

**LIEUTENANT GOVERNOR CERTIFICATION OF
SPECIAL DISTRICT AND LOCAL DISTRICT
ANNEXATIONS, WITHDRAWALS, AND DISSOLUTIONS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies special district and local district provisions to provide a procedure for lieutenant governor certification of annexations, withdrawals, and dissolutions for certain special districts and for local districts. The act requires the appropriate local body to send notice of the annexation, withdrawal, or dissolution to the lieutenant governor and requires the lieutenant governor to issue a certificate of annexation, withdrawal, or dissolution and to send a copy of the applicable certificate to specified state and local agencies. The act also makes technical changes.

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

AMENDS:

§ 17A-1-102, as enacted by Chapter 337, Laws of Utah 1998 §

17A-2-1311, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1327, as last amended by Chapter 322, Laws of Utah 1997

17A-2-1329, as renumbered and amended by Chapter 186, Laws of Utah 1990

17B-2-512, as enacted by Chapter 90, Laws of Utah 2001

17B-2-514, as enacted by Chapter 90, Laws of Utah 2001

17B-2-515, as enacted by Chapter 90, Laws of Utah 2001

17B-2-516, as enacted by Chapter 90, Laws of Utah 2001

17B-2-610, as enacted by Chapter 284, Laws of Utah 2002

17B-2-708, as enacted by Chapter 90, Laws of Utah 2001

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

§ Section 1. Section 17A-1-102 is amended to read:

17A-1-102. Notice to State Tax Commission -- Tax rate on new property included in §



25c § the special district.

25d (1) ~~[(a)]~~ Except as provided in Subsection ~~[(1)(b);]~~ (5):

25e (a) the legislative body of each county, city, or town that creates a special district on or after
25f May 4, 1998, shall, within 60 days of the special district's creation, file a written notice of the creation
25g with the State Tax Commission[-]; AND

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

25l (2) ~~[The]~~ EXCEPT AS PROVIDED IN SUBSECTION (5), THE board of each special district
25m whose boundaries change through annexation, consolidation, or any other means, shall, within 60
25n days of the change, file a written notice of the change with the State Tax Commission.

25o (3) Each written notice required under Subsection (1) or (2) shall:

25p (a) be accompanied by:

25q (i) a copy of the ordinance, resolution, or other document that effectuated the creation of the
25r special district or the boundary change; and

25s (ii) a map or plat that delineates a metes and bounds description of the area affected and
25t evidence that the information has been recorded by the county recorder; and

25u (b) contain a certification by the legislative body of the county, city, or town or the special
25v district board, as the case may be, that all necessary legal requirements relating to the creation or
25w boundary change have been completed.

25x (4) Property included in a newly created special district or added to a special district through
25y a boundary change shall carry the tax rate imposed by the special district if the notice required under
25z Subsection (1) is filed with the State Tax Commission no later than December 31 of the year during
25aa which the creation or boundary change occurs.

25ab (5) SUBSECTIONS (1), (2), AND (3) DO NOT APPLY TO:

25ac (a) SPECIAL SERVICE DISTRICTS CREATED UNDER CHAPTER 2, PART 13, UTAH SPECIAL
25ad SERVICE ACT; AND

25ae (b) ANY OF THE TYPES OF INDEPENDENT SPECIAL DISTRICTS LISTED UNDER
25af SUBSECTION 17A-2-101(1). §

26 Section § ~~[1]~~ 2 § . Section 17A-2-1311 is amended to read:

27 17A-2-1311. Adoption of resolution -- Judicial review.

28 (1) (a) After conclusion of the hearing, and after the time for filing protests as provided
29 in Section 17A-2-1309 has expired, the governing authority shall adopt a resolution either
30 ~~[establishing the]~~ approving the establishment of the special service district or determining that
31 the proposal to establish it should be abandoned.

32 (b) A resolution ~~[establishing a]~~ approving the establishment of a special service
33 district may contain any changes from the initial resolution or notice of intention the governing
34 authority determines to be appropriate, including reduction of the boundaries of the special
35 service district and elimination of one or more of the types of services proposed.

36 (c) The boundaries of the special service district may not be increased nor additional
37 types of services added, unless the governing authority gives a new notice of intention and
38 holds a new hearing.

39 (d) All or a part of the area of an abandoned special service district may be included in
40 a new special service district established in the manner provided in this part.

41 (2) (a) Within 90 days after adopting a resolution approving the establishment of a
42 special service district under Subsection (1), the governing authority shall file a notice with the
43 lieutenant governor.

44 (b) Each notice under Subsection (2)(a) shall:

45 (i) be accompanied by:

46 (A) a copy of the resolution adopted by the governing authority approving the
47 establishment of the special service district; and

48 (B) a map showing the boundaries of the special service district, prepared and certified
49 by a licensed surveyor; and

50 (ii) include a certification by the governing authority that all requirements for the
51 establishment of a special service district have been complied with.

52 (c) Within ten days after receiving the notice under Subsection (2)(a), the lieutenant
53 governor shall:

54 (i) issue a certificate of incorporation for the new special service district and send a
55 copy of the certificate to the governing authority, the State Tax Commission, and the state
56 auditor; and

57 (ii) send a copy of the notice under Subsection (2)(a), including the accompanying
58 map, to the State Tax Commission.

59 (d) Upon the lieutenant governor's issuance of the certificate of incorporation, the
60 special service district is created and incorporated.

61 [~~2~~] (3) After a special service district is established, a person may petition the district
62 court for a writ of review of the actions of the governing authority in establishing the district if:

63 (a) (i) the person filed a written protest; or

64 (ii) the person filed a written protest, withdrew the protest, and then cancelled the
65 withdrawal; and

66 (b) (i) the person is a qualified voter residing within the district; or

67 (ii) the person is a qualified voter whose property has been included within the
68 boundaries of the special service district; and

69 (c) the petition is filed within 30 days after the date of the resolution establishing the
70 special service district; and

71 (d) (i) the petition alleges that the person's property will not be [~~benefited~~] benefitted
72 by one or more of the services to be provided by the special service district; or

73 (ii) the petition alleges that the procedures used to establish the special service district
74 violated the law.

75 [~~3~~] (4) If a petition for a writ of review is not filed within the time limits established
76 by this section, owners of property and qualified voters within the special service district may
77 not object to the establishment of the district.

78 [~~4~~] (5) The governing authority may consider the voter registration records of the
79 county as conclusive evidence of residency in the special service district.

80 Section 2. Section **17A-2-1327** is amended to read:

81 **17A-2-1327. Adding additional services -- Annexing additional area.**

82 (1) Subject to the provisions of Subsections (2) and (3), after the establishment of a
83 special service district, additional services from that specified in the resolution establishing the
84 district may be added and additional area from that specified in the resolution may be annexed
85 to the district by using the procedure provided for in this part for the establishment of the
86 district with appropriate changes in the wording of the required instruments.

87 (2) (a) Notwithstanding Subsection (1), additional services may not be added and
88 additional area may not be annexed to the special service district and the governing authority
89 shall abandon the additional services or annexation proceedings if written protests are filed at

90 or before the hearing by:

91 (i) with respect to proceedings to add services:

92 (A) the owners of more than 50% of the taxable value of the taxable property within
93 the district; or

94 (B) more than 50% of the qualified electors of the district; or

95 (ii) with respect to proceedings to annex new area:

96 (A) the owners of more than 50% of the taxable value of the taxable property within
97 the area to be annexed; or

98 (B) more than 50% of the qualified electors of the area to be annexed.

99 (b) (i) The determination of owners, properties, and taxable value under Subsection
100 (2)(a) shall be according to the assessment rolls last completed before the adoption of the
101 resolution proposing the addition of services or annexation.

102 (ii) The determination of qualified electors under Subsection (2)(a) shall be from the
103 registration lists last made or revised before the adoption of the resolution proposing the
104 addition of services or annexation.

105 (3) (a) Notwithstanding Subsection (1), the notice, hearing, and protest requirements of
106 Sections 17A-2-1307, 17A-2-1308, and 17A-2-1309 do not apply if a petition for additional
107 services or annexation of additional area is filed with the governing body of the special service
108 district containing the signatures of all owners of all taxable real property:

109 (i) within the special service district, if the petition is for additional services; or

110 (ii) within the area proposed to be annexed, if the petition is for annexation of
111 additional area.

112 (b) For purposes of Subsection (3)(a), the owners of taxable property shall be
113 determined according to the assessment roll last completed before the filing of the petition.

114 (4) (a) If the governing authority adopts a resolution approving the annexation of
115 additional area, the governing authority shall, within 90 days after adopting the resolution, file
116 a notice with the lieutenant governor.

117 (b) The notice required under Subsection (4)(a) shall:

118 (i) be accompanied by:

119 (A) a copy of the resolution adopted by the governing authority approving the
120 annexation of additional area; and

121 (B) a map showing the additional area to be annexed by the special service district,
122 prepared and certified by a licensed surveyor; and

123 (ii) include a certification by the governing authority that all requirements for the
124 annexation of the additional area have been complied with.

125 (c) Within ten days after receiving the notice under Subsection (4)(a), the lieutenant
126 governor shall:

127 (i) issue a certificate of annexation and send a copy of the certificate to the governing
128 authority, the State Tax Commission, and the state auditor; and

129 (ii) send a copy of the notice under Subsection (4)(a), including the accompanying
130 map, to the State Tax Commission.

131 (d) Upon the lieutenant governor's issuance of the certificate of annexation, the
132 additional area that is the subject of the governing authority's resolution is annexed to the
133 special service district.

134 Section 3. Section **17A-2-1329** is amended to read:

135 **17A-2-1329. Dissolution of district -- Withdrawal of area from district.**

136 (1) A special service district may not be dissolved nor areas withdrawn from the
137 district if any bonds, notes, or other obligations of the district are outstanding and unpaid or if
138 any contractual obligation to provide the services exists.

139 (2) Subject to the limitation in Subsection (1), the governing authority of the special
140 service district may by resolution:

141 (a) [~~Dissolve~~] approve the dissolution of the district upon a determination that the
142 district is no longer needed for the purposes for which it was formed; or

143 (b) [~~Withdraw~~] approve the withdrawal of specifically described areas from the special
144 service district upon a determination that these areas should not or cannot be supplied with the
145 services of the special service district.

146 (3) (a) Within 90 days after the adoption of a resolution approving a dissolution or
147 withdrawal under Subsection (2), the governing authority shall file a notice with the lieutenant
148 governor.

149 (b) The notice required under Subsection (3)(a) shall:

150 (i) be accompanied by:

151 (A) a copy of the resolution adopted by the governing authority approving the

152 dissolution or withdrawal; and
153 (B) in the case of a withdrawal, a map showing the area to be withdrawn, prepared and
154 certified by a licensed surveyor; and
155 (ii) include a certification by the governing authority that all requirements for the
156 dissolution or withdrawal have been complied with.
157 (c) Within ten days after receiving the notice under Subsection (3)(a), the lieutenant
158 governor shall:
159 (i) issue a certificate of dissolution or withdrawal, as the case may be, and send a copy
160 of the certificate to the governing authority, the State Tax Commission, and the state auditor;
161 and
162 (ii) in the case of a withdrawal, send a copy of the notice under Subsection (3)(a),
163 including the accompanying map, to the State Tax Commission.
164 (d) (i) Upon the lieutenant governor's issuance of the certificate of dissolution, the
165 special service district is dissolved.
166 (ii) Upon the lieutenant governor's issuance of the certificate of withdrawal, the area to
167 be withdrawn that is the subject of the governing authority's resolution is withdrawn from the
168 special service district.
169 Section 4. Section **17B-2-512** is amended to read:
170 **17B-2-512. Protests -- Election.**
171 (1) (a) Except as provided in Section 17B-2-513 and except for an annexation under
172 Section 17B-2-515, an owner of private real property located within or a registered voter
173 residing within an area proposed to be annexed may protest an annexation by filing a written
174 protest with the board of trustees of the proposed annexing local district.
175 (b) A protest of a boundary adjustment is not governed by this section but is governed
176 by Section 17B-2-516.
177 (2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of
178 the public hearing under Section 17B-2-509.
179 (3) (a) Except as provided in Subsection (4), the local district shall hold an election on
180 the proposed annexation if timely protests are filed by:
181 (i) the owners of private real property that:
182 (A) is located within the area proposed to be annexed;

183 (B) covers at least 10% of the total private land area within the entire area proposed to
184 be annexed and within each applicable area; and

185 (C) is equal in assessed value to at least 10% of the assessed value of all private real
186 property within the entire area proposed to be annexed and within each applicable area; or

187 (ii) registered voters residing within the entire area proposed to be annexed and within
188 each applicable area equal in number to at least 10% of the number of votes cast within the
189 entire area proposed for annexation and within each applicable area, respectively, for the office
190 of governor at the last regular general election before the filing of the petition.

191 (b) Except as otherwise provided in this part, each election under Subsection (3)(a)
192 shall be governed by Title 20A, Election Code.

193 (c) If a majority of registered voters residing within the area proposed to be annexed
194 and voting on the proposal vote:

195 (i) in favor of annexation, the board of trustees shall, subject to Subsections
196 17B-2-514(1)(b), (2), and (3), complete the annexation by adopting a resolution [~~annexing~~]
197 approving annexation of the area; or

198 (ii) against annexation, the annexation process is terminated, the board may not adopt a
199 resolution [~~annexing~~] approving annexation of the area, and the area proposed to be annexed
200 may not for two years be the subject of an effort under this part to annex to the same local
201 district.

202 (4) If sufficient protests are filed under this section to require an election, a board of
203 trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and
204 terminating the annexation process without holding an election.

205 Section 5. Section **17B-2-514** is amended to read:

206 **17B-2-514. Resolution approving an annexation -- Notice of annexation -- When**
207 **annexation complete.**

208 (1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution
209 [~~annexing~~] approving the annexation of the area proposed to be annexed or rejecting the
210 proposed annexation within 30 days after:

211 (i) expiration of the protest period under Subsection 17B-2-512(2), if sufficient protests
212 to require an election are not filed;

213 (ii) for a petition that meets the requirements of Subsection 17B-2-513(1):

214 (A) a public hearing under Section 17B-2-509 is held, if the board chooses or is
215 required to hold a public hearing under Subsection 17B-2-513(2)(a)(ii); or

216 (B) expiration of the time for submitting a request for public hearing under Subsection
217 17B-2-513(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public
218 hearing.

219 (b) If the local district has entered into an agreement with the United States that
220 requires the consent of the United States for an annexation of territory to the district, ~~an~~ a
221 resolution approving annexation under this part may not occur be adopted until the written
222 consent of the United States is obtained and filed with the board of trustees.

223 (2) (a) Within ~~ten~~ 90 days after adoption of ~~an annexation~~ a resolution under
224 Subsection (1), Subsection 17B-2-512(3)(c)(i), or Section 17B-2-515, or a boundary
225 adjustment resolution under Subsection 17B-2-516(4), the board shall~~:(a)~~ file a notice with
226 the lieutenant governor.

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

228 (i) be accompanied by:

229 (A) a copy of the board resolution approving the annexation; and

230 (B) an accurate map depicting the boundaries of the area to be annexed or a legal
231 description of the area to be annexed, adequate for purposes of the county assessor and
232 recorder; and

233 (ii) include a certification by the local district board that all requirements for the
234 annexation have been complied with.

235 (c) Within ten days after receiving the notice under Subsection (2)(a), the lieutenant
236 governor shall:

237 (i) issue a certificate of annexation and send a copy of the certificate to the local district
238 board, the State Tax Commission, the state auditor, and the assessor and recorder of each
239 county in which any part of the annexed area is located; and

240 (ii) send a ~~written~~ copy of the notice ~~[of annexation with]~~ under Subsection (2)(a),
241 including the accompanying map or legal description, to the State Tax Commission~~,-the~~
242 lieutenant governor,] and the assessor and recorder of ~~[the]~~ each county in which any part of
243 the annexed area is located~~,-accompanied by an accurate map or legal description of the~~
244 boundaries of the area being annexed, adequate for purposes of the county assessor and

245 recorder; and].

246 [(b) prepare and execute a certificate acknowledging that the notices required under
247 Subsection (2)(a) have been filed, and maintain the certificate with the district records.]

248 (3) The annexation shall be complete [on the date indicated in the certificate required
249 under Subsection (2)(b) as the date on which the board filed the notices required under
250 Subsection (2)(a)] upon the lieutenant governor's issuance of the certificate of annexation under
251 Subsection (2)(c).

252 Section 6. Section **17B-2-515** is amended to read:

253 **17B-2-515. Annexation of wholesale district through expansion of retail provider.**

254 (1) (a) A local district that provides a wholesale service may adopt a resolution
255 [annexing] approving the annexation of an area outside the local district's boundaries if:

256 (i) the area is annexed by or otherwise added to a municipality, an independent special
257 district, or another local district that:

258 (A) acquires the wholesale service from the local district and provides it as a retail
259 service;

260 (B) is, before the annexation or other addition, located at least partly within the local
261 district; and

262 (C) after the annexation or other addition will provide to the annexed or added area the
263 same retail service that the local district provides as a wholesale service to the municipality,
264 independent special district, or other local district; and

265 (ii) except as provided in Subsection (2), no part of the area is within the boundaries of
266 an independent special district under Title 17A, Chapter 2, Independent Special Districts, or
267 another local district that provides the same wholesale service as the proposed annexing local
268 district.

269 (b) For purposes of this section:

270 (i) a local district providing transportation service shall be considered to be providing a
271 wholesale service; and

272 (ii) a municipality included within the boundaries of the local district providing
273 transportation service shall be considered to be acquiring that wholesale service from the local
274 district and providing it as a retail service and to be providing that retail service after the
275 annexation or other addition to the annexed or added area, even though the municipality does

276 not in fact provide that service.

277 (2) Notwithstanding Subsection (1)(a)(ii), an area outside the boundaries of a local
278 district providing a wholesale service and located partly or entirely within the boundaries of an
279 independent special district or another local district that provides the same wholesale service
280 may be annexed to the local district if:

281 (a) the conditions under Subsection (1)(a)(i) are present; and

282 (b) the proposed annexing local district and the independent special district or other
283 local district follow the same procedure as is required for a boundary adjustment under Section
284 17B-2-516, including both district boards adopting a resolution approving the annexation of the
285 area to the proposed annexing local district and the withdrawal of that area from the other
286 district.

287 (3) Upon the adoption of an annexation resolution under this section, the board of the
288 annexing local district shall comply with the requirements of Subsection 17B-2-514(2), and the
289 lieutenant governor shall issue a certificate of annexation and send a copy of notice as provided
290 in Subsection 17B-2-514(2)(c).

291 (4) Subsection 17B-2-514(3) applies to an annexation under this section.

292 Section 7. Section **17B-2-516** is amended to read:

293 **17B-2-516. Boundary adjustment -- Notice and hearing -- Protest -- Resolution**
294 **adjusting boundaries -- Notice of the adjustment.**

295 (1) As used in this section, "affected area" means the area located within the
296 boundaries of one local district that will be removed from that local district and [~~be~~] included
297 within the boundaries of another local district because of [~~the~~] a boundary adjustment under
298 this section.

299 (2) The boards of trustees of two or more local districts having a common boundary
300 and providing the same service on the same wholesale or retail basis may adjust their common
301 boundary as provided in this section.

302 (3) (a) The board of trustees of each local district intending to adjust a boundary that is
303 common with another local district shall:

304 (i) adopt a resolution indicating the board's intent to adjust a common boundary;

305 (ii) hold a public hearing on the proposed boundary adjustment no less than 60 days
306 after the adoption of the resolution under Subsection (3)(a)(i); and

307 (iii) (A) (I) publish notice once a week for two successive weeks in a newspaper of
308 general circulation within the local district; or

309 (II) if there is no newspaper of general circulation within the local district, post notice
310 in at least four conspicuous places within the local district; or

311 (B) mail a notice to each owner of property located within the affected area and to each
312 registered voter residing within the affected area.

313 (b) The notice required under Subsection (3)(a)(iii) shall:

314 (i) state that the board of trustees of the local district has adopted a resolution
315 indicating the board's intent to adjust a boundary that the local district has in common with
316 another local district that provides the same service as the local district;

317 (ii) describe the affected area;

318 (iii) state the date, time, and location of the public hearing required under Subsection
319 (3)(a)(ii);

320 (iv) provide a local district telephone number where additional information about the
321 proposed boundary adjustment may be obtained;

322 (v) explain the financial and service impacts of the boundary adjustment on property
323 owners or residents within the affected area; and

324 (vi) state in conspicuous and plain terms that the board of trustees may [~~adjust~~
325 approve the adjustment of the boundaries unless, at or before the public hearing under
326 Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

327 (A) the owners of private real property that:

328 (I) is located within the affected area;

329 (II) covers at least 50% of the total private land area within the affected area; and

330 (III) is equal in assessed value to at least 50% of the assessed value of all private real
331 property within the affected area; or

332 (B) registered voters residing within the affected area equal in number to at least 50%
333 of the votes cast in the affected area for the office of governor at the last regular general
334 election before the filing of the protests.

335 (c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be
336 within 14 days after the board's adoption of a resolution under Subsection (3)(a)(i).

337 (d) The boards of trustees of the local districts whose boundaries are being adjusted

338 may jointly:

339 (i) publish, post, or mail the notice required under Subsection (3)(a)(iii); and

340 (ii) hold the public hearing required under Subsection (3)(a)(ii).

341 (4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees
342 may adopt a resolution [~~adjusting~~] approving the adjustment of the common boundary unless,
343 at or before the public hearing, written protests to the boundary adjustment have been filed
344 with the board by:

345 (a) the owners of private real property that:

346 (i) is located within the affected area;

347 (ii) covers at least 50% of the total private land area within the affected area; and

348 (iii) is equal in assessed value to at least 50% of the assessed value of all private real
349 property within the affected area; or

350 (b) registered voters residing within the affected area equal in number to at least 50%
351 of the votes cast in the affected area for the office of governor at the last regular general
352 election before the filing of the protests.

353 (5) A resolution adopted under Subsection (4) does not take effect until the board of
354 each local district whose boundaries are being adjusted has adopted a resolution under
355 Subsection (4).

356 (6) (a) Within ~~ten~~ 90 days after the resolutions take effect under Subsection (5), the
357 board of the local district whose boundaries are being adjusted to include the affected area shall
358 [~~comply with the requirements of Subsection 17B-2-514(2).~~] file a notice with the lieutenant
359 governor.

360 [~~(7) Subsection 17B-2-514(3) applies to a boundary adjustment under this section to~~
361 the same extent as if the boundary adjustment were an annexation.]

362 (b) The notice required under Subsection (6)(a) shall:

363 (i) be accompanied by:

364 (A) a copy of each of the board resolutions approving the boundary adjustment; and

365 (B) an accurate map depicting the affected area or a legal description of the affected
366 area, adequate for purposes of the county assessor and recorder; and

367 (ii) include a certification by the board of the local district whose boundaries are being
368 adjusted to include the affected area that all requirements for the boundary adjustment have

369 been complied with.

370 (c) Within ten days after receiving the notice under Subsection (6)(a), the lieutenant
371 governor shall:

372 (i) issue a certificate of boundary adjustment and send a copy of the certificate to the
373 board of each local district whose boundary is being adjusted, the State Tax Commission, the
374 state auditor, and the assessor and recorder of each county in which any part of the affected
375 area is located; and

376 (ii) send a copy of the notice under Subsection (6)(a), including the accompanying map
377 or legal description, to the State Tax Commission and the assessor and recorder of each county
378 in which any part of the affected area is located.

379 (7) Upon the lieutenant governor's issuance of a certificate of boundary adjustment, the
380 affected area is annexed to the local district whose boundaries are being adjusted to include the
381 affected area and the affected area is withdrawn from the local district whose boundaries are
382 being adjusted to exclude the affected area.

383 Section 8. Section **17B-2-610** is amended to read:

384 **17B-2-610. Notice of withdrawal -- Contest period -- Judicial review.**

385 (1) (a) Within [~~ten~~] 90 days after adopting a resolution approving a withdrawal, the
386 board of trustees shall file a written notice with the lieutenant governor.

387 (b) The notice required under Subsection (1)(a) shall:

388 (i) be accompanied by:

389 (A) a copy of the board resolution approving the withdrawal; and

390 (B) an accurate map depicting the boundaries of the withdrawn area or a legal
391 description of the withdrawn area, adequate for purposes of the county assessor and recorder;
392 and

393 (ii) include a certification by the local district board that all requirements for the
394 withdrawal have been complied with.

395 (c) Within ten days after receiving the notice under Subsection (1)(a), the lieutenant
396 governor shall:

397 (i) issue a certificate of withdrawal and send a copy of the certificate to the local
398 district board, the State Tax Commission, the state auditor, and the assessor and recorder of
399 each county in which any part of the withdrawn area is located; and

400 (ii) send a copy of the notice [of the withdrawal with] under Subsection (1)(a),
401 including the accompanying map or legal description, to the State Tax Commission and the
402 assessor and recorder of each county in which any part of the withdrawn area is located[-
403 accompanied by a copy of the resolution approving the withdrawal, an accurate map depicting
404 the boundaries of the withdrawn area or a legal description of the withdrawn area, adequate for
405 purposes of the county assessor and recorder].

406 ~~[(b)]~~ (3) Upon the ~~[filing of the notices required by Subsection (1)(a)]~~ lieutenant
407 governor's issuance of the certificate of withdrawal under Subsection (1)(c)(i), the withdrawal
408 shall be effective, subject to the conditions of the withdrawal resolution.

409 ~~[(2)]~~ (4) The local district may provide for the publication of any resolution approving
410 or denying the withdrawal of an area in a newspaper of general circulation in the area proposed
411 for withdrawal. In lieu of publishing the entire resolution, the local district may publish a
412 notice of withdrawal or denial of withdrawal, containing:

413 (a) the name of the local district;

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

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

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

421 ~~[(3)]~~ (5) Any sponsor of the petition or receiving entity may contest the board's
422 decision to deny a withdrawal of an area from the local district by submitting a request, within
423 60 days after the resolution is adopted under Section 17B-2-608, to the board of trustees,
424 suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of
425 trustees based its decision to deny the withdrawal.

426 ~~[(4)]~~ (6) Within 60 days after the request under Subsection ~~[(3)]~~ (5) is submitted to the
427 board of trustees, the board may consider the suggestions for mitigation and adopt a resolution
428 approving or denying the request in the same manner as provided in Section 17B-2-608 with
429 respect to the original resolution denying the withdrawal and file a notice of the action as
430 provided in Subsection (1).

431 [~~(5)~~] (7) (a) Any person in interest may seek judicial review of:

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

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

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

435 (b) Judicial review under this Subsection [~~(5)~~] (7) shall be initiated by filing an action
436 in the district court in the county in which a majority of the area proposed to be withdrawn is
437 located:

438 (i) if the resolution approving or denying the withdrawal is published under Subsection
439 [~~(2)~~] (4), within 60 days after the publication or after the board of trustees' denial of the request
440 under Subsection [~~(4)~~] (6);

441 (ii) if the resolution is not published pursuant to Subsection [~~(2)~~] (4), within 60 days
442 after the resolution approving or denying the withdrawal is adopted; or

443 (iii) if a request is submitted to the board of trustees of a local district under Subsection
444 [~~(3)~~] (5), and the board adopts a resolution under Subsection [~~(4)~~] (6), within 60 days after the
445 board adopts a resolution under Subsection [~~(4)~~] (6) unless the resolution is published under
446 Subsection [~~(2)~~] (4), in which event the action must be filed within 60 days after the
447 publication.

448 (c) A court in which an action is filed under this Subsection [~~(5)~~] (7) may not overturn,
449 in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

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

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

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

455 [~~(6)~~] (8) After the applicable contest period under Subsection [~~(3)~~ ~~or~~] (5) or (7), no
456 person may contest the board of trustees' approval or denial of withdrawal for any cause.

457 Section 9. Section **17B-2-708** is amended to read:

458 **17B-2-708. Dissolution resolution -- Limitations on dissolution -- Distribution of**
459 **remaining assets -- Notice of dissolution.**

460 (1) After the public hearing required under Section 17B-2-706 and subject to
461 Subsection (2), the administrative body may adopt a resolution [~~dissolving~~] approving

462 dissolution of the local district.

463 (2) A resolution under Subsection (1) may not be adopted unless:

464 (a) any outstanding debt of the local district is:

465 (i) satisfied and discharged in connection with the dissolution; or

466 (ii) assumed by another governmental entity with the consent of all the holders of that
467 debt and all the holders of other debts of the local district;

468 (b) for a local district that has provided service during the preceding three years or
469 undertaken planning or other activity preparatory to providing service:

470 (i) another entity has committed to provide the same service to the area being served or
471 proposed to be served by the local district; and

472 (ii) all who are to receive the service have consented to the service being provided by
473 the other entity; and

474 (c) all outstanding contracts to which the local district is a party are resolved through
475 mutual termination or the assignment of the district's rights, duties, privileges, and
476 responsibilities to another entity with the consent of the other parties to the contract.

477 (3) (a) (i) Any assets of the local district remaining after paying all debts and other
478 obligations of the local district shall be used to pay costs associated with the dissolution
479 process under this part.

480 (ii) Any costs of the dissolution process remaining after exhausting the remaining
481 assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

482 (b) Any assets of the local district remaining after application of Subsection (3)(a) shall
483 be distributed:

484 (i) proportionately to the owners of real property within the dissolved local district if
485 there is a readily identifiable connection between a financial burden borne by the real property
486 owners in the district and the remaining assets; or

487 (ii) except as provided in Subsection (3)(b)(i), to each county, city, or town in which
488 the dissolved local district was located before dissolution in the same proportion that the land
489 area of the local district located within the unincorporated area of the county or within the city
490 or town bears to the total local district land area.

491 (4) (a) Within ~~ten~~ 90 days after adopting a resolution [~~dissolving~~] approving
492 dissolution of the local district, the administrative body shall [~~cause a notice of the~~] file a

493 notice with the lieutenant governor.
494 (b) The notice required under Subsection (4)(a) shall:
495 (i) be accompanied by a copy of the board resolution approving the dissolution; and
496 (ii) include a certification by the administrative body that all requirements for the
497 dissolution have been complied with.
498 (c) Within ten days after receiving the notice under Subsection (4)(a), the lieutenant
499 governor shall:
500 (i) issue a certificate of dissolution and send a copy of the certificate to the
501 administrative body; and
502 (ii) send a copy of the certificate of dissolution, with a copy of the [dissolution]
503 administrative body's resolution, [to be mailed or delivered] to the State Tax Commission, the
504 state auditor, and the assessor and recorder of each county in which any part of the dissolved
505 district was located immediately before dissolution.

Legislative Review Note
as of 11-21-02 2:40 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 2:07 PM

The Political Subdivisions Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0018

**Lieutenant Governor Certification of Special District and Local
District Annexations, Withdrawals, and Dissolutions**

07-Jan-03
4:19 PM

State Impact

No significant fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst