

AMENDMENTS TO LOCAL DISTRICTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen W. Morgan

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies provisions relating to the withdrawal of an area from a local district.

Highlighted Provisions:

This bill:

- ▶ provides for an area in a local district that provides fire protection, paramedic, and emergency services and is located in a first class county to be automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if the municipality approves the withdrawal; and
- ▶ requires notice and lieutenant governor certification of the withdrawal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2-601, as last amended by Chapter 257, Laws of Utah 2003

17B-2-610, as last amended by Chapters 170 and 257, Laws of Utah 2003

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

Section 1. Section **17B-2-601** is amended to read:

17B-2-601. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances -- Definitions.

(1) An area within the boundaries of a local district may be withdrawn from the local district as provided in this part.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

- (i) the local district provides fire protection, paramedic, and emergency services;
- (ii) an election for the creation of the local district was not required because of Subsection 17B-2-214(3)(c); and
- (iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-2-610~~(4)~~(2)(b).

(3) (a) An area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

- (i) the local district provides fire protection, paramedic, and emergency services;
- (ii) an election for the creation of the local district was not required because of Subsection 17B-2-214(3)(c); and
- (iii) the legislative body of the newly incorporated municipality:
 - (A) adopts a resolution approving the withdrawal that includes the legal description of the area to be withdrawn; and
 - (B) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-2-610(2)(a).

~~(3)~~ (4) 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 2. Section **17B-2-610** is amended to read:

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

(1) (a) The board of trustees shall file a written notice of withdrawal with the lieutenant governor:

(i) within ten days after adopting a resolution approving a withdrawal under Section 17B-2-608; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-2-601(2), after receiving a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-2-601(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section 17B-2-603.5.

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

(i) be accompanied by:

(A) for a withdrawal pursuant to a resolution adopted under Section 17B-2-608, a copy of the board resolution approving the withdrawal; and

(B) 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; and

(ii) for a withdrawal pursuant to a resolution adopted under Section 17B-2-608, include a certification by the local district board that all requirements for the withdrawal have been complied with.

(c) Within ten days after receiving the notice of withdrawal under Subsection (1)(a) for a withdrawal under Section 17B-2-608, for an automatic withdrawal under Subsection 17B-2-601(3), or for the withdrawal of a municipality from a local district under Section 17B-2-603.5, the lieutenant governor shall:

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

(ii) send a copy of the notice under Subsection (1)(a), including the accompanying map or legal description, to the State Tax Commission and the assessor and recorder of each county in

which any part of the withdrawn area is located.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Subsection (1)(c)(i) for a withdrawal under Section 17B-2-608, for an automatic withdrawal under Subsection 17B-2-601(3), or for the withdrawal of a municipality from a local district under Section 17B-2-603.5, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-2-601(2) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Subsection 10-1-117(3)(b).

(3) 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.

(4) 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.

(5) Within 60 days after the request under Subsection (4) 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).

(6) (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 (6) 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 (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), 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 (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), 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 (6) 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.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.