

SPECIAL DISTRICT AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

This act modifies provisions relating to Special Districts to include, for a first class county, the providing, operating, and maintaining of jails among the services that special service districts are authorized to provide. The act requires the number of members of an administrative control board for a special service district providing jail service to be increased. The act restricts funding for a special service district providing jail service to a property tax. The act modifies provisions relating to municipal jails. This act also makes technical changes.

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

AMENDS:

10-8-58, as last amended by Chapter 227, Laws of Utah 1993

17A-2-1304, as last amended by Chapter 46, Laws of Utah 2000

17A-2-1320, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1322, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1326, as last amended by Chapter 254, Laws of Utah 2000

59-2-924, as last amended by Chapters 22, 61, 141 and 199, Laws of Utah 2000

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

Section 1. Section **10-8-58** is amended to read:

10-8-58. Jails and workhouses -- Establishment and maintenance.

The governing body of a city or town may:

(1) establish, erect, and maintain city jails, houses of correction, and workhouses for the temporary confinement, not to exceed 72 hours, of persons convicted of violating any city ordinances;

(2) make rules for the government of them;

(3) appoint necessary jailers and keepers; and

(4) use the county jail for the confinement or punishment of offenders, subject to any

conditions that are imposed by law, and with the consent of the county legislative body.

Section 2. Section **17A-2-1304** is amended to read:

17A-2-1304. Establishing special service districts -- Improvement districts within special service districts.

(1) (a) A county or a municipality may establish a special service district for the purpose of providing within the area of the special service district any of the following services or any combination of them:

- (i) water;
- (ii) sewerage;
- (iii) drainage;
- (iv) flood control;
- (v) garbage;
- (vi) health care;
- (vii) transportation;
- (viii) recreation;
- (ix) fire protection;

(x) in a county of the first class, providing, operating, and maintaining jail facilities for the confinement of municipal, state, and other detainees and prisoners;

~~[(x)]~~ (xi) street lighting; and

~~[(xi)]~~ (xii) consolidated 911 and emergency dispatch.

(b) Snow removal services may be provided in special service districts established under this section to more effectively carry out the purposes of those special service districts.

(c) These services may be provided through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift, or condemnation or any combination of the above.

(d) ~~[Service]~~ Special service districts may contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district.

(2) (a) The area within any special service district may include all or any part of the county or municipality that established it except that:

(i) a special service district may not include the area of any other special service district established by the same county or municipality that is now providing the same service proposed to be supplied by the new special service district;

(ii) a special service district established by a county may contain all or a part of any municipality or of an existing improvement district that provides the same service proposed to be provided by the special service district, but only with the consent of the governing authority as provided in a resolution or ordinance adopted by the governing authority; and

(iii) a special service district may not include any area not directly benefited by the services provided under this section without the consent of the nonbenefited landowner.

(b) All parts of a special service district need not be contiguous.

(3) (a) As provided in Section 17A-2-1315, the governing authority of any special service district created under this part may create one or more improvement districts within the boundaries of the special service district by following the procedures in, and meeting the requirements of, Chapter 3, Part 2, County Improvement District Act, or Part 3, Utah Municipal Improvement District Act.

(b) The intent to create an improvement district need not be present at the time a special service district is organized.

(c) Any improvement district created within the boundaries of a special service district may only be organized to undertake projects or improvements for which the special service district creating that improvement district was organized.

(d) The special service district shall meet all procedural requirements for creating an improvement district at the time the improvement district is created, as provided in Section 17A-2-1315 and in Chapter 3, Part 2, County Improvement District Act, or Part 3, Utah Municipal Improvement District Act.

(e) In determining whether or not a project or improvement undertaken by an improvement district is within the scope of the purposes for which the special service district creating that

improvement district was organized, any project or improvement reasonably related to the purposes for which the special service district creating that improvement district was organized is considered to be within the scope of those purposes.

(4) The creation of a special service district to provide jail services as provided in Subsection (1)(a)(x) 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.

Section 3. Section **17A-2-1320** is amended to read:

17A-2-1320. Fees or charges -- Penalties for delinquencies.

(1) (a) [~~The~~] Except as provided in Subsection (3), the governing authority of a service district may enact a resolution or ordinance that imposes fees or charges for any commodities, services, or facilities provided by the service district.

(b) (i) The governing authority may collect those fees or charges, and may pledge all or part of the revenues from those fees and charges to the payment of any bonds issued by the service district, whether the bonds are issued as revenue bonds, guaranteed bonds, or as general obligations of the district.

(ii) When revenue bonds are issued payable solely from the fees and charges authorized by this subsection, the fees and charges shall be sufficient to carry out any provisions of the resolution or ordinance authorizing the issuance of the revenue bonds, including provisions for payment of the principal of and interest on the bonds, the operation and maintenance of the facilities, and the establishment and maintenance of appropriate reserve funds while these bonds are outstanding.

(2) (a) The governing authority may adopt rules to assure the proper collection and enforcement of all fees and charges imposed by this section.

(b) (i) The governing authority may assess and collect penalties and interest if the fees and charges are not paid when due.

(ii) Any penalty or interest on delinquent charges assessed under the authority of this subsection shall be the same as applied to delinquent real property taxes for the year in which the fee or charge became delinquent.

(c) When more than one commodity, service, or facility is furnished by the district, the fees and charges for all commodities, services, and facilities may be billed to the user in a single bill.

(d) All or any of the commodities, services, and facilities furnished to a user by the service district may be suspended if any fees or charges due the service district are not paid in full when due.

(3) A special service district that provides jail service as provided in Subsection 17A-2-1304(1)(a)(x) may not impose any fee or charge under this section for the service it provides.

Section 4. Section **17A-2-1322** is amended to read:

17A-2-1322. Tax levy and bonds -- Approval by majority of electors voting in election -- Procedure for election.

(1) The governing authority of a county or municipality which has established a service district may levy a tax on all taxable property within the service district in addition to all other taxes on such property levied or imposed by the county or municipality or by any other public corporation, district, or political subdivision in which the service district is located, and may also issue bonds payable in whole or in part from these taxes. No tax may be levied and no bonds or guaranteed bonds shall be issued, however, unless authorized, except as otherwise provided in Section 17A-2-1325, by a majority of the qualified electors of the service district voting at an election for that purpose held as provided in this section.

(2) The proposition to levy the tax or to issue the bonds shall be submitted to the qualified electors of the service district at an election called and held and for which notice is given in the same manner as is provided in ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act, for the holding of bond elections. The proposition shall state the purpose or purposes for which the taxes are to be levied or the bonds are to be issued. In addition, a proposition for the issuance of bonds shall state the maximum amount of bonds to be issued, the maximum number of years from their respective dates for which the bonds may run, and, if the bonds are to be payable in whole or in part from taxes, that fact and that taxes may be levied on all taxable property in the service district to pay the principal of and interest on the bonds. The purpose or purposes may be stated in general terms and need not specify the particular projects or services for which the taxes are to be levied or the bonds are to be issued nor the specific amount of the proceeds of the taxes or of the bonds to be expended

for each project or service. If bonds are to be payable in part from tax proceeds and in part from the operating revenues of the service district or from any combination of them, the proposition shall so indicate but need not specify how the bonds are to be divided as to source of payment. If the bonds are to be issued as guaranteed bonds, the proposition shall also clearly state that fact together with the name or names of the guarantors. A proposition for the levy of taxes and for the issuance of bonds may be combined as a single proposition.

(3) (a) A tax levied under this section shall be the sole source of funding for a special service district that provides jail service as provided in Subsection 17A-2-1304(1)(a)(x).

(b) Each tax levied under this section for a special service district that provides jail service as provided in Subsection 17A-2-1304(1)(a)(x) shall be considered to be levied by the county for purposes of the county's tax limitation under Section 59-2-908.

Section 5. Section **17A-2-1326** is amended to read:

17A-2-1326. Administrative control board -- Powers -- Compensation.

(1) (a) The governing authority of a municipality or the county legislative body that has established a special service district may, by resolution adopted at the time of the establishment or at any time afterwards, create an administrative control board for the special service district.

(b) (i) [~~The~~] Except as provided in Subsection (1)(e), each administrative control board shall consist of at least three and no more than seven persons, each of whom is a qualified elector of the service district.

(ii) If a county establishes a service district that includes all or part of one or more municipalities or one or more improvement districts organized under Title 17A, Chapter 2, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, to provide the same service as the service district, the municipality or improvement district may appoint one member to represent it on any administrative control board created.

(iii) That member may, but need not, be a qualified elector of the service district.

(c) (i) If a service district is providing commodities, services, or facilities to an institution of higher education, that institution may appoint the number of members necessary to assure that it has at least 1/3 of the total of the board members to represent it on the board.

(ii) Those members may, but need not, be qualified electors of the service district.

(d) The number of members of the administrative control board shall be increased by the number of improvement district, municipal, or institution of higher education members appointed.

(e) Notwithstanding Subsection (1)(b), each administrative control board of a special service district that provides jail services as provided in Subsection 17A-2-1304(1)(a)(x) shall consist of nine members, three of whom shall be selected from a list of at least six recommendations from the county sheriff, three of whom shall be selected from a list of at least six recommendations from the municipalities within the county, and three of whom shall be selected from a list of at least six recommendations from the county executive.

(2) Members of the administrative control board other than improvement district, municipal, or institution of higher education members shall be either appointed or elected as provided in Title 17A, Chapter 1, Part 3, Special District Board Selection Procedures.

(3) (a) If a service district was established to provide either water or sewerage service or both, the governing authority may by resolution adopted at or after the time of establishment, or if the service district was established before March 29, 1983, or within 90 days after that date, create an administrative control board according to Subsection (1).

(b) A resolution creating a service district for water or sewerage purposes adopted under Section 17A-2-1305 after March 29, 1983, shall identify all existing water and sewerage districts within the area of the proposed service district.

(4) (a) One-half of the members initially elected or appointed shall serve two-year terms and 1/2 shall serve four year terms.

(b) The initial terms shall be determined by lot.

(5) (a) The governing authority of the municipality or the county legislative body that established the service district may, by resolution, delegate any of its powers to the administrative control board, including the power to act as the governing authority of the service district and to exercise all or any of the powers provided for in Sections 17A-2-1314, 17A-2-1316, 17A-2-1320, and 17A-2-1321.

(b) Notwithstanding anything to the contrary in this part, the governing authority of the

municipality or the county legislative body may not delegate the power to:

- (i) levy a tax on the taxable property of the service district;
- (ii) issue bonds payable from taxes;
- (iii) call or hold an election for the authorization of the tax or bonds;
- (iv) levy assessments for improvements in an improvement district created under [~~Title 17A;~~] Chapter 3, Part 3, Utah Municipal Improvement [~~Districts~~] District Act, or [~~Title 17A;~~] Chapter 3, Part 2, County Improvement [~~Districts~~] District Act;

- (v) issue interim warrants or bonds payable from those assessments; or
- (vi) appoint a board of equalization under Section 17A-3-217 or Section 17A-3-317.

(c) The administrative control board may not hold an election, levy a tax or assessment, or issue bonds or interim warrants unless the county or municipal legislative body that created the district has approved.

~~[(6)]~~ (6) The county or municipal legislative body that created the district may revoke in whole or in part any power or authority delegated to an administrative control board or other officers or employees.

~~[(6)]~~ (7) Administrative control board members may receive compensation and reimbursement of expenses as provided in Section 17B-2-404 to the same extent as if they were members of a board of trustees of a local district.

(8) If a county legislative body establishes an administrative control board under this section for a special service district that provides jail service as provided in Subsection 17A-2-1304(1)(a)(x), 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 17A-2-1314(1)(g) before the amount is included in the special service district budget.

Section 6. Section **59-2-924** is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative budget.

(1) (a) Before June 1 of each year, the county assessor of each county shall deliver to the

county auditor and the commission the following statements:

(i) a statement containing the aggregate valuation of all taxable property in each taxing entity; and

(ii) a statement containing the taxable value of any additional personal property estimated by the county assessor to be subject to taxation in the current year.

(b) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(i) the statements described in Subsections (1)(a)(i) and (ii);

(ii) an estimate of the revenue from personal property;

(iii) the certified tax rate; and

(iv) all forms necessary to submit a tax levy request.

(2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were collected by that taxing entity for the prior year.

(ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not include:

(A) collections from redemptions;

(B) interest; and

(C) penalties.

(iii) Except as provided in Subsection (2)(a)(iv), the certified tax rate shall be calculated by dividing the ad valorem property tax revenues collected for the prior year by the taxing entity by the taxable value established in accordance with Section 59-2-913.

(iv) The certified tax rates for the taxing entities described in this Subsection (2)(a)(iv) shall be calculated as follows:

(A) except as provided in Subsection (2)(a)(iv)(B), for new taxing entities the certified tax rate is zero;

(B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(I) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county

purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22);

(C) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125, 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

(II) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-906.3.

(v) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(B) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use the taxable value of property on the assessment roll.

(ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

(iii) "New growth" means:

(A) the difference between the increase in taxable value of the taxing entity from the previous calendar year to the current year; minus

(B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

(iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

(A) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(B) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

- (I) the Legislature;
- (II) a court;
- (III) the commission in an administrative rule; or
- (IV) the commission in an administrative order.

(c) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(A) decreased on a one-time basis by the amount of the estimated sales tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(B) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

(ii) The commission shall determine estimates of sales tax distributions for purposes of Subsection (2)(d)(i).

(e) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales tax imposed under Section 59-12-402.

(f) For the calendar year beginning on January 1, 1999, and ending on December 31, 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the adjustment in revenues from uniform fees on tangible personal property under Section 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

(g) For purposes of Subsections (2)(h) through (j):

(i) "1998 actual collections" means the amount of revenues a taxing entity actually collected

for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

(A) motor vehicles required to be registered with the state that weigh 12,000 pounds or less; and

(B) state-assessed commercial vehicles required to be registered with the state that weigh 12,000 pounds or less.

(ii) "1999 actual collections" means the amount of revenues a taxing entity actually collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

(h) For the calendar year beginning on January 1, 2000, the commission shall make the following adjustments:

(i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f);

(ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual collections were less than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f); and

(iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were less than the taxing entity's 1999 actual collections.

(i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the taxing entity's 1998 actual collections; and

(B) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f).

(ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f); and

(B) the taxing entity's 1998 actual collections.

(iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection (2)(f).

(j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of Subsections (2)(f) through (i), the commission may make rules establishing the method for determining a taxing entity's 1998 actual collections and 1999 actual collections.

(k) (i) (A) For fiscal year 2000, the certified tax rate of each county to which Subsection 17-34-3(4)(a) applies shall be decreased by the amount necessary to reduce revenues in that fiscal year by an amount equal to the difference between the amount the county budgeted in its 2000 fiscal year budget for advanced life support and paramedic services countywide and the amount the county spent during fiscal year 2000 for those services, excluding amounts spent from a municipal services fund for those services.

(B) For fiscal year 2001, the certified tax rate of each county to which Subsection 17-34-3(4)(a) applies shall be decreased by the amount necessary to reduce revenues in that fiscal year by the amount that the county spent during fiscal year 2000 for advanced life support and paramedic services countywide, excluding amounts spent from a municipal services fund for those services.

(ii) (A) For fiscal year 2001, a city or town located within a county of the first class to which Subsection 17-34-3(4)(a) applies may increase its certified tax rate by the amount necessary to

generate within the city or town the same amount of revenues as the county would collect from that city or town if the decrease under Subsection (2)(k)(i) did not occur.

(B) An increase under Subsection (2)(k)(ii)(A) is not subject to the notice and hearing requirements of Sections 59-2-918 and 59-2-919.

(1) (i) This Subsection (2)(l) applies to each county that:

(A) establishes a countywide special service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, to provide jail service, as provided in Subsection 17A-2-1304(1)(a)(x); and

(B) levies a property tax on behalf of the special service district under Section 17A-2-1322.

(ii) (A) The certified tax rate of each county to which this Subsection (2)(l) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(B) Each decrease under Subsection (2)(l)(ii)(A) shall occur contemporaneously with the levy on behalf of the special service district under Section 17A-2-1322.

(3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify all property owners of any intent to exceed the certified tax rate in accordance with Subsection 59-2-919(2).

(4) (a) The taxable value for the base year under Subsection 17A-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be reduced for any year to the extent necessary to provide a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the

previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17A-2-1247 or 17A-2-1247.5.

(b) The taxable value of the base year under Subsection 17A-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be increased in any year to the extent necessary to provide a redevelopment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the taxable value for the base year under Subsection 17A-2-1247(2) or 17A-2-1202(2) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

(ii) The certified tax rate of a city, school district, or special district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i), the amount of money allocated and, when collected, paid each year to a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i).