

## **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    - (A) the area proposed to be withdrawn has been annexed by a municipality that receives from another special service district the service provided by the special service district from which the area is proposed to be withdrawn;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