

Title 17D. Limited Purpose Local Government Entities - Other Entities

Chapter 1 Special Service District Act

Part 1 General Provisions

17D-1-101 Title.

- (1) This title is known as "Limited Purpose Local Government Entities - Other Entities."
- (2) This chapter is known as the "Special Service District Act."

Enacted by Chapter 360, 2008 General Session

17D-1-102 Definitions.

As used in this chapter:

- (1) "Adequate protests" means written protests timely filed by:
 - (a) the owners of private real property that:
 - (i) is located within the applicable area;
 - (ii) covers at least 25% of the total private land area within the applicable area; and
 - (iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or
 - (b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.
- (2) "Applicable area" means:
 - (a) for a proposal to create a special service district, the area included within the proposed special service district;
 - (b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;
 - (c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and
 - (d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.
- (3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.
- (4) "General obligation bond":
 - (a) means a bond that is directly payable from and secured by ad valorem property taxes that are:
 - (i) levied:
 - (A) by the county or municipality that created the special service district that issues the bond;
 - and
 - (B) on taxable property within the special service district; and
 - (ii) in excess of the ad valorem property taxes for the current fiscal year; and
 - (b) does not include:

- (i) a short-term bond;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.
- (5) "Governing body" means:
- (a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board created under Section 17D-1-301; or
 - (b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board created under Section 17D-1-301.
- (6) "Guaranteed bonds" means bonds:
- (a) issued by a special service district; and
 - (b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.
- (7) "Local district" has the same meaning as defined in Section 17B-1-102.
- (8) "Revenue bond":
- (a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and
 - (b) does not include:
 - (i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.
- (9) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.
- (10) "Special assessment bond" means a bond payable from special assessments.
- (11) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:
- (a) is created under authority of the Utah Constitution Article XI, Section 7; and
 - (b) operates under, is subject to, and has the powers set forth in this chapter.
- (12) "Tax and revenue anticipation bond" means a bond:
- (a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and
 - (b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Amended by Chapter 377, 2014 General Session

17D-1-103 Special service district status, powers, and duties -- Limitation on districts providing jail service.

- (1) A special service district:
- (a) is:
 - (i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A special service district may:

- (a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;
- (b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:
 - (i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or
 - (ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;
- (c) acquire or construct facilities;
- (d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;
- (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;
- (f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;
- (g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;
- (h) accept a government grant or loan and comply with the conditions of the grant or loan;
- (i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (3);
- (j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;
- (k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;
- (l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;
- (m) borrow money and incur indebtedness;
- (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:
 - (i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;
 - (ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;
 - (iii) bonds payable from both taxes and revenues;
 - (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;
 - (v) tax anticipation notes;
 - (vi) bond anticipation notes;
 - (vii) refunding bonds;
 - (viii) special assessment bonds; and
 - (ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

- (o) except as provided in Subsection (4), impose fees or charges or both for commodities, services, or facilities that the special service district provides;
 - (p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;
 - (q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and
 - (r) adopt an official seal for the special service district.
- (3) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.
- (4)
- (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.
 - (b) Subsection (4)(a) may not be construed to limit a special service district that provides jail service from:
 - (i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or
 - (ii) receiving compensation for jail service it provides under a contract described in Subsection (4)(b)(i).

Amended by Chapter 357, 2014 General Session

17D-1-104 Property owner provisions -- Determination of registered voters.

- (1) For purposes of this chapter:
- (a) the owner of real property is:
 - (i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the records of the county recorder on the date of the filing of the petition or protest; or
 - (ii) for a proposed annexation or addition of a new service under Part 4, Annexing a New Area and Adding a New Service, the lessee of military land, as defined in Section 63H-1-102, if the area proposed to be annexed or within which a new service is proposed to be added includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and
 - (b) the value of private real property is determined according to the last assessment before the filing of the petition or protest, as determined by:
 - (i)
 - (A) the county under Title 59, Chapter 2, Part 3, County Assessment, for property subject to assessment by the county; or
 - (B) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of Property, for property subject to assessment by the State Tax Commission; and
 - (ii) the county, for all other property.
- (2) For purposes of each provision of this chapter that requires the owners of private real property covering a percentage of the total private land area within the applicable area to sign a petition or protest:
- (a) a parcel of real property may not be included in the calculation of the required percentage unless the petition or protest is signed by:

- (i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that parcel; or
 - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
 - (b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:
 - (i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
 - (ii) the person provides documentation accompanying the petition or protest that reasonably substantiates the person's representative capacity; and
 - (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.
- (3) For purposes of this chapter, registered voters shall be determined according to the official register.

Amended by Chapter 92, 2009 General Session

17D-1-105 Authority of county or municipality to levy property tax on property within a special service district.

- (1) Subject to Subsections (2) and (3), a county or municipality that has created a special service district may levy a tax on the taxable property in the special service district.
- (2) Each levy under Subsection (1) is subject to the prior approval of a majority of the registered voters of the special service district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act, in the same manner as for an election for the issuance of bonds.
- (3) A tax levied under this section for a special service district that provides jail service as provided in Subsection 17D-1-201(10) is considered to be levied by the county for purposes of the county's tax limitation under Section 59-2-908.

Enacted by Chapter 360, 2008 General Session

17D-1-106 Special service districts subject to other provisions.

- (1) A special service district is, to the same extent as if it were a local district, subject to and governed by:
 - (a)
 - (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and
 - (ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.
 - (b) Subsections:
 - (i) 17B-1-301(3) and (4); and
 - (ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), (7), and (9);
 - (c) Section 20A-1-512;
 - (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;
 - (e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;
 - (f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

- (2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the local district board of trustees means the governing body.

Amended by Chapter 233, 2016 General Session

17D-1-107 Contracts subject to building improvement and public works provisions.

- (1) For each special service district created by a county, the legislative body of that county shall by ordinance designate the classes of special service district contracts that are subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects.
- (2) For each special service district created by a municipality, the legislative body of that municipality shall by ordinance designate the classes of special service district contracts that are subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects.

Enacted by Chapter 360, 2008 General Session

17D-1-108 Conflict.

If a provision of this chapter conflicts with any other statutory provision, the provision of this chapter controls.

Enacted by Chapter 360, 2008 General Session

17D-1-109 Validation of previously created special service districts.

Each special service district created before May 5, 2008 is validated, ratified, and confirmed and declared to be validly existing.

Enacted by Chapter 360, 2008 General Session

Part 2 Creating a Special Service District

17D-1-201 Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

- (1) water;
- (2) sewerage;
- (3) drainage;
- (4) flood control;
- (5) garbage collection and disposal;
- (6) health care;
- (7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;
- (8) recreation;
- (9) fire protection, including:

- (a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;
 - (b) Firewise Communities programs and the development of community wildfire protection plans; and
 - (c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);
- (10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
 - (11) street lighting;
 - (12) consolidated 911 and emergency dispatch;
 - (13) animal shelter and control;
 - (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to provide construction and maintenance of public facilities, traditional governmental services, and planning, as a means for mitigating impacts from extractive mineral industries;
 - (15) in a county of the first class, extended police protection;
 - (16) control or abatement of earth movement or a landslide;
 - (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act; or
 - (18) cemetery.

Amended by Chapter 371, 2016 General Session

17D-1-202 Limitations on the creation of a special service district.

- (1) Subject to Subsection (2), the boundary of a proposed special service district may include all or part of the area within the boundary of the county or municipality that creates the special service district.
- (2)
 - (a) The boundary of a proposed special service district may not include an area included within the boundary of an existing special service district that provides the same service that the proposed special service district is proposed to provide.
 - (b) The boundary of a proposed special service district may not include an area included within the boundary of an existing local district that provides the same service that the proposed special service district is proposed to provide, unless the local district consents.
 - (c) A proposed special service district may not include land that will not be benefitted by the service that the special service district is proposed to provide, unless the owner of the nonbenefitted land consents to the inclusion.
 - (d) A county may not create a special service district that includes some or all of the area within a municipality unless the legislative body of that municipality adopts a resolution or ordinance consenting to the inclusion.
- (3) All areas included within a special service district need not be contiguous.

Enacted by Chapter 360, 2008 General Session

17D-1-203 Initiating the process to create a special service district.

- (1) The process to create a special service district is initiated by:
 - (a) the legislative body of a county or municipality that proposes to create a special service district adopting a resolution that:
 - (i) declares that the public health, convenience, and necessity require the creation of a special service district;
 - (ii) indicates the legislative body's intent to create a special service district; and
 - (iii) complies with the requirements of Subsection (3); or
 - (b) the filing of a petition that:
 - (i) proposes the creation of a special service district;
 - (ii) complies with the requirements of Subsections (2) and (3); and
 - (iii) is filed with the legislative body of the county or municipality in whose boundary the proposed special service district is located.
- (2) Each petition under Subsection (1)(b) shall:
 - (a) be signed by:
 - (i) the owners of at least 10% of the taxable value of taxable property within the proposed special service district; or
 - (ii) at least 10% of the registered voters residing within the proposed special service district; and
 - (b) indicate:
 - (i) the residence address of each person who signs the petition; and
 - (ii) if the person signs the petition as a property owner, the address or other description of the person's property sufficient to identify the property.
- (3) Each resolution under Subsection (1)(a) and petition under Subsection (1)(b) shall:
 - (a) describe the boundaries of the proposed special service district;
 - (b) specify each service that the special service district is proposed to provide; and
 - (c) designate a name for the proposed special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-204 Prerequisites for adopting a resolution or ordinance approving the creation of a special service district.

Before the legislative body of a county or municipality may adopt a resolution or ordinance under Section 17D-1-208 approving the creation of a special service district:

- (1) the clerk or recorder, as the case may be, of the county or municipality shall give written notice as provided in Section 17D-1-205;
- (2) the legislative body shall hold a public hearing, as provided in Section 17D-1-207; and
- (3) the period for filing protests under Section 17D-1-206 shall have passed without adequate protests having been filed.

Amended by Chapter 350, 2009 General Session

17D-1-205 Notice.

- (1) Each notice required under Subsection 17D-1-204(1) shall:
 - (a) state that:
 - (i) the legislative body has adopted a resolution stating its intent to create a special service district; or
 - (ii) a petition has been filed proposing the creation of a special service district;
 - (b) describe the boundary of the proposed special service district;

- (c) generally describe each service that the special service district is proposed to provide;
 - (d) state that taxes may be levied annually upon all taxable property within the proposed special service district;
 - (e) state that fees or charges may be imposed to pay for some or all of the services that the special service district is proposed to provide;
 - (f) explain the process, requirements, and timetable for filing a protest against the creation of the special service district or against a service that the special service district is proposed to provide;
 - (g) designate a date, time, and place for a public hearing on the proposed creation of the special service district; and
 - (h) except as provided in Subsection (2), be published:
 - (i)
 - (A) once a week for four consecutive weeks;
 - (B) not fewer than five days and no more than 20 days before the date of the public hearing required under Subsection 17D-1-204(2); and
 - (C) in a newspaper of general circulation in the county or municipality by which the special service district is proposed to be created; and
 - (ii) in accordance with Section 45-1-101 for 35 days before the date of the public hearing required under Subsection 17D-1-204(2).
- (2) Notwithstanding Subsection (1)(h)(i), if the proposed special service district is located entirely within a city of the third, fourth, or fifth class or a town that has no newspaper of general circulation in the city or town, the legislative body of the city or town may provide that the notice required under Subsection 17D-1-204(1) be given by posting the notice in at least five public places in the city or town at least 21 days before the public hearing required under Subsection 17D-1-204(2).
- (3) The legislative body of the county or municipality by which the special service district is proposed to be created may include in a notice under this section any other information that the legislative body considers necessary or appropriate.

Amended by Chapter 265, 2013 General Session

17D-1-206 Protests.

- (1) An interested person may protest:
 - (a) the creation of a special service district; or
 - (b) a service that the special service district is proposed to provide.
- (2) Each protest under Subsection (1) shall:
 - (a) be in writing;
 - (b) be submitted:
 - (i) to the legislative body of the county or municipality by which the special service district is proposed to be created; and
 - (ii) no later than 60 days after the public hearing required under Subsection 17D-1-204(2); and
 - (c) explain why the person is protesting.
- (3) A person who submitted a written protest against the creation of a special service district may withdraw the protest or, having withdrawn a protest, cancel the withdrawal, no later than 60 days after the public hearing required under Subsection 17D-1-204(2).
- (4) The legislative body of a county or municipality may not adopt a resolution or ordinance creating a special service district if adequate protests are filed with respect to the creation of the special service district.

- (5) The legislative body of a county or municipality may not adopt a resolution or ordinance authorizing a special service district to provide a service if adequate protests are filed with respect to that service.

Amended by Chapter 265, 2013 General Session

17D-1-207 Public hearing.

- (1) On the date and at the time and place specified in the notice under Section 17D-1-205, the legislative body of the county or municipality by which the special service district is proposed to be created shall hold a public hearing.
- (2) At each public hearing under this section, the legislative body shall:
 - (a) give full consideration to each written protest that has been filed; and
 - (b) hear and consider each interested person desiring to be heard.
- (3) The legislative body may continue the hearing to another date and time.

Enacted by Chapter 360, 2008 General Session

17D-1-208 Adoption of a resolution or ordinance approving the creation of a special service district.

- (1) Subject to the provisions of and as provided in this part, the legislative body of a county or municipality may adopt a resolution or ordinance approving the creation of a special service district.
- (2)
 - (a) Subject to Subsection (2)(b), a resolution or ordinance adopted by a legislative body under Subsection (1) may contain changes from the proposal as set forth in a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), including changes in:
 - (i) the boundary of the special service district; and
 - (ii) the services to be provided by the special service district.
 - (b) The legislative body of a county or municipality may not adopt a resolution or ordinance under Subsection (1) that approves the creation of a special service district with a boundary that includes more area than is included in, or that authorizes the special service district to provide a service not proposed in, a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), unless the requirements of Sections 17D-1-205, 17D-1-206, and 17D-1-207 are met with respect to the additional area or service, as the case may be.

Amended by Chapter 350, 2009 General Session

17D-1-209 Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

- (1) The legislative body adopting a resolution or ordinance approving the creation of a special service district shall:
 - (a) within 30 days after adopting the resolution or ordinance, 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; and
 - (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:
 - (i) the original notice of an impending boundary action;

- (ii) the original certificate of incorporation;
 - (iii) the original approved final local entity plat; and
 - (iv) a certified copy of the resolution or ordinance approving the creation of the special service district.
- (2)
- (a) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the special service district is created and incorporated.
 - (b)
 - (i) The effective date of a special service district's incorporation for purposes of assessing property within the special service district is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of the county in which the property is located:
 - (A) the county, city, or town that created the special service district may not levy or collect a property tax for special service district purposes on property within the special service district; and
 - (B) the special service district may not:
 - (I) levy or collect an assessment on property within the special service district; or
 - (II) charge or collect a fee for service provided to property within the special service district.

Amended by Chapter 350, 2009 General Session

17D-1-210 Services that special service district is authorized to provide.

- (1) After its creation, a special service district may provide the service or services:
 - (a) specified in the resolution or ordinance creating the special service district; or
 - (b) added under Part 4, Annexing a New Area and Adding a New Service.
- (2) Notwithstanding Subsection (1), a special service district created before May 5, 2008 may continue on and after that date to provide a service that the special service district was authorized before May 5, 2008 to provide.

Enacted by Chapter 360, 2008 General Session

17D-1-211 Municipality's ability to provide temporary jail facilities not affected by the creation of a special service district to provide jail services.

The creation of a special service district to provide jail services as provided in Subsection 17D-1-201(10) does not affect the ability of a municipality under Section 10-8-58 to provide, operate, and maintain facilities for the temporary incarceration, not to exceed 72 hours, of persons charged with the violation of a municipal ordinance.

Enacted by Chapter 360, 2008 General Session

17D-1-212 Action to challenge the creation of a special service district or a service to be provided.

- (1) A person may file an action in district court challenging the creation of a special service district or a service that a special service district is proposed to provide if:
 - (a) the person filed a written protest under Section 17D-1-206;
 - (b) the person:
 - (i)
 - (A) is a registered voter within the special service district; and

- (B) alleges in the action that the procedures used to create the special service district violated applicable law; or
- (ii)
 - (A) is an owner of property included within the boundary of the special service district; and
 - (B) alleges in the action that:
 - (I) the person's property will not be benefitted by a service that the special service district is proposed to provide; or
 - (II) the procedures used to create the special service district violated applicable law; and
 - (c) the action is filed within 30 days after the date that the legislative body adopts a resolution or ordinance creating the special service district.
- (2) If an action is not filed within the time specified under Subsection (1), a registered voter or an owner of property located within the special service district may not contest the creation of the special service district or a service that the special service district is proposed to provide.

Enacted by Chapter 360, 2008 General Session

Part 3

Administrative Control Board

17D-1-301 Governance of a special service district -- Authority to create and delegate authority to an administrative control board -- Limitations on authority to delegate.

- (1) Each special service district shall be governed by the legislative body of the county or municipality that creates the special service district, subject to any delegation under this section of a right, power, or authority to an administrative control board.
- (2) At the time a special service district is created or at any time thereafter, the legislative body of a county or municipality that creates a special service district may, by resolution or ordinance:
 - (a) create an administrative control board for the special service district;
 - (b) subject to Subsection (3), delegate to the administrative control board the exercise of any right, power, or authority that the legislative body possesses with respect to the governance of the special service district; and
 - (c) specify the members of the initial administrative control board by name or other designation that clearly identifies each member of the initial administrative control board.
- (3) A county or municipal legislative body may not delegate to an administrative control board of a special service district the power to:
 - (a) annex an area to an existing special service district or add a service within the area of an existing special service district under Part 4, Annexing a New Area and Adding a New Service;
 - (b) designate, under Section 17D-1-107, the classes of special service district contracts that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;
 - (c) levy a tax on the taxable property within the special service district;
 - (d) issue special service district bonds payable from taxes;
 - (e) call or hold an election for the authorization of a property tax or the issuance of bonds;
 - (f) levy an assessment;
 - (g) issue interim warrants or bonds payable from an assessment; or
 - (h) appoint a board of equalization under Section 11-42-403.
- (4)

- (a) A county or municipal legislative body that has delegated a right, power, or authority under this section to an administrative control board may at any time modify, limit, or revoke any right, power, or authority delegated to the administrative control board.
- (b) A modification, limitation, or revocation under Subsection (4)(a) does not affect the validity of an action taken by an administrative control board before the modification, limitation, or revocation.

Amended by Chapter 437, 2015 General Session

17D-1-302 Number of members of an administrative control board.

- (1) An administrative control board shall consist of at least three members in addition to a member appointed in accordance with Subsections 17D-1-303(3) and (4).
- (2) The number of administrative control board members for a special service district established by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10) is nine.

Amended by Chapter 377, 2014 General Session

17D-1-303 Election or appointment of administrative control board members.

- (1) Except as provided in Subsection (5), a county or municipal legislative body that creates an administrative control board may provide for board members to be elected or appointed, or for some members to be elected and some appointed.
- (2) Except as provided in Subsection (3), each member of an administrative control board shall be elected or appointed as provided for the election or appointment, respectively, of a member of a board of trustees of a local district under Title 17B, Chapter 1, Part 3, Board of Trustees.
- (3) A municipality or improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act, may appoint one member to represent it on an administrative control board created for a special service district if:
 - (a) the special service district was created by a county;
 - (b) the municipality or improvement district:
 - (i) provides the same service as the special service district; or
 - (ii) provided the same service as the special service district:
 - (A) prior to the creation of the special service district, if all or part of the municipality or improvement district was then included in the special service district; or
 - (B) prior to all or part of the municipality or improvement district being annexed into the special service district; and
 - (c) the special service district includes some or all of the area included within the municipality or improvement district.
- (4) An institution of higher education for which a special service district provides commodities, services, or facilities may appoint the number of members of an administrative control board of that special service district that are equal in number to at least 1/3 of the total number of board members.
- (5) With respect to an administrative control board created for a special service district created by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10), the county legislative body shall appoint:
 - (a) three members from a list of at least six recommendations from the county sheriff;
 - (b) three members from a list of at least six recommendations from municipalities within the county; and

- (c) three members from a list of at least six recommendations from the county executive.

Amended by Chapter 377, 2014 General Session

17D-1-304 Qualifications of administrative control board members -- Term of office.

- (1)
 - (a) Except as provided in Subsection (1)(b), each member of an administrative control board shall be:
 - (i) a registered voter within the special service district;
 - (ii) an officer or employee of the county or municipality that created the special service district;
or
 - (iii) if over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, an owner of land, or an agent or officer of an owner of land, that receives services from the special service district and is located within the special service district, provided that the number of members appointed under this Subsection (1)(a)(iii) comprises less than a quorum of the board.
 - (b) Subsection (1)(a) does not apply if:
 - (i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or
 - (ii) the member is appointed under Subsection 17D-1-303(3) or (4).
- (2)
 - (a) Except as provided in Subsection (2)(b), the term of each member of an administrative control board is four years.
 - (b) The term of as close as possible to half of the initial members of an administrative control board, chosen by lot, is two years.

Amended by Chapter 377, 2014 General Session

17D-1-305 Compensation for administrative control board members.

An administrative control board member may receive compensation and reimbursement of expenses as provided in Section 17B-1-307 to the same extent as if the member were a member of a board of trustees of a local district.

Enacted by Chapter 360, 2008 General Session

17D-1-306 Administrative control board review of certain charges in special service districts providing jail service.

If the legislative body of a county of the first class creates an administrative control board under this part for a special service district that provides jail service as provided in Subsection 17D-1-201(10), the administrative control board may review and approve any amount charged to the special service district as reimbursement to the county for services provided under Subsection 17D-1-103(2)(i) before the amount is included in the special service district budget.

Enacted by Chapter 360, 2008 General Session

Part 4

Annexing a New Area and Adding a New Service

17D-1-401 Annexing an area or adding a service to an existing special service district.

- (1) Except as provided in Subsections (3) and (4), a county or municipal legislative body acting as the governing body of the special service district may, as provided in this part:
 - (a) annex an area to an existing special service district to provide to that area a service that the special service district is authorized to provide;
 - (b) add a service under Section 17D-1-201 within the area of an existing special service district that the special service district is not already authorized to provide; or
 - (c) both annex an area under Subsection (1)(a) and add a service under Subsection (1)(b).
- (2) Except for Section 17D-1-209, the provisions of Part 2, Creating a Special Service District, apply to and govern the process of annexing an area to an existing special service district or adding a service that the special service district is not already authorized to provide, to the same extent as if the annexation or addition were the creation of a special service district.
- (3) A county or municipal legislative body may not:
 - (a) annex an area to an existing special service district if a local district provides to that area the same service that the special service district is proposed to provide to the area, unless the local district consents to the annexation; or
 - (b) add a service within the area of an existing special service district if a local district provides to that area the same service that is proposed to be added, unless the local district consents to the addition.
- (4) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the creation of a special service district including that area or providing that service would not be allowed under Part 2, Creating a Special Service District.
- (5) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the area is located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, unless the county or municipal legislative body has first obtained the authority's approval.

Amended by Chapter 437, 2015 General Session

17D-1-402 Inapplicability of some requirements if petition is filed by all owners of taxable real property.

Notwithstanding Section 17D-1-401, the notice, hearing, and protest requirements of Part 2, Creating a Special Service District, do not apply if a petition to annex an area or to add a service to an existing special service district is filed with the legislative body of the county or municipality, as the case may be, containing the signatures of all owners of taxable real property:

- (1) within the area proposed to be annexed, if the petition is for annexation of an area to the special service district; or
- (2) within the special service district, if the petition is for adding a service to be provided by the special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-403 Notice and plat to lieutenant governor -- Lieutenant governor certification -- Recording requirements -- Effective date.

- (1) If a county or municipal legislative body adopts a resolution approving the annexation of an area to an existing special service district, the legislative body shall:
 - (a) within 30 days after adopting the resolution, 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; and
 - (b) upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:
 - (i) the original notice of an impending boundary action;
 - (ii) the original certificate of annexation;
 - (iii) the original approved final local entity plat; and
 - (iv) a certified copy of the resolution approving the annexation.
- (2)
 - (a) Upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, the additional area that is the subject of the legislative body's resolution is annexed to the special service district.
 - (b)
 - (i) The effective date of an annexation under this section for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of the county in which the property is located:
 - (A) the county, city, or town that created the special service district may not levy or collect a property tax for special service district purposes on property within the annexed area; and
 - (B) the special service district may not:
 - (I) levy or collect an assessment on property within the annexed area; or
 - (II) charge or collect a fee for service provided to property within the annexed area.
 - (iii) Subsection (2)(b)(ii)(B)(II):
 - (A) may not be construed to limit a special service district's ability before annexation to charge and collect a fee for service provided to property that is outside the special service district's boundary; and
 - (B) does not apply until 60 days after the effective date, under Subsection (2)(a), of the special service district's annexation, with respect to a fee that the special service district was charging for service provided to property within the annexed area immediately before the area was annexed to the special service district.

Amended by Chapter 350, 2009 General Session

**Part 5
Special Service District Bonds**

17D-1-501 Provisions applicable to a special service district's issuance of bonds.

Except as otherwise provided in this chapter:

- (1) each special service district that issues bonds shall:
 - (a) issue them as provided in, as applicable:

- (i) Title 11, Chapter 14, Local Government Bonding Act; or
 - (ii) Title 11, Chapter 42, Assessment Area Act; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act; and
- (2) each special service district that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Enacted by Chapter 360, 2008 General Session

17D-1-502 General obligation bonds.

- (1) Except as provided in Subsection (3), if a special service district intends to issue general obligation bonds, the special service district shall first obtain the approval of special service district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (2) General obligation bonds shall be secured by a pledge of the full faith and credit of the special service district.
- (3) A special service district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.
- (4)
- (a) A special service district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the special service district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the special service district, as determined under Subsection 11-14-301(3)(b), by .12.
 - (b) Bonds or other obligations of a special service district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).
- (5) A special service district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution Article XIV, Section 4.
- (6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a special service district that participates in the agreement creating the administrative or legal entity.

Enacted by Chapter 360, 2008 General Session

17D-1-503 Levy to pay for general obligation bonds.

- (1)
- (a) If a special service district has issued general obligation bonds, or expects to have debt service payments due on general obligation bonds during the current year, the legislative body of the county or municipality that created the special service district may make an annual levy of ad valorem property taxes in order to:
 - (i) pay the principal of and interest on the general obligation bonds;
 - (ii) establish a sinking fund for defaults and future debt service on the general obligation bonds; and
 - (iii) establish a reserve to secure payment of the general obligation bonds.
 - (b) A levy under Subsection (1)(a) is:
 - (i) without limitation as to rate or amount; and
 - (ii) subject to the prior approval of a majority of registered voters of the special service district voting in an election held for that purpose on a date specified in Section 20A-1-204.
- (2)

- (a) Each county or municipality that levies a tax under Subsection (1) shall:
 - (i) levy the tax as a separate and special levy for the specific purposes stated in Subsection (1); and
 - (ii) apply the proceeds from the levy solely for the purpose of paying the principal of and interest on the general obligation bonds, even though the proceeds may be used to establish or replenish a sinking fund under Subsection (1)(a)(ii) or a reserve under Subsection (1)(a)(iii).
- (b) A levy under Subsection (2)(a) is not subject to a priority in favor of a special service district obligation in existence at the time the bonds were issued.

Amended by Chapter 415, 2013 General Session

17D-1-504 Pledge of revenues to pay for bonds.

Bonds may be payable from and secured by the pledge of all or any specified part of:

- (1) the revenues to be derived by the special service district from providing its services and from the operation of its facilities and other properties;
- (2) sales and use taxes, property taxes, and other taxes;
- (3) federal, state, or local grants;
- (4) in the case of special assessment bonds, the special assessments pledged to repay the special assessment bonds; and
- (5) other money legally available to the special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-505 Revenue bonds -- Requirement to impose rates and charges to cover revenue bonds -- Authority to make agreements and covenants to provide for bond repayment.

- (1) Subject to Subsection 17D-1-501(2), a special service district intending to issue revenue bonds may, but is not required to, submit to special service district voters for their approval the issuance of the revenue bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (2) Each special service district that has issued revenue bonds shall impose rates and charges for the services or commodities it provides fully sufficient, along with other sources of special service district revenues, to carry out all undertakings of the special service district with respect to its revenue bonds.
- (3) A special service district that issues revenue bonds may:
 - (a) agree to pay operation and maintenance expenses of the special service district from the proceeds of the ad valorem taxes that this chapter authorizes the county or municipality that created the special service district to levy; and
 - (b) for the benefit of bondholders, enter into covenants that:
 - (i) are permitted by Title 11, Chapter 14, Local Government Bonding Act; and
 - (ii) provide for other pertinent matters that the governing body considers proper to assure the marketability of the bonds.

Enacted by Chapter 360, 2008 General Session

17D-1-506 Governing body required to fix rates to cover district expenses and bonds.

The governing body shall fix the rate or rates for services or commodities provided by the special service district that will, in conjunction with the proceeds of any maintenance and operation tax and other special service district revenues:

- (1) pay the special service district's operating expenses;
- (2) provide for repairs and depreciation of works owned or operated by the special service district;
- (3) pay the interest on any bonds issued by the special service district; and
- (4) provide, as much as practicable, a sinking or other fund to pay the principal of the bonds as they become due.

Enacted by Chapter 360, 2008 General Session

17D-1-507 Guaranteed bonds.

- (1) Before a special service district may issue guaranteed bonds:
 - (a) the special service district shall:
 - (i) obtain a report:
 - (A) prepared by:
 - (I) a qualified, registered architect or engineer; or
 - (II) a person qualified by experience appropriate to the project proposed to be funded by the proceeds from the guaranteed bonds;
 - (B) setting forth:
 - (I) a description of the project proposed to be funded by the proceeds from the guaranteed bonds;
 - (II) the estimated or, if available, the actual cost of the project;
 - (III) the principal amount and date and amount of each stated maturity of:
 - (Aa) the guaranteed bonds to be issued; and
 - (Bb) any outstanding guaranteed bonds of the special service district;
 - (IV) the interest rate or rates of any outstanding guaranteed bonds of the special service district;
 - (V) the amount of the annual debt service for each year during the life of all outstanding guaranteed bonds issued by the special service district;
 - (VI) the estimated amount of the annual debt service for each year during the life of all guaranteed bonds that the special service district intends to issue to finance all or any part of the project; and
 - (VII) the date or estimated date that the project will be complete; and
 - (ii) submit to the Governor's Office of Economic Development:
 - (A) the report described in Subsection (1)(a)(i);
 - (B) a copy of each proposed guarantee of the guaranteed bonds, certified by the special service district;
 - (C) a legal opinion indicating that each guarantee, when executed, will be the legal and binding obligation of the taxpayer executing the guarantee in accordance with the terms of the guarantee; and
 - (D) evidence satisfactory to the Governor's Office of Economic Development from each taxpayer executing a guarantee of the guaranteed bonds as to the financial ability of the taxpayer to perform under the guarantee;
 - (b) the Governor's Office of Economic Development shall, if it approves the issuance of the guaranteed bonds, deliver to the special service district governing body a written statement of its approval; and
 - (c) the special service district governing body shall file the written approval statement under Subsection (1)(b) with the recorder of the county in which the special service district is located.

- (2) The issuance of guaranteed bonds is conditioned upon the approval of special service district voters at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (3) Guaranteed bonds that have been issued and remain outstanding shall be included in the determination of the debt limit under Subsection 17D-1-502(4) if the bonds by their terms no longer enjoy the benefit of the guarantee.
- (4) On July 1 of each year, the governing body shall file with the department of community affairs a report certifying:
 - (a) the total amount of bonds issued by the special service district and other debt then outstanding and subject to the debt limit of Subsection 17D-1-502(4);
 - (b) the total amount of guaranteed bonds then outstanding and not subject to the debt limit of Subsection 17D-1-502(4); and
 - (c) the total amount of guaranteed bonds that, during the preceding 12 months, discontinued to enjoy the benefit of the guarantee.

Enacted by Chapter 360, 2008 General Session

17D-1-508 Special service district obligations are not obligations of any other entity.

A special service district bond, note, or other obligation or indebtedness, whether or not payable from taxes, may not be:

- (1) considered to be a bond, note, or other obligation or indebtedness of or to be enforceable against the state or a county, municipality, school district, or other political subdivision of the state; or
- (2) taken into account in calculating a debt limit applicable to the state or a county, municipality, school district, or other political subdivision of the state.

Enacted by Chapter 360, 2008 General Session

17D-1-509 Ratification of previously issued bonds and previously entered contracts.

All bonds issued or contracts entered into by a special service district before May 5, 2008 are ratified, validated, and confirmed and declared to be valid and legally binding obligations of the special service district in accordance with their terms.

Enacted by Chapter 360, 2008 General Session

Part 6

Withdrawal, Dissolution, Discontinuing Services, and Reorganization

17D-1-601 Adoption of a resolution to approve withdrawal, dissolution, discontinuance of a service, or reorganization.

Subject to and as provided in this part, the legislative body of the county or municipality that created a special service district may by resolution:

- (1) approve the withdrawal of an area from the special service district if the legislative body determines that the area should not or cannot be provided the service that the special service district provides;

- (2) approve the dissolution of the special service district if the legislative body determines that the special service district is no longer needed for the purposes for which it was created;
- (3) discontinue a service that the special service district provides; or
- (4) reorganize the special service district as a local district.

Amended by Chapter 371, 2013 General Session

17D-1-602 Limitations on adoption of withdrawal, dissolution, or discontinuance resolution.

- (1)
 - (a) A resolution under Subsection 17D-1-601(1) or (2) to approve the withdrawal of an area from a special service district or the dissolution of a special service district may not be adopted if:
 - (i) any bond, note, or other obligation of the special service district is outstanding and unpaid; or
 - (ii) any contractual obligation to provide service exists.
 - (b) Notwithstanding Subsection (1)(a)(i), a resolution approving the withdrawal of an area from a special service district may be adopted if:
 - (i) each holder of or obligee under each outstanding and unpaid bond, note, or other obligation consents to the withdrawal;
 - (ii) the bond, note, or other obligation is payable from and secured by solely:
 - (A) federal mineral lease payments appropriated to the special service district; or
 - (B) other special service district revenue, the amount of which is not subject to reduction as a result of the withdrawal;
 - (iii) adequate provision is made for payment of the bond, note, or other obligation in accordance with the terms of the bond, note, or other obligation, respectively; or
 - (iv)
 - (A) the area proposed to be withdrawn has been annexed by a municipality that receives from another special service district the service provided by the special service district from which the area is proposed to be withdrawn;
 - (B) the other special service district adopts a resolution proposing to annex the area;
 - (C) the municipality adopts a resolution consenting to the area being included within the proposed annexing special service district;
 - (D) the proposed annexing special service district and the special service district from which the area is proposed to be withdrawn make adequate arrangements for the proposed annexing special service district to provide the service to the area; and
 - (E) for a special service district from which the area to be withdrawn has any bond, note, or other obligation outstanding that is secured by revenue derived from taxes, rates, fees, or other charges paid by the owners of property within the area proposed to be withdrawn:
 - (I) the proposed annexing special service district agrees to provide for the payment of a proportional share of the amounts payable with respect to the bond, note, or other obligation, on terms that are mutually agreeable to the proposed annexing special service district and the special service district from which the area is to be withdrawn; and
 - (II) the withdrawal of the area and the payment arrangement under Subsection (1)(b)(iv)(E) (I) do not violate any covenant of any agreement or instrument with respect to the bond, note, or other obligation.
 - (c) Notwithstanding Subsection (1)(a)(ii), a resolution to withdraw an area from a special service district may be adopted if all parties to the contract consent to the withdrawal.
- (2)

- (a) A resolution under Subsection 17D-1-601(3) to discontinue a service may not be adopted if the special service district:
 - (i) has an outstanding bond payable in whole or in part from fees and charges imposed for the service to be discontinued; or
 - (ii) is under contractual obligation to provide the service.
- (b) Notwithstanding Subsection (2)(a)(i), a resolution to discontinue a service may be adopted if:
 - (i) the bond is paid;
 - (ii) adequate provision is made for payment of the bond; or
 - (iii) the holder of the bond agrees to the discontinuance, if allowed under the bond.
- (c) Notwithstanding Subsection (2)(a)(ii), a resolution to discontinue a service may be adopted if all parties to the contract consent to the discontinuance.

Amended by Chapter 267, 2010 General Session

17D-1-603 Notice and plat to lieutenant governor -- Recording requirements.

- (1) If a county or municipal legislative body adopts a resolution approving the withdrawal of an area from a special service district, the dissolution of a special service district, or the reorganization of a special service district as a local district, the county or municipal legislative body, as the case may be, shall:
 - (a) within 30 days after adopting the resolution, 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) in the case of a withdrawal, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of withdrawal, dissolution, or incorporation, as the case may be, under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:
 - (i) the original notice of an impending boundary action;
 - (ii) the original certificate of withdrawal or dissolution, as the case may be;
 - (iii) in the case of a withdrawal, the original approved final local entity plat; and
 - (iv) a certified copy of the resolution approving the withdrawal, dissolution, or incorporation.
- (2)
 - (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5, the area to be withdrawn that is the subject of the legislative body's resolution is withdrawn from the special service district.
 - (b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the special service district is dissolved.
- (3)
 - (a) Upon the lieutenant governor's issuance of a certificate of incorporation as provided in Section 67-1a-6.5, the special service district is:
 - (i) reorganized and incorporated as a local district subject to the provisions of Title 17B, Chapter 1, Provisions Applicable to All Local Districts;
 - (ii) subject to Subsection (3)(b), if the special service district is reorganized as a local district described in and subject to Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts, the applicable part of that chapter; and
 - (iii) no longer a special service district.

- (b) A special service district reorganized as a local district is a basic local district as provided in Title 17B, Chapter 1, Part 14, Basic Local District, unless the resolution adopted in accordance with Subsection 17D-1-604(5):
 - (i) specifies that the reorganized local district is a different type of local district other than a basic local district; and
 - (ii) states the type of that local district, including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

Amended by Chapter 371, 2013 General Session

17D-1-604 Reorganization as a local district.

- (1) The legislative body of a county or municipality that has created a special service district may reorganize the special service district as a local district in accordance with this section.
- (2) The process to reorganize a special service district as a local district is initiated if the legislative body of the county or municipality that originally created the special service district adopts a resolution that:
 - (a) indicates the legislative body's intent to reorganize the special service district as a local district; and
 - (b) complies with the requirements of Subsection (3).
- (3) A resolution to initiate reorganization described in Subsection (2) shall:
 - (a) state the name of the special service district that is proposed to be reorganized as a local district;
 - (b) generally describe the boundaries of the special service district, whether or not those boundaries coincide with the boundaries of the creating county or municipality; and
 - (c) specify each service that the special service district is authorized to provide.
- (4) After adopting the resolution described in Subsection (3), the legislative body of the county or municipality that created the special service district shall hold a public hearing following the notice requirements of Section 17D-1-205 applicable to the creation of a special service district, with changes as appropriate for the reorganization of the special service district as a local district.
- (5)
 - (a) At or following the public hearing, the county or municipal legislative body shall:
 - (i) subject to Subsection (5)(b), adopt a resolution approving the reorganization of the special service district as a local district; or
 - (ii) abandon the reorganization.
 - (b) A resolution approving reorganization shall:
 - (i) state the name of the special service district that is being reorganized as a local district;
 - (ii) state the name of the local district in accordance with Subsection (7);
 - (iii) subject to Subsection (5)(c), describe the boundaries of the local district;
 - (iv) subject to Subsection (8)(a), specify the service or services to be provided by the local district;
 - (v) state:
 - (A) whether the local district is a different type of local district other than a basic local district; and
 - (B) if the reorganized local district is not a basic local district, the type of local district, including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts;

- (vi) state whether the local district is to be governed by an appointed or an elected board of trustees, or a combination of appointed and elected trustees, in accordance with Title 17B, Chapter 1, Part 3, Board of Trustees;
 - (vii) state whether an administrative control board established for the special service district that is being reorganized as a local district will serve as the first board of trustees of the local district; and
 - (viii) contain additional provisions as necessary.
- (c) The boundaries of the local district shall reflect the boundaries of the reorganized special service district.
- (6) A county may not reorganize a special service district as a local district to include some or all of the area within a municipality unless the legislative body of the municipality adopts a resolution or ordinance consenting to the reorganization.
- (7) The name of the local district:
- (a) shall comply with Subsection 17-50-103(2)(a); and
 - (b) may not include the phrase "special service district."
- (8) A local district created under this section may not provide:
- (a)
 - (i) at the time of reorganization, a service that it could not have provided as the special service district prior to reorganization; or
 - (ii) after reorganization, an additional service listed in Section 17B-1-202, unless the local district adds the service in accordance with the provisions of Title 17B, Chapter 1, Provisions Applicable to All Local Districts; and
 - (b) more than four of the services listed in Section 17B-1-202 at any time.
- (9) After the lieutenant governor issues, in accordance with Section 67-1a-6.5, a certificate of incorporation for a local district created under this section, the local district:
- (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state as provided in Section 17B-1-103; and
 - (b) may, subject to Subsection (8), provide a service that:
 - (i) the special service district was authorized to provide before reorganization; and
 - (ii) the local district is authorized to provide under the resolution adopted in accordance with Subsection (5).
- (10) An action taken, a bond issued, or a contract or other obligation entered into by the reorganized special service district before reorganization is a valid action, bond issuance, contract, or other obligation of the local district.
- (11) A local district created under this section:
- (a) may impose and collect taxes, fees, and other charges for services provided in accordance with applicable law;
 - (b) shall own all property acquired by the special service district before reorganization; and
 - (c) shall have a power, right, or obligation that the reorganized special service district had before the reorganization, unless otherwise provided by law.

Enacted by Chapter 371, 2013 General Session

Chapter 2 Local Building Authority Act

Part 1 General Provisions

17D-2-101 Title.

This chapter is known as the "Local Building Authority Act."

Enacted by Chapter 360, 2008 General Session

17D-2-102 Definitions.

As used in this chapter:

- (1) "Authority board" means the board of directors of a local building authority, as described in Section 17D-2-203.
- (2) "Bond" includes a bond, note, or other instrument issued under this chapter evidencing an indebtedness of a local building authority.
- (3) "Creating local entity" means the local entity that creates or created the local building authority.
- (4) "Governing body" means:
 - (a) for a county, city, or town, the legislative body of the county, city, or town;
 - (b) for a school district, the local school board for the school district;
 - (c) for a local district, the local district's board of trustees; and
 - (d) for a special service district, the special service district's governing body, as defined in Section 17D-1-102.
- (5) "Local building authority":
 - (a) means a nonprofit corporation that is:
 - (i) created as provided in Section 17D-2-201;
 - (ii) described in Section 17D-2-103; and
 - (iii) subject to and governed by the provisions of this chapter; and
 - (b) includes a nonprofit corporation created as a municipal building authority before May 5, 2008 under the law then in effect.
- (6) "Local district" has the same meaning as provided in Section 17B-1-102.
- (7) "Local entity" means a county, city, town, school district, local district, or special service district.
- (8) "Mortgage" means any instrument under which property may be encumbered as security for an obligation, including a mortgage, trust deed, indenture, pledge, assignment, security agreement, and financing statement.
- (9) "Project" means an improvement, facility, property, or appurtenance to property that a local entity is permitted under law to own or acquire, whether located inside or outside the local entity's boundary, including:
 - (a) a public building or other structure of any kind; and
 - (b) a joint or partial interest in the improvement, facility, property, or appurtenance to property.
- (10) "Project costs":
 - (a) means all costs incurred in the development of a project; and
 - (b) includes:
 - (i) organizational and incorporation fees, including filing, legal, and financial advisor fees;
 - (ii) the cost of a site for the project;
 - (iii) the cost of equipment and furnishings for the project;

- (iv) the cost of planning and designing the project, including architectural, planning, engineering, legal, and fiscal advisor fees;
 - (v) contractor fees associated with the project;
 - (vi) the cost of issuing local building authority bonds to finance the project, including printing costs, document preparation costs, filing fees, recording fees, legal and other professional fees, underwriting costs, bond discount costs, any premium on the bonds, and any fees required to be paid to retire outstanding bonds;
 - (vii) interest on local building authority bonds issued to finance the project;
 - (viii) carrying costs;
 - (ix) interest estimated to accrue on local building authority bonds during the period of construction of the project and for 12 months after;
 - (x) any amount the governing body finds necessary to establish one or more reserve funds;
 - (xi) any amount the governing body finds necessary to provide working capital for the project;
 - (xii) all costs of transferring title of the project to the creating local entity;
 - (xiii) all costs of dissolving the local building authority; and
 - (xiv) all other reasonable costs associated with the project.
- (11) "Special service district" has the same meaning as provided in Section 17D-1-102.

Enacted by Chapter 360, 2008 General Session

17D-2-103 Status and authority of a local building authority.

A local building authority:

- (1) is a public entity and an instrumentality of the state, created by a local entity solely for the purpose of constructing, acquiring, improving, or extending, and financing the costs of, one or more projects on behalf of the local entity;
- (2) shall be known as the "Local Building Authority of (name of the creating local entity)"; and
- (3) may:
 - (a) as provided in this chapter, construct, acquire, improve, or extend, and finance the costs of, one or more projects on behalf of the creating local entity, in order to accomplish the public purposes for which the creating local entity exists; and
 - (b) as provided in Part 5, Local Building Authority Bonds, issue and sell its bonds for the purpose of paying the costs of constructing, acquiring, improving, or extending a project.

Enacted by Chapter 360, 2008 General Session

17D-2-104 Local building authority property exempt from taxation.

Property owned, held, or acquired by a local building authority, including all rent or other payment due under a lease agreement, is exempt from all taxation in the state.

Enacted by Chapter 360, 2008 General Session

17D-2-105 Action of a local entity's governing body or a local building authority's board of directors.

- (1) The governing body of a local entity or the authority board of a local building authority may take an action or proceeding under this chapter by resolution.
- (2) Except as specifically required under this chapter:
 - (a) an ordinance, resolution, or proceeding with respect to a transaction under this chapter is not necessary; and

- (b) the publication of a resolution, proceeding, or notice relating to a transaction under this chapter is not necessary.
- (3) The governing body of a local entity or authority board of a local building authority may adopt a proceeding under this chapter on a single reading at a legally convened meeting of the governing body or authority board, as the case may be.
- (4) Except as specifically provided in this chapter, a resolution adopted or proceeding taken under this chapter is not subject to referendum.

Enacted by Chapter 360, 2008 General Session

17D-2-106 Publications in newspapers.

A publication made under this chapter may be made in a newspaper conforming to the terms of this chapter and in which legal notices may be published under the law, without regard to whether the newspaper is designated as the local entity's official journal or newspaper.

Enacted by Chapter 360, 2008 General Session

17D-2-107 Local building authority not subject to any state board, commission, or agency.

Neither a local building authority nor a project is subject to the jurisdiction of any board, commission, or agency of the state, including the Public Service Commission.

Enacted by Chapter 360, 2008 General Session

17D-2-108 Other statutory provisions.

- (1) This chapter is supplemental to existing laws relating to a local entity's acquisition, use, maintenance, management, or operation of a project.
- (2) Except as provided in this chapter, a local entity or local building authority that complies with the provisions of this chapter need not comply with any other statutory provision concerning the acquisition, construction, use, or maintenance of a project, including:
 - (a) a statute relating to public bidding; and
 - (b) Title 63G, Chapter 6a, Utah Procurement Code.
- (3) A local building authority is, to the same extent as if it were a local district, subject to and governed by:
 - (a) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;
 - (b) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and
 - (c) Section 17B-1-108.

Amended by Chapter 347, 2012 General Session

17D-2-109 Construction of this chapter -- Conflicts with other provisions.

- (1) To enable a local building authority to perform its essential governmental functions on behalf of its creating local entity, this chapter shall be liberally construed.
- (2)
 - (a) If a provision of this chapter conflicts with another statutory provision, the provision of this chapter controls.
 - (b) Subsection (2)(a) applies notwithstanding Section 11-14-403.

Enacted by Chapter 360, 2008 General Session

17D-2-110 Validation of previous proceedings.

Each proceeding taken by a local entity before May 5, 2008 in connection with the creation and operation of a local building authority is validated, ratified, approved, and confirmed.

Enacted by Chapter 360, 2008 General Session

Part 2
Local Building Authority Creation, Powers, and Governance

17D-2-201 Creating a local building authority -- Articles of incorporation and bylaws -- Changing a local building authority.

- (1) The governing body of a local entity may create a local building authority by following the procedures in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the incorporation of a nonprofit corporation.
- (2) The creating local entity's governing body shall approve:
 - (a) the local building authority's articles of incorporation before they are filed with the Division of Corporations and Commercial Code; and
 - (b) the local building authority's bylaws.
- (3) The creating local entity's governing body may, in its sole discretion and at any time, change the local building authority's structure, organization, programs, or activities, subject to:
 - (a) this chapter; and
 - (b) the rights of:
 - (i) holders of the local building authority's bonds; and
 - (ii) parties to other obligations of the local building authority.

Enacted by Chapter 360, 2008 General Session

17D-2-202 Staff and personnel of a local building authority -- Legal, accounting, and auditing services.

- (1) A local building authority may:
 - (a) as necessary for the local building authority's performance of its functions and activities:
 - (i) subject to Subsection (2), contract for or employ staff and other personnel, including the personnel of the creating local entity; and
 - (ii) contract with the creating local entity to use the creating local entity's property or facilities; and
 - (b) include the cost of the use of the creating local entity's personnel, property, or facilities under Subsection (1)(a) in the amount the local building authority charges under a lease or agreement with the creating local entity.
- (2)
 - (a) If a creating local entity has an elected attorney, that elected attorney shall be the legal advisor to and provide all legal services for the local building authority created by the creating local entity, subject to Subsection (3).
 - (b) If a creating local entity has an elected auditor, that elected auditor shall provide all accounting and auditing services for the local building authority created by the creating local entity, subject to Subsection (3).

- (c) The local building authority shall reimburse the creating local entity for legal, accounting, and auditing services provided by the creating local entity's elected attorney or auditor, based on the actual cost of the services, including a reasonable amount that the creating local entity allocates for overhead, employee benefits, and general and administrative costs.
- (3) Subsection (2) may not be construed to prevent a local building authority from obtaining:
 - (a) with the consent of the elected attorney and the governing body, legal services from an outside attorney;
 - (b) with the consent of the elected auditor and the governing body, accounting or auditing services from an outside accountant or auditor; or
 - (c) an opinion of an outside attorney or accountant that is necessary for the issuance of the local building authority's bonds.
- (4) If fees for legal, accounting, or auditing services related to a project are paid by the creating local entity and not reimbursed by the local building authority, the local building authority may not include the cost of those services in the amount the local building authority charges under a lease agreement with the creating local entity with respect to that project.

Enacted by Chapter 360, 2008 General Session

17D-2-203 Local building authority board of directors.

- (1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.
- (2) An authority board may be referred to as a board of trustees.
- (3)
 - (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section 17-52-501, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:
 - (i) is, as a member of the county commission, placed on paid administrative leave under Section 17-16-10.5;
 - (ii) is unable to serve due to a disability;
 - (iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or
 - (iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.
 - (b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Enacted by Chapter 360, 2008 General Session

Part 3
Local Building Authority Projects

17D-2-301 Project plans and specifications.

Each local building authority that proposes to construct, acquire, improve, or extend a project for the use of its creating local entity shall submit to the governing body of the creating local entity:

- (1) plans and specifications for the project; and
- (2) the estimated project costs.

Enacted by Chapter 360, 2008 General Session

17D-2-302 Architect or engineer certificate -- Approval of plans and specifications.

- (1) The plans and specifications submitted under Subsection 17D-3-301(1) shall include a certificate of the architect or engineer responsible for planning and designing the project, stating the estimated useful life of the project.
- (2) The creating local entity's governing body shall approve the plans, specifications, and estimated project costs before:
 - (a) execution of a lease agreement with respect to the project; and
 - (b) the local building authority begins to construct, acquire, improve, or extend the project.

Enacted by Chapter 360, 2008 General Session

Part 4
Local Building Authority Lease Agreements

17D-2-401 Project lease agreements.

- (1) A local building authority and its creating local entity may enter into a lease agreement with respect to a project that the local building authority:
 - (a) has constructed, acquired, improved, or extended on behalf of the creating local entity; or
 - (b) will construct, acquire, improve, or extend on behalf of the creating local entity.
- (2)
 - (a) A local building authority and its creating local entity may enter into a lease agreement before the local building authority's acquisition of a site or construction of the project.
 - (b) Each lease agreement described in Subsection (2)(a) shall:
 - (i) provide that the creating local entity is not required to make a lease payment until acquisition or construction of the project is completed; and
 - (ii) require the local building authority to furnish or cause the construction contractor to furnish a bond satisfactory to the creating local entity, conditioned upon:
 - (A) final completion of the project as expeditiously as reasonably possible from the date of the execution of the lease agreement; and
 - (B) delivery of possession of the project to the creating local entity free and clear of all liens and encumbrances, except:
 - (I) taxes, liens, and encumbrances on the local building authority's interest in the leased property; and
 - (II) easements and restrictions that the creating local entity accepts.

Enacted by Chapter 360, 2008 General Session

17D-2-402 Requirements for lease agreements.

- (1) Each lease agreement between a local building authority and its creating local entity shall:

- (a) provide for the payment of lease payments sufficient:
 - (i) to pay:
 - (A) the principal of and interest on local building authority bonds the proceeds of which were used to construct, acquire, improve, or extend the project;
 - (B) all fees and expenses of trustees and paying agents for bonds described in Subsection (1)(a)(i)(A); and
 - (C) all costs of maintaining and operating the project; and
 - (ii) to accumulate any reasonable reserve that the local building authority considers necessary;
 - (b) provide that the creating local entity, if not in default under the lease agreement, may:
 - (i) subject to Subsection (2), renew the lease for a fixed term beyond the initial term by giving specified notice before the expiration of the initial term; and
 - (ii) subject to Subsection (3) and the terms of the lease agreement, purchase the leased property on a date fixed in the agreement;
 - (c) provide that a creating local entity under the lease agreement is not under any obligation:
 - (i) to purchase the leased property; or
 - (ii) to a creditor, shareholder, or security holder of the local building authority; and
 - (d) require that:
 - (i) title to the project vest in the creating local entity upon payment in full of all outstanding local building authority bonds issued to construct, acquire, improve, or extend a project; and
 - (ii) any remaining assets and net earnings of the local building authority be paid to the creating local entity upon dissolution of the local building authority, as provided in Section 17D-2-702.
- (2) The term of a lease agreement under this part, including any renewal of the lease agreement, may not exceed the lesser of:
- (a) the estimated useful life of the project, as certified under Subsection 17D-2-302(1); and
 - (b) 40 years.
- (3) The purchase price of leased property under Subsection (1)(b)(ii) may not exceed the project costs that the local building authority actually invested in the project.

Enacted by Chapter 360, 2008 General Session

17D-2-403 Provisions that a lease agreement may contain.

- (1) A lease agreement between a local building authority and its creating local entity may:
- (a) provide that the creating local entity, as part of the lease payments for the leased property:
 - (i) pay all taxes and assessments levied against or on account of the leased property or rentals from it;
 - (ii) maintain insurance on the leased property for the benefit of the local building authority and the holders of the local building authority's bonds; and
 - (iii) assume all responsibility for any repair, replacement, alteration, or improvement to the leased property during the term of the lease agreement; and
 - (b) authorize the local entity to sublease all or specified portions of a project to:
 - (i) the state;
 - (ii) another local entity; or
 - (iii) a private party, including a nonprofit corporation, if the local building authority or local entity:
 - (A) intends to own the project throughout the useful life of the project; and
 - (B) determines that the local building authority or local entity's ownership of the project furthers a legitimate public purpose.

- (2) A local entity that subleases some or all of a project under Subsection (1)(b) continues to be responsible for lease payments due under the lease agreement with the local building authority.

Enacted by Chapter 360, 2008 General Session

17D-2-404 Lease of local entity's site to local building authority.

- (1) A local entity desiring to have a local building authority construct a project for the use of the local entity upon a site that the local entity owns may lease the site to the local building authority for a nominal rental.
- (2) Each lease under Subsection (1) shall grant the local building authority an option to renew the lease on the same terms and conditions if, by the time of the expiration of the lease, the local building authority has not been fully repaid the project costs it actually invested in the project.
- (3) A lease under this section, including any renewal of the lease under Subsection (2), may not exceed the period specified in Subsection 17D-2-402(2).
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Project lease agreement" means a lease agreement between a local building authority and its creating local entity under which the local building authority leases to the creating local entity a project constructed on a site owned by the creating local entity.
 - (ii) "Site lease" means a creating local entity's lease of a site to a local building authority.
 - (b) A local entity that has entered into a site lease with a local building authority may grant the local building authority an option to purchase the site within six months after the termination of the creating local entity's lease payment obligation under the project lease agreement, to be exercised if the creating local entity under the project lease agreement:
 - (i) defaults under the terms of the project lease agreement; and
 - (ii) does not exercise its option to purchase the project under the terms of the project lease agreement.

Enacted by Chapter 360, 2008 General Session

17D-2-405 Default under a lease agreement.

If a local entity fails to pay a lease payment due to a local building authority under a lease agreement:

- (1) the local entity shall immediately quit and vacate the project;
- (2) the local entity's lease payment obligation under the lease agreement terminates; and
- (3) the local building authority may immediately lease the project according to the provisions of:
 - (a) the proceeding under which bonds to fund the project were authorized; and
 - (b) any mortgage given to secure the bonds.

Enacted by Chapter 360, 2008 General Session

**Part 5
Local Building Authority Bonds**

17D-2-501 Provisions applicable to issuance of local building authority bonds.

Except as otherwise provided in this chapter:

- (1) each local building authority that issues bonds shall:
 - (a) issue them as provided in Title 11, Chapter 14, Local Government Bonding Act, except Section 11-14-306; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act;
- (2) bonds issued by a local building authority are governed by and subject to Title 11, Chapter 14, Local Government Bonding Act, except Sections 11-14-306 and 11-14-403; and
- (3) each local building authority that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Enacted by Chapter 360, 2008 General Session

17D-2-502 Required process for issuance of local building authority bonds.

- (1) A local building authority may not issue bonds unless the creating local entity's governing body approves the issuance and terms of the bonds.
- (2)
 - (a) Before issuing bonds, the authority board of a local building authority shall give public notice of the authority board's intent to issue bonds.
 - (b)
 - (i) A local building authority may not issue bonds without the approval of the creating local entity's voters if, within 30 days after the notice under Subsection (2)(a) is given, a written petition requesting an election is filed with the local building authority, signed by at least 20% of the active voters, as defined in Section 20A-1-102, within the creating local entity.
 - (ii) Each election under Subsection (2)(b)(i) shall be held as provided in Title 11, Chapter 14, Local Government Bonding Act, in the same manner as an election for general obligation bonds issued by the creating local entity.

Enacted by Chapter 360, 2008 General Session

17D-2-503 Proceedings for the issuance of local building authority bonds.

The proceeding under which a local building authority is authorized to issue bonds under this part may:

- (1) contain any agreement or provision customarily contained in an instrument securing bonds, including a provision regarding:
 - (a) the fixing and collection of lease payments for a project covered by the bond proceeding;
 - (b) the terms to be incorporated in the lease agreement with respect to the project;
 - (c) the operation, maintenance, and insurance of the project;
 - (d) the creation and maintenance of a reserve fund from the proceeds of the sale of bonds or from lease payment revenue; and
 - (e) any rights and remedies available to the holders of the bonds or to the trustee, in the event of a default, that the authority board of the local building authority determines in accordance with this part;
- (2) provide for the appointment of a trust company or bank, located inside or outside the state, as trustee; and
- (3) provide that upon default in the payment of the principal of or interest on the bonds or in the performance of any covenant or agreement contained in the proceedings, the payment or performance may be enforced by the appointment of a receiver for the project, with power:
 - (a) to rent or lease some or all of the property;
 - (b) to charge and collect rent; and

- (c) to apply revenue from the project in accordance with the bond proceeding.

Enacted by Chapter 360, 2008 General Session

17D-2-504 Local building authority bonds payable solely from lease payments.

- (1) Except to the extent that they are secured as provided in Section 17D-2-505, bonds issued by a local building authority and interest on the bonds are payable solely from payments received under a lease agreement with the creating local entity with respect to the project that was financed with the bond proceeds.
- (2) Each bond issued by a local building authority shall recite on its face that the bond is payable as provided in Subsection (1).

Enacted by Chapter 360, 2008 General Session

17D-2-505 Security for local building authority bonds.

- (1) The principal of and interest on bonds that a local building authority issues under this part:
 - (a) shall be secured by a pledge and assignment of the revenue that the local building authority receives under its lease agreement with respect to the project that was financed with the bond proceeds;
 - (b) may be secured by:
 - (i) a mortgage covering some or all of the project;
 - (ii) a pledge and assignment of the lease agreement for that project;
 - (iii) money held in a reserve fund; and
 - (iv) any other security device with respect to the project that the local building authority considers most advantageous.
- (2) A proceeding under which a mortgage is given to secure the bonds of a local building authority may contain any agreement or provision listed in Section 17D-2-503 that could be contained in a proceeding under which a local building authority is authorized to issue bonds under this part.
- (3) A mortgage to secure bonds issued by a local building authority under this part may provide that:
 - (a) upon default in its payment or the violation of any covenant or agreement contained in the mortgage, the mortgage may be foreclosed in the manner permitted by law; and
 - (b) the trustee or holder of any bond secured by the mortgage may become the purchaser at a foreclosure sale, if the trustee or holder is the highest bidder.

Enacted by Chapter 360, 2008 General Session

17D-2-506 Other entities not responsible for local building authority bonds or breach of mortgage and other obligations.

- (1) Nothing in this part may be construed to require:
 - (a) the state or any political subdivision of the state to pay a bond issued under this part;
 - (b) the state or, except the creating local entity, any political subdivision of the state to pay any rent or lease payment due to a local building authority under the terms of a lease agreement; or
 - (c) the creating local entity to appropriate money to pay:
 - (i) principal of or interest on bonds issued by a local building authority; or
 - (ii) the lease payments under a lease agreement with the local building authority.

- (2) A breach of a mortgage or a covenant or agreement in a mortgage may not impose a general obligation or liability upon or a charge against:
- (a) the creating local entity; or
 - (b) the general credit or taxing power of the state or any political subdivision of the state.

Amended by Chapter 356, 2009 General Session

17D-2-507 Required provision in device securing payment of bonds.

Each mortgage, trust deed, security agreement, trust indenture, or other security device securing payment of bonds issued under this part shall provide that no deficiency judgment upon foreclosure may be entered against:

- (1) the local building authority;
- (2) the state; or
- (3) any political subdivision of the state.

Enacted by Chapter 360, 2008 General Session

Part 6
Contesting a Resolution or Proceeding

17D-2-601 Publishing notice of local entity or local building authority resolution or other proceeding.

- (1) The governing body of a local entity or the authority board of a local building authority may provide for the publication of a resolution or other proceeding adopted under this chapter by the governing body or authority board, respectively:
 - (a) in a newspaper of general circulation in the local entity; and
 - (b) as required in Section 45-1-101.
- (2)
 - (a) If the resolution or other proceeding provides for the local building authority's issuance of bonds, the authority board may, in lieu of publishing the entire resolution or other proceeding, publish a notice of the bonds to be issued.
 - (b) Each notice under Subsection (2)(a) shall comply with the requirements of Subsection 11-14-316(2).
 - (c) The authority board of a local building authority publishing a notice under Subsection (2)(a) shall make a copy of the resolution or other proceeding authorizing the issuance of the local building authority bonds available for public inspection during regular business hours at the office of the local building authority for a period of at least 30 days after publication of the notice.

Amended by Chapter 388, 2009 General Session

17D-2-602 Contesting the legality of a resolution or other proceeding -- No cause of action after contest period.

- (1) For a period of 30 days after publication of a resolution or other proceeding under Subsection 17D-2-601(1) or a notice under Subsection 17D-2-601(2), any person in interest may file an action in district court contesting the regularity, formality, or legality of:

- (a) a resolution or other proceeding;
 - (b) any bonds or a lease agreement authorized by a resolution or other proceeding; or
 - (c) any provision made for the security or payment of local building authority bonds or lease agreement.
- (2) After the period referred to in Subsection (1), no one may have a cause of action to contest for any reason the regularity, formality, or legality of any of the matters listed in Subsection (1).

Amended by Chapter 369, 2012 General Session

Part 7

Dissolution of Local Building Authority

17D-2-701 Local entity governing body may dissolve local building authority -- Limitation.

- (1) Subject to Subsection (2), the governing body of the creating local entity may at any time dissolve a local building authority created by the creating local entity, by following the procedures in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the dissolution of a nonprofit corporation.
- (2) A creating local entity's governing body may not dissolve a local building authority unless:
- (a)
 - (i) the principal, interest, and any redemption premium on all outstanding bonds of the local building authority are paid in full; and
 - (ii) all other obligations of the local building authority are paid in full; or
 - (b) the local building authority has made provision for the payment, when due, of all bond and other obligations described in Subsection (2)(a).

Enacted by Chapter 360, 2008 General Session

17D-2-702 Effect of dissolution.

Upon the dissolution of a local building authority:

- (1) title to all of the local building authority's projects vest in the creating local entity; and
- (2) all assets and net earnings of the local building authority remaining after the payment or providing for the payment of all local building authority bonds and other obligations shall be transferred to the creating local entity.

Enacted by Chapter 360, 2008 General Session

Chapter 3

Conservation District Act

Part 1

General Provisions

17D-3-101 Title.

This chapter is known as the "Conservation District Act."

Enacted by Chapter 360, 2008 General Session

17D-3-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Conservation Commission, created in Section 4-18-104.
- (2) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.
- (3) "Department" means the Department of Agriculture and Food, created in Section 4-2-1.

Amended by Chapter 227, 2013 General Session

17D-3-103 Conservation district status, authority, and duties.

- (1) A conservation district created under this chapter:
 - (a) is a body corporate and politic;
 - (b) is a political subdivision of the state; and
 - (c) may sue and be sued.
- (2)
 - (a) A conservation district may:
 - (i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;
 - (ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;
 - (iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;
 - (iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;
 - (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;
 - (vi) enter into a contract in the name of the conservation district;
 - (vii) receive money from:
 - (A) a federal or state agency;
 - (B) a county, municipality, or other political subdivision of the state; or
 - (C) a private source;
 - (viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:
 - (A) the observance of particular methods of cultivation;
 - (B) the use of specific crop programs and tillage practices;
 - (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;
 - (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and
 - (E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

- (ix) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;
 - (x) employ clerical and other staff personnel, including legal staff, subject to available funds; and
 - (xi) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.
- (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:
- (i) the land occupier; and
 - (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.
- (c)
- (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.
 - (ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.
- (3)
- (a) Each conservation district shall annually submit to the commission, no later than the date that the commission prescribes:
 - (i) a copy of the minutes of each conservation district meeting;
 - (ii) a copy of the conservation district's annual work plan; and
 - (iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).
 - (b) The accounting required under Subsection (3)(a)(iii) shall:
 - (i) be prepared by a disinterested person; and
 - (ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

Enacted by Chapter 360, 2008 General Session

17D-3-104 District court jurisdiction.

The district court in which a conservation district is located has jurisdiction to decide all cases and controversies involving the construction, application, or enforcement of land use ordinances within the conservation district.

Enacted by Chapter 360, 2008 General Session

17D-3-105 Conservation districts subject to other provisions.

- (1) A conservation district is, to the same extent as if it were a local district, subject to and governed by:
 - (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;
 - (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

- (c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;
 - (d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and
 - (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.
- (2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.

Amended by Chapter 189, 2014 General Session

17D-3-106 Fiscal year.

The fiscal year of a conservation district shall be, as determined by the commission:

- (1) the calendar year; or
- (2) a period beginning on July 1 and ending on the following June 30.

Enacted by Chapter 103, 2012 General Session

17D-3-107 Annual budget and financial reports requirements.

Upon agreement with the commission, the state auditor may modify:

- (1) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or
- (2) for filing a financial report, a requirement in Section 17B-1-639.

Enacted by Chapter 103, 2012 General Session

Part 2

Creation, Consolidation, Division, and Dissolution of Conservation Districts

17D-3-201 Commission authority to approve the creation, consolidation, division, and dissolution of conservation districts -- Notice and hearing requirements.

- (1) As provided in this part, the commission may:
 - (a) pursuant to a petition under Section 17D-3-202, approve the creation of a conservation district; or
 - (b) pursuant to a petition under Section 17D-3-202 or on its own motion, approve:
 - (i) the consolidation of two or more existing conservation districts;
 - (ii) the division of an existing conservation district into two or more conservation districts; or
 - (iii) the dissolution of an existing conservation district.
- (2) Before taking an action authorized under Subsection (1), the commission shall:
 - (a) cause notice of a hearing on the proposed creation, consolidation, division, or dissolution to be published:
 - (i) no more than 30 days after, as the case may be:
 - (A) the filing of a petition under Section 17D-3-202, for a proposed creation, consolidation, division, or dissolution; or
 - (B) adoption of the commission's own motion, for a proposed consolidation, division, or dissolution; and
 - (ii) within:
 - (A) for a proposed creation, the area of the proposed conservation district;

- (B) for a proposed consolidation, the area of each conservation district proposed to be consolidated; and
- (C) for a proposed division or dissolution, within the area of the conservation district proposed to be divided or dissolved; and
- (b) hold a public hearing on the desirability and necessity of the creation, consolidation, division, or dissolution.

Enacted by Chapter 360, 2008 General Session

17D-3-202 Petition to create conservation district -- Petition or commission motion to consolidate, divide, or dissolve conservation districts -- Petition requirements.

- (1) A petition to create a conservation district, to consolidate two or more existing conservation districts, or to divide or dissolve an existing conservation district may be filed by 25 or more land occupiers residing within:
 - (a) for the proposed creation of a conservation district, the area included within the proposed conservation district;
 - (b) for the proposed consolidation of existing conservation districts, the area included within the conservation districts proposed to be consolidated; or
 - (c) for the proposed division or dissolution of an existing conservation district, the area included within the conservation district proposed to be divided or dissolved.
- (2) Each petition under Subsection (1) shall be:
 - (a) in the form that the commission prescribes; and
 - (b) filed with the commission.

Enacted by Chapter 360, 2008 General Session

17D-3-203 Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and plat to lieutenant governor -- Recording requirements -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.

- (1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:
 - (a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;
 - (b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;
 - (c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;
 - (d) the relationship of the area of the proposed or existing conservation district or districts to existing watersheds and agricultural regions; and
 - (e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.
- (2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:
 - (a)
 - (i) disapprove the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, as the case may

- be, if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or
- (ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, as the case may be, if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and
- (b) set forth in writing the reasons for the commission's action.
- (3)
- (a) If the commission approves the creation, consolidation, division, or dissolution, the commission shall:
- (i) deliver to the lieutenant governor:
- (A) 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
- (B) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
- (ii) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:
- (A) if the conservation district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:
- (I) the original:
- (Aa) notice of an impending boundary action;
- (Bb) certificate of boundary action; and
- (Cc) except in the case of dissolution, approved final local entity plat; and
- (II) a certified copy of the document that the commission adopted approving the boundary action; or
- (B) if the conservation district is or, in the case of a dissolution, was located within the boundaries of more than a single county:
- (I) submit to the recorder of one of those counties:
- (Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
- (Bb) a certified copy of the document that the commission adopted approving the boundary action; and
- (II) submit to the recorder of each other county:
- (Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
- (Bb) a certified copy of the document that the commission adopted approving the boundary action.
- (b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, as the case may be, the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.
- (4) If the commission disapproves a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the conservation districts, as the case may be.

Amended by Chapter 350, 2009 General Session

17D-3-204 Commission action if conservation districts are consolidated, divided, or dissolved.

- (1) If two or more conservation districts are consolidated, the commission shall merge the assets and liabilities of the conservation districts that have been consolidated into the conservation district resulting from the consolidation.
- (2) If a conservation district is divided, the commission shall equitably divide the assets and liabilities of the divided conservation district between the conservation districts resulting from the division.
- (3) If a conservation district is dissolved, the commission shall wind up the affairs of the dissolved conservation district.

Enacted by Chapter 360, 2008 General Session

Part 3
Conservation District Board of Supervisors

17D-3-301 Board of supervisors -- Number -- Term -- Chair and officers -- Quorum -- Compensation.

- (1) Each conservation district shall be governed by a board of supervisors.
- (2)
 - (a) The board of supervisors of a conservation district consists of five members elected as provided in this part, at least three of whom shall be private agricultural land operators.
 - (b) If the board of supervisors divides the conservation district into watershed voting areas under Section 17D-3-308, at least one member of the board of supervisors shall reside within each watershed voting area.
- (3)
 - (a) The term of office of each member of a board of supervisors is four years.
 - (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:
 - (i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and
 - (ii)
 - (A) the commission shall hold an election, as provided in this part, for all board of supervisors members of the consolidated conservation district or divided conservation districts, as the case may be; and
 - (B) the term of the two candidates receiving the highest number of votes at an election under Subsection (3)(b)(ii)(A) shall be four years, and the term of the three candidates receiving the next highest number of votes shall be two years.
- (4) The board of supervisors shall elect a chair from among their number, and may elect other officers from among their number that the board considers necessary.
- (5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.

- (6) For performing official duties, each member of the board of supervisors of a conservation district shall receive:
- (a) compensation for travel and time, as fixed by the commission; and
 - (b) actual and necessary expenses.

Enacted by Chapter 360, 2008 General Session

17D-3-302 Board of supervisors members to be elected -- Candidates nominated by nominating committee or petition -- Candidate qualifications.

- (1) As provided in this part, each member of a board of supervisors of a conservation district shall be elected at large within the conservation district from candidates nominated by:
- (a) a nominating committee consisting of:
 - (i) the chair of the commission or council of the county in which the conservation district is located;
 - (ii) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;
 - (iii)
 - (A) the chair of the board of supervisors of the conservation district; or
 - (B) the chair's designee, if the chair wishes to be a candidate for reelection;
 - (iv) the agricultural extension service designated representative of the county in which the conservation district is located; or
 - (b) petition under Section 17D-3-304.
- (2) Each candidate for election to the board of supervisors of a conservation district shall be:
- (a) at least 18 years of age; and
 - (b) a resident within the conservation district.

Enacted by Chapter 360, 2008 General Session

17D-3-303 Nominating committee nomination of candidates for election to the board of supervisors.

The nominating committee under Subsection 17D-3-302(1)(a) shall:

- (1) nominate for each conservation district election a slate of candidates for election to the board of supervisors of the conservation district equal in number to at least one more than the number of board of supervisors members to be elected; and
- (2) submit the names of candidates to the commission no later than the date set by the commission as the close of nominations.

Enacted by Chapter 360, 2008 General Session

17D-3-304 Petition to nominate candidates for election to the board of supervisors.

- (1) A person may be nominated to be a candidate for election as a member of a board of supervisors of a conservation district by a petition filed with the commission no later than the date set by the commission as the close of nominations.
- (2) Each petition under Subsection (1) shall:
 - (a) state:
 - (i) the candidate's name;
 - (ii) that the candidate is at least 18 years of age; and

- (iii) that the candidate is a resident of the conservation district for which the election is to be held;
- (b) contain the signatures of at least six persons who reside and are registered voters within the conservation district; and
- (c) list the name, address, and voting precinct number of each person who signs the petition.

Enacted by Chapter 360, 2008 General Session

17D-3-305 Setting the date of an election of the board of supervisors -- Notice of the election.

- (1) The commission shall:
 - (a) set the date of the election of members of the board of supervisors of a conservation district; and
 - (b) publish notice of the election:
 - (i) in a newspaper or other media outlet method with general circulation within the conservation district; and
 - (ii) as required in Section 45-1-101.
- (2) The date set for an election under Subsection (1)(a) may not be later than six weeks after the date set by the commission for the close of nominations.
- (3) The notice required under Subsection (1)(b) shall:
 - (a) state:
 - (i) the date of the election;
 - (ii) the names of all candidates; and
 - (iii) that a ballot request form for the election may be obtained from the commission office or from any other place that the commission designates; and
 - (b) specify the address of the commission office or other place where a ballot request form may be obtained.

Amended by Chapter 388, 2009 General Session

17D-3-306 Eligibility to vote in an election for board of supervisors members.

A person is eligible to vote in an election of members of the board of supervisors of a conservation district if the person:

- (1)
 - (a) is a registered voter; and
 - (b) resides within the conservation district; or
- (2)
 - (a) owns or operates private agricultural land in the conservation district; and
 - (b)
 - (i) requests a ballot; or
 - (ii) has voted in one of the last two elections of the conservation district's board of supervisors members.

Enacted by Chapter 360, 2008 General Session

17D-3-307 Supervisor's election mailing list.

- (1) The commission and department shall establish and maintain for each conservation district a supervisor's election mailing list that contains the name and mailing address of each person eligible to vote in an election of board of supervisors members.
- (2) Before each election of board of supervisors members and if requested by the nominating committee under Subsection 17D-3-302(1), the commission shall deliver a copy of the supervisor's election mailing list to the nominating committee for the committee's review and approval.

Enacted by Chapter 360, 2008 General Session

17D-3-308 Watershed voting areas.

The board of supervisors of a conservation district may divide the conservation district into no more than three watershed voting areas.

Enacted by Chapter 360, 2008 General Session

17D-3-309 Election of board of supervisors members -- Ballots -- Commission duties regarding elections -- Election expenses.

- (1) The commission and department shall conduct by mail each election of members of the board of supervisors of a conservation district.
- (2)
 - (a) No later than five days before the date set for the election of board of supervisors members, the commission shall mail a ballot to each person listed on the supervisor's election mailing list under Section 17D-3-307.
 - (b) Each ballot shall:
 - (i) contain:
 - (A) the names of all nominees for board of supervisors members, listed in the order specified under Section 20A-6-305;
 - (B) a place for the voter to indicate the person or persons for whom the voter is voting; and
 - (C) instructions to the voter on how to mark the ballot to indicate the voter's vote; and
 - (ii) specify the date after which the ballot will not be accepted for purposes of the election.
- (3) The candidates equal in number to the number of board of supervisors positions available and receiving the highest number of votes are elected as members of the board of supervisors and take office on the date set by the commission for their terms to begin.
- (4) The commission shall:
 - (a) determine all questions of voter eligibility;
 - (b) certify the count and tally of ballots and votes cast; and
 - (c) declare and certify each board of supervisors member elected.
- (5) The department shall pay all expenses incident to an election of board of supervisors members.

Amended by Chapter 292, 2011 General Session

17D-3-310 Vacancies in the board of supervisors.

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall appoint a person to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

Enacted by Chapter 360, 2008 General Session

17D-3-311 Training for board members.

- (1) A member of a board of supervisors shall, within one year after taking office, complete the training described in Subsection (2).
- (2) The state auditor shall, with the assistance of the commission and an association that represents conservation districts, develop a training curriculum for a member of the board of supervisors and conduct the training.

Enacted by Chapter 103, 2012 General Session