

Effective 2/27/2023

Part 2
Creation of a Special 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 special district; or
 - (b) for a municipality, the area of the municipality that is included within the proposed special district.
- (2) "Governing body" means:
 - (a) for a county or municipality, the legislative body of the county or municipality; and
 - (b) for a special district, the board of trustees of the special 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 special district" means a special district that adopts a resolution proposing the creation of a special district under Subsection 17B-1-203(1)(f).
- (6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b), (c), or (d).
- (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 special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single municipality;
 - (b) the county in which the proposed special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single county and all or part of the proposed special 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 special district located within more than one county, the county whose boundaries include more of the area of the proposed special district than is included within the boundaries of any other county; or
 - (d) the initiating special district, if a resolution proposing the creation of a special district is adopted under Subsection 17B-1-203(1)(f).
- (13) "Responsible clerk" means:
 - (a) except as provided in Subsection (13)(b), the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body; or
 - (b) for the proposed creation of an infrastructure financing district, the clerk of the county in which the majority of the acreage within the boundary of the proposed infrastructure financing district is located.

Amended by Chapter 388, 2024 General Session

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

- (1)
- (a) A special 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;
 - (xviii) an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or
 - (xix) the financing of infrastructure, as provided in Chapter 2a, Part 13, Infrastructure Financing Districts.

- (b) Each special 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 special 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 special 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 special 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 special 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 special district is subject to Section 73-1-4.
 - (v) A special 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) As used in 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 special 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 special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.
- (4)
 - (a) Except as provided in Subsection (4)(b), a special 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 special 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 special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special 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 special district need not be contiguous.
- (6) For a special 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 special 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 special 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 special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:
- (a) provides the same or a substantially similar service as the dissolved special district; and
 - (b) is located in substantially the same area as the dissolved special district.
- (10) An infrastructure financing district may not be created unless the estimated cost of the public infrastructure and improvements to be constructed within the boundary of the proposed infrastructure financing district exceeds \$1,000,000, as certified under Subsection 17B-1-208(1)(c).
- (11)
- (a) Except as provided in Subsection (11)(b), the inclusion of an area within an infrastructure financing district does not affect whether the area may be included within another special district.
 - (b) An infrastructure financing district may not include an area included within another infrastructure financing district.

Amended by Chapter 53, 2024 General Session
Amended by Chapter 388, 2024 General Session

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

- (1) The process to create a special district may be initiated by:
- (a) unless the proposed special district is a special 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 special district;
 - (ii) covers at least 33% of the total private land area within the proposed special 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 special 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 special 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 special 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 special district is a special 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 special district;
 - (ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special 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) for the creation of an infrastructure financing district, a petition signed by 100% of the owners of surface property within the applicable area;
 - (e) a resolution proposing the creation of a special 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 special district; or
 - (f) a resolution proposing the creation of a special district, adopted by the board of trustees of an existing special district whose boundaries completely encompass the proposed special district, if:
 - (i) the proposed special district is being created to provide one or more components of the same service that the initiating special district is authorized to provide; and
 - (ii) the initiating special district is not providing to the area of the proposed special district any of the components that the proposed special district is being created to provide.
- (2)
- (a) Each resolution under Subsection (1)(e) or (f) shall:
 - (i) describe the area proposed to be included in the proposed special district;
 - (ii) be accompanied by a map that shows the boundaries of the proposed special district;
 - (iii) describe the service proposed to be provided by the proposed special district;
 - (iv) if the resolution proposes the creation of a specialized special district, specify the type of specialized special 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 special district;
 - (vii) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection 17B-1-302(8);
 - (viii) for a proposed basic special 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)(e) 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 special district.

Amended by Chapter 388, 2024 General Session

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

- (1) Except for a petition for the creation of an infrastructure financing district, 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 special district is located; and
 - (ii) the clerk or recorder of each municipality in which any part of the proposed special 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 special district within the applicable area; and
 - (b) be signed by:
 - (i) unless the request is a request to create a special 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 special 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 special 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 special 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 388, 2024 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 special district;
 - (d) be accompanied by a map showing the boundaries of the entire proposed special district;
 - (e) specify the service proposed to be provided by the proposed special district;
 - (f) if the petition or request proposes the creation of a specialized special district, specify the type of specialized special district proposed to be created;
 - (g) for a proposed basic special 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;
 - (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 special 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;
 - (l) if the petition or request is a groundwater right owner petition or request proposing the creation of a special 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; and
- (m) for a proposed infrastructure financing 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;
 - (ii) if one or more members will be elected, state the basis upon which each elected member will be elected;
 - (iii) explain how appointed board member positions will transition to elected board member positions based on stated milestones or events, as provided in Section 17B-2a-1303;
 - (iv) state whether divisions will be established within the boundary of the infrastructure financing district so that some or all board members represent a division rather than the district at large and, if so, describe the boundary of each division; and
 - (v) if applicable, be accompanied by the governing document prepared according to Section 17B-2a-1303.
- (2)
 - (a) Subject to Subsection (2)(b), 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:
 - (i) in the case of a request:
 - (A) 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;
 - (B) 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
 - (C) 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
 - (ii) in the case of a petition, the responsible clerk.
 - (b) The time for a signer of a petition for the creation of an infrastructure financing district to withdraw or reinstate the signer's signature is any time before the petition is certified under Section 17B-1-209.
- (3)
 - (a) A clerk of the county who receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate the individual's signature.
 - (b) If a municipal clerk or recorder receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition, the clerk of the municipality's county shall assist the municipal clerk or recorder with determining whether to remove or reinstate the individual's signature using the procedures described in Subsection 20A-1-1003(3).

Amended by Chapter 388, 2024 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 special district; and
- (2) unless the signer files a written withdrawal of the signature before the petition is filed.

Amended by Chapter 15, 2023 General Session

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

- (1)
 - (a) Each petition shall:
 - (i) be filed with the responsible clerk;
 - (ii) 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 special district are grouped separately; and
 - (iii)
 - (A) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection 17B-1-302(8); and
 - (B) for a petition proposing the creation of an infrastructure financing district, include the name and address of each of the proposed board members.
- (b)

- (i) A petition for the creation of an infrastructure financing district shall state the name of the proposed infrastructure financing district.
 - (ii) The name of an infrastructure financing district shall include the phrase "infrastructure financing district."
 - (c) A petition for the creation of an infrastructure financing district shall be accompanied by a written statement, signed by an engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, certifying that the estimated cost of the public infrastructure and improvements to be constructed in the proposed infrastructure financing district exceeds \$1,000,000.
- (2)
- (a) A petition may not propose the creation of a special 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 special 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 special 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 special 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 special 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 special 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).

Amended by Chapter 388, 2024 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 special 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 special 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), (c), or (d), 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 determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), (c), or (d), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208.
 - (b)
 - (i) If the responsible clerk determines that the petition complies with the applicable requirements, the responsible clerk shall, within the time specified in Subsection (3)(a):
 - (A) certify the petition as complying with all applicable requirements;
 - (B) deliver the certified petition as provided in Subsection (3)(b)(iii); and
 - (C) mail or deliver written notification of the certification and a copy of the certified petition to the contact sponsor.
 - (ii) For each petition described in Subsection (3)(d)(i), the responsible clerk shall, within the time specified in Subsection (3)(a), 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 special district, with a notice indicating that the clerk has determined that the petition complies with all applicable requirements.
 - (iii)
 - (A) Except as provided in Subsection (3)(b)(iii)(B), the responsible clerk shall deliver the certified petition to the responsible body.
 - (B) For a petition proposing the creation of an infrastructure financing district, the responsible clerk shall deliver the certified petition to the lieutenant governor.
 - (iv) If the responsible clerk certifies a petition proposing the creation of an infrastructure financing district, the responsible clerk shall, within the time specified in Subsection (3)(a), file with the lieutenant governor, in addition to the certified petition:
 - (A) 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
 - (B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
 - (c) If the responsible clerk determines that the petition fails to comply with any of the applicable requirements, the responsible clerk shall reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
 - (d)
 - (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic special 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 special district.
 - (ii) Before adopting a resolution giving its approval under Subsection (3)(d)(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)(d)(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)(d)(i), if the responsible clerk fails to certify or reject a petition within 45 days after the petition is filed, the petition is considered to be certified.
- (5)
 - (a) If a petition for the creation of an infrastructure financing district is considered to be certified under Subsection (4) and the responsible clerk has failed to comply with the requirements of Subsection (3)(b)(iv), the petition sponsors may notify the lieutenant governor in writing that the petition is considered to be certified.
 - (b) The petition sponsors notification to the lieutenant governor under Subsection (5)(a) shall be accompanied by:
 - (i) the petition proposing the creation of an infrastructure financing district;
 - (ii) a statement indicating the date that the petition was filed and certifying that the responsible clerk failed to certify the petition within the time specified in Subsection (3)(a);
 - (iii) a copy of the engineer's written statement described in Subsection 17B-1-208(1)(c);
 - (iv) 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
 - (v) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
- (6) The responsible clerk shall certify or reject petitions in the order in which they are filed.
- (7)
 - (a) If the responsible clerk rejects a petition under Subsection (3)(c), 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)(c) 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)(c), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.
- (8) The responsible clerk and each county clerk and municipal clerk or recorder shall:
 - (a) act in good faith in making the determinations under this section; and
 - (b) with the assistance of the county clerk if necessary, and as applicable, use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter.

Amended by Chapter 388, 2024 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)(e) and the board of trustees of each special district that adopts a resolution under Subsection 17B-1-203(1)(f) 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 special 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)(e) or (f);
 - (b) within the proposed special 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 special district;
 - (B) whether the service should be provided by the county or municipality or the proposed special district; and
 - (C) all other matters relating to the request or the proposed special 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 388, 2024 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)(e) and the board of trustees of each special district that adopts a resolution under Subsection 17B-1-203(1)(f) shall publish notice for the proposed special district, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the hearing or the day of the first of the set of hearings.
- (2) 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 special 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 special district.
- (3) 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 388, 2024 General Session

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

- (1)
 - (a) 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 special district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed special district within its boundaries the service proposed to be provided by the proposed special district.
 - (b) If a county or municipality adopts a resolution indicating that the county or municipality will provide the service proposed to be provided by the proposed special district under Subsection (1)(a), the resolution shall include a reasonable timeline for the county or municipality to begin providing the service.
- (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 and to have consented to the creation of the special district.
- (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:
 - (a) shall diligently proceed to take all measures necessary to provide the service; and
 - (b) if the county or municipality fails to timely provide the requested service, the county or municipality will be considered to have declined to provide the service and the creation of the special district may proceed accordingly.

Amended by Chapter 15, 2023 General Session

Amended by Chapter 139, 2023 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 special 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 special 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)(e) or (f):

- (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 special district or include the applicable area in a special district; or
 - (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(e) or (f) proposing the creation of a special district including substantially the same area as the applicable area and providing the same service as the proposed special 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 special 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 special 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 special district shall be adopted by:
 - (i)
 - (A) the legislative body of a county whose unincorporated area is included within the proposed special district; and
 - (B) the legislative body of a municipality whose area is included within the proposed special district; or
 - (ii) the board of trustees of the initiating special district.
 - (b) Each resolution adopted under Subsection (5)(a) shall:
 - (i) describe the area included in the special district;
 - (ii) be accompanied by a map that shows the boundaries of the special district;
 - (iii) describe the service to be provided by the special district;
 - (iv) state the name of the special district; and
 - (v) provide a process for the appointment of the members of the initial board of trustees.

Amended by Chapter 388, 2024 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 special district should be created shall be held by:
 - (i) if the proposed special district is located entirely within a single county, the responsible clerk; or
 - (ii) except as provided under Subsection (1)(b), if the proposed special district is located within more than one county, the clerk of each county in which part of the proposed special district is located, in cooperation with the responsible clerk.
 - (b) Notwithstanding Subsection (1)(a)(ii), if the proposed special district is located within more than one county and the only area of a county that is included within the proposed special 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 Subsections 17B-1-209(3)(a), (b), and (c); 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 special district;
 - (ii) covers at least 67% of the total private land area within the proposed special 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 special 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 special 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 special 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 special district; and
 - (ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special district as a whole and within each applicable area;
 - (d) a resolution adopted under Subsection 17B-1-203(1)(e) on or after May 5, 2003, that proposes the creation of a special district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed special district:
 - (i) includes the unincorporated area, whether in whole or in part, of one or more counties; or
 - (ii) consists of an area that:
 - (A) has a boundary that is the same as the boundary of the municipality whose legislative body adopts the resolution proposing the creation of the special district;
 - (B) previously received fire protection, paramedic, and emergency services or law enforcement service from another special district; and
 - (C) may be withdrawn from the other special district under Section 17B-1-505 without an election because the withdrawal is pursuant to an agreement under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b);
 - (e) a resolution adopted under Subsection 17B-1-203(1)(e) or (f) if the resolution proposes the creation of a special district that has no registered voters within its boundaries;
 - (f) a resolution adopted under Subsection 17B-1-203(1)(e) on or after May 11, 2010, that proposes the creation of a special district described in Subsection 17B-1-202(1)(a)(xiii);
 - (g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district; or
 - (h) a petition for the creation of an infrastructure financing district.
- (4)
- (a) If the proposed special 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 388, 2024 General Session

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

- (1)
 - (a) Within the time specified in Subsection (1)(b) and except as provided in Section 17B-1-209 for a petition proposing the creation of an infrastructure financing district, the responsible body shall file with the lieutenant governor:
 - (i) if applicable, a copy of the petition certified, under Section 17B-1-209, as complying with all applicable requirements;
 - (ii) 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
 - (iii) 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 special district as a whole vote in favor of the creation of a special 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), (c), or (h); or
 - (iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a special 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 special district, or by the board of trustees of the initiating special 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 special 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 special 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 special district consists of:

- (a) if an election was held under Section 17B-1-214, the area of the new special district as approved at the election;
 - (b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), (c), or (h), the area of the proposed special 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 special 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 special district is created and incorporated as:
 - (i) the type of specialized special district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), (c), or (d) or resolution under Subsection 17B-1-203(1)(e) or (f), if the petition or resolution proposed the creation of a specialized special district; or
 - (ii) a basic special district, if the petition or resolution did not propose the creation of a specialized special district.
 - (b)
 - (i) The effective date of a special district's incorporation for purposes of assessing property within the special 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 special district may not:
 - (A) levy or collect a property tax on property within the special district;
 - (B) levy or collect an assessment on property within the special district;
 - (C) charge or collect a fee for service provided to property within the special district; or
 - (D) issue bonds.

Amended by Chapter 388, 2024 General Session

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

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

Amended by Chapter 388, 2024 General Session

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

- (1) A special 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 special 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 special 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 special district created after May 14, 2013, the special 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 special district is engaged; and
 - (c) no later than five years after the date on which a special 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 special district fails to deliver a certification in accordance with Subsection (2); or
 - (ii) the state auditor determines that, subject to Subsection (3)(b), a special 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 special 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 special 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 special district and the Utah Association of Special Districts.
 - (ii) The deficiency notice shall state that the special 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 special district is engaged.
- (4) If within four months of receiving a deficiency notice, a special 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 special 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 special district in accordance with Subsections (5) and (6).
- (5) If the lieutenant governor receives a request to dissolve a special 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 special district is located, or, if the special district is located in more than one county, the recorder of each county in which the special district is located;
 - (iv) the last known address of the special district; and
 - (v) the Utah Association of Special Districts.
- (6) A special district identified in a certification of dissolution is dissolved:
 - (a) upon recordation of the certification by the county recorder; or
 - (b) if the special 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 special 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 15, 2023 General Session

17B-1-219 Provisions not applicable to the creation of an infrastructure financing district.

Sections 17B-1-210, 17B-1-211, 17B-1-212 and, 17B-1-213 do not apply to the proposed creation of an infrastructure financing district.

Enacted by Chapter 388, 2024 General Session