, as last amended by Laws of Utah 2017, Chapter 112

36 **17B-1-308**, as enacted by Laws of Utah 2007, Chapter 329

37 **17B-2a-704**, as last amended by Laws of Utah 2017, Chapter 112

38 **20A-1-512**, as last amended by Laws of Utah 2014, Chapter 377

39

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

41 Section 1. Section **17B-1-302** is amended to read:

42 **17B-1-302. Board member qualifications -- Number of board members.**

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

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

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

46 (i) the boundaries of the local district; and

47 (ii) if applicable, the boundaries of the division of the local district from which the
48 member is elected or appointed.

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

50 (i) "Proportional number" means the number of members of a board of trustees that
51 bears, as close as mathematically possible, the same proportion to all members of the board that
52 the number of seasonally occupied homes bears to all residences within the district that receive
53 service from the district.

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

55 (A) that is located within the local district;

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

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

59 (b) If over 50% of the residences within a local district that receive service from the
60 local district are seasonally occupied homes, the requirement under Subsection (1)(b) is
61 replaced, for a proportional number of members of the board of trustees, with the requirement
62 that the member be an owner of land, or an agent or officer of the owner of land, that:

63 (i) receives service from the district; and

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

66 (3) (a) For a board of trustees member in a basic local district, or in any other type of
67 local district that is located solely within a county of the fifth or sixth class, that has within the
68 district's boundaries fewer than one residential dwelling unit per 10 acres of land, the
69 requirement under Subsection (1)(b) ~~[is]~~ may be replaced ~~[with]~~ by the requirement that the
70 member be an owner of land within the local district that receives service from the district, or
71 an agent or officer of the owner.

72 (b) A member of the board of trustees of a service area described in Subsection
73 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is
74 not subject to the requirements described in Subsection (1)(b) if the elected official was elected
75 at large by the voters of the county.

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

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

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

82 (B) for an appointment to fill a midterm vacancy, [~~Subsections 20A-1-512~~(1)(a) and

83 ~~(b)~~ Subsection 20A-1-512(1)(a)(ii) or 20A-1-512(2);

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

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

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

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

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

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

97 (d) If it is necessary to reconstitute the board of trustees of a local district located solely
98 within a county of the fifth or sixth class because the term of a majority of the members of the
99 board has expired without new trustees having been elected or appointed as required by law,
100 even if sufficient qualified candidates timely file to be considered for a vacancy on the board,
101 the county legislative body may appoint to the local district board no more than one of the
102 county legislative body's own members who does not satisfy the requirements of Subsection
103 (1).

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

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

109 (5) For a newly created local district, the number of members of the initial board of

110 trustees shall be the number specified:

111 (a) for a local district whose creation was initiated by a petition under Subsection
112 17B-1-203(1)(a), (b), or (c), in the petition; or

113 (b) for a local district whose creation was initiated by a resolution under Subsection
114 17B-1-203(1)(d) or (e), in the resolution.

115 (6) (a) For an existing local district, the number of members of the board of trustees
116 may be changed by a two-thirds vote of the board of trustees.

117 (b) No change in the number of members of a board of trustees under Subsection (6)(a)
118 may:

119 (i) violate Subsection (4); or

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

121 Section 2. Section 17B-1-303 is amended to read:

122 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice**
123 **of board member contact information.**

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

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

129 (i) upon appointment, for an appointed member; and

130 (ii) upon the member taking the oath of office after the canvass of the election at which
131 the member is elected, for an elected member.

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

135 (i) [~~begin~~] begins on the later of the following:

136 (A) the date on which the Senate consents to the appointment; or

137 (B) the expiration date of the prior term; and

138 (ii) ~~end~~ ends on the February 1 that is approximately four years after the date
139 described in Subsection (1)(c)(i)(A) or (B).

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

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

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

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

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

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

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

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

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

167 (c) If a member of a board of trustees no longer meets the qualifications of Subsection
168 [17B-1-302](#)(1), (2), or (3), or if the member's term expires without a duly elected or appointed
169 successor:

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

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

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

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

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

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

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

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

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

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

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

190 (A) is appointed as a member of a local district board of trustees by a county or

191 municipality that is entitled to appoint a member to the board; and

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

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

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

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

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

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

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

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

207 (8) (a) The lieutenant governor may extend the term of an elected district board
208 member by one year in order to compensate for a change in the election year under Subsection
209 [17B-1-306\(13\)](#).

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

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

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

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

217 (i) post on the Utah Public Notice Website created in Section [63F-1-701](#) the name,

218 phone number, and email address of each member of the local district's board of trustees;
219 (ii) update the information described in Subsection (9)(a)(i) when:
220 (A) the membership of the board of trustees changes; or
221 (B) a member of the board of trustees' phone number or email address changes; and
222 (iii) post any update required under Subsection (9)(a)(ii) within 30 days after the [day]
223 date on which the change requiring the update occurs.

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

226 Section 3. Section **17B-1-308** is amended to read:

227 **17B-1-308. Boards of trustees composed of county or municipal legislative body**
228 **members.**

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

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

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

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

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

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

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

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

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

247 Section 4. Section **17B-2a-704** is amended to read:

248 **17B-2a-704. Mosquito abatement district board of trustees.**

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

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

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

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

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

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

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

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

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

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

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

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

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

272 (i) more than 25% of the population of the mosquito abatement district resides outside
273 the boundaries of all municipalities that may appoint members to the board of trustees; and

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

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

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

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

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

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

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

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

296 Section 5. Section 20A-1-512 is amended to read:

297 **20A-1-512. Midterm vacancies on local district boards.**

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

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

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

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

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

308 (A) if there is a newspaper of general circulation, as that term is defined in Section
309 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

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

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

312 (ii) identify, in the notice:

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

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

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

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

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

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

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

326