

1 **MOUNTAINOUS PLANNING DISTRICT AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad L. Dee**

5 Senate Sponsor: Todd Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to mountainous planning districts.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ modifies the procedure for selecting certain members of a planning commission that
13 has jurisdiction over a mountainous planning district;

14 ▶ addresses the circumstances under which an area may withdraw from a mountainous
15 planning district; and

16 ▶ modifies a repeal date for provisions relating to mountainous planning districts.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **17-27a-301**, as last amended by Laws of Utah 2015, Chapters 352 and 465

24 **17-27a-901**, as enacted by Laws of Utah 2015, Chapter 465

25 **63I-2-217**, as enacted by Laws of Utah 2015, Chapter 465 and further amended by
26 Revisor Instructions, Laws of Utah 2015, Chapter 465

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

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

30 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
31 **Ordinance requirements -- Planning advisory area planning commission --**
32 **Compensation.**

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

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

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

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

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

47 (A) does not have jurisdiction over a municipality described in Subsection
48 [10-9a-304\(2\)\(b\)](#); and

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

52 (iii) The ordinance shall require that:

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

55 (B) members of the planning commission be registered voters who reside either in the
56 unincorporated or incorporated county; ~~and~~

57 (C) at least one member of the planning commission resides within the mountainous

58 planning district[-]; and

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

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

62 (i) the number and terms of the members and, if the county chooses, alternate
63 members;

64 (ii) the mode of appointment;

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

66 (iv) the authority of the planning commission;

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

69 (vi) other details relating to the organization and procedures of the planning
70 commission.

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

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

75 (A) appointment procedures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning

114 commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

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

117 (i) (A) are adjacent to the mountainous planning district; and

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

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

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

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

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

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

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

134 **17-27a-901. Mountainous planning district.**

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

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

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

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

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

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

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

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

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

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

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

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

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

162 Annexation;

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

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

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

169 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a

170 population estimate by the Utah Population Estimates Committee.

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

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

- 177 (i) a mountainous planning district; and
- 178 (ii) a municipality.

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

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

182 **63I-2-217. Repeal dates -- Title 17.**

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

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

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

187 (4) Subsection 17-24-1(4)(b), the language that states ", as applicable, Sections
188 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

189 (5) Subsection 17-24-4(2), the language that states ", as applicable, Subsection
190 17-19-3(3)(b) or" is repealed January 1, 2015.

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

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

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

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

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

- 198 (b) Subsection 17-27a-301(1)(c) is repealed June 1, [~~2016~~] 2017.
- 199 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
200 (1)(a) or (c)" is repealed June 1, [~~2016~~] 2017.
- 201 (10) Subsection 17-27a-302(1), the language that states ", or mountainous planning
202 district" and "or the mountainous planning district," is repealed June 1, [~~2016~~] 2017.
- 203 (11) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning
204 district or" and ", as applicable" is repealed June 1, [~~2016~~] 2017.
- 205 (12) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, [~~2016~~] 2017.
- 206 (b) Subsection 17-27a-401(6) is repealed June 1, [~~2016~~] 2017.
- 207 (13) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, [~~2016~~] 2017.
- 208 (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, [~~2016~~] 2017.
- 209 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
210 district" is repealed June 1, [~~2016~~] 2017.
- 211 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
212 district" is repealed June 1, [~~2016~~] 2017.
- 213 (14) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, [~~2016~~] 2017.
- 214 (15) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, [~~2016~~] 2017.
- 215 (16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
216 mountainous planning district, the mountainous planning district" is repealed June 1, [~~2016~~]
217 2017.
- 218 (17) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, [~~2016~~] 2017.
- 219 (18) Subsection 17-27a-605(1), the language that states "or mountainous planning
220 district land" is repealed June 1, [~~2016~~] 2017.
- 221 (19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,
222 [~~2016~~] 2017.
- 223 (20) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second,
224 third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as
225 provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

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

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

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

232 (22) Subsection 17-36-10(1), the language that states the following is repealed January
233 1, 2015:

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

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

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

239 (24) Subsection 17-36-11(1), the language that states the following is repealed January
240 1, 2015:

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

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

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

246 (26) Subsection 17-36-15(1), the language that states the following is repealed January
247 1, 2015:

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

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

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

253 (28) Subsection 17-36-20(1), the language that states the following is repealed January

254 1, 2015:

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

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

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

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

262 (31) Subsection 17-36-43(1), the language that states the following is repealed January
263 1, 2015:

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

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

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

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

271 (34) Subsection 17-50-401(1), the language that states the following is repealed
272 January 1, 2015:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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