

Senator Todd Weiler proposes the following substitute bill:

MOUNTAINOUS PLANNING DISTRICT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to mountainous planning districts.

Highlighted Provisions:

This bill:

- ▶ modifies the procedure for selecting certain members of a planning commission that has jurisdiction over a mountainous planning district;
- ▶ addresses the circumstances under which an area may withdraw from a mountainous planning district;
- ▶ requires a county legislative body that designates a mountainous planning district to submit a report to the Political Subdivisions Interim Committee; and
- ▶ modifies a repeal date for provisions relating to mountainous planning districts.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-301, as last amended by Laws of Utah 2015, Chapters 352 and 465



26 17-27a-901, as enacted by Laws of Utah 2015, Chapter 465
27 63I-2-217, as enacted by Laws of Utah 2015, Chapter 465 and further amended by
28 Revisor Instructions, Laws of Utah 2015, Chapter 465



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

31 Section 1. Section 17-27a-301 is amended to read:

32 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
33 **Ordinance requirements -- Planning advisory area planning commission --**
34 **Compensation.**

35 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
36 establishing a countywide planning commission for the unincorporated areas of the county not
37 within a planning advisory area.

38 (b) Subsection (1)(a) does not apply if all of the county is included within any
39 combination of:

- 40 (i) municipalities;
- 41 (ii) planning advisory areas with their own planning commissions; and
- 42 (iii) mountainous planning districts.

43 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection
44 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,
45 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over
46 the entire mountainous planning district, including areas of the mountainous planning district
47 that are also located within a municipality or are unincorporated.

48 (ii) A planning commission described in Subsection (1)(c)(i):

49 (A) does not have jurisdiction over a municipality described in Subsection
50 10-9a-304(2)(b); and

51 (B) has jurisdiction subject to a local health department exercising its authority in
52 accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising
53 the municipality's authority in accordance with Section 10-8-15.

54 (iii) The ordinance shall require that:

55 (A) members of the planning commission represent areas located in the unincorporated
56 and incorporated county;

57 (B) members of the planning commission be registered voters who reside either in the
58 unincorporated or incorporated county; [~~and~~]

59 (C) at least one member of the planning commission resides within the mountainous
60 planning district[-]; and

61 (D) the county designate up to four seats on the planning commission, and fill each
62 vacancy in the designated seats in accordance with the procedure described in Subsection (7).

63 (2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

64 (i) the number and terms of the members and, if the county chooses, alternate
65 members;

66 (ii) the mode of appointment;

67 (iii) the procedures for filling vacancies and removal from office;

68 (iv) the authority of the planning commission;

69 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
70 planning commission in a public meeting; and

71 (vi) other details relating to the organization and procedures of the planning
72 commission.

73 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
74 Title 52, Chapter 4, Open and Public Meetings Act.

75 (3) (a) (i) If the county establishes a planning advisory area planning commission, the
76 county legislative body shall enact an ordinance that defines:

77 (A) appointment procedures;

78 (B) procedures for filling vacancies and removing members from office;

79 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
80 planning advisory area planning commission in a public meeting; and

81 (D) details relating to the organization and procedures of each planning advisory area
82 planning commission.

83 (ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning
84 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

85 (b) The planning commission for each planning advisory area shall consist of seven
86 members who shall be appointed by:

87 (i) in a county operating under a form of government in which the executive and

88 legislative functions of the governing body are separated, the county executive with the advice
89 and consent of the county legislative body; or

90 (ii) in a county operating under a form of government in which the executive and
91 legislative functions of the governing body are not separated, the county legislative body.

92 (c) (i) Members shall serve four-year terms and until their successors are appointed and
93 qualified.

94 (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first
95 planning commissions shall be appointed so that, for each commission, the terms of at least one
96 member and no more than two members expire each year.

97 (d) (i) Each member of a planning advisory area planning commission shall be a
98 registered voter residing within the planning advisory area.

99 (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if
100 that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory
101 area.

102 (4) (a) A member of a planning commission who was elected to and served on a
103 planning commission on May 12, 2015, shall serve out the term to which the member was
104 elected.

105 (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant
106 seat shall be filled by appointment in accordance with this section.

107 (5) Upon the appointment of all members of a planning advisory area planning
108 commission, each planning advisory area planning commission under this section shall begin to
109 exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all
110 matters then pending that previously had been under the jurisdiction of the countywide
111 planning commission or planning advisory area planning and zoning board.

112 (6) The legislative body may fix per diem compensation for the members of the
113 planning commission, based on necessary and reasonable expenses and on meetings actually
114 attended.

115 (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning
116 commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

117 (b) If a county designates one or more planning commission seats under Subsection
118 (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

119 (i) (A) are adjacent to the mountainous planning district; and
120 (B) border the entrance to a canyon that is located within the boundaries of the
121 mountainous planning district and accessed by a paved road maintained by the county or the
122 state; or

123 (ii) exercise extraterritorial jurisdiction in accordance with Section [10-8-15](#).

124 (c) When there is a vacancy in a planning commission seat described in Subsection
125 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in
126 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy
127 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

128 (d) The city shall respond to a written request described in Subsection (7)(c) within 60
129 days after the day on which the city receives the written request.

130 (e) After the county receives the city's list of three individuals, the county shall submit
131 one of the individuals on the list for appointment to the vacant planning commission seat in
132 accordance with county ordinance.

133 (f) The county shall fill the vacancy in accordance with the county's standard procedure
134 if the city fails to timely respond to the written request.

135 Section 2. Section **17-27a-901** is amended to read:

136 **17-27a-901. Mountainous planning district.**

137 (1) (a) The legislative body of a county of the first class may adopt an ordinance
138 designating an area located within the county as a mountainous planning district if the
139 legislative body determines that:

140 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski
141 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;

142 (ii) the area is used by residents of the county who live inside and outside the limits of
143 a municipality;

144 (iii) the total resident population in the proposed mountainous planning district is equal
145 to or less than 5% of the population of the county; and

146 (iv) the area is within the unincorporated area of the county or was within the
147 unincorporated area of the county before May 12, 2015.

148 (b) (i) A mountainous planning district may include within its boundaries a
149 municipality, whether in whole or in part.

150 (ii) [Hf] Except as provided in Subsection (1)(b)(iv), if a mountainous planning district
151 includes within its boundaries an unincorporated area, and that area subsequently incorporates
152 as a municipality:

153 (A) the area of the incorporated municipality that is located in the mountainous
154 planning district is included within the mountainous planning district boundaries; and

155 (B) property within the municipality that is also within the mountainous planning
156 district is subject to the authority of the mountainous planning district.

157 (iii) A subdivision and zoning ordinance that governs property located within a
158 mountainous planning district shall control over any subdivision or zoning ordinance, as
159 applicable, that a municipality may adopt.

160 (iv) A county shall allow an area within the boundaries of a mountainous planning
161 district to withdraw from the mountainous planning district if:

162 (A) the area contains less than 100 acres;

163 (B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4,

164 Annexation;

165 (C) the county determines that the area does not contain United States Forest Service
166 land or land that is designated as watershed; and

167 (D) the county determines that the area is not used by individuals for recreational
168 purposes.

169 (v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous
170 planning district is not subject to the authority of the mountainous planning district.

171 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a
172 population estimate by the Utah Population Estimates Committee.

173 (d) If any portion of a proposed mountainous planning district includes a municipality
174 with a land base of five square miles or less, the county shall ensure that all of that municipality
175 is wholly located within the boundaries of the mountainous planning district.

176 (2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or
177 Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision
178 ordinance for a property that is located within:

179 (i) a mountainous planning district; and

180 (ii) a municipality.

181 (b) A county plan or zoning or subdivision ordinance governs a property described in
182 Subsection (2)(a).

183 Section 3. Section **63I-2-217** is amended to read:

184 **63I-2-217. Repeal dates -- Title 17.**

185 (1) Subsection **17-8-7(2)**, the language that states "Sections **17-19-1** to **17-19-28** and"
186 and ", as applicable," is repealed January 1, 2015.

187 (2) Section **17-15-30** is repealed July 1, 2015.

188 (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

189 (4) Subsection **17-24-1(4)(b)**, the language that states ", as applicable, Sections
190 **17-19-1**, **17-19-3**, and **17-19-5** or" is repealed January 1, 2015.

191 (5) Subsection **17-24-4(2)**, the language that states ", as applicable, Subsection
192 **17-19-3(3)(b)** or" is repealed January 1, 2015.

193 (6) Subsection **17-27a-102(1)(b)**, the language that states "or a designated mountainous
194 planning district" is repealed June 1, [~~2016~~] 2017.

195 (7) (a) Subsection **17-27a-103(15)(b)** is repealed June 1, [~~2016~~] 2017.

196 (b) Subsection **17-27a-103(34)** is repealed June 1, [~~2016~~] 2017.

197 (8) Subsection **17-27a-210(2)(a)**, the language that states "or the mountainous planning
198 district area" is repealed June 1, [~~2016~~] 2017.

199 (9) (a) Subsection **17-27a-301(1)(b)(iii)** is repealed June 1, [~~2016~~] 2017.

200 (b) Subsection **17-27a-301(1)(c)** is repealed June 1, [~~2016~~] 2017.

201 (c) Subsection **17-27a-301(2)(a)**, the language that states "described in Subsection
202 (1)(a) or (c)" is repealed June 1, [~~2016~~] 2017.

203 (10) Subsection **17-27a-302(1)**, the language that states ", or mountainous planning
204 district" and "or the mountainous planning district," is repealed June 1, [~~2016~~] 2017.

205 (11) Subsection **17-27a-305(1)(a)**, the language that states "a mountainous planning
206 district or" and ", as applicable" is repealed June 1, [~~2016~~] 2017.

207 (12) (a) Subsection **17-27a-401(1)(b)(ii)** is repealed June 1, [~~2016~~] 2017.

208 (b) Subsection **17-27a-401(6)** is repealed June 1, [~~2016~~] 2017.

209 (13) (a) Subsection **17-27a-403(1)(b)(ii)** is repealed June 1, [~~2016~~] 2017.

210 (b) Subsection **17-27a-403(1)(c)(iii)** is repealed June 1, [~~2016~~] 2017.

211 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning

212 district" is repealed June 1, [2016] 2017.

213 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
214 district" is repealed June 1, [2016] 2017.

215 (14) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, [2016] 2017.

216 (15) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, [2016] 2017.

217 (16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
218 mountainous planning district, the mountainous planning district" is repealed June 1, [2016]
219 2017.

220 (17) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, [2016] 2017.

221 (18) Subsection 17-27a-605(1), the language that states "or mountainous planning
222 district land" is repealed June 1, [2016] 2017.

223 (19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,
224 [2016] 2017.

225 (20) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second,
226 third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as
227 provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

228 (b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is
229 repealed January 1, 2015.

230 (c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or 17-24-4, as
231 applicable" is repealed January 1, 2015.

232 (21) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable,
233 or" is repealed January 1, 2015.

234 (22) Subsection 17-36-10(1), the language that states the following is repealed January
235 1, 2015:

236 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
237 sixth class is not subject to the provisions of this section; and

238 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
239 is subject to the provisions of this section."

240 (23) Section 17-36-10.1 is repealed January 1, 2015.

241 (24) Subsection 17-36-11(1), the language that states the following is repealed January
242 1, 2015:

243 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
244 sixth class is not subject to the provisions of this section; and

245 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
246 is subject to the provisions of this section."

247 (25) Section 17-36-11.1 is repealed January 1, 2015.

248 (26) Subsection 17-36-15(1), the language that states the following is repealed January
249 1, 2015:

250 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
251 sixth class is not subject to the provisions of this section; and

252 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
253 is subject to the provisions of this section."

254 (27) Section 17-36-15.1 is repealed January 1, 2015.

255 (28) Subsection 17-36-20(1), the language that states the following is repealed January
256 1, 2015:

257 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
258 sixth class is not subject to the provisions of this section; and

259 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
260 is subject to the provisions of this section."

261 (29) Section 17-36-20.1 is repealed January 1, 2015.

262 (30) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as applicable,
263 and" is repealed January 1, 2015.

264 (31) Subsection 17-36-43(1), the language that states the following is repealed January
265 1, 2015:

266 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
267 sixth class is not subject to the provisions of this section; and

268 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
269 is subject to the provisions of this section."

270 (32) Section 17-36-43.1 is repealed January 1, 2015.

271 (33) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is
272 repealed January 1, 2015.

273 (34) Subsection 17-50-401(1), the language that states the following is repealed

274 January 1, 2015:

275 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
276 sixth class is not subject to the provisions of this section; and

277 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
278 is subject to the provisions of this section."

279 (35) Section 17-50-401.1 is repealed January 1, 2015.

280 (36) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as applicable"
281 is repealed January 1, 2015.

282 (37) Subsection 17-52-401(1), the language that states the following is repealed
283 January 1, 2015:

284 "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
285 sixth class is not subject to the provisions of this section; and

286 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
287 is subject to the provisions of this section."

288 (38) Section 17-52-401.1 is repealed January 1, 2015.

289 (39) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(c), as
290 applicable" is repealed January 1, 2015.

291 (40) On January 1, 2015, when making the changes in this section, the Office of
292 Legislative Research and General Counsel shall:

293 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
294 necessary to ensure that sections and subsections identified in this section are complete
295 sentences and accurately reflect the office's perception of the Legislature's intent; and

296 (b) identify the text of the affected sections and subsections based upon the section and
297 subsection numbers used in Laws of Utah 2012, Chapter 17.

298 (41) On June 1, 2016, when making the changes in this section, the Office of
299 Legislative Research and General Counsel shall:

300 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
301 necessary to ensure that sections and subsections identified in this section are complete
302 sentences and accurately reflect the office's perception of the Legislature's intent; and

303 (b) identify the text of the affected sections and subsections based upon the section and
304 subsection numbers used in Laws of Utah 2015, Chapter 465.