

LOCAL DISTRICT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: Don L. Ipson

LONG TITLE

Committee Note:

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

General Description:

This bill amends provisions relating to a local district created to acquire or assess groundwater rights.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends a local district's power to assess a groundwater right;
- ▶ identifies a groundwater right owner for purposes of a local district created to acquire or assess a groundwater right;
- ▶ authorizes the owners of groundwater rights to petition for the creation of a local district to acquire or assess groundwater rights;
- ▶ requires that a groundwater right owner petition or request proposing to create a local district to acquire or assess groundwater rights address certain issues;
- ▶ exempts, in certain circumstances, the creation of a local district to acquire or assess groundwater rights from the election requirement;
- ▶ amends provisions governing the election or appointment of a board of trustees;
- ▶ in certain circumstances, requires that the state engineer send notice to a local



28 district; and

29 ▶ makes technical corrections.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **11-42-102**, as last amended by Laws of Utah 2009, Chapters 92 and 246

37 **11-42-202**, as last amended by Laws of Utah 2010, Chapter 238

38 **17B-1-103**, as last amended by Laws of Utah 2010, Chapter 150

39 **17B-1-201**, as renumbered and amended by Laws of Utah 2007, Chapter 329

40 **17B-1-202**, as last amended by Laws of Utah 2010, Chapters 150 and 159

41 **17B-1-203**, as last amended by Laws of Utah 2010, Chapter 150

42 **17B-1-204**, as renumbered and amended by Laws of Utah 2007, Chapter 329

43 **17B-1-205**, as last amended by Laws of Utah 2008, Chapter 360

44 **17B-1-209**, as renumbered and amended by Laws of Utah 2007, Chapter 329

45 **17B-1-210**, as renumbered and amended by Laws of Utah 2007, Chapter 329

46 **17B-1-211**, as last amended by Laws of Utah 2010, Chapter 90

47 **17B-1-213**, as last amended by Laws of Utah 2010, Chapter 150

48 **17B-1-214**, as last amended by Laws of Utah 2010, Chapter 150

49 **17B-1-215**, as last amended by Laws of Utah 2010, Chapter 150

50 **17B-1-302**, as last amended by Laws of Utah 2008, Chapter 360

51 **17B-1-402**, as last amended by Laws of Utah 2009, Chapter 92

52 **17B-1-414**, as last amended by Laws of Utah 2009, Chapter 350

53 **17B-1-416**, as last amended by Laws of Utah 2009, Chapters 218 and 350

54 **17B-1-502**, as last amended by Laws of Utah 2009, Chapter 218

55 **17B-1-505**, as last amended by Laws of Utah 2009, Chapter 218

56 **17B-1-1402**, as enacted by Laws of Utah 2007, Chapter 329

57 **17B-2a-905**, as last amended by Laws of Utah 2010, Chapter 159

58 **73-5-15**, as last amended by Laws of Utah 2009, Chapter 388

59 ENACTS:

60 **17B-1-104.5**, Utah Code Annotated 1953

61

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

63 Section 1. Section **11-42-102** is amended to read:

64 **11-42-102. Definitions.**

65 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203
66 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number
67 of connections, or equivalent residential units of the property proposed to be assessed,
68 according to the same assessment method by which the assessment is proposed to be levied,
69 after eliminating:

70 (a) protests relating to:

71 (i) property that has been deleted from a proposed assessment area; or

72 (ii) an improvement that has been deleted from the proposed improvements to be
73 provided to property within the proposed assessment area; and

74 (b) protests that have been withdrawn under Subsection 11-42-203(3).

75 (2) "Assessment area" means an area, or, if more than one area is designated, the
76 aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a
77 local entity under Part 2, Designating an Assessment Area, for the purpose of financing the
78 costs of improvements, operation and maintenance, or economic promotion activities that
79 benefit property within the area.

80 (3) "Assessment bonds" means bonds that are:

81 (a) issued under Section 11-42-605; and

82 (b) payable in part or in whole from assessments levied in an assessment area,
83 improvement revenues, and a guaranty fund or reserve fund.

84 (4) "Assessment fund" means a special fund that a local entity establishes under
85 Section 11-42-412.

86 (5) "Assessment lien" means a lien on property within an assessment area that arises
87 from the levy of an assessment, as provided in Section 11-42-501.

88 (6) "Assessment method" means the method by which an assessment is levied against
89 property, whether by frontage, area, taxable value, fair market value, lot, number of

90 connections, equivalent residential unit, or any combination of these methods.

91 (7) "Assessment ordinance" means an ordinance adopted by a local entity under
92 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

93 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
94 11-42-404 that levies an assessment on benefitted property within an assessment area.

95 (9) "Benefitted property" means property within an assessment area that directly or
96 indirectly benefits from improvements, operation and maintenance, or economic promotion
97 activities.

98 (10) "Bond anticipation notes" means notes issued under Section 11-42-602 in
99 anticipation of the issuance of assessment bonds.

100 (11) "Bonds" means assessment bonds and refunding assessment bonds.

101 (12) "Commercial area" means an area in which at least 75% of the property is devoted
102 to the interchange of goods or commodities.

103 (13) "Connection fee" means a fee charged by a local entity to pay for the costs of
104 connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or
105 electrical system, whether or not improvements are installed on the property.

106 (14) "Contract price" means:

107 (a) the cost of acquiring an improvement, if the improvement is acquired; or

108 (b) the amount payable to one or more contractors for the design, engineering,
109 inspection, and construction of an improvement.

110 (15) "Designation ordinance" means an ordinance adopted by a local entity under
111 Section 11-42-206 designating an assessment area.

112 (16) "Designation resolution" means a resolution adopted by a local entity under
113 Section 11-42-206 designating an assessment area.

114 (17) "Economic promotion activities" means activities that promote economic growth
115 in a commercial area of a local entity, including:

116 (a) sponsoring festivals and markets;

117 (b) promoting business investment or activities;

118 (c) helping to coordinate public and private actions; and

119 (d) developing and issuing publications designed to improve the economic well-being
120 of the commercial area.

121 (18) "Equivalent residential unit" means a dwelling, unit, or development that is equal
 122 to a single-family residence in terms of the nature of its use or impact on an improvement to be
 123 provided in the assessment area.

124 (19) "Governing body" means:

125 (a) for a county, city, or town, the legislative body of the county, city, or town;

126 (b) for a local district, the board of trustees of the local district;

127 (c) for a special service district:

128 (i) the legislative body of the county, city, or town that established the special service
 129 district, if no administrative control board has been appointed under Section 17D-1-301; or

130 (ii) the administrative control board of the special service district, if an administrative
 131 control board has been appointed under Section 17D-1-301; and

132 (d) for the military installation development authority created in Section 63H-1-201,
 133 the authority board, as defined in Section 63H-1-102.

134 (20) "Guaranty fund" means the fund established by a local entity under Section
 135 11-42-701.

136 (21) "Improved property" means property proposed to be assessed within an
 137 assessment area upon which a residential, commercial, or other building has been built.

138 (22) "Improvement":

139 (a) (i) means any publicly owned infrastructure, system, or other facility that:

140 [(†)] (A) a local entity is authorized to provide; or

141 [(†)] (B) the governing body of a local entity determines is necessary or convenient to
 142 enable the local entity to provide a service that the local entity is authorized to provide; and

143 [(†)] (ii) includes facilities in an assessment area, including a private driveway, an
 144 irrigation ditch, and a water turnout, that:

145 [(†)] (A) can be conveniently installed at the same time as an infrastructure, system, or
 146 other facility described in Subsection (22)(a)(i); and

147 [(†)] (B) are requested by a property owner on whose property or for whose benefit the
 148 infrastructure, system, or other facility is being installed[-]; or

149 (b) for a local district created to assess groundwater rights in accordance with Section
 150 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific
 151 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

- 152 (23) "Improvement revenues":
153 (a) means charges, fees, impact fees, or other revenues that a local entity receives from
154 improvements; and
155 (b) does not include revenue from assessments.
- 156 (24) "Incidental refunding costs" means any costs of issuing refunding assessment
157 bonds and calling, retiring, or paying prior bonds, including:
158 (a) legal and accounting fees;
159 (b) charges of financial advisors, escrow agents, certified public accountant verification
160 entities, and trustees;
161 (c) underwriting discount costs, printing costs, the costs of giving notice;
162 (d) any premium necessary in the calling or retiring of prior bonds;
163 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to
164 refund the outstanding prior bonds;
165 (f) any other costs that the governing body determines are necessary or desirable to
166 incur in connection with the issuance of refunding assessment bonds; and
167 (g) any interest on the prior bonds that is required to be paid in connection with the
168 issuance of the refunding assessment bonds.
- 169 (25) "Installment payment date" means the date on which an installment payment of an
170 assessment is payable.
- 171 (26) "Interim warrant" means a warrant issued by a local entity under Section
172 11-42-601.
- 173 (27) "Jurisdictional boundaries" means:
174 (a) for a county, the boundaries of the unincorporated area of the county; and
175 (b) for each other local entity, the boundaries of the local entity.
- 176 (28) "Local district" means a local district under Title 17B, Limited Purpose Local
177 Government Entities - Local Districts.
- 178 (29) "Local entity" means a county, city, town, special service district, local district,
179 military installation development authority created in Section 63H-1-201, or other political
180 subdivision of the state.
- 181 (30) "Local entity obligations" means assessment bonds, refunding assessment bonds,
182 interim warrants, and bond anticipation notes issued by a local entity.

- 183 (31) "Mailing address" means:
- 184 (a) a property owner's last-known address using the name and address appearing on the
- 185 last completed real property assessment roll of the county in which the property is located; and
- 186 (b) if the property is improved property:
- 187 (i) the property's street number; or
- 188 (ii) the post office box, rural route number, or other mailing address of the property, if
- 189 a street number has not been assigned.
- 190 (32) "Net improvement revenues" means all improvement revenues that a local entity
- 191 has received since the last installment payment date, less all amounts payable by the local entity
- 192 from those improvement revenues for operation and maintenance costs.
- 193 (33) "Operation and maintenance costs":
- 194 (a) means the costs that a local entity incurs in operating and maintaining
- 195 improvements in an assessment area, whether or not those improvements have been financed
- 196 under this chapter; and
- 197 (b) includes service charges, administrative costs, ongoing maintenance charges, and
- 198 tariffs or other charges for electrical, water, gas, or other utility usage.
- 199 (34) "Overhead costs" means the actual costs incurred or the estimated costs to be
- 200 incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing
- 201 fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying
- 202 agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and
- 203 all other incidental costs.
- 204 (35) "Prior bonds" means the assessment bonds that are refunded in part or in whole by
- 205 refunding assessment bonds.
- 206 (36) "Prior assessment ordinance" means the ordinance levying the assessments from
- 207 which the prior bonds are payable.
- 208 (37) "Prior assessment resolution" means the resolution levying the assessments from
- 209 which the prior bonds are payable.
- 210 (38) "Project engineer" means the surveyor or engineer employed by or private
- 211 consulting engineer engaged by a local entity to perform the necessary engineering services for
- 212 and to supervise the construction or installation of the improvements.
- 213 (39) "Property" includes real property and any interest in real property, including water

214 rights and leasehold rights.

215 (40) "Property price" means the price at which a local entity purchases or acquires by
216 eminent domain property to make improvements in an assessment area.

217 (41) "Provide" or "providing," with reference to an improvement, includes the
218 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
219 expansion of an improvement.

220 (42) "Public agency" means:

221 (a) the state or any agency, department, or division of the state; and

222 (b) a political subdivision of the state.

223 (43) "Reduced payment obligation" means the full obligation of an owner of property
224 within an assessment area to pay an assessment levied on the property after the assessment has
225 been reduced because of the issuance of refunding assessment bonds, as provided in Section
226 11-42-608.

227 (44) "Refunding assessment bonds" means assessment bonds that a local entity issues
228 under Section 11-42-607 to refund, in part or in whole, assessment bonds.

229 (45) "Reserve fund" means a fund established by a local entity under Section
230 11-42-702.

231 (46) "Service" means:

232 (a) water, sewer, storm drainage, garbage collection, library, recreation,
233 communications, or electric service;

234 (b) economic promotion activities; or

235 (c) any other service that a local entity is required or authorized to provide.

236 (47) "Special service district" has the same meaning as defined in Section 17D-1-102.

237 (48) "Unimproved property" means property upon which no residential, commercial, or
238 other building has been built.

239 (49) "Voluntary assessment area" means an assessment area that contains only property
240 whose owners have voluntarily consented to an assessment.

241 Section 2. Section **11-42-202** is amended to read:

242 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
243 **designation.**

244 (1) Each notice required under Subsection 11-42-201(2)(a) shall:

- 245 (a) state that the local entity proposes to:
- 246 (i) designate one or more areas within the local entity's jurisdictional boundaries as an
- 247 assessment area;
- 248 (ii) provide an improvement to property within the proposed assessment area; and
- 249 (iii) finance some or all of the cost of improvements by an assessment on benefitted
- 250 property within the assessment area;
- 251 (b) describe the proposed assessment area by any reasonable method that allows an
- 252 owner of property in the proposed assessment area to determine that the owner's property is
- 253 within the proposed assessment area;
- 254 (c) describe, in a general way, the improvements to be provided to the assessment area,
- 255 including:
- 256 (i) the general nature of the improvements; and
- 257 (ii) the general location of the improvements, by reference to streets or portions or
- 258 extensions of streets or by any other means that the governing body chooses that reasonably
- 259 describes the general location of the improvements;
- 260 (d) state the estimated cost of the improvements as determined by a project engineer;
- 261 (e) state that the local entity proposes to levy an assessment on benefitted property
- 262 within the assessment area to pay some or all of the cost of the improvements according to the
- 263 estimated direct and indirect benefits to the property from the improvements;
- 264 (f) state the assessment method by which the governing body proposes to levy the
- 265 assessment;
- 266 (g) state:
- 267 (i) the time within which and the location at which protests against designation of the
- 268 proposed assessment area or of the proposed improvements are required to be filed; and
- 269 (ii) the method by which the governing body will determine the number of protests
- 270 required to defeat the designation of the proposed assessment area or acquisition or
- 271 construction of the proposed improvements;
- 272 (h) state the date, time, and place of the public hearing required in Section 11-42-204;
- 273 (i) if the governing body elects to create and fund a reserve fund under Section
- 274 11-42-702, include a description of:
- 275 (i) how the reserve fund will be funded and replenished; and

276 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of
277 the bonds;

278 (j) if the governing body intends to designate a voluntary assessment area, include a
279 property owner consent form that:

280 (i) estimates the total assessment to be levied against the particular parcel of property;

281 (ii) describes any additional benefits that the governing body expects the assessed
282 property to receive from the improvements; and

283 (iii) designates the date and time by which the fully executed consent form is required
284 to be submitted to the governing body;

285 (k) if the local entity intends to levy an assessment to pay operation and maintenance
286 costs or for economic promotion activities, include:

287 (i) a description of the operation and maintenance costs or economic promotion
288 activities to be paid by assessments and the initial estimated annual assessment to be levied;

289 (ii) a description of how the estimated assessment will be determined;

290 (iii) a description of how and when the governing body will adjust the assessment to
291 reflect the costs of:

292 (A) in accordance with Section 11-42-406, current economic promotion activities; or

293 (B) current operation and maintenance costs;

294 (iv) a description of the method of assessment if different from the method of
295 assessment to be used for financing any improvement; and

296 (v) a statement of the maximum number of years over which the assessment will be
297 levied for:

298 (A) operation and maintenance costs; or

299 (B) economic promotion activities; and

300 (l) if the governing body intends to divide the proposed assessment area into zones
301 under Subsection 11-42-201(1)(b), include a description of the proposed zones.

302 (2) A notice required under Subsection 11-42-201(2)(a) may contain other information
303 that the governing body considers to be appropriate, including:

304 (a) the amount or proportion of the cost of the improvement to be paid by the local
305 entity or from sources other than an assessment;

306 (b) the estimated amount of each type of assessment for the various improvements to

307 be financed according to the method of assessment that the governing body chooses; and

308 (c) provisions for any improvements described in Subsection 11-42-102(22)~~(b)~~(a)(ii).

309 (3) Each notice required under Subsection 11-42-201(2)(a) shall:

310 (a) (i) (A) be published in a newspaper of general circulation within the local entity's
311 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at
312 least five but not more than 20 days before the deadline for filing protests specified in the
313 notice under Subsection (1)(g); or

314 (B) if there is no newspaper of general circulation within the local entity's jurisdictional
315 boundaries, be posted in at least three public places within the local entity's jurisdictional
316 boundaries at least 20 but not more than 35 days before the deadline for filing protests
317 specified in the notice under Subsection (1)(g); and

318 (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for
319 four weeks before the deadline for filing protests specified in the notice under Subsection
320 (1)(g); and

321 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of
322 the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed
323 assessment area at the property owner's mailing address.

324 Section 3. Section **17B-1-103** is amended to read:

325 **17B-1-103. Local district status and powers.**

326 (1) A local district:

327 (a) is:

328 (i) a body corporate and politic with perpetual succession;

329 (ii) a quasi-municipal corporation; and

330 (iii) a political subdivision of the state; and

331 (b) may sue and be sued.

332 (2) A local district may:

333 (a) acquire, by any lawful means, or lease any real property, personal property, or a
334 groundwater right necessary or convenient to the full exercise of the district's powers;

335 (b) acquire, by any lawful means, any interest in real property, personal property, or a
336 groundwater right necessary or convenient to the full exercise of the district's powers;

337 (c) transfer an interest in or dispose of any property or interest described in Subsections

338 (2)(a) and (b);

339 (d) acquire or construct works, facilities, and improvements necessary or convenient to
340 the full exercise of the district's powers, and operate, control, maintain, and use those works,
341 facilities, and improvements;

342 (e) borrow money and incur indebtedness for any lawful district purpose;

343 (f) issue bonds, including refunding bonds:

344 (i) for any lawful district purpose; and

345 (ii) as provided in and subject to Part 11, Local District Bonds;

346 (g) levy and collect property taxes:

347 (i) for any lawful district purpose or expenditure, including to cover a deficit resulting
348 from tax delinquencies in a preceding year; and

349 (ii) as provided in and subject to Part 10, Local District Property Tax Levy;

350 (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent
351 domain property necessary to the exercise of the district's powers;

352 (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

353 (j) (i) impose fees or other charges for commodities, services, or facilities provided by
354 the district, to pay some or all of the district's costs of providing the commodities, services, and
355 facilities, including the costs of:

356 (A) maintaining and operating the district;

357 (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

358 (C) issuing bonds and paying debt service on district bonds; and

359 (D) providing a reserve established by the board of trustees; and

360 (ii) take action the board of trustees considers appropriate and adopt regulations to
361 assure the collection of all fees and charges that the district imposes;

362 (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's
363 property to district facilities in order for the district to provide service to the property;

364 (l) enter into a contract that the local district board of trustees considers necessary,
365 convenient, or desirable to carry out the district's purposes, including a contract:

366 (i) with the United States or any department or agency of the United States;

367 (ii) to indemnify and save harmless; or

368 (iii) to do any act to exercise district powers;

- 369 (m) purchase supplies, equipment, and materials;
- 370 (n) encumber district property upon terms and conditions that the board of trustees
371 considers appropriate;
- 372 (o) exercise other powers and perform other functions that are provided by law;
- 373 (p) construct and maintain works and establish and maintain facilities, including works
374 or facilities:
- 375 (i) across or along any public street or highway, subject to Subsection (3) and if the
376 district:
- 377 (A) promptly restores the street or highway, as much as practicable, to its former state
378 of usefulness; and
- 379 (B) does not use the street or highway in a manner that completely or unnecessarily
380 impairs the usefulness of it;
- 381 (ii) in, upon, or over any vacant public lands that are or become the property of the
382 state, including school and institutional trust lands, as defined in Section 53C-1-103, if the
383 director of the School and Institutional Trust Lands Administration, acting under Sections
384 53C-1-102 and 53C-1-303, consents; or
- 385 (iii) across any stream of water or watercourse, subject to Section 73-3-29;
- 386 (q) perform any act or exercise any power reasonably necessary for the efficient
387 operation of the local district in carrying out its purposes;
- 388 (r) (i) except for a local district described in Subsection (2)(r)(ii), designate an
389 assessment area and levy an assessment on land within the assessment area, as provided in
390 Title 11, Chapter 42, Assessment Area Act; or
- 391 (ii) for a local district created to assess a groundwater right in a critical management
392 area described in Subsection 17B-1-202(1)[(c)], designate an assessment area and levy an
393 assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right
394 to facilitate a groundwater management plan;
- 395 (s) contract with another political subdivision of the state to allow the other political
396 subdivision to use the district's surplus water or capacity or have an ownership interest in the
397 district's works or facilities, upon the terms and for the consideration, whether monetary or
398 nonmonetary consideration or no consideration, that the district's board of trustees considers to
399 be in the best interests of the district and the public; and

400 (t) upon the terms and for the consideration, whether monetary or nonmonetary
401 consideration or no consideration, that the district's board of trustees considers to be in the best
402 interests of the district and the public, agree:

403 (i) with:

404 (A) another political subdivision of the state; or

405 (B) a public or private owner of property:

406 (I) on which the district has a right-of-way; or

407 (II) adjacent to which the district owns fee title to property; and

408 (ii) to allow the use of property:

409 (A) owned by the district; or

410 (B) on which the district has a right-of-way.

411 (3) With respect to a local district's use of a street or highway, as provided in

412 Subsection (2)(p)(i):

413 (a) the district shall comply with the reasonable rules and regulations of the
414 governmental entity, whether state, county, or municipal, with jurisdiction over the street or
415 highway, concerning:

416 (i) an excavation and the refilling of an excavation;

417 (ii) the relaying of pavement; and

418 (iii) the protection of the public during a construction period; and

419 (b) the governmental entity, whether state, county, or municipal, with jurisdiction over
420 the street or highway:

421 (i) may not require the district to pay a license or permit fee or file a bond; and

422 (ii) may require the district to pay a reasonable inspection fee.

423 (4) (a) A local district may:

424 (i) acquire, lease, or construct and operate electrical generation, transmission, and
425 distribution facilities, if:

426 (A) the purpose of the facilities is to harness energy that results inherently from the
427 district's:

428 (I) operation of a project or facilities that the district is authorized to operate; or

429 (II) providing a service that the district is authorized to provide;

430 (B) the generation of electricity from the facilities is incidental to the primary

431 operations of the district; and

432 (C) operation of the facilities will not hinder or interfere with the primary operations of
433 the district;

434 (ii) (A) use electricity generated by the facilities; or

435 (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric
436 utility or municipality with an existing system for distributing electricity.

437 (b) A district may not act as a retail distributor or seller of electricity.

438 (c) Revenue that a district receives from the sale of electricity from electrical
439 generation facilities it owns or operates under this section may be used for any lawful district
440 purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or
441 constructing the facilities.

442 (5) A local district may adopt and, after adoption, alter a corporate seal.

443 Section 4. Section **17B-1-104.5** is enacted to read:

444 **17B-1-104.5. Groundwater right owner provisions -- Vote.**

445 (1) For purposes of this title, an owner of a groundwater right, is on the date of the
446 filing of a groundwater right owner petition or groundwater right owner request, the owner
447 according to:

448 (a) a deed recorded with the county recorder in accordance with Section 73-1-10; or

449 (b) a water right of record filed in the state engineer's office in accordance with Section
450 73-1-10.

451 (2) For purposes of each provision of this title that requires the owners of groundwater
452 rights covering a percentage of the total groundwater rights within the proposed local district to
453 sign a request, petition, or protest:

454 (a) a groundwater right may not be included in the calculation of the required
455 percentage unless the request or petition is signed by:

456 (i) except as provided in Subsection (2)(a)(ii), owners representing a majority
457 ownership interest in that groundwater right; or

458 (ii) if the groundwater right is owned by joint tenants or tenants by the entirety, 50% of
459 the number of owners of that groundwater right;

460 (b) the signature of a person signing a request or petition in a representative capacity on
461 behalf of an owner is invalid unless:

462 (i) the person's representative capacity and the name of the owner the person represents
463 are indicated on the request or petition with the person's signature; and

464 (ii) the person provides documentation accompanying the request or petition that
465 reasonably substantiates the person's representative capacity; and

466 (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a
467 request or petition on behalf of the estate of a deceased owner.

468 (3) For an election by groundwater right owners described in this title, each owner of a
469 groundwater right is entitled to cast one vote.

470 Section 5. Section **17B-1-201** is amended to read:

471 **17B-1-201. Definitions.**

472 As used in this part:

473 (1) "Applicable area" means:

474 (a) for a county, the unincorporated area of the county that is included within the
475 proposed local district; or

476 (b) for a municipality, the area of the municipality that is included within the proposed
477 local district.

478 (2) "Governing body" means:

479 (a) for a county or municipality, the legislative body of the county or municipality; and

480 (b) for a local district, the board of trustees of the local district.

481 (3) "Groundwater right owner petition" means a petition under Subsection
482 17B-1-203(1)(c).

483 (4) "Groundwater right owner request" means a request under Section 17B-1-204 that
484 is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).

485 [~~3~~] (5) "Initiating local district" means a local district that adopts a resolution
486 proposing the creation of a local district under Subsection 17B-1-203(1)[~~(d)~~](e).

487 [~~4~~] (6) "Petition" means a petition under Subsection 17B-1-203(1)(a) [~~or (b)~~], (b), or
488 (c).

489 [~~5~~] (7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).

490 [~~6~~] (8) "Property owner request" means a request under Section 17B-1-204 that is
491 signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).

492 [~~7~~] (9) "Registered voter request" means a request under Section 17B-1-204 that is

493 signed by registered voters as provided in Subsection 17B-1-204(2)(b)~~(ii)~~(iii).

494 ~~(8)~~ (10) "Registered voter petition" means a petition under Subsection
495 17B-1-203(1)(b).

496 ~~(9)~~ (11) "Request" means a request as described in Section 17B-1-204.

497 ~~(10)~~ (12) "Responsible body" means the governing body of:

498 (a) the municipality in which the proposed local district is located, if the petition or
499 resolution proposes the creation of a local district located entirely within a single municipality;

500 (b) the county in which the proposed local district is located, if the petition or
501 resolution proposes the creation of a local district located entirely within a single county and all
502 or part of the proposed local district is located within:

503 (i) the unincorporated part of the county; or

504 (ii) more than one municipality within the county;

505 (c) if the petition or resolution proposes the creation of a local district located within
506 more than one county, the county whose boundaries include more of the area of the proposed
507 local district than is included within the boundaries of any other county; or

508 (d) the initiating local district, if a resolution proposing the creation of a local district is
509 adopted under Subsection 17B-1-203(1)~~(d)~~(e).

510 ~~(11)~~ (13) "Responsible clerk" means the clerk of the county or the clerk or recorder of
511 the municipality whose legislative body is the responsible body.

512 Section 6. Section **17B-1-202** is amended to read:

513 **17B-1-202. Local district may be created -- Services that may be provided --**
514 **Limitations.**

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

517 (i) the operation of an airport;

518 (ii) the operation of a cemetery;

519 (iii) fire protection, paramedic, and emergency services;

520 (iv) garbage collection and disposal;

521 (v) health care, including health department or hospital service;

522 (vi) the operation of a library;

523 (vii) abatement or control of mosquitos and other insects;

- 524 (viii) the operation of parks or recreation facilities or services;
- 525 (ix) the operation of a sewage system;
- 526 (x) street lighting;
- 527 (xi) the construction and maintenance of a right-of-way, including:
 - 528 (A) a curb;
 - 529 (B) a gutter;
 - 530 (C) a sidewalk;
 - 531 (D) a street;
 - 532 (E) a road;
 - 533 (F) a water line;
 - 534 (G) a sewage line;
 - 535 (H) a storm drain;
 - 536 (I) an electricity line;
 - 537 (J) a communications line; or
 - 538 (K) a natural gas line;
- 539 (xii) transportation, including public transit and providing streets and roads;
- 540 (xiii) the operation of a system, or one or more components of a system, for the
- 541 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 542 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 543 the system is operated on a wholesale or retail level or both;
- 544 (xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 545 groundwater right for the development and execution of a groundwater management plan in
- 546 cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 547 (xv) law enforcement service; or
- 548 (xvi) subject to Subsection (1)(b), the underground installation of an electric utility line
- 549 or the conversion to underground of an existing electric utility line.
- 550 (b) Each local district that provides the service of the underground installation of an
- 551 electric utility line or the conversion to underground of an existing electric utility line shall, in
- 552 installing or converting the line, provide advance notice to and coordinate with the utility that
- 553 owns the line.
- 554 (c) A groundwater management plan described in Subsection (1)(a)(xiv) may include

555 the banking of groundwater rights by a local district in a critical management area as defined in
556 Section 73-5-15 following the adoption of a groundwater management plan by the state
557 engineer under Section 73-5-15.

558 (i) A local district may manage the groundwater rights it acquires under Subsection
559 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan
560 described in Subsection (1)(c).

561 (ii) A groundwater right held by a local district to satisfy the provisions of a
562 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

563 (iii) (A) A local district may divest itself of a groundwater right subject to a
564 determination that the groundwater right is not required to facilitate the groundwater
565 management plan described in Subsection (1)(c).

566 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section
567 73-1-4 beginning on the date of divestiture.

568 (iv) Upon a determination by the state engineer that an area is no longer a critical
569 management area~~[, a water]~~ as defined in Section 73-5-15, a groundwater right held by the
570 local district is subject to Section 73-1-4.

571 (2) For purposes of this section:

572 (a) "Operation" means all activities involved in providing the indicated service
573 including acquisition and ownership of property reasonably necessary to provide the indicated
574 service and acquisition, construction, and maintenance of facilities and equipment reasonably
575 necessary to provide the indicated service.

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

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

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

583 (4) (a) Except as provided in Subsection (4)(b), a local district may not be created to
584 provide and may not after its creation provide to an area the same service already being
585 provided to that area by another political subdivision, unless the other political subdivision

586 gives its written consent.

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

590 (i) sewage system; or

591 (ii) water system.

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

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

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

598 (a) paramedic service; and

599 (b) emergency service, including hazardous materials response service.

600 (7) A local district created before May 11, 2010, authorized to provide the construction
601 and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection
602 (1)(a)(xi) on or after May 11, 2010.

603 Section 7. Section **17B-1-203** is amended to read:

604 **17B-1-203. Process to initiate the creation of a local district -- Petition or**
605 **resolution.**

606 (1) The process to create a local district may be initiated by:

607 (a) unless the proposed local district is a local district to acquire or assess a
608 groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition
609 signed by the owners of private real property that:

610 (i) is located within the proposed local district;

611 (ii) covers at least 33% of the total private land area within the proposed local district
612 as a whole and within each applicable area;

613 (iii) is equal in value to at least 25% of the value of all private real property within the
614 proposed local district as a whole and within each applicable area; and

615 (iv) complies with the requirements of Subsection 17B-1-205(1) and Section
616 17B-1-208;

617 (b) subject to Section 17B-1-204, a petition that:

618 (i) is signed by registered voters residing within the proposed local district as a whole
619 and within each applicable area, equal in number to at least 33% of the number of votes cast in
620 the proposed local district as a whole and in each applicable area, respectively, for the office of
621 governor at the last regular general election prior to the filing of the petition; and

622 (ii) complies with the requirements of Subsection 17B-1-205(1) and Section
623 17B-1-208;

624 (c) if the proposed local district is a local district to acquire or assess a groundwater
625 right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the
626 owners of groundwater rights that:

627 (i) are diverted within the proposed local district;

628 (ii) cover at least 33% of the total amount of groundwater diverted in accordance with
629 groundwater rights within the proposed local district as a whole and within each applicable
630 area; and

631 (iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

632 [~~(c)~~] (d) a resolution proposing the creation of a local district, adopted by the
633 legislative body of each county whose unincorporated area includes and each municipality
634 whose boundaries include any of the proposed local district; or

635 [~~(d)~~] (e) a resolution proposing the creation of a local district, adopted by the board of
636 trustees of an existing local district whose boundaries completely encompass the proposed
637 local district, if:

638 (i) the proposed local district is being created to provide one or more components of
639 the same service that the initiating local district is authorized to provide; and

640 (ii) the initiating local district is not providing to the area of the proposed local district
641 any of the components that the proposed local district is being created to provide.

642 (2) (a) Each resolution under Subsection (1)[~~(c)~~ or] (d) or (e) shall:

643 (i) describe the area proposed to be included in the proposed local district;

644 (ii) be accompanied by a map that shows the boundaries of the proposed local district;

645 (iii) describe the service proposed to be provided by the proposed local district;

646 (iv) if the resolution proposes the creation of a specialized local district, specify the
647 type of specialized local district proposed to be created;

648 (v) explain the anticipated method of paying the costs of providing the proposed
649 service;

650 (vi) state the estimated average financial impact on a household within the proposed
651 local district;

652 (vii) state the number of members that the board of trustees of the proposed local
653 district will have, consistent with the requirements of Subsection 17B-1-302(2);

654 (viii) for a proposed basic local district:

655 (A) state whether the members of the board of trustees will be elected or appointed or
656 whether some members will be elected and some appointed, as provided in Section
657 17B-1-1402;

658 (B) if one or more members will be elected, state the basis upon which each elected
659 member will be elected; and

660 (C) if applicable, explain how the election or appointment of board members will
661 transition from one method to another based on stated milestones or events, as provided in
662 Section 17B-1-1402;

663 (ix) for a proposed improvement district whose remaining area members or county
664 members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those
665 members will be elected; and

666 (x) for a proposed service area that is entirely within the unincorporated area of a single
667 county, state whether the initial board of trustees will be:

668 (A) the county legislative body;

669 (B) appointed as provided in Section 17B-1-304; or

670 (C) elected as provided in Section 17B-1-306.

671 (b) Each county or municipal legislative body adopting a resolution under Subsection
672 (1)~~(c)~~(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver
673 a copy of the resolution to the responsible body if the county or municipal legislative body's
674 resolution is one of multiple resolutions adopted by multiple county or municipal legislative
675 bodies proposing the creation of the same local district.

676 ~~[(3) Each petition under Subsection (1)(a) or (b) to create a local district to acquire a~~
677 ~~groundwater right under Subsection 17B-1-103(2)(a) or (b) shall explain the anticipated~~
678 ~~method of paying for the groundwater right acquisition.]~~

679 Section 8. Section **17B-1-204** is amended to read:

680 **17B-1-204. Request for service required before filing of petition -- Request**
681 **requirements.**

682 (1) A petition may not be filed until after:

683 (a) a request has been filed with:

684 (i) the clerk of each county in whose unincorporated area any part of the proposed local
685 district is located; and

686 (ii) the clerk or recorder of each municipality in which any part of the proposed local
687 district is located; and

688 (b) each county and municipality with which a request under Subsection (1)(a) is filed:

689 (i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will
690 provide the requested service; or

691 (ii) is considered to have declined to provide the requested service under Subsection
692 17B-1-212(2) or (3).

693 (2) Each request under Subsection (1)(a) shall:

694 (a) ask the county or municipality to provide the service proposed to be provided by the
695 proposed local district within the applicable area; and

696 (b) be signed by:

697 (i) unless the request is a request to create a local district to acquire or assess a
698 groundwater right under Section 17B-1-202, the owners of private real property that:

699 (A) is located within the proposed local district;

700 (B) covers at least 10% of the total private land area within the applicable area; and

701 (C) is equal in value to at least 7% of the value of all private real property within the
702 applicable area; [~~or~~]

703 (ii) if the request is a request to create a local district to acquire or assess a groundwater
704 right under Section 17B-1-202, the owners of groundwater rights that:

705 (A) are diverted within the proposed local district; and

706 (B) cover at least 10% of the amount of groundwater diverted in accordance with
707 groundwater rights within the applicable area; or

708 [~~ii~~] (iii) registered voters residing within the applicable area equal in number to at
709 least 10% of the number of votes cast in the applicable area for the office of governor at the last

710 general election prior to the filing of the request.

711 (3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a
712 municipality in a petition under Section 10-2-403 filed before and still pending at the time of
713 filing of a petition shall be considered to be part of that municipality.

714 Section 9. Section **17B-1-205** is amended to read:

715 **17B-1-205. Petition and request requirements -- Withdrawal of signature.**

716 (1) Each petition and request shall:

717 (a) indicate the typed or printed name and current residence address of each property
718 owner, groundwater right owner, or registered voter signing the petition;

719 (b) (i) if it is a property owner request or petition, indicate the address of the property
720 as to which the owner is signing the request or petition; or

721 (ii) if it is a groundwater right owner request or petition, indicate the location of the
722 diversion of the groundwater as to which the owner is signing the groundwater right owner
723 request or petition;

724 (c) describe the entire area of the proposed local district;

725 (d) be accompanied by a map showing the boundaries of the entire proposed local
726 district;

727 (e) specify the service proposed to be provided by the proposed local district;

728 (f) if the petition or request proposes the creation of a specialized local district, specify
729 the type of specialized local district proposed to be created;

730 (g) for a proposed basic local district:

731 (i) state whether the members of the board of trustees will be elected or appointed or
732 whether some members will be elected and some appointed, as provided in Section
733 17B-1-1402;

734 (ii) if one or more members will be elected, state the basis upon which each elected
735 member will be elected; and

736 (iii) if applicable, explain how the election or appointment of board members will
737 transition from one method to another based on stated milestones or events, as provided in
738 Section 17B-1-1402;

739 (h) for a proposed improvement district whose remaining area members or county
740 members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those

741 members will be elected; and

742 (i) for a proposed service area that is entirely within the unincorporated area of a single
743 county, state whether the initial board of trustees will be:

744 (i) the county legislative body;

745 (ii) appointed as provided in Section 17B-1-304; or

746 (iii) elected as provided in Section 17B-1-306; [~~and~~]

747 (j) designate up to five signers of the petition or request as sponsors, one of whom shall
748 be designated as the contact sponsor, with the mailing address and telephone number of
749 each[-];

750 (k) if the petition or request is a groundwater right owner petition or request proposing
751 the creation of a local district to acquire a groundwater right under Section 17B-1-202, explain
752 the anticipated method:

753 (i) of paying for the groundwater right acquisition; and

754 (ii) of addressing blowing dust created by the reduced use of water; and

755 (l) if the petition or request is a groundwater right owner petition or request proposing
756 the creation of a local district to assess a groundwater right under Section 17B-1-202, explain
757 the anticipated method:

758 (i) of assessing the groundwater right and securing payment of the assessment; and

759 (ii) of addressing blowing dust created by the reduced use of water.

760 (2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the
761 signer's signature at any time before the filing of the request or petition by filing a written
762 withdrawal or reinstatement with:

763 (a) in the case of a request:

764 (i) the clerk of the county or the clerk or recorder of the municipality in whose
765 applicable area the signer's property is located, if the request is a property owner request; [~~or~~]

766 (ii) the clerk of the county or the clerk or recorder of the municipality in whose
767 applicable area the signer's groundwater diversion point is located, if the request is a
768 groundwater right owner request; or

769 [~~(ii)~~] (iii) the clerk of the county or the clerk or recorder of the municipality in whose
770 applicable area the signer resides, if the request is a registered voter request; or

771 (b) in the case of a petition, the responsible clerk.

772 Section 10. Section **17B-1-209** is amended to read:

773 **17B-1-209. Petition certification -- Amended petition.**

774 (1) [~~Within~~] No later than five days after the [~~filing of a petition~~] day on which a
775 petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other
776 county and the clerk or recorder of each municipality in which any part of the proposed local
777 district is located.

778 (2) (a) [~~Within~~] No later than 35 days after the [~~filing of a petition~~] day on which a
779 petition is filed, the clerk of each county whose unincorporated area includes and the clerk or
780 recorder of each municipality whose boundaries include part of the proposed local district
781 shall:

782 (i) with the assistance of other county or municipal officers from whom the county
783 clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's
784 respective county or municipality, whether the petition complies with the requirements of
785 Subsection 17B-1-203(1)(a) [~~or~~], (b), or (c), as the case may be, and Subsections 17B-1-208(2),
786 (3), and (4); and

787 (ii) notify the responsible clerk in writing of the clerk or recorder's determination under
788 Subsection (2)(a)(i).

789 (b) The responsible clerk may rely on the determinations of other county clerks or
790 municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's
791 determinations and certification or rejection under Subsection (3).

792 (3) (a) Within 45 days after the filing of a petition, the responsible clerk shall:

793 (i) determine whether the petition complies with Subsection 17B-1-203(1)(a) [~~or~~], (b),
794 or (c), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208; and

795 (ii) (A) if the responsible clerk determines that the petition complies with the
796 applicable requirements:

797 (I) (Aa) certify the petition and deliver the certified petition to the responsible body;

798 and

799 (Bb) mail or deliver written notification of the certification to the contact sponsor; or

800 (II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to
801 the legislative body of each county whose unincorporated area includes and each municipality
802 whose boundaries include any of the proposed basic local district, with a notice indicating that

803 the clerk has determined that the petition complies with applicable requirements; or

804 (B) if the responsible clerk determines that the petition fails to comply with any of the
805 applicable requirements, reject the petition and notify the contact sponsor in writing of the
806 rejection and the reasons for the rejection.

807 (b) (i) A petition for which an election is not required under Subsection 17B-1-214(3)
808 and that proposes the creation of a basic local district that has within its boundaries fewer than
809 one residential dwelling unit per 10 acres of land may not be certified without the approval, by
810 resolution, of the legislative body of each county whose unincorporated area includes and each
811 municipality whose boundaries include any of the proposed local district.

812 (ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a
813 county or municipal legislative body may hold one or more public hearings on the petition.

814 (iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that
815 subsection, the responsible clerk shall, within 10 days after its approval:

816 (A) certify the petition and deliver the certified petition to the responsible body; and

817 (B) mail or deliver written notification of the certification to the contact sponsor.

818 (4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails
819 to certify or reject a petition within 45 days after its filing, the petition shall be considered to be
820 certified.

821 (5) The responsible clerk shall certify or reject petitions in the order in which they are
822 filed.

823 (6) (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the
824 petition may be amended to correct the deficiencies for which it was rejected and then refiled.

825 (b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may
826 be used toward fulfilling the applicable signature requirement of the petition as amended under
827 Subsection (6)(a).

828 (c) If a petition is amended and refiled under Subsection (6)(a) after having been
829 rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be
830 considered as newly filed, and its processing priority shall be determined by the date on which
831 it is refiled.

832 (7) The responsible clerk and each county clerk and municipal clerk or recorder shall
833 act in good faith in making the determinations under this section.

834 Section 11. Section **17B-1-210** is amended to read:

835 **17B-1-210. Public hearing.**

836 (1) The legislative body of each county and municipality with which a request is filed
837 or that adopts a resolution under Subsection 17B-1-203(1)[~~(c)~~](d) and the board of trustees of
838 each local district that adopts a resolution under Subsection 17B-1-203(1)[~~(c)~~](e) shall hold a
839 public hearing or a set of public hearings, sufficient in number and location to ensure that no
840 substantial group of residents of the proposed local district need travel an unreasonable
841 distance to attend a public hearing.

842 (2) Each public hearing under Subsection (1) shall be held:

843 (a) no later than 45 days after:

844 (i) for a public hearing on a request, certification of a request under Subsection
845 17B-1-206(1)(b)(i); or

846 (ii) for a public hearing on a resolution, adoption of a resolution under Subsection
847 17B-1-203(1)[~~(c)~~ or] (d) or (e);

848 (b) within the proposed local district;

849 (c) except as provided in Subsections (6) and (7), within the applicable area; and

850 (d) for the purpose of:

851 (i) for a public hearing on a request, allowing public input on:

852 (A) whether the requested service is needed in the area of the proposed local district;

853 (B) whether the service should be provided by the county or municipality or the
854 proposed local district; and

855 (C) all other matters relating to the request or the proposed local district; or

856 (ii) for a public hearing on a resolution, allowing the public to ask questions of and
857 obtain further information from the governing body holding the hearing regarding the issues
858 contained in or raised by the resolution.

859 (3) A quorum of each governing body holding a public hearing under this section shall
860 be present throughout each hearing held by that governing body.

861 (4) Each hearing under this section shall be held on a weekday evening other than a
862 holiday beginning no earlier than 6 p.m.

863 (5) At the beginning and end of each hearing concerning a resolution, the governing
864 body shall announce the deadline for filing protests and generally explain the protest procedure

865 and requirements.

866 (6) Two or more county or municipal legislative bodies may jointly hold a hearing or
867 set of hearings required under this section if all the requirements of this section, other than the
868 requirements of Subsection (2)(c), are met as to each hearing.

869 (7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or
870 set of public hearings outside the applicable area if:

871 (a) there is no reasonable place to hold a public hearing within the applicable area; and

872 (b) the public hearing or set of public hearings is held as close to the applicable area as
873 reasonably possible.

874 Section 12. Section **17B-1-211** is amended to read:

875 **17B-1-211. Notice of public hearings -- Publication of resolution.**

876 (1) Before holding a public hearing or set of public hearings under Section 17B-1-210,
877 the legislative body of each county or municipality with which a request is filed or that adopts a
878 resolution under Subsection 17B-1-203(1)(~~e~~)(d) and the board of trustees of each local
879 district that adopts a resolution under Subsection 17B-1-203(1)(~~d~~)(e) shall:

880 (a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice
881 in a newspaper or combination of newspapers of general circulation within the applicable area
882 in accordance with Subsection (2); or

883 (B) if there is no newspaper or combination of newspapers of general circulation
884 within the applicable area, post notice in accordance with Subsection (2):

885 (I) at least one notice per 1,000 population of that area; and

886 (II) at places within the area that are most likely to provide actual notice to residents of
887 the area; and

888 (ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for
889 two weeks before the hearing or the first of the set of hearings; or

890 (b) mail a notice to each registered voter residing within and each owner of real
891 property located within the proposed local district.

892 (2) Each published notice under Subsection (1)(a)(i)(A) shall:

893 (a) be no less than 1/4 page in size, use type no smaller than 18 point, and be
894 surrounded by a 1/4-inch border;

895 (b) if possible, appear in a newspaper that is published at least one day per week;

896 (c) if possible, appear in a newspaper of general interest and readership in the area and
897 not of limited subject matter;

898 (d) be placed in a portion of the newspaper other than where legal notices and
899 classified advertisements appear; and

900 (e) be run at least once each week for two successive weeks, with the final publication
901 being no less than three and no more than 10 days before the hearing or the first of the set of
902 hearings.

903 (3) Each notice required under Subsection (1) shall:

904 (a) if the hearing or set of hearings is concerning a resolution:

905 (i) contain the entire text or an accurate summary of the resolution; and

906 (ii) state the deadline for filing a protest against the creation of the proposed local
907 district;

908 (b) clearly identify each governing body involved in the hearing or set of hearings;

909 (c) state the date, time, and place for the hearing or set of hearings and the purposes for
910 the hearing or set of hearings; and

911 (d) describe or include a map of the entire proposed local district.

912 (4) County or municipal legislative bodies may jointly provide the notice required
913 under this section if all the requirements of this section are met as to each notice.

914 Section 13. Section **17B-1-213** is amended to read:

915 **17B-1-213. Protest after adoption of resolution -- Adoption of resolution**
916 **approving creation for certain districts.**

917 (1) For purposes of this section, "adequate protests" means protests that are:

918 (a) filed with the county clerk, municipal clerk or recorder, or local district secretary or
919 clerk, as the case may be, within 60 days after the last public hearing required under Section
920 17B-1-210; and

921 (b) signed by:

922 (i) the owners of private real property that:

923 (A) is located within the proposed local district;

924 (B) covers at least 25% of the total private land area within the applicable area; and

925 (C) is equal in value to at least 15% of the value of all private real property within the
926 applicable area; or

927 (ii) registered voters residing within the applicable area equal in number to at least 25%
928 of the number of votes cast in the applicable area for the office of governor at the last general
929 election prior to the adoption of the resolution.

930 (2) If adequate protests are filed, the governing body that adopted a resolution under
931 Subsection 17B-1-203(1)[~~(c)~~ or] (d) or (e):

932 (a) may not:

933 (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the
934 applicable area;

935 (ii) take any further action under the protested resolution to create a local district or
936 include the applicable area in a local district; or

937 (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)[~~(c)~~ or]
938 (d) or (e) proposing the creation of a local district including substantially the same area as the
939 applicable area and providing the same service as the proposed local district in the protested
940 resolution; and

941 (b) shall, within five days after receiving adequate protests, mail or deliver written
942 notification of the adequate protests to the responsible body.

943 (3) Subsection (2)(a) may not be construed to prevent an election from being held for a
944 proposed local district whose boundaries do not include an applicable area that is the subject of
945 adequate protests.

946 (4) (a) If adequate protests are not filed with respect to a resolution proposing the
947 creation of a local district for which an election is not required under Subsection
948 17B-1-214(3)[~~(c)~~, ~~(d)~~, or ~~(e)~~]((d), (e), or (f)), a resolution approving the creation of the local
949 district may be adopted by:

950 (i) (A) the legislative body of a county whose unincorporated area is included within
951 the proposed local district; and

952 (B) the legislative body of a municipality whose area is included within the proposed
953 local district; or

954 (ii) the board of trustees of the initiating local district.

955 (b) Each resolution adopted under Subsection (4)(a) shall:

956 (i) describe the area included in the local district;

957 (ii) be accompanied by a map that shows the boundaries of the local district;

- 958 (iii) describe the service to be provided by the local district;
- 959 (iv) state the name of the local district; and
- 960 (v) provide a process for the appointment of the members of the initial board of
- 961 trustees.

962 Section 14. Section **17B-1-214** is amended to read:

963 **17B-1-214. Election -- Exceptions.**

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

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

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

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

- 977 (a) for an election pursuant to a property owner or registered voter petition, more than
978 45 days after certification of the petition under Subsection 17B-1-209(3)(~~(b)~~(i))(a); or
- 979 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing
980 required under Section 17B-1-210.

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

- 982 (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the
983 owners of private real property that:
 - 984 (i) is located within the proposed local district;
 - 985 (ii) covers at least 67% of the total private land area within the proposed local district
986 as a whole and within each applicable area; and
 - 987 (iii) is equal in value to at least 50% of the value of all private real property within the
988 proposed local district as a whole and within each applicable area;

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

994 (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the
 995 petition contains the signatures of the owners of groundwater rights that:

996 (i) are diverted within the proposed local district; and

997 (ii) cover at least 67% of the total amount of groundwater diverted in accordance with
 998 groundwater rights within the proposed local district as a whole and within each applicable
 999 area;

1000 [~~(c)~~] (d) a resolution adopted under Subsection 17B-1-203(1)[~~(c)~~](d) on or after May 5,
 1001 2003 that proposes the creation of a local district to provide fire protection, paramedic, and
 1002 emergency services or law enforcement service, if the proposed local district includes a
 1003 majority of the unincorporated area of one or more counties;

1004 [~~(d)~~] (e) a resolution adopted under Subsection 17B-1-203(1)[~~(c)~~ ~~or~~](d) or (e) if the
 1005 resolution proposes the creation of a local district that has no registered voters within its
 1006 boundaries; or

1007 [~~(e)~~] (f) a resolution adopted under Subsection 17B-1-203(1)[~~(c)~~](d) on or after May
 1008 11, 2010 that proposes the creation of a local district described in Subsection
 1009 17B-1-202(1)(a)(xiv).

1010 (4) (a) If the proposed local district is located in more than one county, the responsible
 1011 clerk shall coordinate with the clerk of each other county and the clerk or recorder of each
 1012 municipality involved in an election under Subsection (1) so that the election is held on the
 1013 same date and in a consistent manner in each jurisdiction.

1014 (b) The clerk of each county and the clerk or recorder of each municipality involved in
 1015 an election under Subsection (1) shall cooperate with the responsible clerk in holding the
 1016 election.

1017 (c) Except as otherwise provided in this part, each election under Subsection (1) shall
 1018 be governed by Title 20A, Election Code.

1019 Section 15. Section **17B-1-215** is amended to read:

1020 **17B-1-215. Notice and plat to lieutenant governor -- Recording requirements --**
1021 **Certificate of incorporation -- Local district incorporated as specialized local district or**
1022 **basic local district -- Effective date.**

1023 (1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file
1024 with the lieutenant governor:

1025 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
1026 that meets the requirements of Subsection 67-1a-6.5(3); and

1027 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

1028 (b) The responsible body shall file the documents listed in Subsection (1)(a) with the
1029 lieutenant governor within 10 days after:

1030 (i) the canvass of an election under Section 17B-1-214, if a majority of those voting at
1031 the election within the proposed local district as a whole vote in favor of the creation of a local
1032 district;

1033 (ii) certification of a petition as to which the election requirement of Subsection
1034 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a) [~~or~~], (b), or (c); or

1035 (iii) adoption of a resolution, under Subsection 17B-1-213(4) approving the creation of
1036 a local district for which an election was not required under Subsection 17B-1-214(3)[~~(c)~~, ~~(d)~~,
1037 ~~or (e)~~](d), (e), or (f), by the legislative body of each county whose unincorporated area is
1038 included within and the legislative body of each municipality whose area is included within the
1039 proposed local district, or by the board of trustees of the initiating local district.

1040 (2) Upon the lieutenant governor's issuance of a certificate of incorporation under
1041 Section 67-1a-6.5, the responsible body shall:

1042 (a) if the local district is located within the boundary of a single county, submit to the
1043 recorder of that county:

1044 (i) the original:

1045 (A) notice of an impending boundary action;

1046 (B) certificate of incorporation; and

1047 (C) approved final local entity plat; and

1048 (ii) if applicable, a certified copy of each resolution adopted under Subsection
1049 17B-1-213(4); or

1050 (b) if the local district is located within the boundaries of more than a single county:

- 1051 (i) submit to the recorder of one of those counties:
- 1052 (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and
- 1053 (B) if applicable, a certified copy of each resolution adopted under Subsection
- 1054 17B-1-213(4); and
- 1055 (ii) submit to the recorder of each other county:
- 1056 (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C);
- 1057 and
- 1058 (B) if applicable, a certified copy of each resolution adopted under Subsection
- 1059 17B-1-213(4).
- 1060 (3) The area of each local district consists of:
- 1061 (a) if an election was held under Section 17B-1-214, the area of the new local district
- 1062 as approved at the election;
- 1063 (b) if an election was not required because of Subsection 17B-1-214(3)(a) [~~(b)~~], (b),
- 1064 or (c), the area of the proposed local district as described in the petition; or
- 1065 (c) if an election was not required because of Subsection 17B-1-214(3)[~~(c)~~, ~~(d)~~, ~~or~~
- 1066 ~~(e)~~](d), (e), or (f), the area of the new local district as described in the resolution adopted under
- 1067 Subsection 17B-1-213(4).
- 1068 (4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under
- 1069 Section 67-1a-6.5, the local district is created and incorporated as:
- 1070 (i) the type of specialized local district that was specified in the petition under
- 1071 Subsection 17B-1-203(1)(a) [~~(a)~~], (b), or (c) or resolution under Subsection 17B-1-203(1)[~~(a)~~
- 1072 ~~(a)~~] (d) or (e), if the petition or resolution proposed the creation of a specialized local district; or
- 1073 (ii) a basic local district, if the petition or resolution did not propose the creation of a
- 1074 specialized local district.
- 1075 (b) (i) The effective date of a local district's incorporation for purposes of assessing
- 1076 property within the local district is governed by Section 59-2-305.5.
- 1077 (ii) Until the documents listed in Subsection (2) are recorded in the office of the
- 1078 recorder of each county in which the property is located, a newly incorporated local district
- 1079 may not:
- 1080 (A) levy or collect a property tax on property within the local district;
- 1081 (B) levy or collect an assessment on property within the local district; or

1082 (C) charge or collect a fee for service provided to property within the local district.

1083 Section 16. Section **17B-1-302** is amended to read:

1084 **17B-1-302. Board member qualifications -- Number of board members.**

1085 (1) (a) Each member of a local district board of trustees shall be:

1086 (i) a registered voter at the location of the member's residence; and

1087 (ii) except as provided in Subsections (1)(b) and (c), a resident within:

1088 (A) the boundaries of the local district; and

1089 (B) if applicable, the boundaries of the division of the local district from which the
1090 member is elected.

1091 (b) (i) As used in this Subsection (1)(b):

1092 (A) "Proportional number" means the number of members of a board of trustees that
1093 bears, as close as mathematically possible, the same proportion to all members of the board that
1094 the number of seasonally occupied homes bears to all residences within the district that receive
1095 service from the district.

1096 (B) "Seasonally occupied home" means a single-family residence:

1097 (I) that is located within the local district;

1098 (II) that receives service from the local district; and

1099 (III) whose owner:

1100 (Aa) does not reside permanently at the residence; and

1101 (Bb) may occupy the residence on a temporary or seasonal basis.

1102 (ii) If over 50% of the residences within a local district that receive service from the
1103 local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is
1104 replaced, for a proportional number of members of the board of trustees, with the requirement
1105 that the member be an owner of land, or an agent or officer of the owner of land, that:

1106 (A) receives service from the district; and

1107 (B) is located within:

1108 (I) the local district; and

1109 (II) if applicable, the division from which the member is elected.

1110 (c) For a board of trustees member in a basic local district that has within its
1111 boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under
1112 Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land

1113 within the local district that receives service from the district, or an agent or officer of the
1114 owner.

1115 (2) Except as otherwise provided by statute, the number of members of each board of
1116 trustees of a local district shall be an odd number that is no less than three.

1117 (3) For a newly created local district, the number of members of the initial board of
1118 trustees shall be the number specified:

1119 (a) for a local district whose creation was initiated by a petition under Subsection
1120 17B-1-203(1)(a) [~~or~~], (b), or (c), in the petition; or

1121 (b) for a local district whose creation was initiated by a resolution under Subsection
1122 17B-1-203(1)[~~(c)~~ or] (d) or (e), in the resolution.

1123 (4) (a) For an existing local district, the number of members of the board of trustees
1124 may be changed by a two-thirds vote of the board of trustees.

1125 (b) No change in the number of members of a board of trustees under Subsection (4)(a)
1126 may:

1127 (i) violate Subsection (2); or

1128 (ii) serve to shorten the term of any member of the board.

1129 Section 17. Section **17B-1-402** is amended to read:

1130 **17B-1-402. Annexation of area outside local district.**

1131 (1) An area outside the boundaries of a local district may be annexed to the local
1132 district, as provided in this part, in order to provide to the area a service that the local district
1133 provides.

1134 (2) The area proposed to be annexed:

1135 (a) may consist of one or more noncontiguous areas; and

1136 (b) need not be adjacent to the boundaries of the proposed annexing local district.

1137 (3) With respect to a local district in the creation of which an election was not required
1138 under Subsection 17B-1-214(3)[~~(c)~~](d):

1139 (a) an unincorporated area of a county may not be annexed to the local district unless,
1140 after annexation, at least a majority of the unincorporated area of the county will be included in
1141 the local district; and

1142 (b) the annexation of any part of an area within a municipality shall include all of the
1143 area within the municipality.

1144 (4) A local district may not annex an area located within a project area described in a
1145 project area plan adopted by the military installation development authority under Title 63H,
1146 Chapter 1, Military Installation Development Authority Act, without the authority's approval.

1147 Section 18. Section **17B-1-414** is amended to read:

1148 **17B-1-414. Resolution approving an annexation -- Filing of notice and plat with**
1149 **lieutenant governor -- Recording requirements -- Effective date.**

1150 (1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution
1151 approving the annexation of the area proposed to be annexed or rejecting the proposed
1152 annexation within 30 days after:

1153 (i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests
1154 to require an election are not filed;

1155 (ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

1156 (A) a public hearing under Section 17B-1-409 is held, if the board chooses or is
1157 required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

1158 (B) expiration of the time for submitting a request for public hearing under Subsection
1159 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public
1160 hearing.

1161 (b) If the local district has entered into an agreement with the United States that
1162 requires the consent of the United States for an annexation of territory to the district, a
1163 resolution approving annexation under this part may not be adopted until the written consent of
1164 the United States is obtained and filed with the board of trustees.

1165 (2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with
1166 the lieutenant governor:

1167 (A) a copy of a notice of an impending boundary action, as defined in Section
1168 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable,
1169 Subsection (2)(b); and

1170 (B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

1171 (ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant
1172 governor:

1173 (A) within 30 days after adoption of a resolution under Subsection (1), Subsection
1174 17B-1-412(3)(c)(i), or Section 17B-1-415; and

1175 (B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a
1176 municipal annexation that causes an automatic annexation to a local district under Section
1177 17B-1-416.

1178 (b) For an automatic annexation to a local district under Section 17B-1-416, the notice
1179 of an impending boundary action required under Subsection (2)(a) shall state that an area
1180 outside the boundaries of the local district is being automatically annexed to the local district
1181 under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4,
1182 Annexation.

1183 (c) Upon the lieutenant governor's issuance of a certificate of annexation under Section
1184 67-1a-6.5, the board shall:

1185 (i) if the annexed area is located within the boundary of a single county, submit to the
1186 recorder of that county:

1187 (A) the original:

1188 (I) notice of an impending boundary action;

1189 (II) certificate of annexation; and

1190 (III) approved final local entity plat; and

1191 (B) a certified copy of the annexation resolution; or

1192 (ii) if the annexed area is located within the boundaries of more than a single county:

1193 (A) submit to the recorder of one of those counties:

1194 (I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

1195 (II) a certified copy of the annexation resolution; and

1196 (B) submit to the recorder of each other county:

1197 (I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III);

1198 and

1199 (II) a certified copy of the annexation resolution.

1200 (3) (a) As used in this Subsection (3), "fire district annexation" means an annexation
1201 under this part of an area located in a county of the first class to a local district:

1202 (i) created to provide fire protection, paramedic, and emergency services; and

1203 (ii) in the creation of which an election was not required because of Subsection
1204 17B-1-214(3)~~(c)~~(d).

1205 (b) An annexation under this part is complete and becomes effective:

1206 (i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the
1207 certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

1208 (B) on January 1 for a fire district annexation, if the lieutenant governor issues the
1209 certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

1210 (ii) upon the lieutenant governor's issuance of the certificate of annexation under
1211 Section 67-1a-6.5, for any other annexation.

1212 (c) (i) The effective date of a local district annexation for purposes of assessing
1213 property within the annexed area is governed by Section 59-2-305.5.

1214 (ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the
1215 recorder of each county in which the property is located, a local district may not:

1216 (A) levy or collect a property tax on property within the annexed area;

1217 (B) levy or collect an assessment on property within the annexed area; or

1218 (C) charge or collect a fee for service provided to property within the annexed area.

1219 (iii) Subsection (3)(c)(ii)(C):

1220 (A) may not be construed to limit a local district's ability before annexation to charge
1221 and collect a fee for service provided to property that is outside the local district's boundary;
1222 and

1223 (B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the
1224 local district's annexation, with respect to a fee that the local district was charging for service
1225 provided to property within the annexed area immediately before the area was annexed to the
1226 local district.

1227 Section 19. Section **17B-1-416** is amended to read:

1228 **17B-1-416. Automatic annexation to a district providing fire protection,**
1229 **paramedic, and emergency services or law enforcement service.**

1230 (1) An area outside the boundaries of a local district that is annexed to a municipality
1231 or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4,
1232 Annexation, is automatically annexed to the local district if:

1233 (a) the local district provides:

1234 (i) fire protection, paramedic, and emergency services; or

1235 (ii) law enforcement service;

1236 (b) an election for the creation of the local district was not required because of

1237 Subsection 17B-1-214(3)~~(c)~~(d); and

1238 (c) before the municipal annexation or boundary adjustment, the entire municipality
1239 that is annexing the area or adding the area by boundary adjustment was included within the
1240 local district.

1241 (2) The effective date of an annexation under this section is governed by Subsection
1242 17B-1-414(3)(b).

1243 Section 20. Section **17B-1-502** is amended to read:

1244 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**
1245 **certain circumstances -- Definitions.**

1246 (1) (a) An area within the boundaries of a local district may be withdrawn from the
1247 local district only as provided in this part.

1248 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local
1249 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,
1250 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,
1251 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process
1252 of withdrawing that area from the local district.

1253 (2) (a) An area within the boundaries of a local district is automatically withdrawn
1254 from the local district by the annexation of the area to a municipality or the adding of the area
1255 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

1256 (i) the local district provides:

1257 (A) fire protection, paramedic, and emergency services; or

1258 (B) law enforcement service;

1259 (ii) an election for the creation of the local district was not required because of

1260 Subsection 17B-1-214(3)~~(c)~~(d); and

1261 (iii) before annexation or boundary adjustment, the boundaries of the local district do
1262 not include any of the annexing municipality.

1263 (b) The effective date of a withdrawal under this Subsection (2) is governed by
1264 Subsection 17B-1-512(2)(b).

1265 (3) (a) An area within the boundaries of a local district located in a county of the first
1266 class is automatically withdrawn from the local district by the incorporation of a municipality
1267 whose boundaries include the area if:

- 1268 (i) the local district provides:
- 1269 (A) fire protection, paramedic, and emergency services; or
- 1270 (B) law enforcement service;
- 1271 (ii) an election for the creation of the local district was not required because of
- 1272 Subsection 17B-1-214(3)~~(c)~~(d); and
- 1273 (iii) the legislative body of the newly incorporated municipality:
- 1274 (A) adopts a resolution approving the withdrawal that includes the legal description of
- 1275 the area to be withdrawn; and
- 1276 (B) delivers a copy of the resolution to the board of trustees of the local district.
- 1277 (b) The effective date of a withdrawal under this Subsection (3) is governed by
- 1278 Subsection 17B-1-512(2)(a).

1279 Section 21. Section **17B-1-505** is amended to read:

1280 **17B-1-505. Withdrawal of municipality in certain districts providing fire**
1281 **protection, paramedic, and emergency services or law enforcement service.**

1282 (1) (a) The process to withdraw an area from a local district may be initiated by a
1283 resolution adopted by the legislative body of a municipality that is entirely within the
1284 boundaries of a local district:

- 1285 (i) that provides:
- 1286 (A) fire protection, paramedic, and emergency services; or
- 1287 (B) law enforcement service; and
- 1288 (ii) in the creation of which an election was not required because of Subsection
- 1289 17B-1-214(3)~~(c)~~(d).

1290 (b) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal
1291 legislative body shall submit to the board of trustees of the local district written notice of the
1292 adoption of the resolution, accompanied by a copy of the resolution.

1293 (2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body
1294 shall hold an election at the next municipal general election that is more than 60 days after
1295 adoption of the resolution on the question of whether the municipality should withdraw from
1296 the local district.

1297 (3) If a majority of those voting on the question of withdrawal at an election held under
1298 Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local

1299 district.

1300 (4) (a) Within 10 days after the canvass of an election at which a withdrawal under this
 1301 section is submitted to voters, the municipal legislative body shall send written notice to the
 1302 board of the local district from which the municipality is proposed to withdraw.

1303 (b) Each notice under Subsection (4)(a) shall:

1304 (i) state the results of the withdrawal election; and

1305 (ii) if the withdrawal was approved by voters, be accompanied by a map or legal
 1306 description of the area to be withdrawn, adequate for purposes of the county assessor and
 1307 recorder.

1308 (5) The effective date of a withdrawal under this section is governed by Subsection
 1309 17B-1-512(2)(a).

1310 Section 22. Section **17B-1-1402** is amended to read:

1311 **17B-1-1402. Board of trustees of a basic local district.**

1312 (1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution
 1313 under Subsection 17B-1-203(1)~~[(c) or]~~ (d) or (e), and except as provided in Subsection (2), the
 1314 members of a board of trustees of a basic local district may be:

1315 (a) (i) elected by registered voters; or

1316 (ii) appointed by the responsible body, as defined in Section 17B-1-201; or

1317 (b) if the area of the local district contains less than one residential dwelling unit per 50
 1318 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners
 1319 of real property within the local district based on:

1320 (i) the amount of acreage owned by property owners;

1321 (ii) the assessed value of property owned by property owners; or

1322 (iii) water rights:

1323 (A) relating to the real property within the local district;

1324 (B) that the real property owner:

1325 (I) owns; or

1326 (II) has transferred to the local district.

1327 (2) As specified in a groundwater right owner petition under Subsection

1328 17B-1-203(1)(c) or a resolution under Subsection 17B-1-203(1)(d) or (e), the members of a

1329 board of trustees of a basic local district created to manage groundwater rights the district

1330 acquires or assesses under Section 17B-1-202 shall be:

1331 (a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that
1332 are diverted within the local district;

1333 (b) appointed by the responsible body, as defined in Section 17B-1-201; or

1334 (c) elected or appointed as provided in Subsection (3).

1335 ~~[(2)]~~ (3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under
1336 Subsection 17B-1-203(1)~~[(c) or]~~ (d) or (e) may provide for a transition from one or more
1337 methods of election or appointment under Subsection (1) or (2) to one or more other methods
1338 of election or appointment based upon milestones or events that the petition or resolution
1339 identifies.

1340 Section 23. Section **17B-2a-905** is amended to read:

1341 **17B-2a-905. Service area board of trustees.**

1342 (1) (a) Except as provided in Subsection (2):

1343 (i) the initial board of trustees of a service area located entirely within the
1344 unincorporated area of a single county may, as stated in the petition or resolution that initiated
1345 the process of creating the service area:

1346 (A) consist of the county legislative body;

1347 (B) be appointed, as provided in Section 17B-1-304; or

1348 (C) be elected, as provided in Section 17B-1-306;

1349 (ii) if the board of trustees of a service area consists of the county legislative body, the
1350 board may adopt a resolution providing for future board members to be appointed, as provided
1351 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

1352 (iii) members of the board of trustees of a service area shall be elected, as provided in
1353 Section 17B-1-306, if:

1354 (A) the service area is not entirely within the unincorporated area of a single county;

1355 (B) a petition is filed with the board of trustees requesting that board members be
1356 elected, and the petition is signed by registered voters within the service area equal in number
1357 to at least 10% of the number of registered voters within the service area who voted at the last
1358 gubernatorial election; or

1359 (C) an election is held to authorize the service area's issuance of bonds.

1360 (b) If members of the board of trustees of a service area are required to be elected

1361 under Subsection (1)(a)(iii)(C) because of a bond election:

1362 (i) board members shall be elected in conjunction with the bond election;

1363 (ii) the board of trustees shall:

1364 (A) establish a process to enable potential candidates to file a declaration of candidacy

1365 sufficiently in advance of the election; and

1366 (B) provide a ballot for the election of board members separate from the bond ballot;

1367 and

1368 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided

1369 in Section 17B-1-306.

1370 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003 if:

1371 (i) the service area was created to provide:

1372 (A) fire protection, paramedic, and emergency services; or

1373 (B) law enforcement service; and

1374 (ii) in the creation of the service area, an election was not required under Subsection

1375 17B-1-214(3)(~~e~~)(d).

1376 (b) (i) Each county whose unincorporated area is included within a service area
1377 described in Subsection (2)(a), whether in conjunction with the creation of the service area or
1378 by later annexation, shall appoint three members to the board of trustees.

1379 (ii) Each municipality whose area is included within a service area described in
1380 Subsection (2)(a), whether in conjunction with the creation of the service area or by later
1381 annexation, shall appoint one member to the board of trustees.

1382 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or
1383 (ii) shall be an elected official of the appointing county or municipality, respectively.

1384 (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of
1385 trustees of a service area described in Subsection (2)(a) shall be the number resulting from
1386 application of Subsection (2)(b).

1387 Section 24. Section **73-5-15** is amended to read:

1388 **73-5-15. Groundwater management plan.**

1389 (1) As used in this section:

1390 (a) "Critical management area" means a groundwater basin in which the groundwater
1391 withdrawals consistently exceed the safe yield.

1392 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a
1393 groundwater basin over a period of time without exceeding the long-term recharge of the basin
1394 or unreasonably affecting the basin's physical and chemical integrity.

1395 (2) (a) The state engineer may regulate groundwater withdrawals within a specific
1396 groundwater basin by adopting a groundwater management plan in accordance with this section
1397 for any groundwater basin or aquifer or combination of hydrologically connected groundwater
1398 basins or aquifers.

1399 (b) The objectives of a groundwater management plan are to:

- 1400 (i) limit groundwater withdrawals to safe yield;
- 1401 (ii) protect the physical integrity of the aquifer; and
- 1402 (iii) protect water quality.

1403 (c) The state engineer shall adopt a groundwater management plan for a groundwater
1404 basin if more than 1/3 of the water right owners in the groundwater basin request that the state
1405 engineer adopt a groundwater management plan.

1406 (3) (a) In developing a groundwater management plan, the state engineer may consider:

- 1407 (i) the hydrology of the groundwater basin;
- 1408 (ii) the physical characteristics of the groundwater basin;
- 1409 (iii) the relationship between surface water and groundwater, including whether the
1410 groundwater should be managed in conjunction with hydrologically connected surface waters;
- 1411 (iv) the geographic spacing and location of groundwater withdrawals;
- 1412 (v) water quality;
- 1413 (vi) local well interference; and
- 1414 (vii) other relevant factors.

1415 (b) The state engineer shall base the provisions of a groundwater management plan on
1416 the principles of prior appropriation.

1417 (c) (i) The state engineer shall use the best available scientific method to determine
1418 safe yield.

1419 (ii) As hydrologic conditions change or additional information becomes available, safe
1420 yield determinations made by the state engineer may be revised by following the procedures
1421 listed in Subsection (5).

1422 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a

1423 groundwater basin shall be limited to the basin's safe yield.

1424 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer
1425 shall:

1426 (A) determine the groundwater basin's safe yield; and

1427 (B) adopt a groundwater management plan for the groundwater basin.

1428 (iii) If the state engineer determines that groundwater withdrawals in a groundwater
1429 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that
1430 groundwater basin based on the priority date of the water rights under the groundwater
1431 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a
1432 different distribution.

1433 (b) When adopting a groundwater management plan for a critical management area, the
1434 state engineer shall, based on economic and other impacts to an individual water user or a local
1435 community caused by the implementation of safe yield limits on withdrawals, allow gradual
1436 implementation of the groundwater management plan.

1437 (c) (i) In consultation with the state engineer, water users in a groundwater basin may
1438 agree to participate in a voluntary arrangement for managing withdrawals at any time, either
1439 before or after a determination that groundwater withdrawals exceed the groundwater basin's
1440 safe yield.

1441 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other
1442 law.

1443 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than
1444 all of the water users in a groundwater basin does not affect the rights of water users who do
1445 not agree to the voluntary arrangement.

1446 (5) To adopt a groundwater management plan, the state engineer shall:

1447 (a) give notice as specified in Subsection (7) at least 30 days before the first public
1448 meeting held in accordance with Subsection (5)(b):

1449 (i) that the state engineer proposes to adopt a groundwater management plan;

1450 (ii) describing generally the land area proposed to be included in the groundwater
1451 management plan; and

1452 (iii) stating the location, date, and time of each public meeting to be held in accordance
1453 with Subsection (5)(b);

- 1454 (b) hold one or more public meetings in the geographic area proposed to be included
1455 within the groundwater management plan to:
- 1456 (i) address the need for a groundwater management plan;
 - 1457 (ii) present any data, studies, or reports that the state engineer intends to consider in
1458 preparing the groundwater management plan;
 - 1459 (iii) address safe yield and any other subject that may be included in the groundwater
1460 management plan;
 - 1461 (iv) outline the estimated administrative costs, if any, that groundwater users are likely
1462 to incur if the plan is adopted; and
 - 1463 (v) receive any public comments and other information presented at the public
1464 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);
- 1465 (c) receive and consider written comments concerning the proposed groundwater
1466 management plan from any person for a period determined by the state engineer of not less
1467 than 60 days after the day on which the notice required by Subsection (5)(a) is given;
- 1468 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,
1469 publish notice:
- 1470 (A) that a draft of the groundwater management plan has been proposed; and
 - 1471 (B) specifying where a copy of the draft plan may be reviewed; and
- 1472 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of
1473 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and
- 1474 (e) provide notice of the adoption of the groundwater management plan.
- 1475 (6) A groundwater management plan shall become effective on the date notice of
1476 adoption is completed under Subsection (7), or on a later date if specified in the plan.
- 1477 (7) (a) A notice required by this section shall be:
- 1478 (i) published:
 - 1479 (A) once a week for two successive weeks in a newspaper of general circulation in
1480 each county that encompasses a portion of the land area proposed to be included within the
1481 groundwater management plan; and
 - 1482 (B) in accordance with Section 45-1-101 for two weeks;
 - 1483 (ii) published conspicuously on the state engineer's Internet website; and
 - 1484 (iii) mailed to each of the following that has within its boundaries a portion of the land

1485 area to be included within the proposed groundwater management plan:

1486 (A) county;

1487 (B) incorporated city or town;

1488 (C) a local district created to acquire or assess a groundwater right under Title 17B,

1489 Chapter 1, Provisions Applicable to All Local Districts;

1490 [~~C~~] (D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement

1491 District Act;

1492 [~~D~~] (E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

1493 [~~E~~] (F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

1494 [~~F~~] (G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

1495 [~~G~~] (H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan

1496 Water District Act;

1497 [~~H~~] (I) special service district providing water, sewer, drainage, or flood control

1498 services, under Title 17D, Chapter 1, Special Service District Act;

1499 [~~I~~] (J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water

1500 Conservancy District Act; and

1501 [~~J~~] (K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

1502 (b) A notice required by this section is effective upon substantial compliance with

1503 Subsections (7)(a)(i) through (iii).

1504 (8) A groundwater management plan may be amended in the same manner as a

1505 groundwater management plan may be adopted under this section.

1506 (9) The existence of a groundwater management plan does not preclude any otherwise

1507 eligible person from filing any application or challenging any decision made by the state

1508 engineer within the affected groundwater basin.

1509 (10) (a) A person aggrieved by a groundwater management plan may challenge any

1510 aspect of the groundwater management plan by filing a complaint within 60 days after the

1511 adoption of the groundwater management plan in the district court for any county in which the

1512 groundwater basin is found.

1513 (b) Notwithstanding Subsection (9), a person may challenge the components of a

1514 groundwater management plan only in the manner provided by Subsection (10)(a).

1515 (c) An action brought under this Subsection (10) is reviewed de novo by the district

1516 court.

1517 (d) A person challenging a groundwater management plan under this Subsection (10)
1518 shall join the state engineer as a defendant in the action challenging the groundwater
1519 management plan.

1520 (e) (i) Within 30 days after the day on which a person files an action challenging any
1521 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action
1522 shall publish notice of the action:

1523 (A) in a newspaper of general circulation in the county in which the district court is
1524 located; and

1525 (B) in accordance with Section 45-1-101 for two weeks.

1526 (ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for
1527 two consecutive weeks.

1528 (iii) The notice required by Subsection (10)(e)(i) shall:

1529 (A) identify the groundwater management plan the person is challenging;

1530 (B) identify the case number assigned by the district court;

1531 (C) state that a person affected by the groundwater management plan may petition the
1532 district court to intervene in the action challenging the groundwater management plan; and

1533 (D) list the address for the clerk of the district court in which the action is filed.

1534 (iv) (A) Any person affected by the groundwater management plan may petition to
1535 intervene in the action within 60 days after the day on which notice is last published under
1536 Subsections (10)(e)(i) and (ii).

1537 (B) The district court's treatment of a petition to intervene under this Subsection
1538 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

1539 (v) A district court in which an action is brought under Subsection (10)(a) shall
1540 consolidate all actions brought under that subsection and include in the consolidated action any
1541 person whose petition to intervene is granted.

1542 (11) A groundwater management plan adopted or amended in accordance with this
1543 section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative
1544 Rulemaking Act.

1545 (12) Recharge and recovery projects permitted under Chapter 3b, Groundwater
1546 Recharge and Recovery Act, are exempted from this section.

1547 (13) Nothing in this section may be interpreted to require the development,
1548 implementation, or consideration of a groundwater management plan as a prerequisite or
1549 condition to the exercise of the state engineer's enforcement powers under other law, including
1550 powers granted under Section 73-2-25.

1551 (14) A groundwater management plan adopted in accordance with this section may not
1552 apply to the dewatering of a mine.

1553 (15) (a) A groundwater management plan adopted by the state engineer before May 1,
1554 2006, remains in force and has the same legal effect as it had on the day on which it was
1555 adopted by the state engineer.

1556 (b) If a groundwater management plan that existed before May 1, 2006, is amended on
1557 or after May 1, 2006, the amendment is subject to this section's provisions.

Legislative Review Note
as of 11-17-10 1:16 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 10, 2011 General Session

SHORT TITLE: Local District Amendments

SPONSOR: Stowell, D.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.