

LAW ENFORCEMENT SERVICE IN LOCAL DISTRICTS AND INTERLOCAL ENTITIES

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to law enforcement services in local districts and interlocal entities.

Highlighted Provisions:

This bill:

▶ replaces "extended police protection" with "law enforcement service" in the list of services that a local district may be created to provide;

▶ eliminates the requirement to submit the creation of a local district to voters for their approval if the local district is created to provide law enforcement service;

▶ modifies who appoints one member of a merit system commission for a county in which a police local district or police interlocal entity is created;

▶ expands an exception as to how the board of trustees of a service area is to be constituted to include a service area created to provide law enforcement service;

▶ modifies a provision relating to the duties of a sheriff in a first class county that enters into an interlocal agreement for law enforcement services and expands it to apply to all counties;

▶ provides that a sheriff is the chief law enforcement officer of a local district created to provide law enforcement service and is subject to the direction of the local district board as provided by agreement; and



28 ▶ repeals a provision relating to a first class county entering an interlocal agreement
29 for law enforcement service.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 **AMENDS:**

36 **17-22-2**, as last amended by Laws of Utah 2008, Chapter 117

37 **17-30-1**, as last amended by Laws of Utah 1993, Chapters 227 and 234

38 **17-30-3**, as last amended by Laws of Utah 1997, Chapter 177

39 **17B-1-202**, as last amended by Laws of Utah 2008, Chapter 360

40 **17B-1-214**, as renumbered and amended by Laws of Utah 2007, Chapter 329

41 **17B-2a-905**, as enacted by Laws of Utah 2007, Chapter 329

42 **REPEALS:**

43 **17-50-324**, as enacted by Laws of Utah 2008, Chapter 117



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

46 Section 1. Section **17-22-2** is amended to read:

47 **17-22-2. Sheriff -- General duties.**

48 (1) The sheriff shall:

49 (a) preserve the peace;

50 (b) make all lawful arrests;

51 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when
52 required or when the court is held within his county, all courts of record, and court
53 commissioner and referee sessions held within his county, obey their lawful orders and
54 directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial
55 Administration;

56 (d) upon request of the juvenile court, aid the court in maintaining order during
57 hearings and transport a minor to and from youth corrections facilities, other institutions, or
58 other designated places;

59 (e) attend county justice courts if the judge finds that the matter before the court
60 requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his
61 custody, or for the custody of jurors;

62 (f) command the aid of as many inhabitants of his county as he considers necessary in
63 the execution of these duties;

64 (g) take charge of and keep the county jail and the jail prisoners;

65 (h) receive and safely keep all persons committed to his custody, file and preserve the
66 commitments of those persons, and record the name, age, place of birth, and description of
67 each person committed;

68 (i) release on the record all attachments of real property when the attachment he
69 receives has been released or discharged;

70 (j) endorse on all process and notices the year, month, day, hour, and minute of
71 reception, and, upon payment of fees, issue a certificate to the person delivering process or
72 notice showing the names of the parties, title of paper, and the time of receipt;

73 (k) serve all process and notices as prescribed by law;

74 (l) if he makes service of process or notice, certify on the process or notices the
75 manner, time, and place of service, or, if he fails to make service, certify the reason upon the
76 process or notice, and return them without delay;

77 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public
78 land within his county;

79 (n) perform as required by any contracts between the county and private contractors for
80 management, maintenance, operation, and construction of county jails entered into under the
81 authority of Section 17-53-311;

82 (o) for the sheriff of a ~~[first class]~~ county that enters into an interlocal agreement for
83 law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, ~~[as authorized~~
84 ~~in Section 17-50-324: (i)]~~ provide law enforcement service as provided in the interlocal
85 agreement; ~~[or]~~

86 ~~[(ii) provide law enforcement service to an unincorporated area of the county to the~~
87 ~~extent that the law enforcement service is not provided to the area by a local district or~~
88 ~~interlocal entity, as defined in Section 11-13-103, established to provide law enforcement~~
89 ~~service or extended police protection to the area;]~~

- 90 (p) manage search and rescue services in his county;
- 91 (q) obtain saliva DNA specimens as required under Section 53-10-404;
- 92 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
- 93 detention, or search of any person when the action is solely motivated by considerations of
- 94 race, color, ethnicity, age, or gender; and
- 95 (s) perform any other duties that are required by law.

96 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other
 97 subsection under Subsection (1) is a class A misdemeanor.

98 (3) A sheriff in a county in which a local district is created under Title 17B, Limited
 99 Purpose Local Government Entities - Local Districts, to provide law enforcement service:

100 (a) serves as the chief executive officer of the local district with respect to the district's
 101 providing law enforcement service within the boundary of the local district; and

102 (b) is subject to the direction of the local district board of trustees, as and to the extent
 103 provided by agreement between the local district and the sheriff.

104 Section 2. Section **17-30-1** is amended to read:

105 **17-30-1. Definitions.**

- 106 (1) "Governing body" means the county legislative body.
- 107 (2) "Appointing authority" means the sheriff of a county having jurisdiction over any
- 108 peace officer.
- 109 (3) "Peace officer" means any paid deputy sheriff, other than a chief deputy designated
- 110 by the sheriff, who is in the continuous employ of a county.
- 111 (4) "Commission" means the ~~[personal]~~ merit system commission consisting of three
- 112 persons appointed ~~[by the governing body]~~ as provided in Section 17-30-3 and having the duty,
- 113 power, and responsibility for the discharge of the functions of this chapter.

114 (5) "Department of Public Safety" means the department created in Section 53-1-103.

115 Section 3. Section **17-30-3** is amended to read:

116 **17-30-3. Establishment of merit system commission -- Appointment,**
 117 **qualifications, and compensation of members.**

118 (1) (a) Each county with a population of 20,000 ~~[people]~~ or more shall establish a merit
 119 system commission consisting of three members appointed as provided in Subsection (1)(b).

120 (b) (i) As used in this Subsection (1)(b):

- 121 (A) "Police interlocal entity" means an interlocal entity, as defined in Section
122 11-13-103, that is created:
- 123 (I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a
124 county is a party; and
- 125 (II) to provide law enforcement service to an area that includes the unincorporated part
126 of the county.
- 127 (B) "Police local district" means a local district, as defined in Section 17B-1-102:
- 128 (I) whose creation was initiated by the adoption of a resolution under Section
129 17B-1-203 by the legislative body of a county, alone or with one or more other legislative
130 bodies; and
- 131 (II) that is created to provide law enforcement service to an area that includes the
132 unincorporated part of the county.
- 133 (ii) For a county in which a police interlocal entity is created, whether or not a police
134 local district is also created in the county:
- 135 (A) two members shall be appointed by the legislative body of the county; and
136 (B) one member shall be appointed by the governing body of the interlocal entity.
- 137 (iii) For a county in which a police local district is created but in which a police
138 interlocal entity has not been created:
- 139 (A) two members shall be appointed by the legislative body of the county; and
140 (B) one member shall be appointed by the board of trustees of the police local district.
- 141 (iv) For each other county, all three members shall be appointed by the county
142 legislative body.
- 143 (c) Not more than two members of the commission shall be affiliated with or members
144 of the same political party.
- 145 (d) Of the original appointees, one member shall be appointed for a term ending
146 February 1 of the first odd-numbered year after the date of appointment, and one each for terms
147 ending two and four years thereafter.
- 148 (e) Upon the expiration of any of the terms, a successor shall be appointed for a full
149 term of six years.
- 150 (f) Appointment to fill a vacancy resulting other than from expiration of term shall be
151 for the unexpired portion of the term only. ~~[Each legislative body charged by this act with the~~

152 ~~appointment of a personnel merit system commission shall make such appointments within 90~~
153 ~~days after the effective date of this act.]~~

154 (2) Members of a commission shall be citizens of the state, shall have been residents of
155 the area embraced by the governmental unit from which appointed not less than five years next
156 preceding the date of appointment, and shall hold no other office or employment under the
157 governmental unit for which appointed.

158 (3) The county legislative body may compensate a member for service on the
159 commission and reimburse the member for necessary expenses incurred in the performance of
160 the member's duties.

161 Section 4. Section **17B-1-202** is amended to read:

162 **17B-1-202. Local district may be created -- Services that may be provided --**
163 **Limitations.**

164 (1) (a) A local district may be created as provided in this part to provide within its
165 boundaries service consisting of:

- 166 (i) the operation of an airport;
- 167 (ii) the operation of a cemetery;
- 168 (iii) fire protection, paramedic, and emergency services;
- 169 (iv) garbage collection and disposal;
- 170 (v) health care, including health department or hospital service;
- 171 (vi) the operation of a library;
- 172 (vii) abatement or control of mosquitos and other insects;
- 173 (viii) the operation of parks or recreation facilities or services;
- 174 (ix) the operation of a sewage system;
- 175 (x) street lighting;
- 176 (xi) the construction and maintenance of curb, gutter, and sidewalk;
- 177 (xii) transportation, including public transit and providing streets and roads;
- 178 (xiii) the operation of a system, or one or more components of a system, for the
179 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
180 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
181 the system is operated on a wholesale or retail level or both;
- 182 (xiv) ~~[extended police protection]~~ law enforcement service; or

183 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line
184 or the conversion to underground of an existing electric utility line.

185 (b) Each local district that provides the service of the underground installation of an
186 electric utility line or the conversion to underground of an existing electric utility line shall, in
187 installing or converting the line, provide advance notice to and coordinate with the utility that
188 owns the line.

189 (2) For purposes of this section:

190 (a) "Operation" means all activities involved in providing the indicated service
191 including acquisition and ownership of property reasonably necessary to provide the indicated
192 service and acquisition, construction, and maintenance of facilities and equipment reasonably
193 necessary to provide the indicated service.

194 (b) "System" means the aggregate of interrelated components that combine together to
195 provide the indicated service including, for a sewage system, collection and treatment.

196 (3) (a) A local district may not be created to provide and may not after its creation
197 provide more than four of the services listed in Subsection (1).

198 (b) Subsection (3)(a) may not be construed to prohibit a local district from providing
199 more than four services if, before April 30, 2007, the local district was authorized to provide
200 those services.

201 (4) (a) Except as provided in Subsection (4)(b), a local district may not be created to
202 provide and may not after its creation provide to an area the same service already being
203 provided to that area by another political subdivision, unless the other political subdivision
204 gives its written consent.

205 (b) For purposes of Subsection (4)(a), a local district does not provide the same service
206 as another political subdivision if it operates a component of a system that is different from a
207 component operated by another political subdivision but within the same:

208 (i) sewage system; or

209 (ii) water system.

210 (5) (a) Except for a local district in the creation of which an election is not required
211 under Subsection 17B-1-214(3)(c), the area of a local district may include all or part of the
212 unincorporated area of one or more counties and all or part of one or more municipalities.

213 (b) The area of a local district need not be contiguous.

214 (6) For a local district created before May 5, 2008, the authority to provide fire
215 protection service also includes the authority to provide:

- 216 (a) paramedic service; and
- 217 (b) emergency service, including hazardous materials response service.

218 Section 5. Section **17B-1-214** is amended to read:

219 **17B-1-214. Election -- Exceptions.**

220 (1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(2)(a), an
221 election on the question of whether the local district should be created shall be held by:

- 222 (i) if the proposed local district is located entirely within a single county, the
223 responsible clerk; or
- 224 (ii) except as provided under Subsection (1)(b), if the proposed local district is located
225 within more than one county, the clerk of each county in which part of the proposed local
226 district is located, in cooperation with the responsible clerk.

227 (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located
228 within more than one county and the only area of a county that is included within the proposed
229 local district is located within a single municipality, the election for that area shall be held by
230 the municipal clerk or recorder, in cooperation with the responsible clerk.

231 (2) Each election under Subsection (1) shall be held at the next special or regular
232 general election date that is:

- 233 (a) for an election pursuant to a property owner or registered voter petition, more than
234 45 days after certification of the petition under Subsection 17B-1-209(3)(b)(i); or
- 235 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing
236 required under Section 17B-1-210.

237 (3) The election requirement of Subsection (1) does not apply to:

- 238 (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the
239 owners of private real property that:
 - 240 (i) is located within the proposed local district;
 - 241 (ii) covers at least 67% of the total private land area within the proposed local district
242 as a whole and within each applicable area; and
 - 243 (iii) is equal in value to at least 50% of the value of all private real property within the
244 proposed local district as a whole and within each applicable area;

245 (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of
246 registered voters residing within the proposed local district as a whole and within each
247 applicable area, equal in number to at least 67% of the number of votes cast in the proposed
248 local district as a whole and in each applicable area, respectively, for the office of governor at
249 the last general election prior to the filing of the petition;

250 (c) a resolution adopted under Subsection 17B-1-203(1)(c) on or after May 5, 2003 that
251 proposes the creation of a local district to provide fire protection, paramedic, and emergency
252 services or law enforcement service, if the proposed local district includes a majority of the
253 unincorporated area of one or more counties; or

254 (d) a resolution adopted under Subsection 17B-1-203(1)(c) or (d) if the resolution
255 proposes the creation of a local district that has no registered voters within its boundaries.

256 (4) (a) If the proposed local district is located in more than one county, the responsible
257 clerk shall coordinate with the clerk of each other county and the clerk or recorder of each
258 municipality involved in an election under Subsection (1) so that the election is held on the
259 same date and in a consistent manner in each jurisdiction.

260 (b) The clerk of each county and the clerk or recorder of each municipality involved in
261 an election under Subsection (1) shall cooperate with the responsible clerk in holding the
262 election.

263 (c) Except as otherwise provided in this part, each election under Subsection (1) shall
264 be governed by Title 20A, Election Code.

265 Section 6. Section **17B-2a-905** is amended to read:

266 **17B-2a-905. Service area board of trustees.**

267 (1) (a) Except as provided in Subsection (2):

268 (i) the initial board of trustees of a service area located entirely within the
269 unincorporated area of a single county may, as stated in the petition or resolution that initiated
270 the process of creating the service area:

271 (A) consist of the county legislative body;

272 (B) be appointed, as provided in Section 17B-1-304; or

273 (C) be elected, as provided in Section 17B-1-306;

274 (ii) if the board of trustees of a service area consists of the county legislative body, the
275 board may adopt a resolution providing for future board members to be appointed, as provided

276 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

277 (iii) members of the board of trustees of a service area shall be elected, as provided in
278 Section 17B-1-306, if:

279 (A) the service area is not entirely within the unincorporated area of a single county;

280 (B) a petition is filed with the board of trustees requesting that board members be
281 elected, and the petition is signed by registered voters within the service area equal in number
282 to at least 10% of the number of registered voters within the service area who voted at the last
283 gubernatorial election; or

284 (C) an election is held to authorize the service area's issuance of bonds.

285 (b) If members of the board of trustees of a service area are required to be elected
286 under Subsection (1)(a)(iii)(C) because of a bond election:

287 (i) board members shall be elected in conjunction with the bond election;

288 (ii) the board of trustees shall:

289 (A) establish a process to enable potential candidates to file a declaration of candidacy
290 sufficiently in advance of the election; and

291 (B) provide a ballot for the election of board members separate from the bond ballot;
292 and

293 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided
294 in Section 17B-1-306.

295 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003 if:

296 (i) the service area was created to provide:

297 (A) fire protection, paramedic, and emergency services; [~~and~~] or

298 (B) law enforcement service; and

299 (ii) in the creation of the service area, an election was not required under Subsection
300 17B-1-214(3)(c).

301 (b) (i) Each county whose unincorporated area is included within a service area
302 described in Subsection (2)(a), whether in conjunction with the creation of the service area or
303 by later annexation, shall appoint three members to the board of trustees.

304 (ii) Each municipality whose area is included within a service area described in
305 Subsection (2)(a), whether in conjunction with the creation of the service area or by later
306 annexation, shall appoint one member to the board of trustees.

307 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or
308 (ii) shall be an elected official of the appointing county or municipality, respectively.

309 (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of
310 trustees of a service area described in Subsection (2)(a) shall be the number resulting from
311 application of Subsection (2)(b).

312 Section 7. **Repealer.**

313 This bill repeals:

314 Section **17-50-324, First class county may contract to provide law enforcement**
315 **service.**

Legislative Review Note
as of 1-19-09 6:52 AM

Office of Legislative Research and General Counsel

S.B. 131 - Law Enforcement Service in Local Districts and Interlocal Entities

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
