

**17B-1-217 Activity required -- Dissolution -- Conclusive presumption regarding creation and existence.**

- (1) A local district that is not engaged in one or more of the following activities, services, or duties is subject to dissolution in accordance with Subsections (5) and (6):
  - (a) levying and collecting a tax;
  - (b) providing a commodity or service;
  - (c) collecting a fee or charging an assessment for a commodity, service, facility, or improvement provided by the local district;
  - (d) undertaking planning necessary for the provision of a commodity, service, facility, or improvement as reflected in a written study or report;
  - (e) acquiring or maintaining property or an easement necessary for a service, facility, or improvement to be provided by the local district in accordance with a general or master plan adopted by the district;
  - (f) constructing, installing, maintaining, owning, or operating infrastructure for the provision of a commodity, service, facility, or improvement; or
  - (g) legally incurring debt, contracting, or otherwise being obligated to provide a commodity, service, facility, or improvement within a reasonable period of time.
- (2) For a local district created after May 14, 2013, the local district shall file with the state auditor a written certification:
  - (a) declaring that the district is engaged in an activity, service, or duty described in Subsection (1);
  - (b) identifying the activity in which the local district is engaged; and
  - (c) no later than five years after the date on which a local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5.
- (3)
  - (a) The state auditor shall send a deficiency notice in accordance with Subsection (3)(c) if:
    - (i) a local district fails to deliver a certification in accordance with Subsection (2); or
    - (ii) the state auditor determines that, subject to Subsection (3)(b), a local district created after January 1, 2005, and before May 15, 2013, is not engaged in an activity, service, or duty required under Subsection (1) within five years after the date on which the local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5 or thereafter.
  - (b) The state auditor shall make a determination described in Subsection (3)(a)(ii) based on:
    - (i) the local district's failure to file a required annual financial report with the state auditor in accordance with Section 17B-1-639; or
    - (ii) subject to Subsection (7), other credible information related to Subsection (1).
  - (c)
    - (i) The state auditor shall send the deficiency notice to the local district and the Utah Association of Special Districts.
    - (ii) The deficiency notice shall state that the local district is required to file with the state auditor a written certification:
      - (A) declaring that the district was and continues to be engaged in an activity, service, or duty described in Subsection (1) prior to the date of the deficiency notice; and
      - (B) identifying the activity, service, or duty in which the local district is engaged.
- (4) If within four months of receiving a deficiency notice, a local district fails to file a written certification with the state auditor in accordance with Subsection (2) or (3)(c)(ii), the state auditor shall, in writing:

- (a) notify the lieutenant governor that the local district has failed to meet the requirements of this section and specify the reason for the district's failure; and
  - (b) request that the lieutenant governor dissolve the local district in accordance with Subsections (5) and (6).
- (5) If the lieutenant governor receives a request to dissolve a local district from the state auditor in accordance with Subsection (4), the lieutenant governor shall:
- (a) issue a certification of dissolution under Section 67-1a-6.5; and
  - (b) send a copy of the certification of dissolution to:
    - (i) the state auditor;
    - (ii) the State Tax Commission;
    - (iii) the recorder of the county in which the local district is located, or, if the local district is located in more than one county, the recorder of each county in which the local district is located;
    - (iv) the last known address of the local district; and
    - (v) the Utah Association of Special Districts.
- (6) A local district identified in a certification of dissolution is dissolved:
- (a) upon recordation of the certification by the county recorder; or
  - (b) if the local district is located within more than one county, upon recordation of the certification by the county recorder of the last county to record.
- (7) Notwithstanding any other provision of law, a local district shall be conclusively presumed to have been lawfully created, existing, and active if for two years following the district's creation under Subsection 17B-1-215(4):
- (a) the district has:
    - (i) levied and collected a tax; or
    - (ii) collected a fee, charge, or assessment for a commodity, service, facility, or improvement provided by the district; and
  - (b) no challenge has been filed in court to the existence or creation of the district.

Amended by Chapter 448, 2013 General Session