

1 **NOTICE ON CREATION OR MODIFICATION**
2 **OF POLITICAL SUBDIVISIONS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: R. Mont Evans**

6 AN ACT RELATING TO CITIES, TOWNS, LOCAL TAXING UNITS, AND SPECIAL
7 DISTRICTS; REPEALING AND REENACTING PROVISIONS RELATING TO NOTICE
8 TO STATE TAX COMMISSION UPON CREATION OR BOUNDARY CHANGE OF CITY,
9 TOWN, SPECIAL DISTRICT, OR INTERLOCAL COOPERATION ENTITY AND
10 APPORTIONING TAX REVENUES; AND MAKING TECHNICAL CORRECTIONS.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **10-2-120**, as enacted by Chapter 389, Laws of Utah 1997

14 **10-2-121**, as enacted by Chapter 389, Laws of Utah 1997

15 **10-2-125**, as enacted by Chapter 389, Laws of Utah 1997

16 **10-2-408**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

17 **10-2-418**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

18 **10-2-419**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

19 **10-2-507**, as last amended by Chapter 132, Laws of Utah 1996

20 **10-2-611**, as last amended by Chapter 68, Laws of Utah 1984

21 **11-13-5.5**, as last amended by Chapter 234, Laws of Utah 1997

22 **11-13-5.6**, as enacted by Chapter 8, Laws of Utah 1982

23 ENACTS:

24 **10-1-116**, Utah Code Annotated 1953

25 **10-2-423**, Utah Code Annotated 1953

26 **10-2-424**, Utah Code Annotated 1953

27 **17A-1-102**, Utah Code Annotated 1953

1 REPEALS:

2 11-12-1, as last amended by Chapter 3, Laws of Utah 1988

3 11-12-2, as enacted by Chapter 31, Laws of Utah 1963

4 11-12-3, as last amended by Chapter 3, Laws of Utah 1988

5 11-12-4, as enacted by Chapter 190, Laws of Utah 1994

6 *Be it enacted by the Legislature of the state of Utah:*

7 Section 1. Section 10-1-116 is enacted to read:

8 **10-1-116. Notice to State Tax Commission after incorporation or boundary change**

9 **-- Tax rate on new property included in municipality.**

10 (1) The legislative body of each city or town that is incorporated or whose boundaries are
11 changed through annexation, boundary adjustment, disconnection, or consolidation on or after
12 May 4, 1998, shall, within 45 days of the incorporation or boundary change, file a written notice
13 of the incorporation or boundary change with the State Tax Commission.

14 (2) Each written notice required under Subsection (1) shall:

15 (a) be accompanied by:

16 (i) (A) in the case of an incorporation or consolidation, a copy of the articles of
17 incorporation after certification by the lieutenant governor;

18 (B) in the case of a boundary change through annexation or boundary adjustment, a copy
19 of the ordinance or resolution that effectuated the boundary change; or

20 (C) in the case of a disconnection, a copy of the amendment to the articles of incorporation
21 after certification by the lieutenant governor; and

22 (ii) a map or plat that delineates a metes and bounds description of the area affected and
23 evidence that the information has been recorded by the county recorder; and

24 (b) contain a certification by the municipal legislative body that all necessary legal
25 requirements relating to the incorporation or boundary change have been completed.

26 (3) Property included in a newly incorporated municipality or added to a municipality
27 through annexation or boundary adjustment shall carry the tax rate imposed by the municipality
28 if the notice required under Subsection (1) is filed with the State Tax Commission no later than
29 December 31 of the year § [before] DURING WHICH § the incorporation or boundary change

29a **§ OCCURS § .**

30 Section 2. Section 10-2-120 is amended to read:

31 **10-2-120. Alternative to filing articles of incorporation -- Powers of officers-elect.**

1 (1) (a) Before filing articles of incorporation, the mayor-elect of the future city may file
2 a verified notice of intention to file the articles of incorporation.

3 (b) The notice under Subsection (1)(a) shall contain:

4 (i) the name of the future city;

5 (ii) a geographical description of the new city;

6 (iii) the city's class according to population as defined in Section 10-2-301; and

7 (iv) the proposed date for filing the articles of incorporation.

8 (2) On receipt of the notice under Subsection (1), the lieutenant governor shall:

9 (a) certify the notice;

10 (b) deliver one copy of the notice to the clerk of the county in which the future city is
11 located; and

12 (c) return one copy of the notice to the mayor-elect.

13 (3) Upon the lieutenant governor's certification of the notice and until the future city
14 becomes legally incorporated, the officers of the future city may:

15 (a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act For Utah Cities,
16 a proposed budget and compilation of ordinances;

17 (b) negotiate and make personnel contracts and hirings;

18 (c) negotiate and make service contracts;

19 (d) file the notification required by [~~Section 11-12-3~~] Subsection 10-1-116(1);

20 (e) negotiate and make contracts to purchase equipment, materials, and supplies; and

21 (f) borrow funds from the county in which the future city is located under Subsection
22 10-2-121(3);

23 (g) borrow funds for startup expenses of the future municipality; and

24 (h) issue tax anticipation notes in the name of the future municipality.

25 (4) The city's legislative body shall review and ratify each contract made by the
26 officers-elect under Subsection (3) within 30 days of the effective date of incorporation under
27 Section 10-2-122.

28 Section 3. Section **10-2-121** is amended to read:

29 **10-2-121. Division of municipal-type services revenues -- County may provide**
30 **startup funds -- Filing of plat or map -- Notice requirements.**

31 (1) The county in which an area incorporating under this part is located shall, until the date

1 of the city's incorporation under Section 10-2-122, continue:

2 (a) to levy and collect ad valorem property tax and other revenues from or pertaining to
3 the future city; and

4 (b) except as otherwise agreed by the county and the officers-elect of the city after the
5 filing of the notice under Subsection 10-2-120(1), to provide the same services to the future city
6 as the county provided before the commencement of the incorporation proceedings.

7 (2) The legislative body of the county in which a newly incorporated city is located shall
8 share pro rata with the new city, based on the date of incorporation, the taxes and service charges
9 or fees levied and collected by the county under Section 17-34-3 during the year of the new city's
10 incorporation if and to the extent that the new city provides, by itself or by contract, the same
11 services for which the county levied and collected the taxes and service charges or fees.

12 (3) (a) The legislative body of a county in which an area incorporating under this part is
13 located may appropriate county funds to:

14 (i) before incorporation but after a notice under Subsection 10-2-120(1) is filed, the
15 officers-elect of the future city to pay startup expenses of the future city; or

16 (ii) after incorporation, the new city.

17 (b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant,
18 a loan, or as an advance against future distributions under Subsection (2).

19 (4) (a) Within 30 days of incorporation, the legislative body of the new city shall file with
20 the recorder of the county in which the new city is located a plat or map, prepared by a licensed
21 surveyor, showing the boundaries of the new city.

22 (b) The legislative body of the new city shall comply with the notice requirements of
23 Section 10-1-116.

24 Section 4. Section **10-2-125** is amended to read:

25 **10-2-125. Incorporation of a town.**

26 (1) A contiguous area of a county not within a municipality, with a population of at least
27 100 but not more than 800, may incorporate as a town as provided in this section.

28 (2) (a) The process to incorporate an area as a town is initiated by filing a petition with the
29 clerk of the county in which the area is located.

30 (b) Each petition under Subsection (2)(a) shall:

31 (i) be signed by the owners of private real property that:

- 1 (A) is located within the area proposed to be incorporated;
- 2 (B) covers a majority of the total private land area within the area; and
- 3 (C) is equal in value to at least 1/3 of the value of all private real property within the area;

4 and

- 5 (ii) state the legal description of the boundaries of the area proposed to be incorporated as
- 6 a town.

7 (c) A petition under this section may not describe an area that includes some or all of an

8 area proposed for annexation in an annexation petition under Section 10-2-403 that:

- 9 (i) was filed before the filing of the petition; and
- 10 (ii) is still pending on the date the petition is filed.

11 (3) Section 10-2-104 applies to a petition for incorporation as a town, except that the

12 notice under Subsection 10-2-104(1) shall be sent within seven calendar days of the filing of a

13 petition under Subsection (2).

14 (4) (a) A county legislative body may treat a petition filed under Subsection (2) as a

15 request for a feasibility study under Section 10-2-103 and process it as a request under that section

16 would be processed under this part to determine whether the feasibility study results meet the

17 requirements of Subsection 10-2-109(3).

18 (b) If the results of a feasibility study under Subsection (4)(a) do not meet the requirements

19 of Subsection 10-2-109(3), the county legislative body may not approve the incorporation petition.

20 (c) If the results of the feasibility study under Subsection (4)(a) meet the requirements of

21 Subsection 10-2-109(3), the county legislative body may approve the incorporation petition, if the

22 county legislative body determines that the incorporation is in the best interests of the citizens of

23 the county and the proposed town.

24 (5) Upon approval of a petition filed under Subsection (2), the legislative body of the

25 county in which the proposed town is located shall appoint a mayor and members of the town

26 council who shall hold office until the next regular municipal election and until their successors

27 are elected and qualified.

28 (6) (a) (i) Each mayor appointed under Subsection (5) shall, within seven days of

29 appointment, file articles of incorporation of the new town with the lieutenant governor.

30 (ii) The articles of incorporation shall meet the requirements of Subsection 10-2-119(2).

31 (b) Within ten days of receipt of the articles of incorporation, the lieutenant governor shall:

- 1 (i) certify the articles of incorporation;
- 2 (ii) return a copy of the articles of incorporation to the appointed mayor; and
- 3 (iii) send a copy of the articles of incorporation to the recorder of the county in which the
- 4 town is located.

5 (7) A town is incorporated upon the lieutenant governor's certification of the articles of

6 incorporation.

7 (8) (a) Within 30 days of incorporation, the legislative body of the new town shall file with

8 the recorder of the county in which the new town is located a plat or map, prepared by a licensed

9 surveyor, showing the boundaries of the town.

10 (b) The legislative body of the new town shall comply with the notice requirements of

11 Section 10-1-116.

12 Section 5. Section **10-2-408** is amended to read:

13 **10-2-408. Denial of or granting the annexation petition.**

14 [(H)] After receipt of the commission's decision on a protest under Subsection 10-2-416(2),

15 a municipal legislative body may:

16 [(a)] (1) deny the annexation petition; or

17 [(b)] (2) if the commission approves the annexation, grant the annexation petition and, by

18 ordinance and consistent with the commission's decision, annex the area that is the subject of the

19 annexation petition.

20 [~~(2) Within 30 days after enacting an ordinance annexing an unincorporated area, the~~

21 ~~municipal legislative body shall file with the recorder of the county in which the area is located~~

22 ~~a plat or map, prepared by a licensed surveyor, showing the new boundaries of the municipality.]~~

23 Section 6. Section **10-2-418** is amended to read:

24 **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**

25 **Hearing.**

26 (1) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an

27 unincorporated area under this section without an annexation petition if:

- 28 (i) the annexation is of an island within or a peninsula contiguous to the municipality;
- 29 (ii) the majority of the area consists of residential or commercial development;
- 30 (iii) the area proposed for annexation requires the delivery of municipal-type services; and
- 31 (iv) the municipality has provided most or all of the municipal-type services to the area

1 for more than one year.

2 (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion
3 of an island or peninsula under this section, leaving unincorporated the remainder of the
4 unincorporated island or peninsula, if, in adopting the resolution under Subsection (2)(a)(i), the
5 municipal legislative body determines that not annexing the entire unincorporated island or
6 peninsula is in the municipality's best interest.

7 (2) (a) The municipal legislative body of a municipality intending to annex an area under
8 this section shall:

9 (i) adopt a resolution indicating the municipal legislative body's intent to annex the area,
10 describing the area proposed to be annexed;

11 (ii) (A) publish notice at least once a week for three successive weeks in a newspaper of
12 general circulation within the municipality and the area proposed for annexation; or

13 (B) if there is no newspaper of general circulation in the areas described in Subsection
14 (2)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most
15 likely to give notice to the residents of those areas;

16 (iii) send written notice to the board of each special district whose boundaries contain
17 some or all of the area proposed for annexation and to the legislative body of the county in which
18 the area proposed for annexation is located; and

19 (iv) hold a public hearing on the proposed annexation no earlier than 60 days after the
20 adoption of the resolution under Subsection (2)(a)(i).

21 (b) The notice under Subsections (2)(a)(ii) and (iii) shall:

22 (i) state that the municipal legislative body has adopted a resolution indicating its intent
23 to annex the area proposed for annexation;

24 (ii) state the date, time, and place of the public hearing under Subsection (2)(a)(iv);

25 (iii) describe the area proposed for annexation; and

26 (iv) state in conspicuous and plain terms that the municipal legislative body will annex the
27 area unless, at or before the public hearing under Subsection (2)(a)(iv), written protests to the
28 annexation are filed by the owners of private real property that:

29 (A) is located within the area proposed for annexation;

30 (B) covers a majority of the total private land area within the area proposed for annexation;

31 and

1 (C) is equal in value to at least 1/3 the value of all private real property within the area
2 proposed for annexation.

3 (c) The first publication of the notice required under Subsection (2)(a)(ii)(A) shall be
4 within 14 days of the municipal legislative body's adoption of a resolution under Subsection
5 (2)(a)(i).

6 (3) Upon conclusion of the public hearing under Subsection (2)(a)(iv), the municipal
7 legislative body may adopt an ordinance annexing the area proposed for annexation under this
8 section unless, at or before the hearing, written protests to the annexation have been filed with the
9 city recorder or town clerk, as the case may be, by the owners of private real property that:

10 (a) is located within the area proposed for annexation;

11 (b) covers a majority of the total private land area within the area proposed for annexation;
12 and

13 (c) is equal in value to at least 1/3 the value of all private real property within the area
14 proposed for annexation.

15 [~~4) Within 30 days of the adoption of an ordinance of annexation under Subsection (3),~~
16 ~~the municipal legislative body shall file with the recorder of the county in which the annexed area~~
17 ~~is located a plat or map, prepared by a licensed surveyor, showing the new boundary.]~~

18 Section 7. Section **10-2-419** is amended to read:

19 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

20 (1) The legislative bodies of two or more municipalities having common boundaries may
21 adjust their common boundaries as provided in this section.

22 (2) (a) The legislative body of each municipality intending to adjust a boundary that is
23 common with another municipality shall:

24 (i) adopt a resolution indicating the intent of the municipal legislative body to adjust a
25 common boundary;

26 (ii) hold a public hearing on the proposed adjustment no less than 60 days after the
27 adoption of the resolution under Subsection (2)(a)(i); and

28 (iii) (A) publish notice at least once a week for three successive weeks in a newspaper of
29 general circulation within the municipality; or

30 (B) if there is no newspaper of general circulation within the municipality, post at least one
31 notice per 1,000 population in places within the municipality that are most likely to give notice

1 to residents of the municipality.

2 (b) The notice required under Subsection (2)(a)(iii) shall:

3 (i) state that the municipal legislative body has adopted a resolution indicating the
4 municipal legislative body's intent to adjust a boundary that the municipality has in common with
5 another municipality;

6 (ii) describe the area proposed to be adjusted;

7 (iii) state the date, time, and place of the public hearing required under Subsection
8 (2)(a)(ii); and

9 (iv) state in conspicuous and plain terms that the municipal legislative body will adjust the
10 boundaries unless, at or before the public hearing under Subsection (2)(a)(ii), written protests to
11 the adjustment are filed by the owners of private real property that:

12 (A) is located within the area proposed for adjustment;

13 (B) covers at least 25% of the total private land area within the area proposed for
14 adjustment; and

15 (C) is equal in value to at least 15% of the value of all private real property within the area
16 proposed for adjustment.

17 (c) The first publication of the notice required under Subsection (2)(a)(iii)(A) shall be
18 within 14 days of the municipal legislative body's adoption of a resolution under Subsection
19 (2)(a)(i).

20 (3) Upon conclusion of the public hearing under Subsection (2)(a)(ii), the municipal
21 legislative body may adopt an ordinance adjusting the common boundary unless, at or before the
22 hearing under Subsection (2)(a)(ii), written protests to the adjustment have been filed with the city
23 recorder or town clerk, as the case may be, by the owners of private real property that:

24 (a) is located within the area proposed for adjustment;

25 (b) covers at least 25% of the total private land area within the area proposed for
26 adjustment; and

27 (c) is equal in value to at least 15% of the value of all private real property within the area
28 proposed for adjustment.

29 (4) An ordinance adopted under Subsection (3) becomes effective when each municipality
30 involved in the boundary adjustment has adopted an ordinance under Subsection (3).

31 [~~5) Within 30 days of adjusting a boundary under this section, the municipalities shall file~~

1 with the recorder of the county in which the area of the boundary adjustment is located a plat or
2 map, prepared by a licensed surveyor, showing the new common boundary.]

3 Section 8. Section **10-2-423** is enacted to read:

4 **10-2-423. Filing of plat or map -- Notice requirements.**

5 (1) Within 30 days after enacting an ordinance annexing an unincorporated area or
6 adjusting a boundary under this part, the municipal legislative body shall file with the county
7 recorder a plat or map, prepared by a licensed surveyor, showing the new boundaries of the
8 affected area.

9 (2) The municipal legislative body shall comply with the notice requirements of Section
10 10-1-116.

11 Section 9. Section **10-2-424** is enacted to read:

12 **10-2-424. Division of municipal-type services revenues.**

13 (1) The legislative body of the county in which an area proposed for annexation under this
14 part is located shall, until the date of annexation, continue:

15 (a) to levy and collect ad valorem property tax and other revenues from or pertaining to
16 the area; and

17 (b) except as otherwise agreed by the county legislative body and the municipal legislative
18 body, to provide the same services to the area proposed for annexation as the county provided
19 before the commencement of the annexation proceedings.

20 (2) § (a) § The legislative body of the county in which an area proposed for annexation is
20a located

21 shall, after annexation, share pro rata with the annexing municipality § [~~based on the date of~~
22 annexation,] § the taxes and service charges or fees levied and collected by the county under Section
23 17-34-3 during the year of the annexation if and to the extent that the annexing municipality
24 provides, by itself or by contract, the same services for which the county levied and collected the
25 taxes and service charges or fees.

25a **§ (b) THE PRO RATA ALLOCATION OF TAXES UNDER SUBSECTION (2)(a) SHALL BE BASED**
25b **ON THE DATE OF ANNEXATION, AND THE PRO RATA ALLOCATION OF SERVICE CHARGES AND**
25c **FEEES SHALL BE BASED ON THE PROPORTION OF SERVICES RELATED TO THE SERVICE CHARGES**
25d **AND FEES THAT REMAIN TO BE RENDERED AFTER ANNEXATION. §**

26 Section 10. Section **10-2-507** is amended to read:

27 **10-2-507. Decree -- Filing of documents -- Notice requirements.**

28 (1) Upon entering a disconnection order, the court shall file a certified copy of the order
29 and a transparent reproducible copy of the map or plat in the county recorder's office.

30 (2) Within 30 calendar days of the court's disconnection order, the municipality shall file
31 amended articles of incorporation in the lieutenant governor's and county recorder's offices.

- 1 (3) The amended articles of incorporation shall:
- 2 (a) describe the postdisconnection geography of the municipality; and
- 3 (b) specify the postdisconnection population of the municipality.
- 4 (4) Any cost incurred by the municipality in complying with this section may be charged
- 5 against the disconnected territory.

6 (5) The legislative body of each municipality that has had territory disconnected shall
7 comply with the notice requirements of Section 10-1-116.

8 Section 11. Section **10-2-611** is amended to read:

9 **10-2-611. When incorporation complete -- Disincorporation of original**
10 **municipalities.**

11 (1) On filing the articles of consolidation with the lieutenant governor, the incorporation
12 of the new municipality shall be complete and the original municipalities involved in the
13 consolidation shall be [~~deemed~~] considered to be disincorporated.

14 (2) The legislative body of the new municipality shall comply with the notice requirements
15 of Section 10-1-116.

16 Section 12. Section **11-13-5.5** is amended to read:

17 **11-13-5.5. Contract by public agencies to create new entities to provide services --**
18 **Powers and duties of new entities -- Generation of electricity.**

19 (1) Any two or more public agencies of Utah may agree to create a separate legal or
20 administrative entity to accomplish the purpose of their joint or cooperative action, including the
21 undertaking and financing of a facility or improvement to provide the service contemplated by that
22 agreement.

23 (2) (a) The separate legal or administrative entity created under the authority of this section
24 is a political subdivision of Utah and may:

25 (i) own, acquire, construct, operate, maintain, and repair or cause to be constructed,
26 operated, maintained, and repaired any facility or improvement set forth in the agreement;

27 (ii) borrow money, incur indebtedness, and issue revenue bonds or notes for the purposes
28 for which it was created;

29 (iii) offer, issue, and sell warrants, options, or other rights related to:

30 (A) the bonds or notes issued by the entity; and

31 (B) any rights or interests pertaining to the bonds or notes;

1 (iv) assign, pledge, or otherwise convey as security for the payment of any bonded
2 indebtedness, the revenues, and receipts from the facility, improvement, or service; or

3 (v) sell or contract for the sale of the product of the service or other benefits from the
4 facility or improvement to public agencies within or without the state on whatever terms that it
5 considers to be in the best interest of its participants.

6 (b) The assignment, pledge, or other conveyance specified in Subsection (2)(a)(iii) may
7 rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the
8 state or its political subdivisions.

9 (3) (a) Any entity formed to construct any electrical generation facility shall, at least 150
10 days before adoption of the bond resolution for financing the project, offer to enter into firm or
11 withdrawable power sales contracts to suppliers of electric energy within Utah who are existing
12 and furnishing services in this state at the time that the offer is made.

13 (b) That offer must be:

14 (i) accepted within 120 days from the date offered or it will be considered rejected; and

15 (ii) for not less than 50% of its energy output.

16 (c) The demand by those electric energy suppliers or the amounts deliverable to any
17 electric energy supplier or a combination of them may not exceed the amount allowable by the
18 United States Internal Revenue Service in a way that would result in a change in or a loss of the
19 tax exemption from federal income tax for the interest paid, or to be paid, under any bonds or
20 indebtedness created or incurred by any entity formed under this section.

21 (d) For any electrical generation facility, the amount of energy output available within this
22 state may not be less than 5% of the total output.

23 (4) Subsection (3) applies only to the construction and operation of a facility to generate
24 electricity.

25 (5) Any entity formed to construct and operate facilities for the generation of electricity
26 and any entity formed to facilitate the transmission or supply of electrical power under this section
27 may include within the agreement creating the entity provisions authorizing any public agency
28 located within a contiguous state to:

29 (a) participate as a member of the project entity if it enters into an agreement in accordance
30 with Section 11-13-11; and

31 (b) vote on any issues affecting that public agency's interests, if the public agency enters

1 into the agreement required by Subsection (5)(a).

2 (6) (a) The governing authority of each entity created under this section on or after May
3 4, 1998, shall, within 30 days of the creation, file a written notice of the creation with the State Tax
4 Commission.

5 (b) Each written notice required under Subsection (6)(a) shall:

6 (i) be accompanied by:

7 (A) a copy of the agreement creating the entity; and

8 (B) a map or plat that delineates a metes and bounds description of the area affected and
9 evidence that the information has been recorded by the county recorder; and

10 (ii) contain a certification by the governing authority that all necessary legal requirements
11 relating to the creation have been completed.

12 Section 13. Section **11-13-5.6** is amended to read:

13 **11-13-5.6. Contract by public agencies to create new entities to own sewage and**
14 **wastewater facilities -- Powers and duties of new entities -- Validation of previously created**
15 **entities.**

16 (1) It is declared that the policy of the state [~~of Utah~~] is to assure the health, safety, and
17 welfare of its citizens, that adequate sewage and wastewater treatment plants and facilities are
18 essential to the well-being of the citizens of the state and that the acquisition of adequate sewage
19 and wastewater treatment plants and facilities on a regional basis in accordance with federal law
20 and state and federal water quality standards and effluent standards in order to provide services to
21 public agencies is a matter of statewide concern and is in the public interest. It is found and
22 declared that there is a statewide need to provide for regional sewage and wastewater treatment
23 plants and facilities, and as a matter of express legislative determination it is declared that the
24 compelling need of the state for construction of regional sewage and wastewater treatment plants
25 and facilities requires the creation of entities under the Interlocal Cooperation Act to own,
26 construct, operate, and finance sewage and wastewater treatment plants and facilities; and it is the
27 purpose of this law to provide for the accomplishment thereof in the manner provided in this
28 section [~~11-13-5.6~~].

29 (2) Any two or more public agencies of the state [~~of Utah~~] may also agree to create a
30 separate legal or administrative entity to accomplish and undertake the purpose of owning,
31 acquiring, constructing, financing, operating, maintaining, and repairing regional sewage and

1 wastewater treatment plants and facilities.

2 (3) A separate legal or administrative entity created in the manner provided herein is
3 [~~deemed~~] considered to be a political subdivision and body politic and corporate of the state [of
4 Utah] with power to carry out and effectuate its corporate powers, including, but not limited to,
5 the [following] power:

6 (a) to adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for
7 the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to
8 have an official seal and power to alter that seal at will, and to make and execute contracts and all
9 other instruments necessary or convenient for the performance of its duties and the exercise of its
10 powers and functions under the Interlocal Cooperation Act[-];

11 (b) to own, acquire, construct, operate, maintain, repair, or cause to be constructed,
12 operated, maintained, and repaired one or more regional sewage and wastewater treatment plants
13 and facilities, all as shall be set forth in the agreement providing for its creation[-];

14 (c) to borrow money, incur indebtedness and issue revenue bonds, notes or other
15 obligations payable solely from the revenues and receipts derived from all or a portion of the
16 regional sewage and wastewater treatment plants and facilities which it owns, operates, and
17 maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the
18 provisions of the Utah Municipal Bond Act[-];

19 (d) to enter into agreements with public agencies and other parties and entities to provide
20 sewage and wastewater treatment services on such terms and conditions as it [~~deems~~] considers
21 to be in the best interests of its participants[-]; and

22 (e) to acquire by purchase or by exercise of the power of eminent domain, any real or
23 personal property in connection with the acquisition and construction of any sewage and
24 wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and
25 maintains.

26 (4) The provisions of Sections 11-13-25, 11-13-26, 11-13-27, 11-13-28, 11-13-29,
27 11-13-30, 11-13-31, 11-13-32, 11-13-33, 11-13-34, 11-13-35, and 11-13-36 shall not apply to a
28 legal or administrative entity created for regional sewage and wastewater treatment purposes under
29 this section [11-13-5.6].

30 (5) All proceedings previously had in connection with the creation of any legal or
31 administrative entity pursuant to this chapter, and all proceedings previously had by any such

1 entity for the authorization and issuance of bonds of the entity are validated, ratified, and
2 confirmed; and these entities are declared to be validly created interlocal cooperation entities under
3 this chapter. These bonds, whether previously or subsequently issued pursuant to these
4 proceedings, are validated, ratified, and confirmed and declared to constitute, if previously issued,
5 or when issued, the valid and legally binding obligations of the entity in accordance with their
6 terms. Nothing in this section shall be construed to affect or validate any bonds, or the organization
7 of any entity, the legality of which is being contested at the time this act takes effect.

8 (6) (a) The governing authority of each entity created under this section on or after May
9 4, 1998, shall, within 30 days of the creation, file a written notice of the creation with the State Tax
10 Commission.

11 (b) Each written notice required under Subsection (6)(a) shall:

12 (i) be accompanied by:

13 (A) a copy of the agreement creating the entity; and

14 (B) a map or plat that delineates a metes and bounds description of the area affected and
15 evidence that the information has been recorded by the county recorder; and

16 (ii) contain a certification by the governing authority that all necessary legal requirements
17 relating to the creation have been completed.

18 Section 14. Section **17A-1-102** is enacted to read:

19 **Part 1. General Provisions**

20 **17A-1-102. Notice to State Tax Commission -- Tax rate on new property included in**
21 **the special district.**

22 (1) (a) Except as provided in Subsection (1)(b), the legislative body of each county, city,
23 or town that creates a special district on or after May 4, 1998, shall, within 60 days of the special
24 district's creation, file a written notice of the creation with the State Tax Commission.

25 (b) Notwithstanding Subsection (1)(a), the board of each special district created on or after
26 May 4, 1998, shall, within 60 days of the special district's creation, file a written notice of the
27 creation with the State Tax Commission, if the special district was created by other than a county,
28 city, or town.

29 (2) The board of each special district whose boundaries change through annexation,
30 consolidation, or any other means, shall, within 60 days of the change, file a written notice of the
31 change with the State Tax Commission.

(3) Each written notice required under Subsection (1) or (2) shall:

(a) be accompanied by:

(i) a copy of the ordinance, resolution, or other document that effectuated the creation of the special district or the boundary change; and

(ii) a map or plat that delineates a metes and bounds description of the area affected and evidence that the information has been recorded by the county recorder; and

(b) contain a certification by the legislative body of the county, city, or town or the special district board, as the case may be, that all necessary legal requirements relating to the creation or boundary change have been completed.

(4) Property included in a newly created special district or added to a special district through a boundary change shall carry the tax rate imposed by the special district if the notice required under Subsection (1) is filed with the State Tax Commission no later than December 31 of the year § [before] DURING WHICH § the creation or boundary change § OCCURS § .

§ SECTION 15. COORDINATION CLAUSE.

IF THIS BILL AND H.B. 88, RECORDING OF DOCUMENTS, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT SECTION 10-2-408 SHALL READ AS PROVIDED IN THIS BILL AND THAT SUBSECTION 10-2-423(1) SHALL READ:

(1) WITHIN 30 DAYS AFTER ENACTING AN ORDINANCE ANNEXING AN UNINCORPORATED AREA OR ADJUSTING A BOUNDARY UNDER THIS PART, THE MUNICIPAL LEGISLATIVE BODY SHALL RECORD WITH THE COUNTY RECORDER A CERTIFIED COPY OF THE ORDINANCE APPROVING THE ANNEXATION OR BOUNDARY ADJUSTMENT, TOGETHER WITH A PLAT OR MAP PREPARED BY A LICENSED SURVEYOR AND APPROVED BY THE MUNICIPAL LEGISLATIVE BODY, SHOWING THE NEW BOUNDARIES OF THE AFFECTED AREA. §

Section ~~§ [15]~~ **16 § . Repealer.**

This act repeals:

Section 11-12-1, Incorporation, establishment or modification of boundaries of political subdivisions -- Notice to tax commission.

Section 11-12-2, Definitions.

Section 11-12-3, Definitions.

Section 11-12-4, Definitions.

Legislative Review Note
as of 1-9-98 9:07 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

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