

**UNIFORM WITHDRAWAL PROCEDURES FOR
SPECIAL DISTRICTS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies the Local Districts and Special Districts Codes by repealing existing procedures for withdrawals from special or local districts and creating a uniform procedure for withdrawal. The act provides for definitions. The act establishes the requirements for petitions for withdrawal from a local district. The act creates a streamlined process for unopposed withdrawals. The act provides a process for the certification of petitions and for notice and public hearings. The act provides a process for a local district and a municipality to jointly adjust the boundaries of a local district. The act sets out the criteria for a local district board to approve or reject a proposed withdrawal and outlines the procedures for allocating assets and liabilities upon withdrawal. The act provides for the continuation of tax levies in withdrawn areas and other protections for local district bonds. The act allows for judicial review of the decision of the local district board. The act makes other technical changes.

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

AMENDS:

17A-2-101.3, as enacted by Chapter 90, Laws of Utah 2001

17A-2-301, as last amended by Chapter 90, Laws of Utah 2001

17A-2-405, as last amended by Chapter 90, Laws of Utah 2001

17A-2-418, as last amended by Chapter 63, Laws of Utah 2000

ENACTS:

17B-2-601, Utah Code Annotated 1953

17B-2-602, Utah Code Annotated 1953

17B-2-603, Utah Code Annotated 1953

17B-2-604, Utah Code Annotated 1953

17B-2-605, Utah Code Annotated 1953

17B-2-606, Utah Code Annotated 1953

17B-2-607, Utah Code Annotated 1953

17B-2-608, Utah Code Annotated 1953

17B-2-609, Utah Code Annotated 1953

17B-2-610, Utah Code Annotated 1953

17B-2-611, Utah Code Annotated 1953

REPEALS:

17A-2-334, as last amended by Chapter 361, Laws of Utah 1998

17A-2-335, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-336, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-337, as last amended by Chapter 227, Laws of Utah 1993

17A-2-338, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-340, as enacted by Chapter 361, Laws of Utah 1998

17A-2-740, as last amended by Chapter 254, Laws of Utah 2000

17A-2-741, as last amended by Chapter 90, Laws of Utah 2001

17A-2-742, as last amended by Chapter 254, Laws of Utah 2000

17A-2-743, as last amended by Chapter 254, Laws of Utah 2000

17A-2-744, as last amended by Chapter 254, Laws of Utah 2000

17A-2-842, as last amended by Chapter 90, Laws of Utah 2001

17A-2-1049, as last amended by Chapter 90, Laws of Utah 2001

17A-2-1438, as repealed and reenacted by Chapter 67 and renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1450, as enacted by Chapter 67, Laws of Utah 1990

17A-2-1451, as enacted by Chapter 67, Laws of Utah 1990

17A-2-1452, as enacted by Chapter 67, Laws of Utah 1990

17A-2-1453, as enacted by Chapter 67, Laws of Utah 1990

17A-2-1454, as last amended by Chapter 254, Laws of Utah 2000

17A-2-1809, as enacted by Chapter 216, Laws of Utah 1995

17A-2-1810, as enacted by Chapter 216, Laws of Utah 1995

17A-2-1811, as enacted by Chapter 216, Laws of Utah 1995

17A-2-1812, as enacted by Chapter 216, Laws of Utah 1995

17A-2-1813, as enacted by Chapter 216, Laws of Utah 1995

17A-2-1814, as enacted by Chapter 216, Laws of Utah 1995

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

Section 1. Section 17A-2-101.3 is amended to read:

17A-2-101.3. Annexation, dissolution, and withdrawal provisions for certain independent special districts.

(1) Except as provided in Subsection (2), for each type of independent special district listed in Subsection 17A-2-101(1) and for a drainage district under Part 5, Drainage Districts, a fire protection district under Part 6, Fire Protection Districts, and a regional service area under Part 18, Regional Service Area Act~~[, on or after June 1, 2001]~~:

(a) on or after June 1, 2001:

~~[(a)]~~ (i) annexation of additional territory to the district or adjustment of boundaries shared by two or more of those types of independent special districts shall be governed by Title 17B, Chapter 2, Part 5, Annexation, to the same extent as if the independent special district were a local district under Title 17B, Chapter 2, Local Districts; and

~~[(b)]~~ (ii) dissolution of a district shall be governed by Title 17B, Chapter 2, Part 7, Dissolution, to the same extent as if the independent special district were a local district under Title 17B, Chapter 2, Local Districts~~[-];~~ and

(b) on or after June 1, 2002, withdrawal from a district shall be governed by Title 17B, Chapter 2, Part 6, Withdrawal, to the same extent as if the independent special district were a local district under Title 17B, Chapter 2, Local Districts.

(2) (a) An annexation, boundary adjustment, or dissolution proceeding begun before and still pending on June 1, 2001 for a type of independent special district referred to in Subsection (1) is not subject to Subsection (1)(a) ~~[or (b)]~~ but continues after that date to be governed by the statutory provisions in effect immediately before that date.

(b) A withdrawal proceeding begun before and still pending on June 1, 2002 for a type of independent special district referred to in Subsection (1) is not subject to Subsection (1)(b) but continues after that date to be governed by the statutory provisions in effect immediately before that date.

Section 2. Section **17A-2-301** is amended to read:

17A-2-301. Improvement district authority -- Area of a district -- County legislative body may act as board of certain districts.

(1) (a) An improvement district may acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and may operate all or any part of:

- (i) a system for the supply, treatment, and distribution of water;
- (ii) a system for the collection, treatment, and disposition of sewage;
- (iii) a system for the collection, retention, and disposition of storm and flood waters;
- (iv) a system for the generation, distribution, and sale of electricity; and
- (v) a system for the transmission of natural or manufactured gas if the system is:

(A) connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, regulated under Section 54-4-1; and

(B) to be used to facilitate gas utility service within the district if the gas utility service is not available within the district prior to the acquisition or construction of the system.

(b) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.

(2) (a) (i) Subject to Subsection (2)(a)(ii), the area of a district under this part may include all or part of any county or counties, including all or any part of any incorporated municipalities, other incorporated areas, and unincorporated areas, as the needs of the inhabitants of the proposed districts may appear.

(ii) Notwithstanding Subsection (2)(a)(i), the addition of any territory to a district under this part shall, on and after June 1, 2001 and as provided in Subsection 17A-2-101.3(1)(a)(i), be governed by Title 17B, Chapter 2, Part 5, Annexation.

(b) The boundaries of a district authorized under this part do not need to be contiguous.

(3) If an improvement district authorized under this part was created solely for the purpose of acquiring a system for the collection, retention, or disposition of storm and flood waters, the county legislative body that created the district may, in its discretion and despite anything to the contrary in Section 17A-2-305, act as the board of trustees of the district for so long as it considers desirable.

Section 3. Section **17A-2-405** is amended to read:

17A-2-405. Area in county service area -- Overlapping of areas.

(1) (a) The boundaries of a county service area may include:

- (i) all or part of any unincorporated area of one county; and
- (ii) territory located within a municipality.

(b) Notwithstanding Subsection (1)(a)(i), the addition of any territory to a county service area under this part shall, on and after June 1, 2001 and as provided in Subsection 17A-2-101.3(1)(a), be governed by Title 17B, Chapter 2, Part 5, Annexation.

(2) County service areas may overlap if the service area which overlaps is entirely within the boundaries of the service area which it overlaps.

(3) (a) Except as provided in Subsection (3)(b), not more than two service areas may occupy the same area in the county.

(b) Notwithstanding Subsection (3)(a), three service areas may occupy the same area in the county if one of the overlapping service areas is countywide.

(4) No overlapping service areas may perform the same services.

(5) All parts of a county service area need not be contiguous.

Section 4. Section **17A-2-418** is amended to read:

17A-2-418. Annexation or incorporation of all or part of county service area into city or town.

~~[(1)(a)]~~ If all or any portion of a county service area is annexed into an incorporated city or town~~[, the annexed]~~ or included within a newly incorporated city or town, that territory may not be excluded from the county service area unless~~[-]~~ the requirements of Title 17B, Chapter 2, Part 6, Withdrawal, have been met.

~~[(i) a petition is filed under Subsection (1)(b) with the governing body of the city or town requesting that the territory described in the petition be excluded from the service area; or]~~

~~[(ii) for a county service area that is not located within a county of the first class, the county service area board of trustees adopts a resolution excluding the annexed territory from the county service area.]~~

~~[(b) (i) Each petition under Subsection (1)(a)(i) shall be signed by:]~~

~~[(A) property owners owning taxable property in the territory to be excluded from the service area that has a taxable value in excess of 40% of the taxable value of all taxable property within the area to be excluded, according to the last assessment roll for county taxes completed prior to the date of filing of the petition; or]~~

~~[(B) 25% of the registered voters residing within the territory to be excluded:]~~

~~[(ii) Upon receipt and verification of the validity of a petition under Subsection (1)(a)(i), the governing body of the city or town shall, at the next general election, place the following proposition before the qualified voters residing within that portion of the city or town lying within the boundaries of the county service area as described in the petition: "Shall the territory lying within (name of city or town) which is also within the boundaries of (name of county service area) be excluded from (name of county service area)?"~~

~~[(iii) If a majority of the qualified voters cast their ballots in favor of excluding the territory from the county service area, the territory within the county service area that is included within the city or town is excluded from the county service area, effective as of the date of election.]~~

~~[(iv) If a majority of the qualified voters cast their ballots against excluding the territory lying within the city or town from the county service area, the territory shall remain within the service area.]~~

~~[(c) (i) The board of trustees of a county service area that is not located in a county of the first class shall provide advance notice of the board's intent to adopt an exclusion resolution under Subsection (1)(a)(ii) by:]~~

~~[(A) at least 45 days before adopting a resolution, giving written notice to the legislative body of the municipality that annexed the county service area territory proposed to be excluded; and]~~

~~[(B) publishing a notice in a newspaper of general circulation within the county service area at least once a week for two consecutive weeks, the last publication being no more than ten days before adopting a resolution.]~~

~~[(ii) Upon adoption of a resolution under Subsection (1)(a)(ii) excluding annexed territory from the county service area, the territory within the county service area included within the annexing municipality is excluded from the county service area.]~~

~~[(2) (a) If all or any portion of a county service area is included within a newly incorporated city or town, that territory may not be excluded from the county service area unless:]~~

~~[(i) a petition is filed under Subsection (2)(b) with the governing body of the city or town, requesting that the territory be excluded from the county service area; or]~~

~~[(ii) for a county service area that is not located within a county of the first class, the county service area board of trustees adopts a resolution excluding the territory from the county service area.]~~

~~[(b) (i) Each petition under Subsection (2)(a)(i) shall be signed by:]~~

~~[(A) owners of taxable property in the territory to be excluded from the service area that has a taxable value in excess of 40% of the taxable value of all taxable property within the area to be excluded, according to the last assessment roll for county taxes completed prior to the date of filing of the petition; or]~~

~~[(B) by 25% of the registered voters residing within the territory to be excluded.]~~

~~[(ii) Upon receipt and verification of the validity of the petition, the governing body of the city or town shall, at the next general election, place the following proposition before the qualified voters residing within that portion of the city or town lying within the boundaries of the county service area: "Shall all territory lying within (name of city or town) which is also within the boundaries of (name of county service area) be excluded from (name of county service area)?"]~~

~~[(iii) If a majority of the qualified voters cast their ballots in favor of excluding the territory from the county service area, the territory within the county service area that is included within the city or town shall be excluded from the county service area, effective as of the date of the election.]~~

~~[(iv) If a majority of the qualified voters cast their ballots against excluding the territory~~

~~lying within the city or town from the county service area, the territory shall remain within the county service area.]~~

~~[(c) (i) The board of trustees of a county service area that is not located in a county of the first class shall provide advance notice of the board's intent to adopt an exclusion resolution under Subsection (2)(a)(ii) by:]~~

~~[(A) at least 45 days before adopting a resolution, giving written notice to the legislative body of the municipality whose incorporation included the county service area territory proposed to be excluded; and]~~

~~[(B) publishing a notice in a newspaper of general circulation within the county service area at least once a week for two consecutive weeks, the last publication being no more than ten days before adopting a resolution.]~~

~~[(ii) Upon adoption of a resolution under Subsection (1)(a)(ii) excluding territory from the county service area, the territory within the county service area included within the municipality is excluded from the county service area.]~~

~~[(3) (a) For purposes of this section, "unencumbered funds" means the sums of money, uncollected taxes, and other uncollected accounts due a county service area, in excess of an amount sufficient to pay all claims.]~~

~~[(b) When territory is excluded from a county service area, all unencumbered funds standing to the credit of the county service area upon the date of the exclusion shall be divided between the incorporated area and the county service area in proportion to the taxable value of the taxable property of the territory excluded and the portion remaining within the county service area if the incorporated area within which the excluded area is located:]~~

~~[(i) undertakes to provide the services previously provided by the service area; and]~~

~~[(ii) assumes a proportionate share of the debt, both bonded and otherwise, of the service area.]~~

~~[(c) The outstanding debts of the service area shall be divided between the incorporated area and the service area based upon the same formula and same proportion specified in Subsection (3)(b):]~~

~~[(d) (i) If, at the time of the exclusion of any territory from a county service area, the county service area has outstanding indebtedness payable from taxes, the exclusion shall relieve the excluded territory from liability for the payment of taxes for any indebtedness except as specified in this Subsection (3)(d).]~~

~~[(ii) The excluded area may be taxed to pay voted indebtedness existing at the time of exclusion, but only to the extent, and only in the years where, it is necessary to levy that tax in the excluded area in order to forestall or prevent a default in the payment of principal and interest on that indebtedness.]~~

~~[(iii) If the county legislative body levies those taxes, the county treasurer shall collect them as other county taxes are collected.]~~

~~[(4) If the area annexed into an incorporated area and excluded from the service area encompasses service area facilities, the county service area shall continue to own and operate those facilities so that the service area's ability to provide services and facilities to the residents and occupants of the service area is unabated and undiminished.]~~

Section 5. Section **17B-2-601** is enacted to read:

Part 6. Withdrawal

17B-2-601. Withdrawal of area from local district -- Definitions.

(1) An area within the boundaries of a local district may be withdrawn from the local district as provided in this part.

(2) In addition to those definitions in Section 17B-2-101, as used in this part, "receiving entity" means an entity that will, following a withdrawal, provide to the withdrawn area the service previously provided by the local district.

Section 6. Section **17B-2-602** is enacted to read:

17B-2-602. Withdrawal or boundary adjustment with municipal approval.

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality in the local district by following the same procedural requirements as set forth in Section 17B-2-516 for boundary adjustments between adjoining local districts.

(2) After a boundary adjustment under Subsection (1) is complete, the local district shall provide the same service to any area added to the local district as provided to other areas within the local district and the municipality shall provide the same service that the local district previously provided to any area withdrawn from the local district.

(3) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

Section 7. Section **17B-2-603** is enacted to read:

17B-2-603. Initiation of withdrawal process -- Notice of petition.

(1) The process to withdraw an area from a local district may be initiated:

(a) for a local district funded predominantly by revenues from property taxes or service charges other than those based upon acre-feet of water:

(i) by a petition signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn;

(B) covers at least 51% of the total private land within the area proposed to be withdrawn;

and

(C) is equal in taxable value to at least 51% of the taxable value of all private real property within the area proposed to be withdrawn;

(ii) by a petition signed by registered voters residing within the area proposed to be withdrawn equal in number to at least 67% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(iii) by a resolution adopted by the board of trustees of the local district in which the area proposed to be withdrawn is located, which:

(A) states the reasons for withdrawal; and

(B) is accompanied by a general description of the area proposed to be withdrawn; or

(iv) by a resolution to file a petition with the local district to withdraw from the local district all or a specified portion of the area within a municipality or county, adopted by the governing body of a municipality that has within its boundaries an area located within the boundaries of a local

district, or by the governing body of a county that has within its boundaries an area located within the boundaries of a local district that is located in more than one county, which petition of the governing body shall be filed with the board of trustees only if a written request to petition the board of trustees to withdraw an area from the local district has been filed with the governing body of the municipality, or county, and the request has been signed by registered voters residing within the boundaries of the area proposed for withdrawal equal in number to at least 51% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(b) for a local district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the owners of at least 67% of the acre-feet of water allotted to the land proposed to be withdrawn; or

(c) for a local district funded predominantly by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the registered voters residing within the entire area proposed to be withdrawn, which area shall be comprised of an entire unincorporated area within the local district or an entire municipality within a local district, or a combination thereof, equal in number to at least 67% of the number of votes cast within the entire area proposed to be withdrawn for the office of governor at the last regular general election before the filing of the petition.

(2) Prior to soliciting any signatures on a petition under Subsection (1), the sponsors of the petition shall:

(a) notify the local district board with which the petition is intended to be filed that the sponsors will be soliciting signatures for a petition; and

(b) mail a copy of the petition to the local district board.

Section 8. Section **17B-2-604** is enacted to read:

17B-2-604. Withdrawal petition requirements.

(1) Each petition under Section 17B-2-603 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-2-603(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the local district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2) (a) The local district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the local district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the local district within 90 days of receipt. Until funds to cover the expenses are delivered to the local district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the local district and the contact

sponsor on the amount of expenses that will necessarily be incurred by the local district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78, Chapter 31b, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78, Chapter 31a, Utah Arbitration Act.

(3) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-2-606 by submitting a written withdrawal or reinstatement with the board of trustees of the local district in which the area proposed to be withdrawn is located.

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-2-603(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the local district, the board of trustees of the local district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition must be presented to and approved by the governing body of the municipality as provided in Subsection 17B-2-603(1)(a)(iv) before it will be considered by the local district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the local district under Subsection 17B-2-603(1)(a)(iv).

(5) (a) After receiving the notice required by Subsection 17B-2-603(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal monies, or otherwise exercising the public official's constitutional rights.

Section 9. Section **17B-2-605** is enacted to read:

17B-2-605. Withdrawal petition certification -- Amended petition.

(1) Within 30 days after the filing of a petition under Sections 17B-2-603 and 17B-2-604, the board of trustees of the local district in which the area proposed to be withdrawn is located shall:

(a) with the assistance of officers of the county in which the area proposed to be withdrawn is located, determine whether the petition meets the requirements of Sections 17B-2-603 and 17B-2-604; and

(b) (i) if the petition complies with the requirements set forth in Sections 17B-2-603 and 17B-2-604, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the petition fails to comply with any of the requirements set forth in Sections 17B-2-603 and 17B-2-604, reject the petition as insufficient and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects the petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled within 60 days after notice of the rejection.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement for an amended petition refiled under Subsection (2)(a).

(3) The board of trustees shall process an amended petition refiled under Subsection (2)(a) in the same manner as an original petition under Subsection (1). If an amended petition is rejected for failure to comply with the requirements of Sections 17B-2-603 and 17B-2-604, the board of trustees shall issue a final rejection of the petition for insufficiency and mail or deliver written notice of the final rejection to the contact sponsor.

(4) (a) A signer of a petition for which there has been a final rejection under Subsection (3) for insufficiency may seek judicial review of the board of trustees' final decision to reject the petition as insufficient.

(b) Judicial review under Subsection (4)(a) shall be initiated by filing an action in state district court in the county in which a majority of the area proposed to be withdrawn is located.

(c) The court in which an action is filed under this Subsection (4) may not overturn the board of trustees' decision to reject the petition unless the court finds that:

(i) the board of trustees' decision was arbitrary or capricious; or

(ii) the petition materially complies with the requirements set forth in Sections 17B-2-603 and 17B-2-604.

(d) The court may award costs and expenses of an action under this section, including reasonable attorney's fees, to the prevailing party.

Section 10. Section **17B-2-606** is enacted to read:

17B-2-606. Public hearing -- Quorum of board required to be present.

(1) A public hearing on the proposed withdrawal shall be held by the board of trustees of a local district that:

(a) certifies a petition under Subsection 17B-2-605(1)(b)(i) unless the petition was signed by all of the owners of private land within the area proposed to be withdrawn or all of the registered voters residing within the area proposed to be withdrawn; or

(b) adopts a resolution under Subsection 17B-2-603(1)(a)(iii).

(2) The public hearing required by Subsection (1) for a petition certified by the board of trustees of a local district under Subsection 17B-2-605(1)(b)(i), other than a petition filed in accordance with Subsection 17B-2-603(1)(a)(iv), may be held as an agenda item of a meeting of the board of trustees of the local district without complying with the requirements of Subsection (3)(b), (3)(c), or Section 17B-2-607.

(3) Except as provided in Subsection (2), the public hearing required by Subsection (1) shall be held:

(a) no later than 90 days after:

(i) certification of the petition under Subsection 17B-2-605(1)(b)(i); or

(ii) adoption of a resolution under Subsection 17B-2-603(1)(a)(iii);

(b) (i) for a local district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be withdrawn; or

(B) at the local district office; or

- (ii) for a local district located in more than one county:
 - (A) (I) within the county in which the area proposed to be withdrawn is located; and
 - (II) within or as close as practicable to the area proposed to be withdrawn; or
 - (B) if the local district office is reasonably accessible to all residents within the area proposed to be annexed, at the local district office;
 - (c) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.; and
 - (d) for the purpose of allowing:
 - (i) the public to ask questions and obtain further information about the proposed withdrawal and issues raised by it; and
 - (ii) any interested person to address the board of trustees concerning the proposed withdrawal.
- (4) A quorum of the board of trustees of the local district shall be present throughout the public hearing provided for under this section.
- (5) A public hearing under this section may be postponed or continued to a new time, date, and place without further notice by a resolution of the board of trustees adopted at the public hearing held at the time, date, and place specified in the published notice; provided, however, that the public hearing may not be postponed or continued to a date later than 15 days after the 90-day period under Subsection (3).

Section 11. Section **17B-2-607** is enacted to read:

17B-2-607. Notice of hearing and withdrawal.

- (1) Unless it is held as an agenda item of a meeting of the board of trustees of a local district as allowed by Subsection 17B-2-606(2), before holding a public hearing under Section 17B-2-606, the board of trustees of the local district shall:
 - (a) mail notice of the public hearing and of the proposed withdrawal to:
 - (i) if the local district is funded predominantly by revenues from a property tax, each owner of private real property located within the area proposed to be withdrawn, as shown upon the county assessment roll last equalized as of the previous December 31;
 - (ii) if the local district is funded by fees based upon an allotment of acre-feet of water, each

owner of private real property with an allotment of water located within the area proposed to be withdrawn, as shown upon the district's records; or

(iii) if the local district is not funded predominantly by revenues from a property tax or fees based upon an allotment of acre-feet of water, each registered voter residing within the area proposed to be withdrawn, as determined by the voter registration list maintained by the county clerk as of a date selected by the board of trustees that is at least 20 but not more than 60 days before the public hearing; and

(b) post notice of the public hearing and of the proposed withdrawal in at least four conspicuous places within the area proposed to be withdrawn, no less than five nor more than 30 days before the public hearing.

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

(a) describe the area proposed to be withdrawn;

(b) identify the local district in which the area proposed to be withdrawn is located;

(c) state the date, time, and location of the public hearing;

(d) state that the petition or resolution may be examined during specified times and at a specified place in the local district; and

(e) state that any person interested in presenting comments or other information for or against the petition or resolution may:

(i) prior to the hearing, submit relevant comments and other information in writing to the board of trustees at a specified address in the local district; or

(ii) at the hearing, present relevant comments and other information in writing and may also present comments and information orally.

Section 12. Section **17B-2-608** is enacted to read:

17B-2-608. Resolution approving or rejecting withdrawal -- Criteria for approval or rejection -- Terms and conditions.

(1) (a) On or before the date of the board meeting next following the public hearing under Section 17B-2-606, but in no case later than 90 days after the public hearing or, if no hearing is held, within 90 days after the filing of a petition under Section 17B-2-603, the board of trustees of the

local district in which the area proposed to be withdrawn is located shall adopt a resolution:

(i) approving the withdrawal of some or all of the area from the local district; or

(ii) rejecting the withdrawal.

(b) Each resolution approving a withdrawal shall:

(i) include a legal description of the area proposed to be withdrawn;

(ii) state the effective date of the withdrawal; and

(iii) set forth the terms and conditions under Subsection (5), if any, of the withdrawal.

(c) Each resolution rejecting a withdrawal shall include a detailed explanation of the board of trustees' reasons for the rejection.

(2) Unless denial of the petition is required under Subsection (3), the board of trustees shall adopt a resolution approving the withdrawal of some or all of the area from the local district if the board of trustees determines that:

(a) the area to be withdrawn does not and will not require the service that the local district provides;

(b) the local district will not be able to provide service to the area to be withdrawn for the reasonably foreseeable future; or

(c) the area to be withdrawn has obtained the same service that is provided by the local district or a commitment to provide the same service that is provided by the local district from another source.

(3) The board of trustees shall adopt a resolution denying the withdrawal if it determines that the proposed withdrawal would:

(a) result in a breach or default by the local district under:

(i) any of its notes, bonds, or other debt or revenue obligations;

(ii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district; or

(iii) any of its agreements with the United States or any agency of the United States; provided, however, that, if the local district has entered into an agreement with the United States that requires the consent of the United States for a withdrawal of territory from the district, a withdrawal

under this part may occur if the written consent of the United States is obtained and filed with the board of trustees;

(b) adversely affect the ability of the local district to make any payments or perform any other material obligations under:

(i) any of its agreements with the United States or any agency of the United States;

(ii) any of its notes, bonds, or other debt or revenue obligations; or

(iii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district;

(c) result in the reduction or withdrawal of any rating on an outstanding note, bond, or other debt or revenue obligation of the local district;

(d) create an island or peninsula of nondistrict territory within the local district or of district territory within nondistrict territory that has a material adverse affect on the local district's ability to provide service or materially increases the cost of providing service to the remainder of the local district;

(e) materially impair the operations of the remaining local district; or

(f) require the local district to materially increase the fees it charges or property taxes or other taxes it levies in order to provide to the remainder of the district the same level and quality of service that was provided before the withdrawal.

(4) In determining whether the withdrawal would have any of the results described in Subsection (3), the board of trustees may consider the cumulative impact that multiple withdrawals over a specified period of time would have on the local district.

(5) (a) Despite the presence of one or more of the conditions listed in Subsection (3), the board of trustees may approve a resolution withdrawing an area from the local district imposing terms or conditions that mitigate or eliminate the conditions listed in Subsection (3), including:

(i) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area pay their proportionate share of any outstanding district bond or other obligation as determined pursuant to Subsection (5)(b);

(ii) a requirement that the owners of property located within the area proposed to be

withdrawn or residents within that area make one or more payments in lieu of taxes, fees, or assessments;

(iii) a requirement that the board of trustees and the receiving entity agree to reasonable payment and other terms in accordance with Subsections (5)(f) through (g) regarding the transfer to the receiving entity of district assets that the district used before withdrawal to provide service to the withdrawn area but no longer needs because of the withdrawal; provided that, if those district assets are allocated in accordance with Subsections (5)(f) through (g), the district shall immediately transfer to the receiving entity on the effective date of the withdrawal, all title to and possession of district assets allocated to the receiving entity; or

(iv) any other reasonable requirement considered to be necessary by the board of trustees.

(b) Other than as provided for in Subsection 17B-2-609(2), and except as provided in Subsection (5)(e), in determining the proportionate share of outstanding bonded indebtedness or other obligations under Subsection (5)(a)(i) and for purposes of determining the allocation and transfer of district assets under Subsection (5)(a)(iii), the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall:

(i) engage engineering and accounting consultants chosen by the procedure provided in Subsection (5)(d); provided however, that if the withdrawn area is not receiving service, an engineering consultant need not be engaged; and

(ii) require the engineering and accounting consultants engaged under Subsection (5)(b)(i) to communicate in writing to the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition the information required by Subsections (5)(f) through (h).

(c) For purposes of this Subsection (5):

(i) "accounting consultant" means a certified public accountant or a firm of certified public accountants with the expertise necessary to make the determinations required under Subsection (5)(h); and

(ii) "engineering consultant" means a person or firm that has the expertise in the engineering aspects of the type of system by which the withdrawn area is receiving service that is necessary to

make the determination required under Subsections (5)(f) and (g).

(d) (i) Unless the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on an engineering consultant and an accounting consultant, each consultant shall be chosen from a list of consultants provided by the Consulting Engineers Council of Utah and the Utah Association of Certified Public Accountants, respectively, as provided in this Subsection (5)(d).

(ii) A list under Subsection (5)(d)(i) may not include a consultant who has had a contract for services with the district or the receiving entity during the two-year period immediately before the list is provided to the local district.

(iii) Within 20 days of receiving the lists described in Subsection (5)(d)(i), the board of trustees shall eliminate the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and shall notify the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition in writing of the eliminations.

(iv) Within three days of receiving notification under Subsection (5)(d), the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall eliminate another name of an engineering consultant from the list of engineering consultants and another name of an accounting consultant from the list of accounting consultants and shall notify the board of trustees in writing of the eliminations.

(v) The board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall continue to alternate between them, each eliminating the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and providing written notification of the eliminations within three days of receiving notification of the previous notification, until the name of only one engineering consultant remains on the list of engineering consultants and the name of only one accounting consultant remains on the list of accounting consultants.

(e) The requirement under Subsection (5)(b) to engage engineering and accounting

consultants does not apply if the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on the allocations that are the engineering consultant's responsibility under Subsection (5)(f) or the determinations that are the accounting consultant's responsibility under Subsection (5)(h); provided however, that if engineering and accounting consultants are engaged, the district and the receiving entity, or in cases where there is no receiving entity, the district and the sponsors of the petition shall equally share the cost of the engineering and accounting consultants.

(f) (i) The engineering consultant shall allocate the district assets between the district and the receiving entity as provided in this Subsection (5)(f).

(ii) The engineering consultant shall allocate:

(A) to the district those assets reasonably needed by the district to provide to the area of the district remaining after withdrawal the kind, level, and quality of service that was provided before withdrawal; and

(B) to the receiving entity those assets reasonably needed by the receiving entity to provide to the withdrawn area the kind and quality of service that was provided before withdrawal.

(iii) If the engineering consultant determines that both the local district and the receiving entity reasonably need a district asset to provide to their respective areas the kind and quality of service provided before withdrawal, the engineering consultant shall:

(A) allocate the asset between the local district and the receiving entity according to their relative needs, if the asset is reasonably susceptible of division; or

(B) allocate the asset to the local district, if the asset is not reasonably susceptible of division.

(g) All district assets remaining after application of Subsection (5)(f) shall be allocated to the local district.

(h) (i) The accounting consultant shall determine the withdrawn area's proportionate share of any redemption premium and the principal of and interest on:

(A) the local district's revenue bonds that were outstanding at the time the petition was filed;

(B) the local district's general obligation bonds that were outstanding at the time the petition

was filed; and

(C) the local district's general obligation bonds that:

(I) were outstanding at the time the petition was filed; and

(II) are treated as revenue bonds under Subsection (5)(i); and

(D) the district's bonds that were issued prior to the date the petition was filed to refund the district's revenue bonds, general obligation bonds, or general obligation bonds treated as revenue bonds.

(ii) For purposes of Subsection (5)(h)(i), the withdrawn area's proportionate share of redemption premium, principal, and interest shall be the amount that bears the same relationship to the total redemption premium, principal, and interest for the entire district that the average annual gross revenues from the withdrawn area during the three most recent complete fiscal years before the filing of the petition bears to the average annual gross revenues from the entire district for the same period.

(i) For purposes of Subsection (5)(h)(i), a district general obligation bond shall be treated as a revenue bond if:

(i) the bond is outstanding on the date the petition was filed; and

(ii) the principal of and interest on the bond, as of the date the petition was filed, had been paid entirely from local district revenues and not from a levy of ad valorem tax.

(j) (i) Before the board of trustees of the local district files a resolution approving a withdrawal, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall irrevocably deposit government obligations, as defined in Subsection 11-27-2(6), into an escrow trust fund the principal of and interest on which are sufficient to provide for the timely payment of the amount determined by the accounting consultant under Subsection (5)(h) or in an amount mutually agreeable to the board of trustees of the local district and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition.

Notwithstanding Subsection 17B-2-610(1), the board of trustees shall not be required to file a resolution approving a withdrawal until the requirements for establishing and funding an escrow trust fund in this Subsection (5)(j)(i) have been met; provided that, if the escrow trust fund has not been

established and funded within 180 days after the board of trustees passes a resolution approving a withdrawal, the resolution approving the withdrawal shall be void.

(ii) Concurrently with the creation of the escrow, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall provide to the board of trustees of the local district:

(A) a written opinion of an attorney experienced in the tax-exempt status of municipal bonds stating that the establishment and use of the escrow to pay the proportionate share of the district's outstanding revenue bonds and general obligation bonds that are treated as revenue bonds will not adversely affect the tax-exempt status of the bonds; and

(B) a written opinion of an independent certified public accountant verifying that the principal of and interest on the deposited government obligations are sufficient to provide for the payment of the withdrawn area's proportionate share of the bonds as provided in Subsection (5)(h).

(iii) The receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall bear all expenses of the escrow and the redemption of the bonds.

(iv) The receiving entity may issue bonds under Title 11, Chapter 14, Utah Municipal Bond Act, and Title 11, Chapter 27, Refunding Bond Act, to fund the escrow.

(6) A requirement imposed by the board of trustees as a condition to withdrawal under Subsection (5) shall, in addition to being expressed in the resolution, be reduced to a duly authorized and executed written agreement between the parties to the withdrawal.

(7) An area that is the subject of a withdrawal petition under Section 17B-2-603 that results in a board of trustees resolution denying the proposed withdrawal may not be the subject of another withdrawal petition under Section 17B-2-603 for two years after the date of the board of trustees resolution denying the withdrawal.

Section 13. Section **17B-2-609** is enacted to read:

17B-2-609. Continuation of tax levy after withdrawal to pay for proportionate share of district bonds.

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-2-608(5)(j), property within the withdrawn area shall

continue after withdrawal to be subject to a tax by the local district:

(a) for the purpose of paying the withdrawn area's just proportion of the local district's general obligation bonds, other than those bonds treated as revenue bonds under Subsection 17B-2-608(5)(i), until the bonded indebtedness has been satisfied; and

(b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-2-608(5)(i).

(2) For a local district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, taxes within the withdrawn area shall continue to be collected for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the local district incurred prior to the date the petition was filed.

(3) Except as provided in Subsections (1) and (2), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the local district.

Section 14. Section **17B-2-610** is enacted to read:

17B-2-610. Notice of withdrawal -- Contest period -- Judicial review.

(1) (a) Within ten days after adopting a resolution approving a withdrawal, the board of trustees shall file a written notice of the withdrawal with the State Tax Commission and the assessor and recorder of each county in which any part of the withdrawn area is located, accompanied by a copy of the resolution approving the withdrawal, an accurate map depicting the boundaries of the withdrawn area or a legal description of the withdrawn area, adequate for purposes of the county assessor and recorder.

(b) Upon the filing of the notices required by Subsection (1)(a), the withdrawal shall be effective, subject to the conditions of the withdrawal resolution.

(2) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area in a newspaper of general circulation in the area proposed for withdrawal.

In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(a) the name of the local district;

(b) a description of the area proposed for withdrawal;

(c) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(d) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-2-608, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(4) Within 60 days after the request under Subsection (3) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-2-608 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(5) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the local district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (5) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (2), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (4);

(ii) if the resolution is not published pursuant to Subsection (2), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (3), and the board adopts a resolution under Subsection (4), within 60 days after the board adopts a resolution under Subsection (4) unless the resolution is published under Subsection (2), in which event the action must be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (5) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney's fees, to the prevailing party.

(6) After the applicable contest period under Subsection (3) or (5), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 15. Section **17B-2-611** is enacted to read:

17B-2-611. Termination of terms of trustees representing withdrawn areas.

(1) On the effective date of withdrawal of an area from a local district, any trustee residing in the withdrawn area shall cease to be a member of the board of trustees of the local district.

(2) If the local district has been divided into divisions for the purpose of electing or appointing trustees and the area withdrawn from a district constitutes all or substantially all of the area in a division of the local district that is represented by a member of the board of trustees, on the effective date of the withdrawal, the trustee representing the division shall cease to be a member of the board of trustees of the local district.

(3) In the event of a vacancy on the board of trustees as a result of an area being withdrawn from the local district:

(a) the board of trustees shall reduce the number of trustees of the local district as provided by law; or

(b) the trustee vacancy shall be filled as provided by law.

Section 16. Repealer.

This act repeals:

Section 17A-2-334, Withdrawal from improvement district -- Petition by majority of property owners -- Procedure.

Section 17A-2-335, Withdrawal from improvement district -- Appointment of commissioners to determine rights and liabilities.

Section 17A-2-336, Hearing for withdrawal -- Commissioners' report -- Action by court -- Taxes and charges on property.

Section 17A-2-337, Payment of indebtedness after withdrawal from district.

Section 17A-2-338, Recording decree after withdrawal from district -- Payment of costs.

Section 17A-2-340, Withdrawal of territory in a municipality from improvement districts for the supply, treatment, or distribution of water.

Section 17A-2-740, Petition for exclusion.

Section 17A-2-741, Notice of petition -- Objections.

Section 17A-2-742, Hearings by board -- Assent by petitioners.

Section 17A-2-743, Exclusion of lands, when -- Contracts with the United States.

Section 17A-2-744, Filings with county clerk and recorder.

Section 17A-2-842, Withdrawal from metropolitan water district.

Section 17A-2-1049, Withdrawal from public transit district.

Section 17A-2-1438, Procedures to petition a board to exclude land from a district.

Section 17A-2-1450, Content of petition for exclusion -- Deposit of money for cost of proceedings.

Section 17A-2-1451, Notice of hearing.

Section 17A-2-1452, Criteria for approving or denying a petition.

Section 17A-2-1453, Order filed with district court clerk -- Criteria for affirmation of order by the court.

Section 17A-2-1454, Terms of trustees representing excluded lands cease.

Section 17A-2-1809, Excluding land -- Procedures.

Section 17A-2-1810, Petition for exclusion.

Section 17A-2-1811, Notice of hearing.

Section 17A-2-1812, Approving or denying a petition.

Section 17A-2-1813, Orders excluding land -- Filing -- Contents -- Judicial review.

Section 17A-2-1814, Trustees residing in excluded lands -- Redistricting -- No impairment.