

28 **certain circumstances -- Definitions.**

29 (1) An area within the boundaries of a local district may be withdrawn from the local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

31 (2) (a) An area within the boundaries of a local district is automatically withdrawn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

34 (i) the local district provides fire protection, paramedic, and emergency services;

35 (ii) an election for the creation of the local district was not required because of

36 Subsection 17B-2-214(3)(c); and

37 (iii) before annexation or boundary adjustment, the boundaries of the local district do
38 not include any of the annexing municipality.

39 (b) The effective date of a withdrawal under this Subsection (2) is governed by

40 Subsection 17B-2-610~~(1)~~(2)(b).

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42 class is automatically withdrawn from the local district by the incorporation of a municipality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

44 (i) the local district provides fire protection, paramedic, and emergency services;

45 (ii) an election for the creation of the local district was not required because of

46 Subsection 17B-2-214(3)(c); and

47 (iii) the legislative body of the newly incorporated municipality:

48 (A) adopts a resolution approving the withdrawal that includes the legal description of
49 the area to be withdrawn; and

50 (B) delivers a copy of the resolution to the board of trustees of the local district.

51 (b) The effective date of a withdrawal under this Subsection (3) is governed by

52 Subsection 17B-2-610(2)(a).

53 ~~(3)~~ (4) In addition to those definitions in Section 17B-2-101, as used in this part,
54 "receiving entity" means an entity that will, following a withdrawal, provide to the withdrawn
55 area the service previously provided by the local district.

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

57 **17B-2-610. Notice of withdrawal -- Contest period -- Judicial review.**

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

59 governor:

60 (i) within ten days after adopting a resolution approving a withdrawal under Section
61 17B-2-608; and

62 (ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an
63 automatic withdrawal under Subsection 17B-2-601(2), after receiving a copy of the municipal
64 legislative body's resolution approving an automatic withdrawal under Subsection
65 17B-2-601(3)(a), or after receiving notice of a withdrawal of a municipality from a local
66 district under Section 17B-2-603.5.

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

68 (i) be accompanied by:

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

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

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

77 (c) Within ten days after receiving the notice of withdrawal under Subsection (1)(a) for
78 a withdrawal under Section 17B-2-608, for an automatic withdrawal under Subsection
79 17B-2-601(3), or for the withdrawal of a municipality from a local district under Section
80 17B-2-603.5, the lieutenant governor shall:

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

84 (ii) send a copy of the notice under Subsection (1)(a), including the accompanying map
85 or legal description, to the State Tax Commission and the assessor and recorder of each county
86 in which any part of the withdrawn area is located.

87 (2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under
88 Subsection (1)(c)(i) for a withdrawal under Section 17B-2-608, for an automatic withdrawal
89 under Subsection 17B-2-601(3), or for the withdrawal of a municipality from a local district

90 under Section 17B-2-603.5, the withdrawal shall be effective, subject to the conditions of the
91 withdrawal resolution, if applicable.

92 (b) An automatic withdrawal under Subsection 17B-2-601(2) shall be effective upon
93 the lieutenant governor's issuance of a certificate of withdrawal under Subsection
94 10-1-117(3)(b).

95 (3) The local district may provide for the publication of any resolution approving or
96 denying the withdrawal of an area in a newspaper of general circulation in the area proposed
97 for withdrawal. In lieu of publishing the entire resolution, the local district may publish a
98 notice of withdrawal or denial of withdrawal, containing:

99 (a) the name of the local district;

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

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

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

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

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

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

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

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

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

121 (b) Judicial review under this Subsection (6) shall be initiated by filing an action in the
122 district court in the county in which a majority of the area proposed to be withdrawn is located:

123 (i) if the resolution approving or denying the withdrawal is published under Subsection
124 (3), within 60 days after the publication or after the board of trustees' denial of the request
125 under Subsection (5);

126 (ii) if the resolution is not published pursuant to Subsection (3), within 60 days after
127 the resolution approving or denying the withdrawal is adopted; or

128 (iii) if a request is submitted to the board of trustees of a local district under Subsection
129 (4), and the board adopts a resolution under Subsection (5), within 60 days after the board
130 adopts a resolution under Subsection (5) unless the resolution is published under Subsection
131 (3), in which event the action must be filed within 60 days after the publication.

132 (c) A court in which an action is filed under this Subsection (6) may not overturn, in
133 whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

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

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

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

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

Legislative Review Note

as of 2-8-05 11:08 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0380

Amendments to Local Districts

14-Feb-05

1:52 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst