

Effective 5/3/2023

17B-1-505.5 Feasibility study for a municipality's withdrawal from a special district providing fire protection, paramedic, and emergency services or law enforcement service -- Notice of hearing.

- (1) As used in this section:
 - (a) "Feasibility consultant" means a person with expertise in:
 - (i) the processes and economics of local government; and
 - (ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.
 - (b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder special district.
 - (c) "First responder district" means a special district, other than a municipal services district, that provides:
 - (i) fire protection, paramedic, and emergency services; or
 - (ii) law enforcement service.
 - (d) "Withdrawing municipality" means a municipality whose legislative body has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.
- (2) This section applies and a feasibility study shall be conducted, as provided in this section, if:
 - (a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)
 - (a) to initiate the process of the municipality's withdrawal from a first responder district;
 - (b) the municipality and first responder district have not agreed in writing to the withdrawal; and
 - (c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.
- (3)
 - (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.
 - (b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or special district procurement procedures.
 - (c)
 - (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.
 - (ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).
 - (iii)
 - (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.
 - (B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district shall make the first elimination of

a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

- (C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.
- (d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).
- (4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.
- (5) In conducting a feasibility study under this section, the feasibility consultant shall consider:
 - (a) population and population density within the withdrawing municipality;
 - (b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;
 - (c) projected growth in the withdrawing municipality during the next five years;
 - (d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the withdrawing municipality as is provided by the first responder district, including:
 - (i) the estimated cost if the first responder district continues to provide service; and
 - (ii) the estimated cost if the withdrawing municipality provides service;
 - (e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:
 - (i) the municipality included in the first responder district's service area; and
 - (ii) the withdrawing municipality excluded from the first responder district's service area;
 - (f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;
 - (g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;
 - (h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;
 - (i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;
 - (j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;
 - (k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:
 - (i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

- (ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;
 - (l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;
 - (m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and
 - (n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.
- (6)
- (a) For purposes of Subsections (5)(d) and (e):
 - (i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to the withdrawing municipality at the time of the feasibility study;
 - (ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:
 - (A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and
 - (B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and
 - (iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.
 - (b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.
- (7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.
- (8) The withdrawing municipality and first responder district shall require the feasibility consultant to:
- (a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;
 - (b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and
 - (c) attend all public hearings relating to the feasibility study under Subsection (14).
- (9) A written report of the results of a feasibility study under this section shall:
- (a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

- (b) include any conditions the feasibility consultant determines need to be satisfied in order to make the withdrawal functionally and financially feasible, including:
 - (i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and
 - (ii)
 - (A) first responder district employees to become employees of the withdrawing municipality; and
 - (B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.
- (10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.
- (11)
 - (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.
 - (b)
 - (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.
 - (ii)
 - (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.
 - (B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.
 - (iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.
 - (iv)
 - (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.
 - (B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.
 - (v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:
 - (A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and
 - (B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder special district.
- (12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a public hearing under Subsection (14), the withdrawing municipality shall:
 - (a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

- (b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.
- (13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.
- (14)
 - (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:
 - (i) within the following 60 days; and
 - (ii) for the purpose of allowing:
 - (A) the feasibility consultant to present the results of the feasibility study; and
 - (B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.
 - (b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:
 - (i) provide a copy of the feasibility study for public review; and
 - (ii) allow the public to:
 - (A) ask the feasibility consultant questions about the feasibility study; and
 - (B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.
- (15)
 - (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14) for the withdrawing municipality, as a class A notice under Section 63G-30-102, for three consecutive weeks immediately before the public hearing.
 - (b) A notice under Subsection (15)(a) shall state:
 - (i) the date, time, and location of the public hearing; and
 - (ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.
- (16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Amended by Chapter 15, 2023 General Session
Amended by Chapter 435, 2023 General Session