

Part 2 Creation of a Local District

17B-1-201 Definitions.

As used in this part:

- (1) "Applicable area" means:
 - (a) for a county, the unincorporated area of the county that is included within the proposed local district; or
 - (b) for a municipality, the area of the municipality that is included within the proposed local district.
- (2) "Governing body" means:
 - (a) for a county or municipality, the legislative body of the county or municipality; and
 - (b) for a local district, the board of trustees of the local district.
- (3) "Groundwater right owner petition" means a petition under Subsection 17B-1-203(1)(c).
- (4) "Groundwater right owner request" means a request under Section 17B-1-204 that is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).
- (5) "Initiating local district" means a local district that adopts a resolution proposing the creation of a local district under Subsection 17B-1-203(1)(e).
- (6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b), or (c).
- (7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).
- (8) "Property owner request" means a request under Section 17B-1-204 that is signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).
- (9) "Registered voter request" means a request under Section 17B-1-204 that is signed by registered voters as provided in Subsection 17B-1-204(2)(b)(iii).
- (10) "Registered voter petition" means a petition under Subsection 17B-1-203(1)(b).
- (11) "Request" means a request as described in Section 17B-1-204.
- (12) "Responsible body" means the governing body of:
 - (a) the municipality in which the proposed local district is located, if the petition or resolution proposes the creation of a local district located entirely within a single municipality;
 - (b) the county in which the proposed local district is located, if the petition or resolution proposes the creation of a local district located entirely within a single county and all or part of the proposed local district is located within:
 - (i) the unincorporated part of the county; or
 - (ii) more than one municipality within the county;
 - (c) if the petition or resolution proposes the creation of a local district located within more than one county, the county whose boundaries include more of the area of the proposed local district than is included within the boundaries of any other county; or
 - (d) the initiating local district, if a resolution proposing the creation of a local district is adopted under Subsection 17B-1-203(1)(e).
- (13) "Responsible clerk" means the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body.

Amended by Chapter 68, 2011 General Session

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

- (1)

- (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:
 - (i) the operation of an airport;
 - (ii) the operation of a cemetery;
 - (iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;
 - (iv) garbage collection and disposal;
 - (v) health care, including health department or hospital service;
 - (vi) the operation of a library;
 - (vii) abatement or control of mosquitos and other insects;
 - (viii) the operation of parks or recreation facilities or services;
 - (ix) the operation of a sewage system;
 - (x) the construction and maintenance of a right-of-way, including:
 - (A) a curb;
 - (B) a gutter;
 - (C) a sidewalk;
 - (D) a street;
 - (E) a road;
 - (F) a water line;
 - (G) a sewage line;
 - (H) a storm drain;
 - (I) an electricity line;
 - (J) a communications line;
 - (K) a natural gas line; or
 - (L) street lighting;
 - (xi) transportation, including public transit and providing streets and roads;
 - (xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
 - (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;
 - (xiv) law enforcement service;
 - (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;
 - (xvi) the control or abatement of earth movement or a landslide;
 - (xvii) the operation of animal control services and facilities; or
 - (xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.
- (b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.
- (c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section

73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

- (i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).
 - (ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
 - (iii)
 - (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).
 - (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.
 - (iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.
 - (v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.
- (2) For purposes of this section:
- (a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.
 - (b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.
- (3)
- (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).
 - (b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.
- (4)
- (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.
 - (b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:
 - (i) sewage system; or
 - (ii) water system.
- (5)
- (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

- (b) The area of a local district need not be contiguous.
- (6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:
 - (a) paramedic service; and
 - (b) emergency service, including hazardous materials response service.
- (7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.
- (8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.
- (9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:
 - (a) provides the same or a substantially similar service as the dissolved local district; and
 - (b) is located in substantially the same area as the dissolved local district.

Amended by Chapter 371, 2016 General Session

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

- (1) The process to create a local district may be initiated by:
 - (a) unless the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:
 - (i) is located within the proposed local district;
 - (ii) covers at least 33% of the total private land area within the proposed local district as a whole and within each applicable area;
 - (iii) is equal in value to at least 25% of the value of all private real property within the proposed local district as a whole and within each applicable area; and
 - (iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
 - (b) subject to Section 17B-1-204, a petition that:
 - (i) is signed by registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and
 - (ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
 - (c) if the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:
 - (i) are diverted within the proposed local district;
 - (ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area; and
 - (iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
 - (d) a resolution proposing the creation of a local district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed local district; or

- (e) a resolution proposing the creation of a local district, adopted by the board of trustees of an existing local district whose boundaries completely encompass the proposed local district, if:
 - (i) the proposed local district is being created to provide one or more components of the same service that the initiating local district is authorized to provide; and
 - (ii) the initiating local district is not providing to the area of the proposed local district any of the components that the proposed local district is being created to provide.
- (2)
 - (a) Each resolution under Subsection (1)(d) or (e) shall:
 - (i) describe the area proposed to be included in the proposed local district;
 - (ii) be accompanied by a map that shows the boundaries of the proposed local district;
 - (iii) describe the service proposed to be provided by the proposed local district;
 - (iv) if the resolution proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;
 - (v) explain the anticipated method of paying the costs of providing the proposed service;
 - (vi) state the estimated average financial impact on a household within the proposed local district;
 - (vii) state the number of members that the board of trustees of the proposed local district will have, consistent with the requirements of Subsection 17B-1-302(2);
 - (viii) for a proposed basic local district:
 - (A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
 - (B) if one or more members will be elected, state the basis upon which each elected member will be elected; and
 - (C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
 - (ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and
 - (x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
 - (A) the county legislative body;
 - (B) appointed as provided in Section 17B-1-304; or
 - (C) elected as provided in Section 17B-1-306.
 - (b) Each county or municipal legislative body adopting a resolution under Subsection (1)(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same local district.

Amended by Chapter 70, 2013 General Session

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

- (1) A petition may not be filed until after:
 - (a) a request has been filed with:
 - (i) the clerk of each county in whose unincorporated area any part of the proposed local district is located; and

- (ii) the clerk or recorder of each municipality in which any part of the proposed local district is located; and
- (b) each county and municipality with which a request under Subsection (1)(a) is filed:
 - (i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will provide the requested service; or
 - (ii) is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).
- (2) Each request under Subsection (1)(a) shall:
 - (a) ask the county or municipality to provide the service proposed to be provided by the proposed local district within the applicable area; and
 - (b) be signed by:
 - (i) unless the request is a request to create a local district to acquire or assess a groundwater right under Section 17B-1-202, the owners of private real property that:
 - (A) is located within the proposed local district;
 - (B) covers at least 10% of the total private land area within the applicable area; and
 - (C) is equal in value to at least 7% of the value of all private real property within the applicable area;
 - (ii) if the request is a request to create a local district to acquire or assess a groundwater right under Section 17B-1-202, the owners of groundwater rights that:
 - (A) are diverted within the proposed local district; and
 - (B) cover at least 10% of the amount of groundwater diverted in accordance with groundwater rights within the applicable area; or
 - (iii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.
- (3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition shall be considered to be part of that municipality.

Amended by Chapter 68, 2011 General Session

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

- (1) Each petition and request shall:
 - (a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;
 - (b)
 - (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or
 - (ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;
 - (c) describe the entire area of the proposed local district;
 - (d) be accompanied by a map showing the boundaries of the entire proposed local district;
 - (e) specify the service proposed to be provided by the proposed local district;
 - (f) if the petition or request proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;
 - (g) for a proposed basic local district:

- (i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
- (ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and
- (iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
- (h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and
- (i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
 - (i) the county legislative body;
 - (ii) appointed as provided in Section 17B-1-304; or
 - (iii) elected as provided in Section 17B-1-306;
- (j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
- (k) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:
 - (i) of paying for the groundwater right acquisition; and
 - (ii) of addressing blowing dust created by the reduced use of water; and
- (l) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:
 - (i) of assessing the groundwater right and securing payment of the assessment; and
 - (ii) of addressing blowing dust created by the reduced use of water.
- (2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:
 - (a) in the case of a request:
 - (i) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request;
 - (ii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or
 - (iii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or
 - (b) in the case of a petition, the responsible clerk.

Amended by Chapter 68, 2011 General Session

17B-1-206 Request certification -- Amended request.

- (1) Within 30 days after the filing of a request, the clerk of each county and the clerk or recorder of each municipality with which a request was filed shall:
 - (a) with the assistance of other county or municipal officers from whom the clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality,

whether the request complies with the requirements of Subsections 17B-1-204(2) and 17B-1-205(1); and

- (b)
 - (i) if the clerk or recorder determines that the request complies with the requirements:
 - (A) certify the request and deliver it to the legislative body of the county or municipality, as the case may be; and
 - (B) mail or deliver written notification of the certification to the contact sponsor; or
 - (ii) if the clerk or recorder determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2) If the clerk or recorder fails to certify or reject a request within 30 days after its filing, the request shall be considered to be certified.
- (3) Each county clerk or municipal clerk or recorder shall certify or reject requests in the order in which they are filed.
- (4)
 - (a) If the county clerk or municipal clerk or recorder rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled.
 - (b) A valid signature on a request that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the request as amended under Subsection (4)(a).
- (5) Each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-207 Signature on request may be used on petition.

A signature on a request may be used toward fulfilling the signature requirement of a petition:

- (1) if the request notifies the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition to create a local district; and
- (2) unless the signer files a written withdrawal of the signature before the petition is filed.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-208 Additional petition requirements and limitations.

- (1) Each petition shall:
 - (a) be filed with the responsible clerk;
 - (b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the proposed local district are grouped separately; and
 - (c) state the number of members that the board of trustees of the proposed local district will have, consistent with the requirements of Subsection 17B-1-302(2).
- (2)
 - (a) A petition may not propose the creation of a local district that includes an area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1) indicating that

the county or municipality will provide to that area the service proposed to be provided by the proposed local district.

- (b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-1-212(3).
- (c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a local district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-1-212, it will provide the requested service.
- (3) A petition may not propose the creation of a local district whose area includes:
 - (a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-1-202(4)(b):
 - (i) proposes the creation of a local district to provide the same service as proposed by the later filed petition; and
 - (ii) is still pending at the time the later petition is filed; or
 - (b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed local district.
- (4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

Renumbered and Amended by Chapter 329, 2007 General Session

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

- (1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed local district is located.
- (2)
 - (a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed local district shall:
 - (i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and
 - (ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).
 - (b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).
- (3)
 - (a) Within 45 days after the filing of a petition, the responsible clerk shall:
 - (i) determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208; and
 - (ii)
 - (A) if the responsible clerk determines that the petition complies with the applicable requirements:
 - (I)

- (Aa) certify the petition and deliver the certified petition to the responsible body; and
 - (Bb) mail or deliver written notification of the certification to the contact sponsor; or
 - (II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic local district, with a notice indicating that the clerk has determined that the petition complies with applicable requirements; or
 - (B) if the responsible clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (b)
- (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic local district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed local district.
 - (ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a county or municipal legislative body may hold one or more public hearings on the petition.
 - (iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:
 - (A) certify the petition and deliver the certified petition to the responsible body; and
 - (B) mail or deliver written notification of the certification to the contact sponsor.
- (4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails to certify or reject a petition within 45 days after its filing, the petition shall be considered to be certified.
- (5) The responsible clerk shall certify or reject petitions in the order in which they are filed.
- (6)
- (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.
 - (b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).
 - (c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.
- (7) The responsible clerk and each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Amended by Chapter 68, 2011 General Session

17B-1-210 Public hearing.

- (1) The legislative body of each county and municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the proposed local district need travel an unreasonable distance to attend a public hearing.
- (2) Each public hearing under Subsection (1) shall be held:
 - (a) no later than 45 days after:

- (i) for a public hearing on a request, certification of a request under Subsection 17B-1-206(1)(b) (i); or
- (ii) for a public hearing on a resolution, adoption of a resolution under Subsection 17B-1-203(1) (d) or (e);
- (b) within the proposed local district;
- (c) except as provided in Subsections (6) and (7), within the applicable area; and
- (d) for the purpose of:
 - (i) for a public hearing on a request, allowing public input on:
 - (A) whether the requested service is needed in the area of the proposed local district;
 - (B) whether the service should be provided by the county or municipality or the proposed local district; and
 - (C) all other matters relating to the request or the proposed local district; or
 - (ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the governing body holding the hearing regarding the issues contained in or raised by the resolution.
- (3) A quorum of each governing body holding a public hearing under this section shall be present throughout each hearing held by that governing body.
- (4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.
- (5) At the beginning and end of each hearing concerning a resolution, the governing body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.
- (6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.
- (7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or set of public hearings outside the applicable area if:
 - (a) there is no reasonable place to hold a public hearing within the applicable area; and
 - (b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

Amended by Chapter 68, 2011 General Session

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

- (1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:
 - (a)
 - (i)
 - (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or
 - (B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice in accordance with Subsection (2) at least one notice per 1,000 population of that area and at places within the area that are most likely to provide actual notice to residents of the area; and

- (ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing or the first of the set of hearings; or
 - (b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.
- (2) Each published notice under Subsection (1)(a)(i)(A) shall:
- (a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;
 - (b) if possible, appear in a newspaper that is published at least one day per week;
 - (c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;
 - (d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and
 - (e) be published once each week for four consecutive weeks, with the final publication being no fewer than five and no more than 20 days before the hearing or the first of the set of hearings.
- (3) Each notice required under Subsection (1) shall:
- (a) if the hearing or set of hearings is concerning a resolution:
 - (i) contain the entire text or an accurate summary of the resolution; and
 - (ii) state the deadline for filing a protest against the creation of the proposed local district;
 - (b) clearly identify each governing body involved in the hearing or set of hearings;
 - (c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and
 - (d) describe or include a map of the entire proposed local district.
- (4) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Amended by Chapter 265, 2013 General Session

17B-1-212 Resolution indicating whether the requested service will be provided.

- (1) Within 60 days after the last hearing required under Section 17B-1-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed local district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed local district within its boundaries the service proposed to be provided by the proposed local district.
- (2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested.
- (3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.
- (4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service shall diligently proceed to take all measures necessary to provide the service.

Renumbered and Amended by Chapter 329, 2007 General Session

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

- (1) For purposes of this section, "adequate protests" means protests that are:
 - (a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and
 - (b) signed by:
 - (i) the owners of private real property that:
 - (A) is located within the proposed local district;
 - (B) covers at least 25% of the total private land area within the applicable area; and
 - (C) is equal in value to at least 15% of the value of all private real property within the applicable area; or
 - (ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.
- (2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).
- (3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):
 - (a) may not:
 - (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;
 - (ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or
 - (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and
 - (b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.
- (4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.
- (5)
 - (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), (f), or (g), a resolution approving the creation of the local district may be adopted by:
 - (i)
 - (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and
 - (B) the legislative body of a municipality whose area is included within the proposed local district; or
 - (ii) the board of trustees of the initiating local district.
 - (b) Each resolution adopted under Subsection (5)(a) shall:
 - (i) describe the area included in the local district;
 - (ii) be accompanied by a map that shows the boundaries of the local district;
 - (iii) describe the service to be provided by the local district;
 - (iv) state the name of the local district; and

- (v) provide a process for the appointment of the members of the initial board of trustees.

Amended by Chapter 405, 2014 General Session

17B-1-214 Election -- Exceptions.

- (1)
 - (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the local district should be created shall be held by:
 - (i) if the proposed local district is located entirely within a single county, the responsible clerk; or
 - (ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.
 - (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.
- (2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:
 - (a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or
 - (b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.
- (3) The election requirement of Subsection (1) does not apply to:
 - (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:
 - (i) is located within the proposed local district;
 - (ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and
 - (iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;
 - (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;
 - (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:
 - (i) are diverted within the proposed local district; and
 - (ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area;
 - (d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes the unincorporated area, whether in whole or in part, of one or more counties;
 - (e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a local district that has no registered voters within its boundaries;

- (f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii); or
- (g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district.

- (4)
 - (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.
 - (b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.
 - (c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Amended by Chapter 405, 2014 General Session

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

- (1)
 - (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
 - (b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:
 - (i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed local district as a whole vote in favor of the creation of a local district;
 - (ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or
 - (iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a local district for which an election was not required under Subsection 17B-1-214(3)(d), (e), (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed local district, or by the board of trustees of the initiating local district.
- (2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:
 - (a) if the local district is located within the boundary of a single county, submit to the recorder of that county:
 - (i) the original:
 - (A) notice of an impending boundary action;
 - (B) certificate of incorporation; and
 - (C) approved final local entity plat; and
 - (ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or
 - (b) if the local district is located within the boundaries of more than a single county:
 - (i) submit to the recorder of one of those counties:
 - (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

- (B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5);
and
- (ii) submit to the recorder of each other county:
 - (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and
 - (B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).
- (3) The area of each local district consists of:
 - (a) if an election was held under Section 17B-1-214, the area of the new local district as approved at the election;
 - (b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed local district as described in the petition; or
 - (c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), (f), or (g), the area of the new local district as described in the resolution adopted under Subsection 17B-1-213(5).
- (4)
 - (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the local district is created and incorporated as:
 - (i) the type of specialized local district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized local district; or
 - (ii) a basic local district, if the petition or resolution did not propose the creation of a specialized local district.
 - (b)
 - (i) The effective date of a local district's incorporation for purposes of assessing property within the local district is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated local district may not:
 - (A) levy or collect a property tax on property within the local district;
 - (B) levy or collect an assessment on property within the local district; or
 - (C) charge or collect a fee for service provided to property within the local district.

Amended by Chapter 405, 2014 General Session

17B-1-216 Costs and expenses of creating a local district.

- (1) Except as provided in Subsection (2), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed local district shall bear their respective costs and expenses associated with the procedure under this part for creating a local district.
- (2) Within a year after its creation, each local district shall reimburse the costs and expenses associated with the preparation, certification, and recording of the approved final local entity plat of the local district and accompanying documents under Section 17B-1-215.

Amended by Chapter 350, 2009 General Session

17B-1-217 Activity required -- Dissolution -- Conclusive presumption regarding creation and existence.

- (1) A local district that is not engaged in one or more of the following activities, services, or duties is subject to dissolution in accordance with Subsections (5) and (6):
 - (a) levying and collecting a tax;

- (b) providing a commodity or service;
 - (c) collecting a fee or charging an assessment for a commodity, service, facility, or improvement provided by the local district;
 - (d) undertaking planning necessary for the provision of a commodity, service, facility, or improvement as reflected in a written study or report;
 - (e) acquiring or maintaining property or an easement necessary for a service, facility, or improvement to be provided by the local district in accordance with a general or master plan adopted by the district;
 - (f) constructing, installing, maintaining, owning, or operating infrastructure for the provision of a commodity, service, facility, or improvement; or
 - (g) legally incurring debt, contracting, or otherwise being obligated to provide a commodity, service, facility, or improvement within a reasonable period of time.
- (2) For a local district created after May 14, 2013, the local district shall file with the state auditor a written certification:
- (a) declaring that the district is engaged in an activity, service, or duty described in Subsection (1);
 - (b) identifying the activity in which the local district is engaged; and
 - (c) no later than five years after the date on which a local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5.
- (3)
- (a) The state auditor shall send a deficiency notice in accordance with Subsection (3)(c) if:
 - (i) a local district fails to deliver a certification in accordance with Subsection (2); or
 - (ii) the state auditor determines that, subject to Subsection (3)(b), a local district created after January 1, 2005, and before May 15, 2013, is not engaged in an activity, service, or duty required under Subsection (1) within five years after the date on which the local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5 or thereafter.
 - (b) The state auditor shall make a determination described in Subsection (3)(a)(ii) based on:
 - (i) the local district's failure to file a required annual financial report with the state auditor in accordance with Section 17B-1-639; or
 - (ii) subject to Subsection (7), other credible information related to Subsection (1).
 - (c)
 - (i) The state auditor shall send the deficiency notice to the local district and the Utah Association of Special Districts.
 - (ii) The deficiency notice shall state that the local district is required to file with the state auditor a written certification:
 - (A) declaring that the district was and continues to be engaged in an activity, service, or duty described in Subsection (1) prior to the date of the deficiency notice; and
 - (B) identifying the activity, service, or duty in which the local district is engaged.
- (4) If within four months of receiving a deficiency notice, a local district fails to file a written certification with the state auditor in accordance with Subsection (2) or (3)(c)(ii), the state auditor shall, in writing:
- (a) notify the lieutenant governor that the local district has failed to meet the requirements of this section and specify the reason for the district's failure; and
 - (b) request that the lieutenant governor dissolve the local district in accordance with Subsections (5) and (6).
- (5) If the lieutenant governor receives a request to dissolve a local district from the state auditor in accordance with Subsection (4), the lieutenant governor shall:

- (a) issue a certification of dissolution under Section 67-1a-6.5; and
- (b) send a copy of the certification of dissolution to:
 - (i) the state auditor;
 - (ii) the State Tax Commission;
 - (iii) the recorder of the county in which the local district is located, or, if the local district is located in more than one county, the recorder of each county in which the local district is located;
 - (iv) the last known address of the local district; and
 - (v) the Utah Association of Special Districts.
- (6) A local district identified in a certification of dissolution is dissolved:
 - (a) upon recordation of the certification by the county recorder; or
 - (b) if the local district is located within more than one county, upon recordation of the certification by the county recorder of the last county to record.
- (7) Notwithstanding any other provision of law, a local district shall be conclusively presumed to have been lawfully created, existing, and active if for two years following the district's creation under Subsection 17B-1-215(4):
 - (a) the district has:
 - (i) levied and collected a tax; or
 - (ii) collected a fee, charge, or assessment for a commodity, service, facility, or improvement provided by the district; and
 - (b) no challenge has been filed in court to the existence or creation of the district.

Amended by Chapter 448, 2013 General Session