

LOCAL DISTRICT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions relating to a local district created to acquire or assess groundwater rights.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends a local district's power to assess a groundwater right;
- ▶ identifies a groundwater right owner for purposes of a local district created to acquire or assess a groundwater right;
- ▶ authorizes the owners of groundwater rights to petition for the creation of a local district to acquire or assess groundwater rights;
- ▶ requires that a groundwater right owner petition or request proposing to create a local district to acquire or assess groundwater rights address certain issues;
- ▶ exempts, in certain circumstances, the creation of a local district to acquire or assess groundwater rights from the election requirement;
- ▶ amends provisions governing the election or appointment of a board of trustees;
- ▶ in certain circumstances, requires that the state engineer send notice to a local district; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-102, as last amended by Laws of Utah 2009, Chapters 92 and 246

11-42-202, as last amended by Laws of Utah 2010, Chapter 238

- 33 **17B-1-103**, as last amended by Laws of Utah 2010, Chapter 150
 34 **17B-1-201**, as renumbered and amended by Laws of Utah 2007, Chapter 329
 35 **17B-1-202**, as last amended by Laws of Utah 2010, Chapters 150 and 159
 36 **17B-1-203**, as last amended by Laws of Utah 2010, Chapter 150
 37 **17B-1-204**, as renumbered and amended by Laws of Utah 2007, Chapter 329
 38 **17B-1-205**, as last amended by Laws of Utah 2008, Chapter 360
 39 **17B-1-209**, as renumbered and amended by Laws of Utah 2007, Chapter 329
 40 **17B-1-210**, as renumbered and amended by Laws of Utah 2007, Chapter 329
 41 **17B-1-211**, as last amended by Laws of Utah 2010, Chapter 90
 42 **17B-1-213**, as last amended by Laws of Utah 2010, Chapter 150
 43 **17B-1-214**, as last amended by Laws of Utah 2010, Chapter 150
 44 **17B-1-215**, as last amended by Laws of Utah 2010, Chapter 150
 45 **17B-1-302**, as last amended by Laws of Utah 2008, Chapter 360
 46 **17B-1-402**, as last amended by Laws of Utah 2009, Chapter 92
 47 **17B-1-414**, as last amended by Laws of Utah 2009, Chapter 350
 48 **17B-1-416**, as last amended by Laws of Utah 2009, Chapters 218 and 350
 49 **17B-1-502**, as last amended by Laws of Utah 2009, Chapter 218
 50 **17B-1-505**, as last amended by Laws of Utah 2009, Chapter 218
 51 **17B-1-1402**, as enacted by Laws of Utah 2007, Chapter 329
 52 **17B-2a-905**, as last amended by Laws of Utah 2010, Chapter 159
 53 **73-5-15**, as last amended by Laws of Utah 2009, Chapter 388

54 ENACTS:

55 **17B-1-104.5**, Utah Code Annotated 1953

56

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

58 Section 1. Section **11-42-102** is amended to read:

59 **11-42-102. Definitions.**

60 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203
 61 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number
 62 of connections, or equivalent residential units of the property proposed to be assessed,
 63 according to the same assessment method by which the assessment is proposed to be levied,

64 after eliminating:

65 (a) protests relating to:

66 (i) property that has been deleted from a proposed assessment area; or

67 (ii) an improvement that has been deleted from the proposed improvements to be
68 provided to property within the proposed assessment area; and

69 (b) protests that have been withdrawn under Subsection 11-42-203(3).

70 (2) "Assessment area" means an area, or, if more than one area is designated, the
71 aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a
72 local entity under Part 2, Designating an Assessment Area, for the purpose of financing the
73 costs of improvements, operation and maintenance, or economic promotion activities that
74 benefit property within the area.

75 (3) "Assessment bonds" means bonds that are:

76 (a) issued under Section 11-42-605; and

77 (b) payable in part or in whole from assessments levied in an assessment area,
78 improvement revenues, and a guaranty fund or reserve fund.

79 (4) "Assessment fund" means a special fund that a local entity establishes under
80 Section 11-42-412.

81 (5) "Assessment lien" means a lien on property within an assessment area that arises
82 from the levy of an assessment, as provided in Section 11-42-501.

83 (6) "Assessment method" means the method by which an assessment is levied against
84 property, whether by frontage, area, taxable value, fair market value, lot, number of
85 connections, equivalent residential unit, or any combination of these methods.

86 (7) "Assessment ordinance" means an ordinance adopted by a local entity under
87 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

88 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
89 11-42-404 that levies an assessment on benefitted property within an assessment area.

90 (9) "Benefitted property" means property within an assessment area that directly or
91 indirectly benefits from improvements, operation and maintenance, or economic promotion
92 activities.

93 (10) "Bond anticipation notes" means notes issued under Section 11-42-602 in
94 anticipation of the issuance of assessment bonds.

95 (11) "Bonds" means assessment bonds and refunding assessment bonds.

96 (12) "Commercial area" means an area in which at least 75% of the property is devoted
97 to the interchange of goods or commodities.

98 (13) "Connection fee" means a fee charged by a local entity to pay for the costs of
99 connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or
100 electrical system, whether or not improvements are installed on the property.

101 (14) "Contract price" means:

102 (a) the cost of acquiring an improvement, if the improvement is acquired; or

103 (b) the amount payable to one or more contractors for the design, engineering,
104 inspection, and construction of an improvement.

105 (15) "Designation ordinance" means an ordinance adopted by a local entity under
106 Section 11-42-206 designating an assessment area.

107 (16) "Designation resolution" means a resolution adopted by a local entity under
108 Section 11-42-206 designating an assessment area.

109 (17) "Economic promotion activities" means activities that promote economic growth
110 in a commercial area of a local entity, including:

111 (a) sponsoring festivals and markets;

112 (b) promoting business investment or activities;

113 (c) helping to coordinate public and private actions; and

114 (d) developing and issuing publications designed to improve the economic well-being
115 of the commercial area.

116 (18) "Equivalent residential unit" means a dwelling, unit, or development that is equal
117 to a single-family residence in terms of the nature of its use or impact on an improvement to be
118 provided in the assessment area.

119 (19) "Governing body" means:

120 (a) for a county, city, or town, the legislative body of the county, city, or town;

121 (b) for a local district, the board of trustees of the local district;

122 (c) for a special service district:

123 (i) the legislative body of the county, city, or town that established the special service
124 district, if no administrative control board has been appointed under Section 17D-1-301; or

125 (ii) the administrative control board of the special service district, if an administrative

126 control board has been appointed under Section 17D-1-301; and

127 (d) for the military installation development authority created in Section 63H-1-201,
128 the authority board, as defined in Section 63H-1-102.

129 (20) "Guaranty fund" means the fund established by a local entity under Section
130 11-42-701.

131 (21) "Improved property" means property proposed to be assessed within an
132 assessment area upon which a residential, commercial, or other building has been built.

133 (22) "Improvement":

134 (a) (i) means any publicly owned infrastructure, system, or other facility that:

135 [(+)] (A) a local entity is authorized to provide; or

136 [(+)] (B) the governing body of a local entity determines is necessary or convenient to
137 enable the local entity to provide a service that the local entity is authorized to provide; and

138 [(+)] (ii) includes facilities in an assessment area, including a private driveway, an
139 irrigation ditch, and a water turnout, that:

140 [(+)] (A) can be conveniently installed at the same time as an infrastructure, system, or
141 other facility described in Subsection (22)(a)(i); and

142 [(+)] (B) are requested by a property owner on whose property or for whose benefit the
143 infrastructure, system, or other facility is being installed[-]; or

144 (b) for a local district created to assess groundwater rights in accordance with Section
145 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific
146 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

147 (23) "Improvement revenues":

148 (a) means charges, fees, impact fees, or other revenues that a local entity receives from
149 improvements; and

150 (b) does not include revenue from assessments.

151 (24) "Incidental refunding costs" means any costs of issuing refunding assessment
152 bonds and calling, retiring, or paying prior bonds, including:

153 (a) legal and accounting fees;

154 (b) charges of financial advisors, escrow agents, certified public accountant verification
155 entities, and trustees;

156 (c) underwriting discount costs, printing costs, the costs of giving notice;

- 157 (d) any premium necessary in the calling or retiring of prior bonds;
- 158 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to
159 refund the outstanding prior bonds;
- 160 (f) any other costs that the governing body determines are necessary or desirable to
161 incur in connection with the issuance of refunding assessment bonds; and
- 162 (g) any interest on the prior bonds that is required to be paid in connection with the
163 issuance of the refunding assessment bonds.
- 164 (25) "Installment payment date" means the date on which an installment payment of an
165 assessment is payable.
- 166 (26) "Interim warrant" means a warrant issued by a local entity under Section
167 11-42-601.
- 168 (27) "Jurisdictional boundaries" means:
- 169 (a) for a county, the boundaries of the unincorporated area of the county; and
170 (b) for each other local entity, the boundaries of the local entity.
- 171 (28) "Local district" means a local district under Title 17B, Limited Purpose Local
172 Government Entities - Local Districts.
- 173 (29) "Local entity" means a county, city, town, special service district, local district,
174 military installation development authority created in Section 63H-1-201, or other political
175 subdivision of the state.
- 176 (30) "Local entity obligations" means assessment bonds, refunding assessment bonds,
177 interim warrants, and bond anticipation notes issued by a local entity.
- 178 (31) "Mailing address" means:
- 179 (a) a property owner's last-known address using the name and address appearing on the
180 last completed real property assessment roll of the county in which the property is located; and
181 (b) if the property is improved property:
- 182 (i) the property's street number; or
183 (ii) the post office box, rural route number, or other mailing address of the property, if
184 a street number has not been assigned.
- 185 (32) "Net improvement revenues" means all improvement revenues that a local entity
186 has received since the last installment payment date, less all amounts payable by the local entity
187 from those improvement revenues for operation and maintenance costs.

188 (33) "Operation and maintenance costs":

189 (a) means the costs that a local entity incurs in operating and maintaining
190 improvements in an assessment area, whether or not those improvements have been financed
191 under this chapter; and

192 (b) includes service charges, administrative costs, ongoing maintenance charges, and
193 tariffs or other charges for electrical, water, gas, or other utility usage.

194 (34) "Overhead costs" means the actual costs incurred or the estimated costs to be
195 incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing
196 fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying
197 agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and
198 all other incidental costs.

199 (35) "Prior bonds" means the assessment bonds that are refunded in part or in whole by
200 refunding assessment bonds.

201 (36) "Prior assessment ordinance" means the ordinance levying the assessments from
202 which the prior bonds are payable.

203 (37) "Prior assessment resolution" means the resolution levying the assessments from
204 which the prior bonds are payable.

205 (38) "Project engineer" means the surveyor or engineer employed by or private
206 consulting engineer engaged by a local entity to perform the necessary engineering services for
207 and to supervise the construction or installation of the improvements.

208 (39) "Property" includes real property and any interest in real property, including water
209 rights and leasehold rights.

210 (40) "Property price" means the price at which a local entity purchases or acquires by
211 eminent domain property to make improvements in an assessment area.

212 (41) "Provide" or "providing," with reference to an improvement, includes the
213 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
214 expansion of an improvement.

215 (42) "Public agency" means:

216 (a) the state or any agency, department, or division of the state; and

217 (b) a political subdivision of the state.

218 (43) "Reduced payment obligation" means the full obligation of an owner of property

219 within an assessment area to pay an assessment levied on the property after the assessment has
220 been reduced because of the issuance of refunding assessment bonds, as provided in Section
221 11-42-608.

222 (44) "Refunding assessment bonds" means assessment bonds that a local entity issues
223 under Section 11-42-607 to refund, in part or in whole, assessment bonds.

224 (45) "Reserve fund" means a fund established by a local entity under Section
225 11-42-702.

226 (46) "Service" means:

227 (a) water, sewer, storm drainage, garbage collection, library, recreation,
228 communications, or electric service;

229 (b) economic promotion activities; or

230 (c) any other service that a local entity is required or authorized to provide.

231 (47) "Special service district" has the same meaning as defined in Section 17D-1-102.

232 (48) "Unimproved property" means property upon which no residential, commercial, or
233 other building has been built.

234 (49) "Voluntary assessment area" means an assessment area that contains only property
235 whose owners have voluntarily consented to an assessment.

236 Section 2. Section **11-42-202** is amended to read:

237 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
238 **designation.**

239 (1) Each notice required under Subsection 11-42-201(2)(a) shall:

240 (a) state that the local entity proposes to:

241 (i) designate one or more areas within the local entity's jurisdictional boundaries as an
242 assessment area;

243 (ii) provide an improvement to property within the proposed assessment area; and

244 (iii) finance some or all of the cost of improvements by an assessment on benefitted
245 property within the assessment area;

246 (b) describe the proposed assessment area by any reasonable method that allows an
247 owner of property in the proposed assessment area to determine that the owner's property is
248 within the proposed assessment area;

249 (c) describe, in a general way, the improvements to be provided to the assessment area,

- 250 including:
- 251 (i) the general nature of the improvements; and
- 252 (ii) the general location of the improvements, by reference to streets or portions or
253 extensions of streets or by any other means that the governing body chooses that reasonably
254 describes the general location of the improvements;
- 255 (d) state the estimated cost of the improvements as determined by a project engineer;
- 256 (e) state that the local entity proposes to levy an assessment on benefitted property
257 within the assessment area to pay some or all of the cost of the improvements according to the
258 estimated direct and indirect benefits to the property from the improvements;
- 259 (f) state the assessment method by which the governing body proposes to levy the
260 assessment;
- 261 (g) state:
- 262 (i) the time within which and the location at which protests against designation of the
263 proposed assessment area or of the proposed improvements are required to be filed; and
- 264 (ii) the method by which the governing body will determine the number of protests
265 required to defeat the designation of the proposed assessment area or acquisition or
266 construction of the proposed improvements;
- 267 (h) state the date, time, and place of the public hearing required in Section 11-42-204;
- 268 (i) if the governing body elects to create and fund a reserve fund under Section
269 11-42-702, include a description of:
- 270 (i) how the reserve fund will be funded and replenished; and
- 271 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of
272 the bonds;
- 273 (j) if the governing body intends to designate a voluntary assessment area, include a
274 property owner consent form that:
- 275 (i) estimates the total assessment to be levied against the particular parcel of property;
- 276 (ii) describes any additional benefits that the governing body expects the assessed
277 property to receive from the improvements; and
- 278 (iii) designates the date and time by which the fully executed consent form is required
279 to be submitted to the governing body;
- 280 (k) if the local entity intends to levy an assessment to pay operation and maintenance

281 costs or for economic promotion activities, include:

282 (i) a description of the operation and maintenance costs or economic promotion
283 activities to be paid by assessments and the initial estimated annual assessment to be levied;

284 (ii) a description of how the estimated assessment will be determined;

285 (iii) a description of how and when the governing body will adjust the assessment to
286 reflect the costs of:

287 (A) in accordance with Section 11-42-406, current economic promotion activities; or

288 (B) current operation and maintenance costs;

289 (iv) a description of the method of assessment if different from the method of
290 assessment to be used for financing any improvement; and

291 (v) a statement of the maximum number of years over which the assessment will be
292 levied for:

293 (A) operation and maintenance costs; or

294 (B) economic promotion activities; and

295 (l) if the governing body intends to divide the proposed assessment area into zones
296 under Subsection 11-42-201(1)(b), include a description of the proposed zones.

297 (2) A notice required under Subsection 11-42-201(2)(a) may contain other information
298 that the governing body considers to be appropriate, including:

299 (a) the amount or proportion of the cost of the improvement to be paid by the local
300 entity or from sources other than an assessment;

301 (b) the estimated amount of each type of assessment for the various improvements to
302 be financed according to the method of assessment that the governing body chooses; and

303 (c) provisions for any improvements described in Subsection 11-42-102(22)~~(b)~~(a)(ii).

304 (3) Each notice required under Subsection 11-42-201(2)(a) shall:

305 (a) (i) (A) be published in a newspaper of general circulation within the local entity's
306 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at
307 least five but not more than 20 days before the deadline for filing protests specified in the
308 notice under Subsection (1)(g); or

309 (B) if there is no newspaper of general circulation within the local entity's jurisdictional
310 boundaries, be posted in at least three public places within the local entity's jurisdictional
311 boundaries at least 20 but not more than 35 days before the deadline for filing protests

312 specified in the notice under Subsection (1)(g); and

313 (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for
314 four weeks before the deadline for filing protests specified in the notice under Subsection
315 (1)(g); and

316 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of
317 the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed
318 assessment area at the property owner's mailing address.

319 Section 3. Section **17B-1-103** is amended to read:

320 **17B-1-103. Local district status and powers.**

321 (1) A local district:

322 (a) is:

323 (i) a body corporate and politic with perpetual succession;

324 (ii) a quasi-municipal corporation; and

325 (iii) a political subdivision of the state; and

326 (b) may sue and be sued.

327 (2) A local district may:

328 (a) acquire, by any lawful means, or lease any real property, personal property, or a
329 groundwater right necessary or convenient to the full exercise of the district's powers;

330 (b) acquire, by any lawful means, any interest in real property, personal property, or a
331 groundwater right necessary or convenient to the full exercise of the district's powers;

332 (c) transfer an interest in or dispose of any property or interest described in Subsections
333 (2)(a) and (b);

334 (d) acquire or construct works, facilities, and improvements necessary or convenient to
335 the full exercise of the district's powers, and operate, control, maintain, and use those works,
336 facilities, and improvements;

337 (e) borrow money and incur indebtedness for any lawful district purpose;

338 (f) issue bonds, including refunding bonds:

339 (i) for any lawful district purpose; and

340 (ii) as provided in and subject to Part 11, Local District Bonds;

341 (g) levy and collect property taxes:

342 (i) for any lawful district purpose or expenditure, including to cover a deficit resulting

343 from tax delinquencies in a preceding year; and

344 (ii) as provided in and subject to Part 10, Local District Property Tax Levy;

345 (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent

346 domain property necessary to the exercise of the district's powers;

347 (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

348 (j) (i) impose fees or other charges for commodities, services, or facilities provided by

349 the district, to pay some or all of the district's costs of providing the commodities, services, and

350 facilities, including the costs of:

351 (A) maintaining and operating the district;

352 (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

353 (C) issuing bonds and paying debt service on district bonds; and

354 (D) providing a reserve established by the board of trustees; and

355 (ii) take action the board of trustees considers appropriate and adopt regulations to

356 assure the collection of all fees and charges that the district imposes;

357 (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's

358 property to district facilities in order for the district to provide service to the property;

359 (l) enter into a contract that the local district board of trustees considers necessary,

360 convenient, or desirable to carry out the district's purposes, including a contract:

361 (i) with the United States or any department or agency of the United States;

362 (ii) to indemnify and save harmless; or

363 (iii) to do any act to exercise district powers;

364 (m) purchase supplies, equipment, and materials;

365 (n) encumber district property upon terms and conditions that the board of trustees

366 considers appropriate;

367 (o) exercise other powers and perform other functions that are provided by law;

368 (p) construct and maintain works and establish and maintain facilities, including works

369 or facilities:

370 (i) across or along any public street or highway, subject to Subsection (3) and if the

371 district:

372 (A) promptly restores the street or highway, as much as practicable, to its former state

373 of usefulness; and

374 (B) does not use the street or highway in a manner that completely or unnecessarily
375 impairs the usefulness of it;

376 (ii) in, upon, or over any vacant public lands that are or become the property of the
377 state, including school and institutional trust lands, as defined in Section 53C-1-103, if the
378 director of the School and Institutional Trust Lands Administration, acting under Sections
379 53C-1-102 and 53C-1-303, consents; or

380 (iii) across any stream of water or watercourse, subject to Section 73-3-29;

381 (q) perform any act or exercise any power reasonably necessary for the efficient
382 operation of the local district in carrying out its purposes;

383 (r) (i) except for a local district described in Subsection (2)(r)(ii), designate an
384 assessment area and levy an assessment on land within the assessment area, as provided in
385 Title 11, Chapter 42, Assessment Area Act; or

386 (ii) for a local district created to assess a groundwater right in a critical management
387 area described in Subsection 17B-1-202(1)[(e)], designate an assessment area and levy an
388 assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right
389 to facilitate a groundwater management plan;

390 (s) contract with another political subdivision of the state to allow the other political
391 subdivision to use the district's surplus water or capacity or have an ownership interest in the
392 district's works or facilities, upon the terms and for the consideration, whether monetary or
393 nonmonetary consideration or no consideration, that the district's board of trustees considers to
394 be in the best interests of the district and the public; and

395 (t) upon the terms and for the consideration, whether monetary or nonmonetary
396 consideration or no consideration, that the district's board of trustees considers to be in the best
397 interests of the district and the public, agree:

398 (i) with:

399 (A) another political subdivision of the state; or

400 (B) a public or private owner of property:

401 (I) on which the district has a right-of-way; or

402 (II) adjacent to which the district owns fee title to property; and

403 (ii) to allow the use of property:

404 (A) owned by the district; or

- 405 (B) on which the district has a right-of-way.
- 406 (3) With respect to a local district's use of a street or highway, as provided in
- 407 Subsection (2)(p)(i):
- 408 (a) the district shall comply with the reasonable rules and regulations of the
- 409 governmental entity, whether state, county, or municipal, with jurisdiction over the street or
- 410 highway, concerning:
- 411 (i) an excavation and the refilling of an excavation;
- 412 (ii) the relaying of pavement; and
- 413 (iii) the protection of the public during a construction period; and
- 414 (b) the governmental entity, whether state, county, or municipal, with jurisdiction over
- 415 the street or highway:
- 416 (i) may not require the district to pay a license or permit fee or file a bond; and
- 417 (ii) may require the district to pay a reasonable inspection fee.
- 418 (4) (a) A local district may:
- 419 (i) acquire, lease, or construct and operate electrical generation, transmission, and
- 420 distribution facilities, if:
- 421 (A) the purpose of the facilities is to harness energy that results inherently from the
- 422 district's:
- 423 (I) operation of a project or facilities that the district is authorized to operate; or
- 424 (II) providing a service that the district is authorized to provide;
- 425 (B) the generation of electricity from the facilities is incidental to the primary
- 426 operations of the district; and
- 427 (C) operation of the facilities will not hinder or interfere with the primary operations of
- 428 the district;
- 429 (ii) (A) use electricity generated by the facilities; or
- 430 (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric
- 431 utility or municipality with an existing system for distributing electricity.
- 432 (b) A district may not act as a retail distributor or seller of electricity.
- 433 (c) Revenue that a district receives from the sale of electricity from electrical
- 434 generation facilities it owns or operates under this section may be used for any lawful district
- 435 purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or

436 constructing the facilities.

437 (5) A local district may adopt and, after adoption, alter a corporate seal.

438 Section 4. Section **17B-1-104.5** is enacted to read:

439 **17B-1-104.5. Groundwater right owner provisions -- Vote.**

440 (1) For purposes of this title, an owner of a groundwater right is on the date of the
441 filing of a groundwater right owner petition or groundwater right owner request the owner
442 according to:

443 (a) a deed recorded with the county recorder in accordance with Section 73-1-10; or

444 (b) a water right of record filed in the state engineer's office in accordance with Section
445 73-1-10.

446 (2) For purposes of each provision of this title that requires the owners of groundwater
447 rights covering a percentage of the total groundwater rights within the proposed local district to
448 sign a request, petition, or protest:

449 (a) a groundwater right may not be included in the calculation of the required
450 percentage unless the request or petition is signed by:

451 (i) except as provided in Subsection (2)(a)(ii), owners representing a majority
452 ownership interest in that groundwater right; or

453 (ii) if the groundwater right is owned by joint tenants or tenants by the entirety, 50% of
454 the number of owners of that groundwater right;

455 (b) the signature of a person signing a request or petition in a representative capacity on
456 behalf of an owner is invalid unless:

457 (i) the person's representative capacity and the name of the owner the person represents
458 are indicated on the request or petition with the person's signature; and

459 (ii) the person provides documentation accompanying the request or petition that
460 reasonably substantiates the person's representative capacity; and

461 (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a
462 request or petition on behalf of the estate of a deceased owner.

463 (3) For an election by groundwater right owners described in this title, each owner of a
464 groundwater right is entitled to cast one vote.

465 Section 5. Section **17B-1-201** is amended to read:

466 **17B-1-201. Definitions.**

467 As used in this part:

468 (1) "Applicable area" means:

469 (a) for a county, the unincorporated area of the county that is included within the
470 proposed local district; or

471 (b) for a municipality, the area of the municipality that is included within the proposed
472 local district.

473 (2) "Governing body" means:

474 (a) for a county or municipality, the legislative body of the county or municipality; and

475 (b) for a local district, the board of trustees of the local district.

476 (3) "Groundwater right owner petition" means a petition under Subsection
477 17B-1-203(1)(c).

478 (4) "Groundwater right owner request" means a request under Section 17B-1-204 that
479 is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).

480 [~~(3)~~] (5) "Initiating local district" means a local district that adopts a resolution
481 proposing the creation of a local district under Subsection 17B-1-203(1)[~~(c)~~](e).

482 [~~(4)~~] (6) "Petition" means a petition under Subsection 17B-1-203(1)(a) [~~or (b)~~], (b), or
483 (c).

484 [~~(5)~~] (7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).

485 [~~(6)~~] (8) "Property owner request" means a request under Section 17B-1-204 that is
486 signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).

487 [~~(7)~~] (9) "Registered voter request" means a request under Section 17B-1-204 that is
488 signed by registered voters as provided in Subsection 17B-1-204(2)(b)[~~(ii)~~](iii).

489 [~~(8)~~] (10) "Registered voter petition" means a petition under Subsection
490 17B-1-203(1)(b).

491 [~~(9)~~] (11) "Request" means a request as described in Section 17B-1-204.

492 [~~(10)~~] (12) "Responsible body" means the governing body of:

493 (a) the municipality in which the proposed local district is located, if the petition or
494 resolution proposes the creation of a local district located entirely within a single municipality;

495 (b) the county in which the proposed local district is located, if the petition or
496 resolution proposes the creation of a local district located entirely within a single county and all
497 or part of the proposed local district is located within:

- 498 (i) the unincorporated part of the county; or
 499 (ii) more than one municipality within the county;
 500 (c) if the petition or resolution proposes the creation of a local district located within
 501 more than one county, the county whose boundaries include more of the area of the proposed
 502 local district than is included within the boundaries of any other county; or
 503 (d) the initiating local district, if a resolution proposing the creation of a local district is
 504 adopted under Subsection 17B-1-203(1)~~(d)~~(e).

505 ~~(H)~~ (13) "Responsible clerk" means the clerk of the county or the clerk or recorder of
 506 the municipality whose legislative body is the responsible body.

507 Section 6. Section **17B-1-202** is amended to read:

508 **17B-1-202. Local district may be created -- Services that may be provided --**
 509 **Limitations.**

510 (1) (a) A local district may be created as provided in this part to provide within its
 511 boundaries service consisting of:

- 512 (i) the operation of an airport;
 513 (ii) the operation of a cemetery;
 514 (iii) fire protection, paramedic, and emergency services;
 515 (iv) garbage collection and disposal;
 516 (v) health care, including health department or hospital service;
 517 (vi) the operation of a library;
 518 (vii) abatement or control of mosquitos and other insects;
 519 (viii) the operation of parks or recreation facilities or services;
 520 (ix) the operation of a sewage system;
 521 (x) street lighting;
 522 (xi) the construction and maintenance of a right-of-way, including:
 523 (A) a curb;
 524 (B) a gutter;
 525 (C) a sidewalk;
 526 (D) a street;
 527 (E) a road;
 528 (F) a water line;

- 529 (G) a sewage line;
- 530 (H) a storm drain;
- 531 (I) an electricity line;
- 532 (J) a communications line; or
- 533 (K) a natural gas line;
- 534 (xii) transportation, including public transit and providing streets and roads;
- 535 (xiii) the operation of a system, or one or more components of a system, for the
- 536 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 537 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 538 the system is operated on a wholesale or retail level or both;
- 539 (xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 540 groundwater right for the development and execution of a groundwater management plan in
- 541 cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 542 (xv) law enforcement service; or
- 543 (xvi) subject to Subsection (1)(b), the underground installation of an electric utility line
- 544 or the conversion to underground of an existing electric utility line.
- 545 (b) Each local district that provides the service of the underground installation of an
- 546 electric utility line or the conversion to underground of an existing electric utility line shall, in
- 547 installing or converting the line, provide advance notice to and coordinate with the utility that
- 548 owns the line.
- 549 (c) A groundwater management plan described in Subsection (1)(a)(xiv) may include
- 550 the banking of groundwater rights by a local district in a critical management area as defined in
- 551 Section 73-5-15 following the adoption of a groundwater management plan by the state
- 552 engineer under Section 73-5-15.
- 553 (i) A local district may manage the groundwater rights it acquires under Subsection
- 554 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan
- 555 described in Subsection (1)(c).
- 556 (ii) A groundwater right held by a local district to satisfy the provisions of a
- 557 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
- 558 (iii) (A) A local district may divest itself of a groundwater right subject to a
- 559 determination that the groundwater right is not required to facilitate the groundwater

560 management plan described in Subsection (1)(c).

561 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section
562 73-1-4 beginning on the date of divestiture.

563 (iv) Upon a determination by the state engineer that an area is no longer a critical
564 management area~~[, a water]~~ as defined in Section 73-5-15, a groundwater right held by the
565 local district is subject to Section 73-1-4.

566 (2) For purposes of this section:

567 (a) "Operation" means all activities involved in providing the indicated service
568 including acquisition and ownership of property reasonably necessary to provide the indicated
569 service and acquisition, construction, and maintenance of facilities and equipment reasonably
570 necessary to provide the indicated service.

571 (b) "System" means the aggregate of interrelated components that combine together to
572 provide the indicated service including, for a sewage system, collection and treatment.

573 (3) (a) A local district may not be created to provide and may not after its creation
574 provide more than four of the services listed in Subsection (1).

575 (b) Subsection (3)(a) may not be construed to prohibit a local district from providing
576 more than four services if, before April 30, 2007, the local district was authorized to provide
577 those services.

578 (4) (a) Except as provided in Subsection (4)(b), a local district may not be created to
579 provide and may not after its creation provide to an area the same service already being
580 provided to that area by another political subdivision, unless the other political subdivision
581 gives its written consent.

582 (b) For purposes of Subsection (4)(a), a local district does not provide the same service
583 as another political subdivision if it operates a component of a system that is different from a
584 component operated by another political subdivision but within the same:

585 (i) sewage system; or

586 (ii) water system.

587 (5) (a) Except for a local district in the creation of which an election is not required
588 under Subsection 17B-1-214(3)~~(c)~~(d), the area of a local district may include all or part of the
589 unincorporated area of one or more counties and all or part of one or more municipalities.

590 (b) The area of a local district need not be contiguous.

591 (6) For a local district created before May 5, 2008, the authority to provide fire
592 protection service also includes the authority to provide:

593 (a) paramedic service; and

594 (b) emergency service, including hazardous materials response service.

595 (7) A local district created before May 11, 2010, authorized to provide the construction
596 and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection
597 (1)(a)(xi) on or after May 11, 2010.

598 Section 7. Section **17B-1-203** is amended to read:

599 **17B-1-203. Process to initiate the creation of a local district -- Petition or**
600 **resolution.**

601 (1) The process to create a local district may be initiated by:

602 (a) unless the proposed local district is a local district to acquire or assess a
603 groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition
604 signed by the owners of private real property that:

605 (i) is located within the proposed local district;

606 (ii) covers at least 33% of the total private land area within the proposed local district
607 as a whole and within each applicable area;

608 (iii) is equal in value to at least 25% of the value of all private real property within the
609 proposed local district as a whole and within each applicable area; and

610 (iv) complies with the requirements of Subsection 17B-1-205(1) and Section
611 17B-1-208;

612 (b) subject to Section 17B-1-204, a petition that:

613 (i) is signed by registered voters residing within the proposed local district as a whole
614 and within each applicable area, equal in number to at least 33% of the number of votes cast in
615 the proposed local district as a whole and in each applicable area, respectively, for the office of
616 governor at the last regular general election prior to the filing of the petition; and

617 (ii) complies with the requirements of Subsection 17B-1-205(1) and Section
618 17B-1-208;

619 (c) if the proposed local district is a local district to acquire or assess a groundwater
620 right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the
621 owners of groundwater rights that:

622 (i) are diverted within the proposed local district;
623 (ii) cover at least 33% of the total amount of groundwater diverted in accordance with
624 groundwater rights within the proposed local district as a whole and within each applicable
625 area; and
626 (iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
627 ~~(c)~~ (d) a resolution proposing the creation of a local district, adopted by the
628 legislative body of each county whose unincorporated area includes and each municipality
629 whose boundaries include any of the proposed local district; or
630 ~~(d)~~ (e) a resolution proposing the creation of a local district, adopted by the board of
631 trustees of an existing local district whose boundaries completely encompass the proposed
632 local district, if:
633 (i) the proposed local district is being created to provide one or more components of
634 the same service that the initiating local district is authorized to provide; and
635 (ii) the initiating local district is not providing to the area of the proposed local district
636 any of the components that the proposed local district is being created to provide.
637 (2) (a) Each resolution under Subsection (1)~~(c) or~~ (d) or (e) shall:
638 (i) describe the area proposed to be included in the proposed local district;
639 (ii) be accompanied by a map that shows the boundaries of the proposed local district;
640 (iii) describe the service proposed to be provided by the proposed local district;
641 (iv) if the resolution proposes the creation of a specialized local district, specify the
642 type of specialized local district proposed to be created;
643 (v) explain the anticipated method of paying the costs of providing the proposed
644 service;
645 (vi) state the estimated average financial impact on a household within the proposed
646 local district;
647 (vii) state the number of members that the board of trustees of the proposed local
648 district will have, consistent with the requirements of Subsection 17B-1-302(2);
649 (viii) for a proposed basic local district:
650 (A) state whether the members of the board of trustees will be elected or appointed or
651 whether some members will be elected and some appointed, as provided in Section
652 17B-1-1402;

653 (B) if one or more members will be elected, state the basis upon which each elected
654 member will be elected; and

655 (C) if applicable, explain how the election or appointment of board members will
656 transition from one method to another based on stated milestones or events, as provided in
657 Section 17B-1-1402;

658 (ix) for a proposed improvement district whose remaining area members or county
659 members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those
660 members will be elected; and

661 (x) for a proposed service area that is entirely within the unincorporated area of a single
662 county, state whether the initial board of trustees will be:

663 (A) the county legislative body;

664 (B) appointed as provided in Section 17B-1-304; or

665 (C) elected as provided in Section 17B-1-306.

666 (b) Each county or municipal legislative body adopting a resolution under Subsection
667 (1)(c) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a
668 copy of the resolution to the responsible body if the county or municipal legislative body's
669 resolution is one of multiple resolutions adopted by multiple county or municipal legislative
670 bodies proposing the creation of the same local district.

671 ~~[(3) Each petition under Subsection (1)(a) or (b) to create a local district to acquire a~~
672 ~~groundwater right under Subsection 17B-1-103(2)(a) or (b) shall explain the anticipated~~
673 ~~method of paying for the groundwater right acquisition.]~~

674 Section 8. Section **17B-1-204** is amended to read:

675 **17B-1-204. Request for service required before filing of petition -- Request**
676 **requirements.**

677 (1) A petition may not be filed until after:

678 (a) a request has been filed with:

679 (i) the clerk of each county in whose unincorporated area any part of the proposed local
680 district is located; and

681 (ii) the clerk or recorder of each municipality in which any part of the proposed local
682 district is located; and

683 (b) each county and municipality with which a request under Subsection (1)(a) is filed:

684 (i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will
685 provide the requested service; or

686 (ii) is considered to have declined to provide the requested service under Subsection
687 17B-1-212(2) or (3).

688 (2) Each request under Subsection (1)(a) shall:

689 (a) ask the county or municipality to provide the service proposed to be provided by the
690 proposed local district within the applicable area; and

691 (b) be signed by:

692 (i) unless the request is a request to create a local district to acquire or assess a
693 groundwater right under Section 17B-1-202 the owners of private real property that:

694 (A) is located within the proposed local district;

695 (B) covers at least 10% of the total private land area within the applicable area; and

696 (C) is equal in value to at least 7% of the value of all private real property within the
697 applicable area; [~~or~~]

698 (ii) if the request is a request to create a local district to acquire or assess a groundwater
699 right under Section 17B-1-202, the owners of groundwater rights that:

700 (A) are diverted within the proposed local district; and

701 (B) cover at least 10% of the amount of groundwater diverted in accordance with
702 groundwater rights within the applicable area; or

703 [~~(ii)~~] (iii) registered voters residing within the applicable area equal in number to at
704 least 10% of the number of votes cast in the applicable area for the office of governor at the last
705 general election prior to the filing of the request.

706 (3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a
707 municipality in a petition under Section 10-2-403 filed before and still pending at the time of
708 filing of a petition shall be considered to be part of that municipality.

709 Section 9. Section **17B-1-205** is amended to read:

710 **17B-1-205. Petition and request requirements -- Withdrawal of signature.**

711 (1) Each petition and request shall:

712 (a) indicate the typed or printed name and current residence address of each property
713 owner, groundwater right owner, or registered voter signing the petition;

714 (b) (i) if it is a property owner request or petition, indicate the address of the property

715 as to which the owner is signing the request or petition; or
716 (ii) if it is a groundwater right owner request or petition, indicate the location of the
717 diversion of the groundwater as to which the owner is signing the groundwater right owner
718 request or petition;

719 (c) describe the entire area of the proposed local district;

720 (d) be accompanied by a map showing the boundaries of the entire proposed local
721 district;

722 (e) specify the service proposed to be provided by the proposed local district;

723 (f) if the petition or request proposes the creation of a specialized local district, specify
724 the type of specialized local district proposed to be created;

725 (g) for a proposed basic local district:

726 (i) state whether the members of the board of trustees will be elected or appointed or
727 whether some members will be elected and some appointed, as provided in Section
728 17B-1-1402;

729 (ii) if one or more members will be elected, state the basis upon which each elected
730 member will be elected; and

731 (iii) if applicable, explain how the election or appointment of board members will
732 transition from one method to another based on stated milestones or events, as provided in
733 Section 17B-1-1402;

734 (h) for a proposed improvement district whose remaining area members or county
735 members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those
736 members will be elected; and

737 (i) for a proposed service area that is entirely within the unincorporated area of a single
738 county, state whether the initial board of trustees will be:

739 (i) the county legislative body;

740 (ii) appointed as provided in Section 17B-1-304; or

741 (iii) elected as provided in Section 17B-1-306; [~~and~~]

742 (j) designate up to five signers of the petition or request as sponsors, one of whom shall
743 be designated as the contact sponsor, with the mailing address and telephone number of
744 each[-];

745 (k) if the petition or request is a groundwater right owner petition or request proposing

746 the creation of a local district to acquire a groundwater right under Section 17B-1-202, explain
 747 the anticipated method:

748 (i) of paying for the groundwater right acquisition; and

749 (ii) of addressing blowing dust created by the reduced use of water; and

750 (l) if the petition or request is a groundwater right owner petition or request proposing
 751 the creation of a local district to assess a groundwater right under Section 17B-1-202, explain
 752 the anticipated method:

753 (i) of assessing the groundwater right and securing payment of the assessment; and

754 (ii) of addressing blowing dust created by the reduced use of water.

755 (2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the
 756 signer's signature at any time before the filing of the request or petition by filing a written
 757 withdrawal or reinstatement with:

758 (a) in the case of a request:

759 (i) the clerk of the county or the clerk or recorder of the municipality in whose
 760 applicable area the signer's property is located, if the request is a property owner request; [or]

761 (ii) the clerk of the county or the clerk or recorder of the municipality in whose
 762 applicable area the signer's groundwater diversion point is located, if the request is a
 763 groundwater right owner request; or

764 ~~[(ii)]~~ (iii) the clerk of the county or the clerk or recorder of the municipality in whose
 765 applicable area the signer resides, if the request is a registered voter request; or

766 (b) in the case of a petition, the responsible clerk.

767 Section 10. Section **17B-1-209** is amended to read:

768 **17B-1-209. Petition certification -- Amended petition.**

769 (1) ~~[Within]~~ No later than five days after the ~~[filing of a petition]~~ day on which a
 770 petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other
 771 county and the clerk or recorder of each municipality in which any part of the proposed local
 772 district is located.

773 (2) (a) ~~[Within]~~ No later than 35 days after the ~~[filing of a petition]~~ day on which a
 774 petition is filed, the clerk of each county whose unincorporated area includes and the clerk or
 775 recorder of each municipality whose boundaries include part of the proposed local district
 776 shall:

777 (i) with the assistance of other county or municipal officers from whom the county
778 clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's
779 respective county or municipality, whether the petition complies with the requirements of
780 Subsection 17B-1-203(1)(a) [or], (b), or (c), as the case may be, and Subsections 17B-1-208(2),
781 (3), and (4); and

782 (ii) notify the responsible clerk in writing of the clerk or recorder's determination under
783 Subsection (2)(a)(i).

784 (b) The responsible clerk may rely on the determinations of other county clerks or
785 municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's
786 determinations and certification or rejection under Subsection (3).

787 (3) (a) Within 45 days after the filing of a petition, the responsible clerk shall:

788 (i) determine whether the petition complies with Subsection 17B-1-203(1)(a) [or], (b),
789 or (c), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208; and

790 (ii) (A) if the responsible clerk determines that the petition complies with the
791 applicable requirements:

792 (I) (Aa) certify the petition and deliver the certified petition to the responsible body;
793 and

794 (Bb) mail or deliver written notification of the certification to the contact sponsor; or

795 (II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to
796 the legislative body of each county whose unincorporated area includes and each municipality
797 whose boundaries include any of the proposed basic local district, with a notice indicating that
798 the clerk has determined that the petition complies with applicable requirements; or

799 (B) if the responsible clerk determines that the petition fails to comply with any of the
800 applicable requirements, reject the petition and notify the contact sponsor in writing of the
801 rejection and the reasons for the rejection.

802 (b) (i) A petition for which an election is not required under Subsection 17B-1-214(3)
803 and that proposes the creation of a basic local district that has within its boundaries fewer than
804 one residential dwelling unit per 10 acres of land may not be certified without the approval, by
805 resolution, of the legislative body of each county whose unincorporated area includes and each
806 municipality whose boundaries include any of the proposed local district.

807 (ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a

808 county or municipal legislative body may hold one or more public hearings on the petition.

809 (iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that
810 subsection, the responsible clerk shall, within 10 days after its approval:

811 (A) certify the petition and deliver the certified petition to the responsible body; and

812 (B) mail or deliver written notification of the certification to the contact sponsor.

813 (4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails
814 to certify or reject a petition within 45 days after its filing, the petition shall be considered to be
815 certified.

816 (5) The responsible clerk shall certify or reject petitions in the order in which they are
817 filed.

818 (6) (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the
819 petition may be amended to correct the deficiencies for which it was rejected and then refiled.

820 (b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may
821 be used toward fulfilling the applicable signature requirement of the petition as amended under
822 Subsection (6)(a).

823 (c) If a petition is amended and refiled under Subsection (6)(a) after having been
824 rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be
825 considered as newly filed, and its processing priority shall be determined by the date on which
826 it is refiled.

827 (7) The responsible clerk and each county clerk and municipal clerk or recorder shall
828 act in good faith in making the determinations under this section.

829 Section 11. Section **17B-1-210** is amended to read:

830 **17B-1-210. Public hearing.**

831 (1) The legislative body of each county and municipality with which a request is filed
832 or that adopts a resolution under Subsection 17B-1-203(1)[~~(e)~~](d) and the board of trustees of
833 each local district that adopts a resolution under Subsection 17B-1-203(1)[~~(d)~~](e) shall hold a
834 public hearing or a set of public hearings, sufficient in number and location to ensure that no
835 substantial group of residents of the proposed local district need travel an unreasonable
836 distance to attend a public hearing.

837 (2) Each public hearing under Subsection (1) shall be held:

838 (a) no later than 45 days after:

- 839 (i) for a public hearing on a request, certification of a request under Subsection
840 17B-1-206(1)(b)(i); or
- 841 (ii) for a public hearing on a resolution, adoption of a resolution under Subsection
842 17B-1-203(1)[~~(c) or~~] (d) or (e);
- 843 (b) within the proposed local district;
- 844 (c) except as provided in Subsections (6) and (7), within the applicable area; and
- 845 (d) for the purpose of:
- 846 (i) for a public hearing on a request, allowing public input on:
- 847 (A) whether the requested service is needed in the area of the proposed local district;
- 848 (B) whether the service should be provided by the county or municipality or the
849 proposed local district; and
- 850 (C) all other matters relating to the request or the proposed local district; or
- 851 (ii) for a public hearing on a resolution, allowing the public to ask questions of and
852 obtain further information from the governing body holding the hearing regarding the issues
853 contained in or raised by the resolution.
- 854 (3) A quorum of each governing body holding a public hearing under this section shall
855 be present throughout each hearing held by that governing body.
- 856 (4) Each hearing under this section shall be held on a weekday evening other than a
857 holiday beginning no earlier than 6 p.m.
- 858 (5) At the beginning and end of each hearing concerning a resolution, the governing
859 body shall announce the deadline for filing protests and generally explain the protest procedure
860 and requirements.
- 861 (6) Two or more county or municipal legislative bodies may jointly hold a hearing or
862 set of hearings required under this section if all the requirements of this section, other than the
863 requirements of Subsection (2)(c), are met as to each hearing.
- 864 (7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or
865 set of public hearings outside the applicable area if:
- 866 (a) there is no reasonable place to hold a public hearing within the applicable area; and
- 867 (b) the public hearing or set of public hearings is held as close to the applicable area as
868 reasonably possible.
- 869 Section 12. Section **17B-1-211** is amended to read:

870 **17B-1-211. Notice of public hearings -- Publication of resolution.**

871 (1) Before holding a public hearing or set of public hearings under Section 17B-1-210,
872 the legislative body of each county or municipality with which a request is filed or that adopts a
873 resolution under Subsection 17B-1-203(1)[~~(c)~~](d) and the board of trustees of each local
874 district that adopts a resolution under Subsection 17B-1-203(1)[~~(c)~~](e) shall:

875 (a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice
876 in a newspaper or combination of newspapers of general circulation within the applicable area
877 in accordance with Subsection (2); or

878 (B) if there is no newspaper or combination of newspapers of general circulation
879 within the applicable area, post notice in accordance with Subsection (2):

880 (I) at least one notice per 1,000 population of that area; and

881 (II) at places within the area that are most likely to provide actual notice to residents of
882 the area; and

883 (ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for
884 two weeks before the hearing or the first of the set of hearings; or

885 (b) mail a notice to each registered voter residing within and each owner of real
886 property located within the proposed local district.

887 (2) Each published notice under Subsection (1)(a)(i)(A) shall:

888 (a) be no less than 1/4 page in size, use type no smaller than 18 point, and be
889 surrounded by a 1/4-inch border;

890 (b) if possible, appear in a newspaper that is published at least one day per week;

891 (c) if possible, appear in a newspaper of general interest and readership in the area and
892 not of limited subject matter;

893 (d) be placed in a portion of the newspaper other than where legal notices and
894 classified advertisements appear; and

895 (e) be run at least once each week for two successive weeks, with the final publication
896 being no less than three and no more than 10 days before the hearing or the first of the set of
897 hearings.

898 (3) Each notice required under Subsection (1) shall:

899 (a) if the hearing or set of hearings is concerning a resolution:

900 (i) contain the entire text or an accurate summary of the resolution; and

- 901 (ii) state the deadline for filing a protest against the creation of the proposed local
 902 district;
- 903 (b) clearly identify each governing body involved in the hearing or set of hearings;
- 904 (c) state the date, time, and place for the hearing or set of hearings and the purposes for
 905 the hearing or set of hearings; and
- 906 (d) describe or include a map of the entire proposed local district.
- 907 (4) County or municipal legislative bodies may jointly provide the notice required
 908 under this section if all the requirements of this section are met as to each notice.

909 Section 13. Section **17B-1-213** is amended to read:

910 **17B-1-213. Protest after adoption of resolution -- Adoption of resolution**
 911 **approving creation for certain districts.**

912 (1) For purposes of this section, "adequate protests" means protests that are:

913 (a) filed with the county clerk, municipal clerk or recorder, or local district secretary or
 914 clerk, as the case may be, within 60 days after the last public hearing required under Section
 915 17B-1-210; and

916 (b) signed by:

917 (i) the owners of private real property that:

918 (A) is located within the proposed local district;

919 (B) covers at least 25% of the total private land area within the applicable area; and

920 (C) is equal in value to at least 15% of the value of all private real property within the
 921 applicable area; or

922 (ii) registered voters residing within the applicable area equal in number to at least 25%
 923 of the number of votes cast in the applicable area for the office of governor at the last general
 924 election prior to the adoption of the resolution.

925 (2) If adequate protests are filed, the governing body that adopted a resolution under
 926 Subsection 17B-1-203(1)[~~(c)~~ or] (d) or (e):

927 (a) may not:

928 (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the
 929 applicable area;

930 (ii) take any further action under the protested resolution to create a local district or
 931 include the applicable area in a local district; or

932 (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)[~~(c)~~ or]
933 (d) or (e) proposing the creation of a local district including substantially the same area as the
934 applicable area and providing the same service as the proposed local district in the protested
935 resolution; and

936 (b) shall, within five days after receiving adequate protests, mail or deliver written
937 notification of the adequate protests to the responsible body.

938 (3) Subsection (2)(a) may not be construed to prevent an election from being held for a
939 proposed local district whose boundaries do not include an applicable area that is the subject of
940 adequate protests.

941 (4) (a) If adequate protests are not filed with respect to a resolution proposing the
942 creation of a local district for which an election is not required under Subsection
943 17B-1-214(3)[~~(c), (d), or (e)~~](d, (e), or (f)), a resolution approving the creation of the local
944 district may be adopted by:

945 (i) (A) the legislative body of a county whose unincorporated area is included within
946 the proposed local district; and

947 (B) the legislative body of a municipality whose area is included within the proposed
948 local district; or

949 (ii) the board of trustees of the initiating local district.

950 (b) Each resolution adopted under Subsection (4)(a) shall:

951 (i) describe the area included in the local district;

952 (ii) be accompanied by a map that shows the boundaries of the local district;

953 (iii) describe the service to be provided by the local district;

954 (iv) state the name of the local district; and

955 (v) provide a process for the appointment of the members of the initial board of
956 trustees.

957 Section 14. Section **17B-1-214** is amended to read:

958 **17B-1-214. Election -- Exceptions.**

959 (1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(2)(a), an
960 election on the question of whether the local district should be created shall be held by:

961 (i) if the proposed local district is located entirely within a single county, the
962 responsible clerk; or

963 (ii) except as provided under Subsection (1)(b), if the proposed local district is located
964 within more than one county, the clerk of each county in which part of the proposed local
965 district is located, in cooperation with the responsible clerk.

966 (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located
967 within more than one county and the only area of a county that is included within the proposed
968 local district is located within a single municipality, the election for that area shall be held by
969 the municipal clerk or recorder, in cooperation with the responsible clerk.

970 (2) Each election under Subsection (1) shall be held at the next special or regular
971 general election date that is:

972 (a) for an election pursuant to a property owner or registered voter petition, more than
973 45 days after certification of the petition under Subsection 17B-1-209(3)~~(b)(i)~~(a); or

974 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing
975 required under Section 17B-1-210.

976 (3) The election requirement of Subsection (1) does not apply to:

977 (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the
978 owners of private real property that:

979 (i) is located within the proposed local district;

980 (ii) covers at least 67% of the total private land area within the proposed local district
981 as a whole and within each applicable area; and

982 (iii) is equal in value to at least 50% of the value of all private real property within the
983 proposed local district as a whole and within each applicable area;

984 (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of
985 registered voters residing within the proposed local district as a whole and within each
986 applicable area, equal in number to at least 67% of the number of votes cast in the proposed
987 local district as a whole and in each applicable area, respectively, for the office of governor at
988 the last general election prior to the filing of the petition;

989 (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the
990 petition contains the signatures of the owners of groundwater rights that:

991 (i) are diverted within the proposed local district; and

992 (ii) cover at least 67% of the total amount of groundwater diverted in accordance with
993 groundwater rights within the proposed local district as a whole and within each applicable

994 area:

995 ~~(e)~~ (d) a resolution adopted under Subsection 17B-1-203(1)~~(e)~~(d) on or after May 5,
996 2003 that proposes the creation of a local district to provide fire protection, paramedic, and
997 emergency services or law enforcement service, if the proposed local district includes a
998 majority of the unincorporated area of one or more counties;

999 ~~(d)~~ (e) a resolution adopted under Subsection 17B-1-203(1)~~(e) or~~(d) or (e) if the
1000 resolution proposes the creation of a local district that has no registered voters within its
1001 boundaries; or

1002 ~~(e)~~ (f) a resolution adopted under Subsection 17B-1-203(1)~~(e)~~(d) on or after May
1003 11, 2010 that proposes the creation of a local district described in Subsection
1004 17B-1-202(1)(a)(xiv).

1005 (4) (a) If the proposed local district is located in more than one county, the responsible
1006 clerk shall coordinate with the clerk of each other county and the clerk or recorder of each
1007 municipality involved in an election under Subsection (1) so that the election is held on the
1008 same date and in a consistent manner in each jurisdiction.

1009 (b) The clerk of each county and the clerk or recorder of each municipality involved in
1010 an election under Subsection (1) shall cooperate with the responsible clerk in holding the
1011 election.

1012 (c) Except as otherwise provided in this part, each election under Subsection (1) shall
1013 be governed by Title 20A, Election Code.

1014 Section 15. Section **17B-1-215** is amended to read:

1015 **17B-1-215. Notice and plat to lieutenant governor -- Recording requirements --**
1016 **Certificate of incorporation -- Local district incorporated as specialized local district or**
1017 **basic local district -- Effective date.**

1018 (1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file
1019 with the lieutenant governor:

1020 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
1021 that meets the requirements of Subsection 67-1a-6.5(3); and

1022 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

1023 (b) The responsible body shall file the documents listed in Subsection (1)(a) with the
1024 lieutenant governor within 10 days after:

1025 (i) the canvass of an election under Section 17B-1-214, if a majority of those voting at
 1026 the election within the proposed local district as a whole vote in favor of the creation of a local
 1027 district;

1028 (ii) certification of a petition as to which the election requirement of Subsection
 1029 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a) [~~or~~], (b), or (c); or

1030 (iii) adoption of a resolution, under Subsection 17B-1-213(4) approving the creation of
 1031 a local district for which an election was not required under Subsection 17B-1-214(3)[~~(c)~~, ~~(d)~~,
 1032 ~~or (e)~~](d), (e), or (f), by the legislative body of each county whose unincorporated area is
 1033 included within and the legislative body of each municipality whose area is included within the
 1034 proposed local district, or by the board of trustees of the initiating local district.

1035 (2) Upon the lieutenant governor's issuance of a certificate of incorporation under
 1036 Section 67-1a-6.5, the responsible body shall:

1037 (a) if the local district is located within the boundary of a single county, submit to the
 1038 recorder of that county:

1039 (i) the original:

1040 (A) notice of an impending boundary action;

1041 (B) certificate of incorporation; and

1042 (C) approved final local entity plat; and

1043 (ii) if applicable, a certified copy of each resolution adopted under Subsection
 1044 17B-1-213(4); or

1045 (b) if the local district is located within the boundaries of more than a single county:

1046 (i) submit to the recorder of one of those counties:

1047 (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

1048 (B) if applicable, a certified copy of each resolution adopted under Subsection
 1049 17B-1-213(4); and

1050 (ii) submit to the recorder of each other county:

1051 (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C);

1052 and

1053 (B) if applicable, a certified copy of each resolution adopted under Subsection
 1054 17B-1-213(4).

1055 (3) The area of each local district consists of:

1056 (a) if an election was held under Section 17B-1-214, the area of the new local district
1057 as approved at the election;

1058 (b) if an election was not required because of Subsection 17B-1-214(3)(a) [~~or (b)~~], (b),
1059 or (c), the area of the proposed local district as described in the petition; or

1060 (c) if an election was not required because of Subsection 17B-1-214(3)[~~(c), (d)~~, or
1061 ~~(e)~~](d), (e), or (f), the area of the new local district as described in the resolution adopted under
1062 Subsection 17B-1-213(4).

1063 (4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under
1064 Section 67-1a-6.5, the local district is created and incorporated as:

1065 (i) the type of specialized local district that was specified in the petition under
1066 Subsection 17B-1-203(1)(a) [~~or~~], (b), or (c) or resolution under Subsection 17B-1-203(1)[~~(c)~~
1067 ~~or~~] (d) or (e), if the petition or resolution proposed the creation of a specialized local district; or

1068 (ii) a basic local district, if the petition or resolution did not propose the creation of a
1069 specialized local district.

1070 (b) (i) The effective date of a local district's incorporation for purposes of assessing
1071 property within the local district is governed by Section 59-2-305.5.

1072 (ii) Until the documents listed in Subsection (2) are recorded in the office of the
1073 recorder of each county in which the property is located, a newly incorporated local district
1074 may not:

1075 (A) levy or collect a property tax on property within the local district;

1076 (B) levy or collect an assessment on property within the local district; or

1077 (C) charge or collect a fee for service provided to property within the local district.

1078 Section 16. Section **17B-1-302** is amended to read:

1079 **17B-1-302. Board member qualifications -- Number of board members.**

1080 (1) (a) Each member of a local district board of trustees shall be:

1081 (i) a registered voter at the location of the member's residence; and

1082 (ii) except as provided in Subsections (1)(b) and (c), a resident within:

1083 (A) the boundaries of the local district; and

1084 (B) if applicable, the boundaries of the division of the local district from which the
1085 member is elected.

1086 (b) (i) As used in this Subsection (1)(b):

1087 (A) "Proportional number" means the number of members of a board of trustees that
1088 bears, as close as mathematically possible, the same proportion to all members of the board that
1089 the number of seasonally occupied homes bears to all residences within the district that receive
1090 service from the district.

1091 (B) "Seasonally occupied home" means a single-family residence:

1092 (I) that is located within the local district;

1093 (II) that receives service from the local district; and

1094 (III) whose owner:

1095 (Aa) does not reside permanently at the residence; and

1096 (Bb) may occupy the residence on a temporary or seasonal basis.

1097 (ii) If over 50% of the residences within a local district that receive service from the
1098 local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is
1099 replaced, for a proportional number of members of the board of trustees, with the requirement
1100 that the member be an owner of land, or an agent or officer of the owner of land, that:

1101 (A) receives service from the district; and

1102 (B) is located within:

1103 (I) the local district; and

1104 (II) if applicable, the division from which the member is elected.

1105 (c) For a board of trustees member in a basic local district that has within its
1106 boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under
1107 Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land
1108 within the local district that receives service from the district, or an agent or officer of the
1109 owner.

1110 (2) Except as otherwise provided by statute, the number of members of each board of
1111 trustees of a local district shall be an odd number that is no less than three.

1112 (3) For a newly created local district, the number of members of the initial board of
1113 trustees shall be the number specified:

1114 (a) for a local district whose creation was initiated by a petition under Subsection
1115 17B-1-203(1)(a) [~~or~~], (b), or (c), in the petition; or

1116 (b) for a local district whose creation was initiated by a resolution under Subsection
1117 17B-1-203(1)[~~(c) or~~] (d) or (e), in the resolution.

1118 (4) (a) For an existing local district, the number of members of the board of trustees
1119 may be changed by a two-thirds vote of the board of trustees.

1120 (b) No change in the number of members of a board of trustees under Subsection (4)(a)
1121 may:

1122 (i) violate Subsection (2); or

1123 (ii) serve to shorten the term of any member of the board.

1124 Section 17. Section **17B-1-402** is amended to read:

1125 **17B-1-402. Annexation of area outside local district.**

1126 (1) An area outside the boundaries of a local district may be annexed to the local
1127 district, as provided in this part, in order to provide to the area a service that the local district
1128 provides.

1129 (2) The area proposed to be annexed:

1130 (a) may consist of one or more noncontiguous areas; and

1131 (b) need not be adjacent to the boundaries of the proposed annexing local district.

1132 (3) With respect to a local district in the creation of which an election was not required
1133 under Subsection 17B-1-214(3)(~~c~~)(d):

1134 (a) an unincorporated area of a county may not be annexed to the local district unless,
1135 after annexation, at least a majority of the unincorporated area of the county will be included in
1136 the local district; and

1137 (b) the annexation of any part of an area within a municipality shall include all of the
1138 area within the municipality.

1139 (4) A local district may not annex an area located within a project area described in a
1140 project area plan adopted by the military installation development authority under Title 63H,
1141 Chapter 1, Military Installation Development Authority Act, without the authority's approval.

1142 Section 18. Section **17B-1-414** is amended to read:

1143 **17B-1-414. Resolution approving an annexation -- Filing of notice and plat with**
1144 **lieutenant governor -- Recording requirements -- Effective date.**

1145 (1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution
1146 approving the annexation of the area proposed to be annexed or rejecting the proposed
1147 annexation within 30 days after:

1148 (i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests

1149 to require an election are not filed;

1150 (ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

1151 (A) a public hearing under Section 17B-1-409 is held, if the board chooses or is
1152 required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

1153 (B) expiration of the time for submitting a request for public hearing under Subsection
1154 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public
1155 hearing.

1156 (b) If the local district has entered into an agreement with the United States that
1157 requires the consent of the United States for an annexation of territory to the district, a
1158 resolution approving annexation under this part may not be adopted until the written consent of
1159 the United States is obtained and filed with the board of trustees.

1160 (2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with
1161 the lieutenant governor:

1162 (A) a copy of a notice of an impending boundary action, as defined in Section
1163 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable,
1164 Subsection (2)(b); and

1165 (B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

1166 (ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant
1167 governor:

1168 (A) within 30 days after adoption of a resolution under Subsection (1), Subsection
1169 17B-1-412(3)(c)(i), or Section 17B-1-415; and

1170 (B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a
1171 municipal annexation that causes an automatic annexation to a local district under Section
1172 17B-1-416.

1173 (b) For an automatic annexation to a local district under Section 17B-1-416, the notice
1174 of an impending boundary action required under Subsection (2)(a) shall state that an area
1175 outside the boundaries of the local district is being automatically annexed to the local district
1176 under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4,
1177 Annexation.

1178 (c) Upon the lieutenant governor's issuance of a certificate of annexation under Section
1179 67-1a-6.5, the board shall:

- 1180 (i) if the annexed area is located within the boundary of a single county, submit to the
1181 recorder of that county:
- 1182 (A) the original:
- 1183 (I) notice of an impending boundary action;
- 1184 (II) certificate of annexation; and
- 1185 (III) approved final local entity plat; and
- 1186 (B) a certified copy of the annexation resolution; or
- 1187 (ii) if the annexed area is located within the boundaries of more than a single county:
- 1188 (A) submit to the recorder of one of those counties:
- 1189 (I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and
- 1190 (II) a certified copy of the annexation resolution; and
- 1191 (B) submit to the recorder of each other county:
- 1192 (I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III);
- 1193 and
- 1194 (II) a certified copy of the annexation resolution.
- 1195 (3) (a) As used in this Subsection (3), "fire district annexation" means an annexation
1196 under this part of an area located in a county of the first class to a local district:
- 1197 (i) created to provide fire protection, paramedic, and emergency services; and
- 1198 (ii) in the creation of which an election was not required because of Subsection
1199 17B-1-214(3)(~~e~~)(d).
- 1200 (b) An annexation under this part is complete and becomes effective:
- 1201 (i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the
1202 certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or
- 1203 (B) on January 1 for a fire district annexation, if the lieutenant governor issues the
1204 certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or
- 1205 (ii) upon the lieutenant governor's issuance of the certificate of annexation under
1206 Section 67-1a-6.5, for any other annexation.
- 1207 (c) (i) The effective date of a local district annexation for purposes of assessing
1208 property within the annexed area is governed by Section 59-2-305.5.
- 1209 (ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the
1210 recorder of each county in which the property is located, a local district may not:

- 1211 (A) levy or collect a property tax on property within the annexed area;
 1212 (B) levy or collect an assessment on property within the annexed area; or
 1213 (C) charge or collect a fee for service provided to property within the annexed area.

1214 (iii) Subsection (3)(c)(ii)(C):

1215 (A) may not be construed to limit a local district's ability before annexation to charge
 1216 and collect a fee for service provided to property that is outside the local district's boundary;
 1217 and

1218 (B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the
 1219 local district's annexation, with respect to a fee that the local district was charging for service
 1220 provided to property within the annexed area immediately before the area was annexed to the
 1221 local district.

1222 Section 19. Section **17B-1-416** is amended to read:

1223 **17B-1-416. Automatic annexation to a district providing fire protection,**
 1224 **paramedic, and emergency services or law enforcement service.**

1225 (1) An area outside the boundaries of a local district that is annexed to a municipality
 1226 or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4,
 1227 Annexation, is automatically annexed to the local district if:

1228 (a) the local district provides:

1229 (i) fire protection, paramedic, and emergency services; or

1230 (ii) law enforcement service;

1231 (b) an election for the creation of the local district was not required because of

1232 Subsection 17B-1-214(3)(~~e~~)(d); and

1233 (c) before the municipal annexation or boundary adjustment, the entire municipality
 1234 that is annexing the area or adding the area by boundary adjustment was included within the
 1235 local district.

1236 (2) The effective date of an annexation under this section is governed by Subsection
 1237 17B-1-414(3)(b).

1238 Section 20. Section **17B-1-502** is amended to read:

1239 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**
 1240 **certain circumstances -- Definitions.**

1241 (1) (a) An area within the boundaries of a local district may be withdrawn from the

1242 local district only as provided in this part.

1243 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local
1244 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,
1245 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,
1246 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process
1247 of withdrawing that area from the local district.

1248 (2) (a) An area within the boundaries of a local district is automatically withdrawn
1249 from the local district by the annexation of the area to a municipality or the adding of the area
1250 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

1251 (i) the local district provides:

1252 (A) fire protection, paramedic, and emergency services; or

1253 (B) law enforcement service;

1254 (ii) an election for the creation of the local district was not required because of

1255 Subsection 17B-1-214(3)~~(c)~~(d); and

1256 (iii) before annexation or boundary adjustment, the boundaries of the local district do
1257 not include any of the annexing municipality.

1258 (b) The effective date of a withdrawal under this Subsection (2) is governed by
1259 Subsection 17B-1-512(2)(b).

1260 (3) (a) An area within the boundaries of a local district located in a county of the first
1261 class is automatically withdrawn from the local district by the incorporation of a municipality
1262 whose boundaries include the area if:

1263 (i) the local district provides:

1264 (A) fire protection, paramedic, and emergency services; or

1265 (B) law enforcement service;

1266 (ii) an election for the creation of the local district was not required because of

1267 Subsection 17B-1-214(3)~~(c)~~(d); and

1268 (iii) the legislative body of the newly incorporated municipality:

1269 (A) adopts a resolution approving the withdrawal that includes the legal description of
1270 the area to be withdrawn; and

1271 (B) delivers a copy of the resolution to the board of trustees of the local district.

1272 (b) The effective date of a withdrawal under this Subsection (3) is governed by

1273 Subsection 17B-1-512(2)(a).

1274 Section 21. Section **17B-1-505** is amended to read:

1275 **17B-1-505. Withdrawal of municipality in certain districts providing fire**
1276 **protection, paramedic, and emergency services or law enforcement service.**

1277 (1) (a) The process to withdraw an area from a local district may be initiated by a
1278 resolution adopted by the legislative body of a municipality that is entirely within the
1279 boundaries of a local district:

1280 (i) that provides:

1281 (A) fire protection, paramedic, and emergency services; or

1282 (B) law enforcement service; and

1283 (ii) in the creation of which an election was not required because of Subsection
1284 17B-1-214(3)[~~(c)~~](d).

1285 (b) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal
1286 legislative body shall submit to the board of trustees of the local district written notice of the
1287 adoption of the resolution, accompanied by a copy of the resolution.

1288 (2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body
1289 shall hold an election at the next municipal general election that is more than 60 days after
1290 adoption of the resolution on the question of whether the municipality should withdraw from
1291 the local district.

1292 (3) If a majority of those voting on the question of withdrawal at an election held under
1293 Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local
1294 district.

1295 (4) (a) Within 10 days after the canvass of an election at which a withdrawal under this
1296 section is submitted to voters, the municipal legislative body shall send written notice to the
1297 board of the local district from which the municipality is proposed to withdraw.

1298 (b) Each notice under Subsection (4)(a) shall:

1299 (i) state the results of the withdrawal election; and

1300 (ii) if the withdrawal was approved by voters, be accompanied by a map or legal
1301 description of the area to be withdrawn, adequate for purposes of the county assessor and
1302 recorder.

1303 (5) The effective date of a withdrawal under this section is governed by Subsection

1304 17B-1-512(2)(a).

1305 Section 22. Section **17B-1-1402** is amended to read:

1306 **17B-1-1402. Board of trustees of a basic local district.**

1307 (1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution
1308 under Subsection 17B-1-203(1)[~~(c)~~ or] (d) or (e), and except as provided in Subsection (2), the
1309 members of a board of trustees of a basic local district may be:

1310 (a) (i) elected by registered voters; or

1311 (ii) appointed by the responsible body, as defined in Section 17B-1-201; or

1312 (b) if the area of the local district contains less than one residential dwelling unit per 50
1313 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners
1314 of real property within the local district based on:

1315 (i) the amount of acreage owned by property owners;

1316 (ii) the assessed value of property owned by property owners; or

1317 (iii) water rights:

1318 (A) relating to the real property within the local district;

1319 (B) that the real property owner:

1320 (I) owns; or

1321 (II) has transferred to the local district.

1322 (2) As specified in a groundwater right owner petition under Subsection

1323 17B-1-203(1)(c) or a resolution under Subsection 17B-1-203(1)(d) or (e), the members of a

1324 board of trustees of a basic local district created to manage groundwater rights the district

1325 acquires or assesses under Section 17B-1-202 shall be:

1326 (a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that
1327 are diverted within the local district;

1328 (b) appointed by the responsible body, as defined in Section 17B-1-201; or

1329 (c) elected or appointed as provided in Subsection (3).

1330 [~~(2)~~] (3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under

1331 Subsection 17B-1-203(1)[~~(c)~~ or] (d) or (e) may provide for a transition from one or more

1332 methods of election or appointment under Subsection (1) or (2) to one or more other methods

1333 of election or appointment based upon milestones or events that the petition or resolution

1334 identifies.

1335 Section 23. Section **17B-2a-905** is amended to read:

1336 **17B-2a-905. Service area board of trustees.**

1337 (1) (a) Except as provided in Subsection (2):

1338 (i) the initial board of trustees of a service area located entirely within the
1339 unincorporated area of a single county may, as stated in the petition or resolution that initiated
1340 the process of creating the service area:

1341 (A) consist of the county legislative body;

1342 (B) be appointed, as provided in Section 17B-1-304; or

1343 (C) be elected, as provided in Section 17B-1-306;

1344 (ii) if the board of trustees of a service area consists of the county legislative body, the
1345 board may adopt a resolution providing for future board members to be appointed, as provided
1346 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

1347 (iii) members of the board of trustees of a service area shall be elected, as provided in
1348 Section 17B-1-306, if:

1349 (A) the service area is not entirely within the unincorporated area of a single county;

1350 (B) a petition is filed with the board of trustees requesting that board members be
1351 elected, and the petition is signed by registered voters within the service area equal in number
1352 to at least 10% of the number of registered voters within the service area who voted at the last
1353 gubernatorial election; or

1354 (C) an election is held to authorize the service area's issuance of bonds.

1355 (b) If members of the board of trustees of a service area are required to be elected
1356 under Subsection (1)(a)(iii)(C) because of a bond election:

1357 (i) board members shall be elected in conjunction with the bond election;

1358 (ii) the board of trustees shall:

1359 (A) establish a process to enable potential candidates to file a declaration of candidacy
1360 sufficiently in advance of the election; and

1361 (B) provide a ballot for the election of board members separate from the bond ballot;

1362 and

1363 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided
1364 in Section 17B-1-306.

1365 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003 if:

- 1366 (i) the service area was created to provide:
- 1367 (A) fire protection, paramedic, and emergency services; or
- 1368 (B) law enforcement service; and
- 1369 (ii) in the creation of the service area, an election was not required under Subsection
- 1370 17B-1-214(3)[~~(e)~~](d).
- 1371 (b) (i) Each county whose unincorporated area is included within a service area
- 1372 described in Subsection (2)(a), whether in conjunction with the creation of the service area or
- 1373 by later annexation, shall appoint three members to the board of trustees.
- 1374 (ii) Each municipality whose area is included within a service area described in
- 1375 Subsection (2)(a), whether in conjunction with the creation of the service area or by later
- 1376 annexation, shall appoint one member to the board of trustees.
- 1377 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or
- 1378 (ii) shall be an elected official of the appointing county or municipality, respectively.
- 1379 (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of
- 1380 trustees of a service area described in Subsection (2)(a) shall be the number resulting from
- 1381 application of Subsection (2)(b).
- 1382 Section 24. Section **73-5-15** is amended to read:
- 1383 **73-5-15. Groundwater management plan.**
- 1384 (1) As used in this section:
- 1385 (a) "Critical management area" means a groundwater basin in which the groundwater
- 1386 withdrawals consistently exceed the safe yield.
- 1387 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a
- 1388 groundwater basin over a period of time without exceeding the long-term recharge of the basin
- 1389 or unreasonably affecting the basin's physical and chemical integrity.
- 1390 (2) (a) The state engineer may regulate groundwater withdrawals within a specific
- 1391 groundwater basin by adopting a groundwater management plan in accordance with this section
- 1392 for any groundwater basin or aquifer or combination of hydrologically connected groundwater
- 1393 basins or aquifers.
- 1394 (b) The objectives of a groundwater management plan are to:
- 1395 (i) limit groundwater withdrawals to safe yield;
- 1396 (ii) protect the physical integrity of the aquifer; and

- 1397 (iii) protect water quality.
- 1398 (c) The state engineer shall adopt a groundwater management plan for a groundwater
1399 basin if more than 1/3 of the water right owners in the groundwater basin request that the state
1400 engineer adopt a groundwater management plan.
- 1401 (3) (a) In developing a groundwater management plan, the state engineer may consider:
- 1402 (i) the hydrology of the groundwater basin;
- 1403 (ii) the physical characteristics of the groundwater basin;
- 1404 (iii) the relationship between surface water and groundwater, including whether the
1405 groundwater should be managed in conjunction with hydrologically connected surface waters;
- 1406 (iv) the geographic spacing and location of groundwater withdrawals;
- 1407 (v) water quality;
- 1408 (vi) local well interference; and
- 1409 (vii) other relevant factors.
- 1410 (b) The state engineer shall base the provisions of a groundwater management plan on
1411 the principles of prior appropriation.
- 1412 (c) (i) The state engineer shall use the best available scientific method to determine
1413 safe yield.
- 1414 (ii) As hydrologic conditions change or additional information becomes available, safe
1415 yield determinations made by the state engineer may be revised by following the procedures
1416 listed in Subsection (5).
- 1417 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a
1418 groundwater basin shall be limited to the basin's safe yield.
- 1419 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer
1420 shall:
- 1421 (A) determine the groundwater basin's safe yield; and
- 1422 (B) adopt a groundwater management plan for the groundwater basin.
- 1423 (iii) If the state engineer determines that groundwater withdrawals in a groundwater
1424 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that
1425 groundwater basin based on the priority date of the water rights under the groundwater
1426 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a
1427 different distribution.

1428 (b) When adopting a groundwater management plan for a critical management area, the
1429 state engineer shall, based on economic and other impacts to an individual water user or a local
1430 community caused by the implementation of safe yield limits on withdrawals, allow gradual
1431 implementation of the groundwater management plan.

1432 (c) (i) In consultation with the state engineer, water users in a groundwater basin may
1433 agree to participate in a voluntary arrangement for managing withdrawals at any time, either
1434 before or after a determination that groundwater withdrawals exceed the groundwater basin's
1435 safe yield.

1436 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other
1437 law.

1438 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than
1439 all of the water users in a groundwater basin does not affect the rights of water users who do
1440 not agree to the voluntary arrangement.

1441 (5) To adopt a groundwater management plan, the state engineer shall:

1442 (a) give notice as specified in Subsection (7) at least 30 days before the first public
1443 meeting held in accordance with Subsection (5)(b):

1444 (i) that the state engineer proposes to adopt a groundwater management plan;

1445 (ii) describing generally the land area proposed to be included in the groundwater
1446 management plan; and

1447 (iii) stating the location, date, and time of each public meeting to be held in accordance
1448 with Subsection (5)(b);

1449 (b) hold one or more public meetings in the geographic area proposed to be included
1450 within the groundwater management plan to:

1451 (i) address the need for a groundwater management plan;

1452 (ii) present any data, studies, or reports that the state engineer intends to consider in
1453 preparing the groundwater management plan;

1454 (iii) address safe yield and any other subject that may be included in the groundwater
1455 management plan;

1456 (iv) outline the estimated administrative costs, if any, that groundwater users are likely
1457 to incur if the plan is adopted; and

1458 (v) receive any public comments and other information presented at the public

1459 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

1460 (c) receive and consider written comments concerning the proposed groundwater

1461 management plan from any person for a period determined by the state engineer of not less

1462 than 60 days after the day on which the notice required by Subsection (5)(a) is given;

1463 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,

1464 publish notice:

1465 (A) that a draft of the groundwater management plan has been proposed; and

1466 (B) specifying where a copy of the draft plan may be reviewed; and

1467 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of

1468 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

1469 (e) provide notice of the adoption of the groundwater management plan.

1470 (6) A groundwater management plan shall become effective on the date notice of

1471 adoption is completed under Subsection (7), or on a later date if specified in the plan.

1472 (7) (a) A notice required by this section shall be:

1473 (i) published:

1474 (A) once a week for two successive weeks in a newspaper of general circulation in

1475 each county that encompasses a portion of the land area proposed to be included within the

1476 groundwater management plan; and

1477 (B) in accordance with Section 45-1-101 for two weeks;

1478 (ii) published conspicuously on the state engineer's Internet website; and

1479 (iii) mailed to each of the following that has within its boundaries a portion of the land

1480 area to be included within the proposed groundwater management plan:

1481 (A) county;

1482 (B) incorporated city or town;

1483 (C) a local district created to acquire or assess a groundwater right under Title 17B,

1484 Chapter 1, Provisions Applicable to All Local Districts;

1485 [~~(D)~~] (D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement

1486 District Act;

1487 [~~(E)~~] (E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

1488 [~~(F)~~] (F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

1489 [~~(G)~~] (G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

1490 ~~[(G)]~~ (H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan
1491 Water District Act;

1492 ~~[(H)]~~ (I) special service district providing water, sewer, drainage, or flood control
1493 services, under Title 17D, Chapter 1, Special Service District Act;

1494 ~~[(I)]~~ (J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water
1495 Conservancy District Act; and

1496 ~~[(J)]~~ (K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

1497 (b) A notice required by this section is effective upon substantial compliance with
1498 Subsections (7)(a)(i) through (iii).

1499 (8) A groundwater management plan may be amended in the same manner as a
1500 groundwater management plan may be adopted under this section.

1501 (9) The existence of a groundwater management plan does not preclude any otherwise
1502 eligible person from filing any application or challenging any decision made by the state
1503 engineer within the affected groundwater basin.

1504 (10) (a) A person aggrieved by a groundwater management plan may challenge any
1505 aspect of the groundwater management plan by filing a complaint within 60 days after the
1506 adoption of the groundwater management plan in the district court for any county in which the
1507 groundwater basin is found.

1508 (b) Notwithstanding Subsection (9), a person may challenge the components of a
1509 groundwater management plan only in the manner provided by Subsection (10)(a).

1510 (c) An action brought under this Subsection (10) is reviewed de novo by the district
1511 court.

1512 (d) A person challenging a groundwater management plan under this Subsection (10)
1513 shall join the state engineer as a defendant in the action challenging the groundwater
1514 management plan.

1515 (e) (i) Within 30 days after the day on which a person files an action challenging any
1516 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action
1517 shall publish notice of the action:

1518 (A) in a newspaper of general circulation in the county in which the district court is
1519 located; and

1520 (B) in accordance with Section 45-1-101 for two weeks.

1521 (ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for
1522 two consecutive weeks.

1523 (iii) The notice required by Subsection (10)(e)(i) shall:

1524 (A) identify the groundwater management plan the person is challenging;

1525 (B) identify the case number assigned by the district court;

1526 (C) state that a person affected by the groundwater management plan may petition the
1527 district court to intervene in the action challenging the groundwater management plan; and

1528 (D) list the address for the clerk of the district court in which the action is filed.

1529 (iv) (A) Any person affected by the groundwater management plan may petition to
1530 intervene in the action within 60 days after the day on which notice is last published under
1531 Subsections (10)(e)(i) and (ii).

1532 (B) The district court's treatment of a petition to intervene under this Subsection
1533 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

1534 (v) A district court in which an action is brought under Subsection (10)(a) shall
1535 consolidate all actions brought under that Subsection and include in the consolidated action any
1536 person whose petition to intervene is granted.

1537 (11) A groundwater management plan adopted or amended in accordance with this
1538 section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative
1539 Rulemaking Act.

1540 (12) Recharge and recovery projects permitted under Chapter 3b, Groundwater
1541 Recharge and Recovery Act, are exempted from this section.

1542 (13) Nothing in this section may be interpreted to require the development,
1543 implementation, or consideration of a groundwater management plan as a prerequisite or
1544 condition to the exercise of the state engineer's enforcement powers under other law, including
1545 powers granted under Section 73-2-25.

1546 (14) A groundwater management plan adopted in accordance with this section may not
1547 apply to the dewatering of a mine.

1548 (15) (a) A groundwater management plan adopted by the state engineer before May 1,
1549 2006, remains in force and has the same legal effect as it had on the day on which it was
1550 adopted by the state engineer.

1551 (b) If a groundwater management plan that existed before May 1, 2006, is amended on

1552 or after May 1, 2006, the amendment is subject to this section's provisions.

Legislative Review Note
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Office of Legislative Research and General Counsel