

SERVICE AREA BOARD OF TRUSTEES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill addresses the membership of certain service area boards of trustees.

Highlighted Provisions:

This bill:

- ▶ allows a municipal governing body to petition to appoint a member of a service area board of trustees in certain circumstances;
- ▶ provides for the appointment and term of a municipal governing body appointee on a service area board of trustees;
- ▶ allows a service area board of trustees to rescind the board's approval of a municipal petition to appoint a member of the board; 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-2a-905, as last amended by Laws of Utah 2018, Chapter 112

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

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

30 **17B-1-302. Board member qualifications -- Number of board members.**

31 (1) [~~Each~~] Except as provided in Section 17B-2a-905, each member of a local district
32 board of trustees shall be:

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

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

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

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

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

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

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

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

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

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

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

52 (i) receives service from the district; and

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

55 (3) (a) For a board of trustees member in a basic local district that has within the
56 district's boundaries fewer than one residential dwelling unit per 10 acres of land, the
57 requirement under Subsection (1)(b) is replaced with the requirement that the member be an

58 owner of land within the local district that receives service from the district, or an agent or
59 officer of the owner.

60 (b) A member of the board of trustees of a service area described in Subsection
61 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is
62 not subject to the requirements described in Subsection (1)(b) if the elected official was elected
63 at large by the voters of the county.

64 (c) Notwithstanding Subsection (1)(b), the county legislative body may appoint to the
65 local district board one of the county legislative body's own members, regardless of whether the
66 member resides within the boundaries described in Subsection (1)(b), if:

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

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

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

70 (b);

71 (ii) no qualified candidate timely files to be considered for appointment to the local
72 district board; and

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

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

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

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

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

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

86 (5) For a newly created local district, the number of members of the initial board of
87 trustees shall be the number specified:

88 (a) for a local district whose creation was initiated by a petition under Subsection
89 17B-1-203(1)(a), (b), or (c), in the petition; or

90 (b) for a local district whose creation was initiated by a resolution under Subsection
91 17B-1-203(1)(d) or (e), in the resolution.

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

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

96 (i) violate Subsection (4); or

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

98 Section 2. Section 17B-2a-905 is amended to read:

99 **17B-2a-905. Service area board of trustees.**

100 (1) (a) Except as provided in Subsection (2)~~[or]~~, (3), or (4):

101 (i) the initial board of trustees of a service area located entirely within the
102 unincorporated area of a single county may, as stated in the petition or resolution that initiated
103 the process of creating the service area:

104 (A) consist of the county legislative body;

105 (B) be appointed, as provided in Section 17B-1-304; or

106 (C) be elected, as provided in Section 17B-1-306;

107 (ii) if the board of trustees of a service area consists of the county legislative body, the
108 board may adopt a resolution providing for future board members to be appointed, as provided
109 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

110 (iii) members of the board of trustees of a service area shall be elected, as provided in
111 Section 17B-1-306, if:

112 (A) the service area is not entirely within the unincorporated area of a single county;

113 (B) a petition is filed with the board of trustees requesting that board members be

114 elected, and the petition is signed by registered voters within the service area equal in number
115 to at least 10% of the number of registered voters within the service area who voted at the last
116 gubernatorial election; or

117 (C) an election is held to authorize the service area's issuance of bonds.

118 (b) If members of the board of trustees of a service area are required to be elected
119 under Subsection (1)(a)(iii)(C) because of a bond election:

120 (i) board members shall be elected in conjunction with the bond election;

121 (ii) the board of trustees shall:

122 (A) establish a process to enable potential candidates to file a declaration of candidacy
123 sufficiently in advance of the election; and

124 (B) provide a ballot for the election of board members separate from the bond ballot;

125 and

126 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided
127 in Section [17B-1-306](#).

128 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

129 (i) the service area was created to provide:

130 (A) fire protection, paramedic, and emergency services; or

131 (B) law enforcement service;

132 (ii) in the creation of the service area, an election was not required under Subsection
133 [17B-1-214\(3\)\(d\)](#); and

134 (iii) the service area is not a service area described in Subsection (3).

135 (b) (i) Each county with unincorporated area that is included within a service area
136 described in Subsection (2)(a), whether in conjunction with the creation of the service area or
137 by later annexation, shall appoint up to three members to the board of trustees.

138 (ii) Each municipality with an area that is included within a service area described in
139 Subsection (2)(a), whether in conjunction with the creation of the service area or by later
140 service area annexation or municipal incorporation or annexation, shall appoint one member to
141 the board of trustees, unless the area of the municipality is withdrawn from the service area.

142 (iii) Each member that a county or municipality appoints under Subsection (2)(b)(i) or
143 (ii) shall be an elected official of the appointing county or municipality, respectively.

144 (c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of
145 trustees of a service area described in Subsection (2)(a) shall be the number resulting from
146 application of Subsection (2)(b).

147 (3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013,
148 if:

149 (i) the service area was created to provide fire protection, paramedic, and emergency
150 services;

151 (ii) in the creation of the service area, an election was not required under Subsection
152 17B-1-214(3)(d); and

153 (iii) each municipality with an area that is included within the service area or county
154 with unincorporated area, whether in whole or in part, that is included within a service area is a
155 party to an agreement:

156 (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act,
157 with all the other municipalities or counties with an area that is included in the service area;

158 (B) to provide the services described in Subsection (3)(a)(i); and

159 (C) at the time a resolution proposing the creation of the service area is adopted by
160 each applicable municipal or county legislative body in accordance with Subsection
161 17B-1-203(1)(d).

162 (b) (i) Each county with unincorporated area, whether in whole or in part, that is
163 included within a service area described in Subsection (3)(a), whether in conjunction with the
164 creation of the service area or by later annexation, shall appoint one member to the board of
165 trustees.

166 (ii) Each municipality with an area that is included within a service area described in
167 Subsection (3)(a), whether in conjunction with the creation of the service area or by later
168 annexation, shall appoint one member to the board of trustees.

169 (iii) Each member that a county or municipality appoints under Subsection (3)(b)(i) or

170 (ii) shall be an elected official of the appointing county or municipality, respectively.
171 (iv) A vote by a member of the board of trustees may be weighted or proportional.
172 (c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of
173 trustees of a service area described in Subsection (3)(a) is the number resulting from the
174 application of Subsection (3)(b).
175 (4) (a) This Subsection (4) applies to a service area if:
176 (i) the service area provides a service to a municipality in accordance with an
177 agreement between the service area and the municipality in accordance with Title 11, Chapter
178 13, Interlocal Cooperation Act;
179 (ii) the municipality is not included within the service area's boundary;
180 (iii) the governing body of the municipality petitions the service area to request
181 authority to appoint one member of the board of trustees of the service area; and
182 (iv) the service area board of trustees approves the petition.
183 (b) The governing body of a municipality described in Subsection (4)(a) may appoint a
184 member of a service area board of trustees as follows:
185 (i) the governing body shall make the appointment in accordance with:
186 (A) Section 17B-1-304; or
187 (B) to fill a mid-term vacancy, Subsection 20A-1-512(1);
188 (ii) the governing body may not appoint an individual who is not a registered voter
189 residing within the municipality;
190 (iii) the district boundary requirement in Subsection 17B-1-302(1) does not apply to
191 the governing body's appointee;
192 (iv) the governing body and the service area board of trustees may not shorten the term
193 of office of any member of the board due to the governing body's appointment;
194 (v) notwithstanding Subsection 17B-1-302(4), the number of members of the board of
195 trustees of a service area described in Subsection (4)(a) may be odd or even; and
196 (vi) if the number of members of a service area board of trustees is odd before the
197 governing body's appointment, the member that the governing body appoints may replace a

198 member whose term is expiring or who otherwise leaves a vacancy on the board or, if no
199 expiring term or vacancy exists:

200 (A) the number of board members may temporarily be even, including the member that
201 the governing body appoints, until an expiring term or vacancy exists that restores the board
202 membership to an odd number; and

203 (B) no appointing authority may fill the expiring term or vacancy that restores the
204 board membership to an odd number.

205 (c) (i) The service area board of trustees may rescind the approval described in
206 Subsection (4)(a) at any time.

207 (ii) If the service area board of trustees rescinds the approval described in Subsection
208 (4)(a) during the term of a board member that the governing body appointed, the appointee
209 shall remain on the board for the remainder of the appointee's term.