

Effective 5/13/2014

Superseded 5/10/2016

17B-1-512 Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

- (1)
 - (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
 - (b) The board of trustees shall file the documents listed in Subsection (1)(a):
 - (i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; and
 - (ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section 17B-1-502.
 - (c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:
 - (i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:
 - (A) the original:
 - (I) notice of an impending boundary action;
 - (II) certificate of withdrawal; and
 - (III) approved final local entity plat; and
 - (B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or
 - (ii) if the withdrawn area is located within the boundaries of more than a single county, submit:
 - (A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and
 - (B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.
- (2)
 - (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.
 - (b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.
- (3)
 - (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:
 - (i) in a newspaper of general circulation in the area proposed for withdrawal; and
 - (ii) as required in Section 45-1-101.

- (b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:
 - (i) the name of the local district;
 - (ii) a description of the area proposed for withdrawal;
 - (iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and
 - (iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.
- (4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.
- (5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).
- (6)
 - (a) Any person in interest may seek judicial review of:
 - (i) the board of trustees' decision to withdraw an area from the local district;
 - (ii) the terms and conditions of a withdrawal; or
 - (iii) the board's decision to deny a withdrawal.
 - (b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:
 - (i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);
 - (ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or
 - (iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.
 - (c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:
 - (i) the court finds the board of trustees' decision to be arbitrary or capricious; or
 - (ii) the court finds that the board materially failed to follow the procedures set forth in this part.
 - (d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.
- (7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.