

Effective 5/13/2014

Part 11
Municipal Services District Act

17B-2a-1101 Title.

This part is known as the "Municipal Services District Act."

Enacted by Chapter 405, 2014 General Session

17B-2a-1102 Definitions.

As used in this part:

- (1) "Municipal services" means one or more of the services identified in Section 17-34-1, 17-36-3, or 17B-1-202.
- (2) "Metro township" means:
 - (a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or
 - (b) a metro township that subsequently joins a municipal services district.

Amended by Chapter 352, 2015 General Session

17B-2a-1103 Limited to counties of the first class -- Provisions applicable to municipal services districts.

- (1)
 - (a) Except as provided in Subsection (1)(b) and Section 17B-2a-1110, a municipal services district may be created only in unincorporated areas in a county of the first class.
 - (b) Subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.
 - (c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.
- (2) Each municipal services district is governed by the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (3) This part applies only to a municipal services district.
- (4) A municipal services district is not subject to the provisions of any other part of this chapter.
- (5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part govern.

Amended by Chapter 352, 2015 General Session

17B-2a-1104 Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

- (1) notwithstanding Subsection 17B-1-202(3), provide no more than six municipal services; and
- (2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Amended by Chapter 352, 2015 General Session

17B-2a-1105 Creation of municipal services district.

- (1) Notwithstanding any other provision of law, the process to create a municipal services district is initiated by a resolution proposing the creation of the municipal services district, adopted by the legislative body of the county whose unincorporated area includes any of the proposed municipal services district.
- (2) The resolution described in Subsection (1) shall comply, as applicable, with the provisions of Subsection 17B-1-203(2)(a).
- (3) The legislative body shall comply with the requirements of Sections 17B-1-210 through 17B-1-212.

Enacted by Chapter 405, 2014 General Session

17B-2a-1106 Municipal services district board of trustees -- Governance.

- (1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.
- (2)
 - (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:
 - (i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and
 - (ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.
 - (b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:
 - (i) act as the legislative body of the district; and
 - (ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:
 - (A) Title 17, Counties; and
 - (B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.
 - (c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:
 - (i) act as the executive of the district;
 - (ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and
 - (iii) exercise executive branch powers and responsibilities established for a county executive in:
 - (A) Title 17, Counties; and
 - (B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.
- (3)
 - (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn

from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

- (i) subject to Subsection (3)(b), a member of that municipality's governing body;
 - (ii) subject to Subsection (4), two members of the county council of the county in which the municipal services district is located; and
 - (iii) the total number of board members shall be an odd number.
- (b) A member described in Subsection (3)(a)(i) shall be:
- (i) for a municipality other than a metro township, designated by the municipal legislative body; and
 - (ii) for a metro township, the chair of the metro township.
- (c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).
- (d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).
- (4)
- (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.
 - (b) The number of county council members described in Subsection (3)(a)(ii) does not include the county mayor.
- (5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:
- (a) for each member described in Subsection (3)(a)(i), within that member's municipality; and
 - (b) for each member described in Subsection (3)(a)(ii), within the unincorporated county, with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii).
- (6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.
- (7)
- (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.
 - (b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).
- (8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Amended by Chapter 176, 2016 General Session

17B-2a-1107 Exclusion of rural real property.

- (1) As used in this section, "rural real property" means an area:
 - (a) zoned primarily for manufacturing, commercial, or agricultural purposes; and
 - (b) that does not include residential units with a density greater than one unit per acre.
- (2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:
 - (a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;
 - (b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;

- (c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or
 - (d) is located in whole or in part in one of the following as defined in Section 17-41-101:
 - (i) an agricultural protection area;
 - (ii) a mining protection area; or
 - (iii) an industrial protection area.
- (3)
- (a) Subject to Subsection (3)(b), an owner of rural real property may withdraw consent to inclusion in a municipal services district at any time.
 - (b) An owner may withdraw consent by submitting a written and signed request to the municipal services district board of trustees that:
 - (i) identifies and describes the rural real property to be withdrawn; and
 - (ii) requests that the rural real property be withdrawn.
 - (c)
 - (i) No later than 30 days after the day on which the municipal services district board of trustees receives a request that complies with Subsection (3)(b), the board shall adopt a resolution withdrawing the rural real property as identified and described in the request.
 - (ii) The rural real property is withdrawn from and no longer in the jurisdiction of the municipal services district upon adoption of the resolution.

Amended by Chapter 352, 2015 General Session

17B-2a-1108 Municipality required to remit local option sales and use tax.

- (1) If, after incorporation, a municipal legislative body of a municipality located in whole or in part within a municipal services district does not adopt and deliver a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to the municipal services district an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.
- (2) For purposes of Subsection (1), the amount a municipality is required to remit to a municipal services district is an amount:
 - (a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
 - (b) representative of only those taxes collected in the area of the municipality that is also located within the municipal services district.

Enacted by Chapter 405, 2014 General Session

17B-2a-1109 Counties and municipalities authorized to provide funds to a municipal services district.

A county, or, subject to Section 17B-2a-1108, a municipality involved in the establishment and operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax revenue for district purposes.

Enacted by Chapter 405, 2014 General Session

17B-2a-1110 Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

- (1)
 - (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.
 - (b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).
- (2)
 - (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.
 - (b) The feasibility consultant shall be chosen:
 - (i) by the municipal legislative body; and
 - (ii) in accordance with applicable municipal procurement procedures.
- (3) The municipal legislative body shall require the feasibility consultant to:
 - (a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - (c) attend the public hearings under Subsection (5).
- (4)
 - (a) The feasibility study shall consider:
 - (i) population and population density within the withdrawing municipality;
 - (ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;
 - (iii) projected growth in the withdrawing municipality during the next five years;
 - (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;
 - (v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;
 - (vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and
 - (vii) the fiscal impact on other municipalities serviced by the municipal services district.
 - (b)
 - (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.
 - (ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:
 - (A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

- (B) the municipal services district's present and five-year projected cost of providing municipal services.
- (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.
- (5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:
 - (a) within the following 60 days; and
 - (b) for the purpose of allowing:
 - (i) the feasibility consultant to present the results of the study; and
 - (ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.
- (6) At a public hearing described in Subsection (5), the municipal legislative body shall:
 - (a) provide a copy of the feasibility study for public review; and
 - (b) allow the public to express its views about the proposed withdrawal from the municipal services district.
- (7)
 - (a)
 - (i) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):
 - (A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.
 - (ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).
 - (b)
 - (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.
 - (ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at least seven days before the first hearing under Subsection (5).
 - (c) The notice under Subsections (7)(a) and (b) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.
- (8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.
- (9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Amended by Chapter 176, 2016 General Session

17B-2a-1111 Withdrawal of a municipality that changes form of government.

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)(B) changes form of government in accordance with Title 10, Chapter 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Amended by Chapter 176, 2016 General Session

17B-2a-1112 Audit.

The board of trustees shall provide a copy of an accounting report, as defined in Section 51-2a-102, to each political subdivision that is provided municipal services by the municipal services district that is filed with the state auditor on behalf of the municipal services district in accordance with Section 51-2a-203.

Enacted by Chapter 352, 2015 General Session