

Effective 2/27/2023

Chapter 2a
Provisions Applicable to Different Types of Special Districts

Part 1
Cemetery Maintenance District Act

17B-2a-102 Provisions applicable to cemetery maintenance districts.

- (1) Each cemetery maintenance district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to cemetery maintenance districts.
- (3) A cemetery maintenance district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5) A cemetery maintenance district shall comply with the applicable provisions of Title 8, Cemeteries.

Amended by Chapter 15, 2023 General Session

17B-2a-103 Limits on the creation of a cemetery maintenance district.

A cemetery maintenance district may not be created in a city of the first or second class.

Enacted by Chapter 329, 2007 General Session

17B-2a-104 Cemetery maintenance district bonding authority.

A cemetery maintenance district may issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Amended by Chapter 15, 2023 General Session

17B-2a-105 Additional duties of a cemetery maintenance district board of trustees.

In addition to the powers and duties of a board of trustees under Chapter 1, Part 3, Board of Trustees, each cemetery maintenance district board of trustees shall beautify, improve, and maintain each cemetery within the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-106 Appointment of board of trustees members -- Vacancies.

- (1) If the area of a cemetery maintenance district is included entirely within the boundaries of a single municipality, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person appointed by the legislative body of that municipality, as provided in Section 17B-1-304.
- (2) For each other cemetery maintenance district, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person appointed by the legislative body of the county in which the district is located, as provided in Section 17B-1-304.

Enacted by Chapter 329, 2007 General Session

17B-2a-107 Property within a cemetery maintenance district to be proportionately benefitted and equally assessed.

Each parcel of property within a cemetery maintenance district shall be:

- (1) benefitted by the creation of the district and by improvements made by the district, ratably with all other parcels of property within the district in proportion to the parcel's taxable value; and
- (2) assessed equally in proportion to its taxable value for the purpose of cemetery improvement and maintenance.

Enacted by Chapter 329, 2007 General Session

**Part 2
Drainage District Act**

17B-2a-201 Title.

This part is known as the "Drainage District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-202 Definitions.

As used in this part:

- (1) "Ditch" includes a drain or natural or constructed watercourse, whether open, covered, or tiled, and whether inside or outside the drainage district.
- (2) "Drainage" includes the reclamation, protection, or betterment of land by leading, carrying, withholding, or pumping excess water from land through canals, ditches, pipes, or other means.

Enacted by Chapter 329, 2007 General Session

17B-2a-203 Provisions applicable to drainage districts.

- (1) Each drainage district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to drainage districts.
- (3) A drainage district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-204 Prohibition against creating a drainage district.

No new drainage district may be created.

Enacted by Chapter 329, 2007 General Session

17B-2a-205 Additional drainage district powers.

In addition to the powers conferred on a drainage district under Section 17B-1-103, a drainage district may:

- (1) enter upon land for the purpose of examining the land or making a survey;
- (2) locate a necessary drainage canal with any necessary branches on land that the district's board of trustees considers best;
- (3) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
- (4) after the payment or tender of compensation allowed, go upon land to construct proposed works, and thereafter enter upon that land to maintain or repair the works;
- (5) appropriate water for useful and beneficial purposes;
- (6) regulate and control, for the benefit of landholders within the district, all water developed, appropriated, or owned by the district;
- (7) appropriate, use, purchase, develop, sell, and convey water and water rights in the same manner and for the same use and purposes as a private person;
- (8) widen, straighten, deepen, enlarge, or remove any obstruction or rubbish from any watercourse, whether inside or outside the district; and
- (9) if necessary, straighten a watercourse by cutting a new channel upon land not already containing the watercourse, subject to the landowner receiving compensation for the land occupied by the new channel and for any damages, as provided under the law of eminent domain.

Amended by Chapter 15, 2023 General Session

17B-2a-206 Drainage district board of trustees.

- (1) Subject to Subsection (2), each member of the board of trustees of a drainage district shall be appointed by the legislative body of the county in which the district is located.
- (2) If a drainage district is located in more than one county, a county legislative body may not appoint more than two members.

Enacted by Chapter 329, 2007 General Session

17B-2a-207 Public highways, roads, or streets or railroad rights-of-way benefitted by district works.

If a drainage district board of trustees determines that a public highway, road, street, or railroad right-of-way is or will be benefitted by district drainage canals or other works that have been or will be constructed:

- (1) the district shall assess benefits and taxes against the public highway, road, street, or railroad right-of-way in the same manner as if the highway, road, street, or railroad right-of-way were in private ownership;
- (2) the district may treat the highway, road, street, or railroad right-of-way the same as it would treat private land; and
- (3) the state or local entity having control of the public highway, road, or street or the owner of the railroad right-of-way shall pay the applicable taxes assessed against the land, whether or not it owns the fee simple title to the land covered by the highway, road, street, or railroad right-of-way.

Enacted by Chapter 329, 2007 General Session

17B-2a-208 Bridge or culvert across a public highway, road, or street, or a railroad right-of-way -- Notice to railway authority -- Option of railway authority to construct bridge or culvert.

- (1)
 - (a) A drainage district may construct each necessary bridge and culvert across or under a public highway, road, street, or railroad right-of-way to enable the district to construct and maintain a canal, drain, or ditch necessary as part of the drainage system of the district.
 - (b) Before a drainage district constructs a bridge or culvert across or under a railroad right-of-way, the district shall first give notice to the railway authority empowered to build or construct bridges and culverts.
- (2)
 - (a) A railway authority may, within 30 days after the notice under Subsection (1)(b) and at its own expense, build the bridge or culvert according to its own plans.
 - (b) Each railway authority that builds a bridge or culvert as provided in Subsection (2)(a) shall construct the bridge or culvert:
 - (i) so as not to interfere with the free and unobstructed flow of water passing through the canal or drain; and
 - (ii) at points that are indicated by a competent drainage engineer.

Enacted by Chapter 329, 2007 General Session

17B-2a-209 State land treated the same as private land -- Consent needed to affect school and institutional trust land -- Owner of state land has same rights as owner of private land.

- (1) Subject to Subsection (2), a drainage district may treat state land the same as private land with respect to the drainage of land for agricultural purposes.
- (2) A drainage district may not affect school or institutional trust land under this part or Chapter 1, Provisions Applicable to All Special Districts, without the consent of the director of the School and Institutional Trust Lands Administration acting in accordance with Sections 53C-1-102 and 53C-1-303.
- (3) The state and each person holding unpatented state land under entries or contracts of purchase from the state have all the rights, privileges, and benefits under this part and Chapter 1, Provisions Applicable to All Special Districts, that a private owner of that land would have.

Amended by Chapter 15, 2023 General Session

17B-2a-210 District required to minimize damage when entering on land -- Penalty for preventing or prohibiting a district from entering on land.

- (1) When entering upon land for the purpose of constructing, maintaining, or repairing works, a drainage district may not do more damage than the necessity of the occasion requires.
- (2)
 - (a) A person who willfully prevents or prohibits an agent of a drainage district from entering upon land when the district is authorized to enter the land is guilty of a class C misdemeanor.
 - (b)
 - (i) Each person found guilty under Subsection (2)(a) shall be fined a sum not to exceed \$25 per day for each day the person prevented or prohibited the district from entering upon land.
 - (ii) Each fine under Subsection (2)(b)(i) shall be paid to the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-211 Penalty for wrongfully damaging a district work.

- (1) A person who wrongfully and purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, or other work of a drainage district is guilty of a class C misdemeanor.
- (2) Each person who negligently, wrongfully, or purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, levee, or other work of a drainage district or obstructs or fills any natural stream or outlet used by a drainage district, whether inside or outside the district, shall be liable to the district for all resulting damages.

Enacted by Chapter 329, 2007 General Session

**Part 3
Fire Protection District Act**

17B-2a-301 Title.

This part is known as the "Fire Protection District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-302 Prohibition against creating new fire protection districts.

No new fire protection district may be created.

Enacted by Chapter 329, 2007 General Session

17B-2a-303 Provisions applicable to fire protection districts.

- (1) Each fire protection district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to fire protection districts.
- (3) A fire protection district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-304 Additional fire protection district power.

In addition to the powers conferred on a fire protection district under Section 17B-1-103, a fire protection district may issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Amended by Chapter 15, 2023 General Session

17B-2a-305 Fire protection districts board of trustees -- Board of a countywide district -- Validation of previous boards.

- (1) Except as provided in Subsection (2), the board of trustees of a fire protection district may be appointed or elected, as provided in the documents establishing the district.
- (2) If the area of a fire protection district consists of all the area of a single county excluding the area of all first and second class cities in the county, the legislative body of that county shall constitute the board of trustees of the fire protection district.
- (3) The composition and method of appointing or electing board of trustees members of each fire protection district existing on April 30, 2007 are validated, ratified, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-306 Offices of a fire protection district board of trustees and principal place of business.

Each office of a fire protection district board of trustees and each principal place of business of a fire protection district shall be within:

- (1) the district; or
- (2) the county in which the district is located and as near as possible to the district.

Enacted by Chapter 329, 2007 General Session

**Part 4
Improvement District Act**

17B-2a-401 Title.

This part is known as the "Improvement District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-402 Provisions applicable to improvement districts.

- (1) Each improvement district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to improvement districts.
- (3) An improvement district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-403 Additional improvement district powers.

- (1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:
 - (a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and operate all or any part of a system for:
 - (i) the supply, treatment, and distribution of water;
 - (ii) the collection, treatment, and disposition of sewage;
 - (iii) the collection, retention, and disposition of storm and flood waters;

- (iv) the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and
 - (v) the transmission of natural or manufactured gas if:
 - (A) the system is connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, that is regulated under Section 54-4-1;
 - (B) the system is to be used to facilitate gas utility service within the district; and
 - (C) the gas utility service was not available within the district before the acquisition of the system;
 - (b) issue bonds in accordance with Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the improvement district;
 - (c) appropriate or acquire water or water rights inside or outside the improvement district's boundaries;
 - (d) sell water or other services to consumers residing outside the improvement district's boundaries;
 - (e) enter into a contract with a gas corporation that is regulated under Section 54-4-1 to:
 - (i) provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas; or
 - (ii) lease or sell all or a portion of a system described in Subsection (1)(e)(i) to a gas corporation;
 - (f) enter into a contract with a person for:
 - (i) the purchase or sale of water or electricity;
 - (ii) the use of any facility owned by the person; or
 - (iii) the purpose of handling the person's industrial and commercial waste and sewage;
 - (g) require pretreatment of industrial and commercial waste and sewage; and
 - (h) impose a penalty or surcharge against a public entity or other person with which the improvement district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.
- (2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.
- (3) An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewage collection system operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.
- (4) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage may acquire, construct, or operate a resource recovery project in accordance with Section 19-6-508.

Amended by Chapter 15, 2023 General Session

17B-2a-404 Improvement district board of trustees.

- (1) As used in this section:
- (a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.
 - (b) "County member" means a member of a board of trustees of a county district.
 - (c) "Electric district" means an improvement district that was created for the purpose of providing electric service.
 - (d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

- (e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.
 - (f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.
 - (g) "Remaining area" means the area of a regular district that:
 - (i) is outside the boundaries of an included municipality; and
 - (ii) includes the area of an included municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.
 - (h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.
- (2) The legislative body of the municipality included within a municipal district may:
- (a) elect, at the time of the creation of the district, to be the board of trustees of the district; and
 - (b) adopt at any time a resolution providing for:
 - (i) the election of board of trustees members, as provided in Section 17B-1-306; or
 - (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.
- (3)
- (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:
 - (i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1);
 - (ii) adopt at any time a resolution providing for:
 - (A) the election of board of trustees members, as provided in Section 17B-1-306; or
 - (B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and
 - (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.
 - (b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:
 - (i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);
 - (ii) the board of trustees are appointed by the legislative body of the county; and
 - (iii) there are at least two appointed board members who meet the requirements of Subsections 17B-1-302(1), (2), and (3), except that a member of the legislative body of the county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).
- (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii) (B) at any time after the county district is governed by an elected board of trustees unless:
- (a) the elected board has ceased to function;
 - (b) the terms of all of the elected board members have expired without the board having called an election; or
 - (c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.
- (5)
- (a)

- (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.
 - (ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).
 - (b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.
- (6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:
- (a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;
 - (b) the district holds an election to approve the district's issuance of bonds;
 - (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or
 - (d)
 - (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and
 - (ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.
- (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:
- (a) the number of included municipalities within the district, if:
 - (i) the number of included municipalities is greater than nine or is an odd number that is not greater than nine; and
 - (ii) the district does not include a remaining area;
 - (b) the number of included municipalities plus one, if the number of included municipalities within the district is an even number that is less than nine; and
 - (c) the number of included municipalities plus two, if:
 - (i) the number of included municipalities is an odd number that is less than nine; and
 - (ii) the district includes a remaining area.
- (8)
- (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.
 - (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:
 - (i) the population of the remaining area is less than 5% of the total district population; or
 - (ii)
 - (A) the population of the remaining area is less than 50% of the total district population; and
 - (B) the majority of the members of the board of trustees are remaining area members.
 - (c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.
- (9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):
- (a) a person may file a declaration of candidacy if:
 - (i) the person resides within:
 - (A) the remaining area, for a regular district; or

- (B) the county district, for a county district; and
 - (ii) otherwise qualifies as a candidate;
 - (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
 - (c) the election shall otherwise be governed by Title 20A, Election Code.
- (10)
- (a)
 - (i) This Subsection (10) applies to the board of trustees members of an electric district.
 - (ii) Subsections (2) through (9) do not apply to an electric district.
 - (b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.
 - (c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.
 - (d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.
 - (e) The board of trustees of an electric district may be elected from geographic divisions within the district.
 - (f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Amended by Chapter 112, 2018 General Session

17B-2a-405 Board of trustees of certain sewer improvement districts.

- (1) As used in this section:
- (a) "Jurisdictional boundaries" means:
 - (i) for a qualified county, the boundaries that include:
 - (A) the area of the unincorporated part of the county that is included within a sewer improvement district; and
 - (B) the area of each nonappointing municipality that is included within the sewer improvement district; and
 - (ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.
 - (b) "Nonappointing municipality" means a municipality that:
 - (i) is partly included within a sewer improvement district; and
 - (ii) is not a qualified municipality.
 - (c) "Qualified county" means a county:
 - (i) some or all of whose unincorporated area is included within a sewer improvement district; or
 - (ii) which includes within its boundaries a nonappointing municipality.
 - (d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).
 - (e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:
 - (i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and
 - (ii) more than half of:
 - (A) the municipality's land area; or

- (B) the assessed value of all private real property within the municipality.
- (f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).
- (g) "Sewer improvement district" means an improvement district that:
 - (i) provides sewage collection, treatment, and disposal service; and
 - (ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.
- (2)
 - (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.
 - (b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a time when there is no vacancy on the board.
- (3)
 - (a) The board of trustees of each sewer improvement district shall consist of:
 - (i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and
 - (ii) at least one person but not more than three persons appointed by:
 - (A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or
 - (B) the county legislative body, for each other qualified county.
 - (b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.
- (4) Notwithstanding Subsection 17B-1-302(4), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).
- (5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.
- (6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).
- (7)
 - (a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.
 - (b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.
- (8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Amended by Chapter 112, 2017 General Session

17B-2a-406 Improvement districts providing electric service -- Public Service Commission jurisdiction -- Exceptions.

- (1) As used in this section:
 - (a) "Commission" means the Public Service Commission of Utah established in Section 54-1-1.
 - (b) "Electric corporation" has the same meaning as "electrical corporation" defined in Section 54-2-1.
 - (c) "Electric improvement district" means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).
 - (d) "Stranded asset" means an asset that:
 - (i) an electric corporation owns and operates;
 - (ii) is designed to serve an area that is:
 - (A) within the electric corporation's certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection (3)(b)(i)(B)(II); and
 - (B) within the boundary of an electric improvement district; and
 - (iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation's certificated service area.
- (2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.
- (3)
 - (a) Except as provided in Subsection (3)(b), an electric improvement district:
 - (i) may include only an area where:
 - (A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and
 - (B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and
 - (ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.
 - (b)
 - (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:
 - (A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;
 - (B)
 - (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or
 - (II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation's certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and
 - (C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement district to provide electric service to the area within the boundary of the electric improvement district.

- (ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.
- (4) Nothing in this part may be construed to give the commission jurisdiction over:
 - (a) an improvement district, other than an electric improvement district;
 - (b) a municipality; or
 - (c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.
- (5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from the commission.
- (6)
 - (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:
 - (i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;
 - (ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;
 - (iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and
 - (iv) the district has filed the schedule of new rates or other change with the commission.
 - (b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Amended by Chapter 381, 2014 General Session

17B-2a-407 Nonfunctioning improvement district -- Replacing board of trustees.

- (1) As used in this section:
 - (a) "Applicable certificate" means the same as that term is defined in Subsection 67-1a-6.5(1)(a).
 - (b)
 - (i) "Non-functioning improvement district" means an improvement district:
 - (A) for which the lieutenant governor issues an applicable certificate on or after July 1, 2022, but before October 15, 2023;
 - (B) for which the legislative body of a county elected to be the board of trustees of the district under Subsection 17B-2a-404(3)(a); and
 - (C)
 - (I) for which the responsible body has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, complied with the recording requirements described in Subsection 17B-1-215(2); or
 - (II) whose board of trustees has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, held a meeting as the board of trustees of the improvement district, that was noticed and held in accordance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.
 - (ii) "Non-functioning improvement district" does not include an improvement district that has emerged from non-functioning status under Subsection (6)(c)(ii).
- (2)
 - (a) The board of trustees of a non-functioning improvement district may not, after the 100-day period described in Subsection (1)(b)(i)(C)(I), take any action as the board of trustees or on behalf of the non-functioning improvement district.

- (b) Any action taken in violation of Subsection (2)(a) is void.
- (3)
 - (a) An owner of land located within the boundaries of a non-functioning improvement district may file with the lieutenant governor a request to replace the board of trustees with a new board of trustees.
 - (b) A new board of trustees described in Subsection (3)(a) shall comprise three individuals who are:
 - (i) owners of land located within the boundaries of the improvement district; or
 - (ii) agents of owners of land located within the boundaries of the improvement district.
- (4) A request described in Subsection (3) shall include:
 - (a) the name and mailing address of the land owner who files the request;
 - (b) the name of the improvement district;
 - (c) a copy of the applicable certificate for the improvement district;
 - (d) written consent to the request from each owner of land located within the boundaries of the improvement district; and
 - (e) the names and mailing addresses of three individuals who will serve as the board of trustees of the improvement district until a new board of trustees is organized under Subsection (9).
- (5) Within 14 days after the day on which the lieutenant governor receives a request described in Subsections (3) and (4), the lieutenant governor shall:
 - (a) determine whether:
 - (i) the district is a non-functioning improvement district;
 - (ii) the request complies with Subsection (4); and
 - (b) if the lieutenant governor determines that the requirements described in Subsection (5)(a) are met, grant the request by issuing a certificate of replacement described in Subsection (6).
- (6) A certificate of replacement shall:
 - (a) state the name of the improvement district;
 - (b) reference the applicable certificate for the improvement district;
 - (c) declare that, upon issuance of the certificate:
 - (i) the existing board of trustees for the improvement district is dissolved and replaced by an interim board of trustees consisting of the three individuals described in Subsection (4)(e); and
 - (ii) the improvement district is removed from nonfunctioning status and is, beginning at that point in time, a functioning improvement district.
- (7) The interim board of trustees described in Subsection (6)(c)(i) shall record, in the recorder's office for a county in which all or a portion of the improvement district exists:
 - (a) the original of the certificate of replacement; and
 - (b) the original or a copy of:
 - (i) the items described in Subsections 17B-1-215(2)(a)(i)(A), (B), and (C); and
 - (ii) if applicable, a copy of each resolution adopted under Subsection 17B-1-213(5).
- (8) Until a new board of trustees is organized under Subsection (9):
 - (a) the interim board of trustees has the full authority of a board of trustees of an improvement district; and
 - (b) a majority of the owners of land in the improvement district:
 - (i) may appoint an individual described in Subsection (3)(b) to fill a vacancy on the interim board of trustees; and
 - (ii) shall file written notification of the appointment of an individual described in Subsection (8)(b)(i) with the lieutenant governor.

- (9) Within 90 days after the day on which at least 20 persons own land within the improvement district, the interim board of trustees described in Subsection (6)(c)(i) shall dissolve and be replaced by a board of trustees described in Subsections 17B-1-302(1) through (3)(a), except that:
- (a) the board of trustees shall comprise three members, appointed by the lieutenant governor, who are owners of property in the district, agents of an owner of property in the district, or residents of the district;
 - (b) Subsections 17B-1-302(3)(c) through (6) and Section 17B-2a-404 do not apply to the improvement district; and
 - (c) a member of the legislative body of the county may not serve as a member of the board of trustees.

Enacted by Chapter 15, 2023 General Session
Revisor instructions Chapter 16, 2023 General Session

Part 5 Irrigation District Act

17B-2a-501 Title.

This part is known as the "Irrigation District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-502 Provisions applicable to irrigation districts.

- (1) Each irrigation district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to irrigation districts.
- (3) An irrigation district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-503 Additional irrigation district powers -- No authority to levy property tax.

- (1) In addition to the powers conferred on an irrigation district under Section 17B-1-103, an irrigation district may:
 - (a) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
 - (b) purchase stock of an irrigation, canal, or reservoir company;
 - (c) enter upon any land in the district to make a survey and to locate and construct a canal and any necessary lateral;
 - (d) convey water rights or other district property to the United States as partial or full consideration under a contract with the United States;
 - (e) pursuant to a contract with the United States, lease or rent water to private land, an entryman, or a municipality in the neighborhood of the district;

- (f) if authorized under a contract with the United States, collect money on behalf of the United States in connection with a federal reclamation project and assume the incident duties and liabilities;
 - (g) acquire water from inside or outside the state;
 - (h) subject to Subsection (2), lease, rent, or sell water not needed by the owners of land within the district:
 - (i) to a municipality, corporation, association, or individual inside or outside the district;
 - (ii) for irrigation or any other beneficial use; and
 - (iii) at a price and on terms that the board considers appropriate; and
 - (i) repair a break in a reservoir or canal or remedy any other district disaster.
- (2)
- (a) The term of a lease or rental agreement under Subsection (1)(h) may not exceed five years.
 - (b) A vested or prescriptive right to the use of water may not attach to the land because of a lease or rental of water under Subsection (1)(h).
- (3) Notwithstanding Subsection 17B-1-103(2)(g), an irrigation district may not levy a property tax.

Amended by Chapter 15, 2023 General Session

17B-2a-504 Irrigation district board of trustees -- Bond for board of trustees members and district if the district is appointed as fiscal or other agent for the United States.

- (1)
- (a) One board of trustees member shall be elected from each division established as provided in Section 17B-2a-505.
 - (b) Each landowner within an irrigation district may vote for one board of trustees member for the division in which the landowner's land is located.
 - (c) Each landowner is entitled to cast one vote for each acre-foot or fraction of an acre-foot of water allotted to the land owned by the landowner.
- (2)
- (a) If an irrigation district is appointed fiscal agent of the United States or is authorized by the United States to collect money on behalf of the United States with respect to a federal project:
 - (i) each member of the district's board of trustees shall:
 - (A) execute an official bond in the amount required by the Secretary of the Interior, conditioned upon the faithful discharge of the trustee's duties; and
 - (B) file the official bond in the office of the clerk of the county in which the district is located; and
 - (ii) the irrigation district shall execute an additional bond for the district's faithful discharge of its duties as fiscal or other agent of the United States.
 - (b) The United States or any person injured by the failure of a member of the board of trustees or of the district to perform fully, promptly, and completely a duty may sue upon the official bond.

Enacted by Chapter 329, 2007 General Session

17B-2a-505 Divisions.

- (1) The board of trustees of each irrigation district shall divide the district into divisions, each as nearly equal in size to the others as practicable.
- (2) The number of divisions shall be equal to the number of board of trustees members.
- (3) At least 30 days before an election of board of trustees members, the board shall redivide the district into divisions if, since the last time the board divided the district into divisions:

- (a) the district has annexed land under Chapter 1, Part 4, Annexation;
- (b) land has been withdrawn from the district under Chapter 1, Part 5, Withdrawal; or
- (c) the number of board of trustees members has been changed.

Enacted by Chapter 329, 2007 General Session

17B-2a-506 Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

- (1) An irrigation district may:
 - (a) divide the district into units and apply different use charges to the different units; and
 - (b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.
- (2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:
 - (a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;
 - (b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and
 - (c) the treasurer of the county in which the land is located:
 - (i) shall:
 - (A) provide each landowner a notice of use charges as part of the annual tax notice required in Section 59-2-1317 as an additional charge separate from ad valorem taxes;
 - (B) collect, receive, and provide an accounting for all money belonging to the district from use charges;
 - (C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and
 - (D) collect any unpaid use charges in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes; and
 - (ii) may receive and account for use charges separately from taxes upon real estate for county purposes.
- (3)
 - (a) A use charge described in Subsection (2)(b) is a political subdivision lien, as that term is defined in Section 11-60-102, on the land served, as provided in Subsection 17B-1-902(1), except that the certification described in Subsection 17B-1-902(1)(a) is not required if the district makes the notification to the county treasurer required in Subsection (2)(b).
 - (b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.
 - (c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.
- (4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Amended by Chapter 197, 2018 General Session

17B-2a-507 Right-of-way over state land.

Each irrigation district has a right-of-way on land that is or becomes the property of the state to locate, construct, and maintain district works.

Enacted by Chapter 329, 2007 General Session

17B-2a-508 Inclusion of state land in an irrigation district.

- (1) State land that is not under a contract of sale may be included in an irrigation district upon petition by the state entity responsible for the administration of the land.
- (2) State land included in an irrigation district may not be:
 - (a) assessed by the district; or
 - (b) the subject of use charges imposed by the district.
- (3) The entity responsible for the administration of the state land to be included in an irrigation district and the state engineer shall make a thorough examination of the benefits to accrue to the land by its inclusion in the district and by the acquisition of water rights for the land.
- (4)
 - (a) The entity responsible for the administration of the state land to be included in an irrigation district may enter into a contract with the district, specifying the land benefitted and the amount of benefit, as determined under Subsection (3).
 - (b) Each contract under Subsection (4)(a) shall provide that the entity responsible for the administration of the state land shall make annual payments to the district, to be applied to the cost of constructing the district's irrigation works, until the full amount of the benefit is paid.
 - (c) The entity responsible for the administration of state land included in an irrigation district may, at its option, pay the full amount of the contract at any time.

Enacted by Chapter 329, 2007 General Session

17B-2a-509 State engineer not prohibited from increasing water allotment.

Nothing in this part may be construed to prohibit the state engineer, upon petition by an irrigation district board of trustees, from increasing the maximum allotment of water for one or more tracts of land within the district if the state engineer determines that the land cannot be beneficially irrigated with the currently allotted water.

Enacted by Chapter 329, 2007 General Session

17B-2a-510 Rules for the distribution and use of water.

- (1) Each irrigation district board of trustees shall establish equitable rules for the distribution and use of water among the owners of land in the district.
- (2) The board of trustees of an irrigation district that establishes rules under Subsection (1) shall, as soon as the rules are adopted, print them in convenient form for distribution in the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-511 Distribution of water under a contract with the United States.

If an irrigation district acquires the right to use water under a contract with the United States, the district shall distribute and apportion water according to the contract and federal law, rules, and regulations.

Enacted by Chapter 329, 2007 General Session

17B-2a-512 Removal of land from the assessor's roll.

- (1) An irrigation district may direct a county treasurer to remove parcels of land from the district's billing if:

- (a) the land is publicly dedicated to a street, highway, or road; or
 - (b) the use of the land has so permanently changed as to prevent the beneficial use of water on it.
- (2) Each county treasurer shall comply with the direction of an irrigation district under Subsection (1).

Enacted by Chapter 329, 2007 General Session

17B-2a-513 Temporary application of water to land.

- (1) Upon the written application of the owner of land that has no water allotment or an insufficient water allotment, an irrigation district board of trustees may temporarily permit water to be applied to the land and charge the owner for that water.
- (2) Subsection (1) may not be construed to affect an irrigation district's permanent water allotments.

Enacted by Chapter 329, 2007 General Session

17B-2a-514 Assignment of the right to water.

With the consent of the irrigation district board of trustees, a landowner in the district may assign the right to some or all of the water apportioned to the landowner's land for any one year to another bona fide landowner in the district for use in the district, if all charges for the water have been paid.

Enacted by Chapter 329, 2007 General Session

17B-2a-515 Distribution of water when supply is inadequate.

If an irrigation district's water supply is not sufficient to supply all the needs within the district, the board of trustees may distribute water as the board considers best for all concerned, subject to distribution and apportionment requirements of a district contract with the United States and applicable federal law, rule, and regulation.

Enacted by Chapter 329, 2007 General Session

17B-2a-516 Diversions of water subject to eminent domain law.

Nothing in this part may be construed to authorize any person to divert the water of a river, creek, stream, canal, or reservoir to the detriment of anyone having a prior right to the water, unless compensation is previously determined and paid according to the laws of eminent domain.

Enacted by Chapter 329, 2007 General Session

**Part 6
Metropolitan Water District Act**

17B-2a-601 Title.

This part is known as the "Metropolitan Water District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-602 Provisions applicable to metropolitan water districts.

- (1) Each metropolitan water district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to metropolitan water districts.
- (3) A metropolitan water district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5) Before September 30, 2019, a metropolitan water district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the metropolitan water district's fiscal year that ended in 2018, the percentage and amount of revenue in the metropolitan water district from:
 - (a) property taxes;
 - (b) water rates; and
 - (c) all other sources.

Amended by Chapter 15, 2023 General Session

17B-2a-603 Additional metropolitan water district powers.

In addition to the powers conferred on a metropolitan water district under Section 17B-1-103, a metropolitan water district may:

- (1) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district or inside or outside the state;
- (2) encumber real or personal property or an interest in real or personal property that the district owns;
- (3) acquire or construct works, facilities, and improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district or inside or outside the state;
- (4) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district or inside or outside the state, and encumber, transfer an interest in, or dispose of water, works, water rights, and sources of water;
- (5) develop, store, and transport water;
- (6) provide, sell, lease, and deliver water inside or outside the district for any lawful beneficial use;
- (7) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district; and
- (8) subscribe for, purchase, lease, or otherwise acquire stock in a canal company, irrigation company, water company, or water users association, for the purpose of acquiring the right to use water or water infrastructure.

Amended by Chapter 15, 2023 General Session

17B-2a-604 Metropolitan water district board of trustees.

- (1) Members of the board of trustees of a metropolitan water district shall be:
 - (a) elected in accordance with:
 - (i) the petition or resolution that initiated the process of creating the metropolitan water district; and

- (ii) Section 17B-1-306;
 - (b) appointed in accordance with Subsection (2); or
 - (c) elected under Subsection (3)(a).
- (2)
- (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.
 - (b) If a district contains the area of a single municipality:
 - (i) the legislative body of that municipality shall appoint each member of the board of trustees; and
 - (ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.
 - (c) If a district contains some or all of the retail water service area of more than one municipality:
 - (i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);
 - (ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:
 - (A) by agreement between the metropolitan water district and the municipalities, subject to Subsection 17B-1-302(4); or
 - (B) as provided in Chapter 1, Part 3, Board of Trustees; and
 - (iii) at least one member shall be appointed by each municipality.
 - (d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.
- (3)
- (a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):
 - (i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and
 - (ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.
 - (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.
- (4) A member of the board of trustees of a metropolitan water district shall be:
- (a) a registered voter;
 - (b) a property taxpayer; and
 - (c) a resident of:
 - (i) the metropolitan water district; and
 - (ii) the retail water service area of the municipality that:
 - (A) elects the member; or
 - (B) the member is appointed to represent.
- (5)
- (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).
 - (b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.
- (6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

- (7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Amended by Chapter 112, 2018 General Session

17B-2a-605 Preferential rights of cities.

- (1) Each city whose area is within a metropolitan water district and that provides water on a retail level within the district has a preferential right to purchase from the district a portion of the water served by the district.
- (2) Except as otherwise provided by contract between a metropolitan water district and the city, the percentage of the total district water supply that a city has a preferential right to purchase under Subsection (1) is the same percentage as the total amount of taxes levied by the district against property within the city's retail water service area is of the total of all taxes levied by the district against all property within the district.
- (3)
- (a) Nothing in this section may be construed to limit the ability of a metropolitan water district to establish preferential rights by contract with a city that has preferential rights under this section.
- (b) Each agreement described in Subsection (3)(a) entered into before April 30, 2007 is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-606 Rates, charges, and assessments.

- (1)
- (a) The board of trustees may fix the rates, charges, and assessments, from time to time, at which the district:
- (i) sells water; or
- (ii) charges for the treatment or transportation of water or for the dedication of water supplies or water treatment or conveyance capacities.
- (b) The rates, charges, and assessments may be established by agreement between the district and the municipalities serviced by the district.
- (2) Rates fixed under Subsection (1)(a) shall be equitable, although not necessarily equal or uniform, for like classes of service throughout the district.
- (3) Each agreement described in Subsection (1)(b) entered into before April 30, 2007 that otherwise complies with the law is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-607 Contracts with other corporations.

- (1) A metropolitan water district may:
- (a) contract with one or more corporations, public or private, for the purpose of:
- (i) financing acquisitions, constructions, or operations of the district; or
- (ii) carrying out any of the district's powers;
- (b) in a contract under Subsection (1)(a), obligate itself severally or jointly with the other corporation or corporations; and

- (c) secure, guarantee, or become surety for the payment of an indebtedness or the performance of a contract or other obligation incurred or entered into by a corporation whose shares of stock the district has acquired.
- (2) A contract under Subsection (1)(a) may:
 - (a) provide for:
 - (i) contributions to be made by each contracting party;
 - (ii) the division and apportionment of:
 - (A) the expenses of acquisitions and operations; and
 - (B) the contractual benefits, services, and products; and
 - (iii) an agency to make acquisitions and carry on operations under the contract; and
 - (b) contain covenants and agreements as necessary or convenient to accomplish the purposes of the contract.

Enacted by Chapter 329, 2007 General Session

17B-2a-608 Limit on property tax authority -- Exceptions.

- (1) As used in this section, "elected official" means a metropolitan water district board of trustee member who is elected to the board of trustees by metropolitan water district voters at an election held for that purpose.
- (2) The board of trustees of a metropolitan water district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:
 - (a) the members of the board of trustees are all elected officials; or
 - (b) the proposed tax levy has previously been approved by:
 - (i) a majority of the metropolitan water district voters who vote in an election held for that purpose on a date specified in Section 20A-1-204; or
 - (ii) the legislative body of each municipality that appoints a member to the board of trustees under Section 17B-2a-604.

Amended by Chapter 112, 2017 General Session

Part 7
Mosquito Abatement District Act

17B-2a-701 Title.

This part is known as the "Mosquito Abatement District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-702 Provisions applicable to mosquito abatement districts.

- (1) Each mosquito abatement district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to mosquito abatement districts.
- (3) A mosquito abatement district is not subject to the provisions of any other part of this chapter.

- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 15, 2023 General Session

17B-2a-703 Additional mosquito abatement district powers.

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

- (1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:
 - (a) within the district; or
 - (b) outside the district, if lands inside the district are benefitted;
- (2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;
- (3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;
- (4) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
- (5) make a contract to indemnify or compensate an owner of land or other property for injury or damage that the exercise of district powers necessarily causes or arising out of the use, taking, or damage of property for a district purpose; and
- (6) in addition to the accumulated fund balance allowed under Section 17B-1-612, establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget or \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Amended by Chapter 15, 2023 General Session

17B-2a-704 Mosquito abatement district board of trustees.

- (1)
 - (a) Notwithstanding Subsection 17B-1-302(4):
 - (i) the board of trustees of a mosquito abatement district consists of no less than five members appointed in accordance with this section; and
 - (ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.
 - (b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:
 - (i) the board of trustees consists of five members; and
 - (ii) the legislative body of that municipality shall appoint all five members of the board.
- (2) Except as provided in Subsection (1), the legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:
 - (a) the county may appoint one member if:
 - (i)

- (A) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district; and
- (B) Subsection (2)(b) does not apply; or
- (ii)
 - (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and
 - (B) Subsection (1)(b) does not apply; or
- (b) subject to Subsection (3), the county may appoint up to and including three members if:
 - (i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and
 - (ii) a municipality appoints at least four members of the board of trustees.
- (3) A county may not appoint a member in accordance with Subsection (2)(b) who resides within a municipality that may appoint a member to the board of trustees.
- (4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.
- (5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):
 - (a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and
 - (b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, the county legislative body shall appoint all of the members of the board.
- (6) Each board of trustees member is appointed in accordance with Section 17B-1-304.
- (7) The applicable appointing authority shall fill each vacancy on a mosquito abatement district board of trustees in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, in accordance with Section 20A-1-512.

Amended by Chapter 40, 2019 General Session

17B-2a-705 Taxation -- Additional levy -- Election -- Notice.

- (1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.
- (2) The board shall provide notice of the election for the district, as a class A notice under Section 63G-30-102, for at least four weeks before the day of the election.
- (3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.
- (4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of \$_____?"
- (5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Amended by Chapter 435, 2023 General Session

17B-2a-706 Definitions -- Notice of intent to commence ultra-low volume treatment --

Exceptions.

- (1) As used in this section:
 - (a) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.
 - (b) "Social media platform" means a form of electronic communication that is available for public access.
 - (c) "Ultra-low volume treatment" or "ULV treatment" means a method of pesticide application that provides the minimum volume of liquid insecticide formulation per unit area for the efficient control of mosquitos.
- (2)
 - (a) Beginning January 1, 2021, except as provided in Subsection (2)(b), a mosquito abatement district shall provide public notice as soon as practicable before commencing a ULV treatment in a county of the first or second class.
 - (b) Subsection (2)(a) does not apply to a ULV treatment on rural real property.
 - (c) A mosquito abatement district may provide public notice under Subsection (2)(a) before commencing a ULV treatment in a county of the third through sixth class.
- (3) The public notice required under Subsection (2)(a) shall include the ULV treatment:
 - (a) date;
 - (b) time; and
 - (c) place.
- (4)
 - (a) A mosquito abatement district shall establish and maintain a:
 - (i) website; or
 - (ii) social media platform.
 - (b) A mosquito abatement district satisfies the public notice requirement under Subsection (2)
 - (a) by posting the public notice on the mosquito abatement district's website or social media platform.

Enacted by Chapter 249, 2020 General Session

**Part 8
Public Transit District Act**

17B-2a-801 Title.

This part is known as the "Public Transit District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-802 Definitions.

As used in this part:

- (1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.
 - (a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

- (b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.
- (2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.
- (3)
 - (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.
 - (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.
- (4) "Confidential employee" means a person who, in the regular course of the person's duties:
 - (a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or
 - (b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.
- (5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.
- (6) "Department" means the Department of Transportation created in Section 72-1-201.
- (7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.
- (8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- (9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.
- (10)
 - (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.
 - (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.
- (11) "Large public transit district" means a public transit district that provides public transit to an area that includes:
 - (a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and
 - (b) two or more counties.
- (12)
 - (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.
 - (b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.
- (13) "Managerial employee" means a person who is:
 - (a) engaged in executive and management functions; and
 - (b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.
- (14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

- (15) "Multicounty district" means a public transit district located in more than one county.
- (16) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.
- (17)
- (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.
 - (b) "Public transit" does not include transportation services provided by:
 - (i) chartered bus;
 - (ii) sightseeing bus;
 - (iii) taxi;
 - (iv) school bus service;
 - (v) courtesy shuttle service for patrons of one or more specific establishments; or
 - (vi) intra-terminal or intra-facility shuttle services.
- (18) "Public transit district" means a special district that provides public transit services.
- (19) "Small public transit district" means any public transit district that is not a large public transit district.
- (20) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.
- (21)
- (a) "Supervisor" means a person who has authority, in the interest of the employer, to:
 - (i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or
 - (ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.
 - (b) "Supervisor" does not include a person whose exercise of the authority described in Subsection (21)(a):
 - (i) is of a merely routine or clerical nature; and
 - (ii) does not require the person to use independent judgment.
- (22) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:
- (a) leased by or operated by or on behalf of a public transit district; and
 - (b) related to the public transit services provided by the district, including:
 - (i) railway or other right-of-way;
 - (ii) railway line; and
 - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.
- (23) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.
- (24) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.
- (25) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Amended by Chapter 15, 2023 General Session
Amended by Chapter 476, 2023 General Session

17B-2a-803 Provisions applicable to public transit districts.

- (1)
 - (a) Each public transit district is governed by and has the powers stated in:
 - (i) this part; and
 - (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All Special Districts.
 - (b)
 - (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following provisions do not apply to public transit districts:
 - (A) Chapter 1, Part 3, Board of Trustees; and
 - (B) Section 17B-2a-905.
 - (ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for Special Districts.
- (2) This part applies only to public transit districts.
- (3) A public transit district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5) The provisions of Subsection 53-3-202(3)(b) do not apply to a motor vehicle owned in whole or in part by a public transit district.

Amended by Chapter 15, 2023 General Session

17B-2a-804 Additional public transit district powers.

- (1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:
 - (a) provide a public transit system for the transportation of passengers and their incidental baggage;
 - (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:
 - (i) principal and interest of bonded indebtedness of the public transit district; or
 - (ii) a final judgment against the public transit district if:
 - (A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and
 - (B) the district is required by a final court order to levy a tax to pay the judgment;
 - (c) insure against:
 - (i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;
 - (ii) public liability;
 - (iii) property damage; or
 - (iv) any other type of event, act, or omission;
 - (d) subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, acquire, contract for, lease, construct, own, operate, control, or use:
 - (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or
 - (ii) any structure necessary for access by persons and vehicles;
 - (e)

- (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and
- (ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;
- (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
- (g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;
- (h) study and plan transit facilities in accordance with any legislation passed by Congress;
- (i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;
- (j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
- (k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;
- (l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;
- (m) sell or lease property;
- (n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;
- (o) subject to Subsections (2) and (3), establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and
- (p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:
 - (i) investing in a project as a limited partner or a member, with limited liabilities; or
 - (ii) subordinating an ownership interest in real property owned by the public transit district.
- (2)
 - (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).
 - (b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.
 - (c)
 - (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.
 - (ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

- (d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.
- (3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:
 - (a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:
 - (i) service and ridership;
 - (ii) regional plans made by the metropolitan planning agency;
 - (iii) the local economy;
 - (iv) the environment and air quality;
 - (v) affordable housing; and
 - (vi) integration with other modes of transportation;
 - (b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service; and
 - (c) coordinate with the Department of Transportation in accordance with Section 72-1-202 pertaining to fixed guideway capital development and associated parking facilities within a station area plan for a transit oriented development within a large public transit district.
- (4) For any fixed guideway capital development project with oversight by the Department of Transportation as described in Section 72-1-202, a large public transit district shall coordinate with the Department of Transportation in all aspects of the project, including planning, project development, outreach, programming, environmental studies and impact statements, impacts on public transit operations, and construction.
- (5) A public transit district may participate in a transit-oriented development only if:
 - (a) for a transit-oriented development involving a municipality:
 - (i) the relevant municipality has developed and adopted a station area plan; and
 - (ii) the municipality is in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or
 - (b) for a transit-oriented development involving property in an unincorporated area of a county, the county is in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.
- (6) A public transit district may be funded from any combination of federal, state, local, or private funds.
- (7) A public transit district may not acquire property by eminent domain.

Amended by Chapter 15, 2023 General Session

17B-2a-805 Limitations on authority of a public transit district.

- (1) A public transit district may not exercise control over a transit facility or public transit service or system owned or operated inside or outside the district by a governmental entity unless, upon mutually agreeable terms, the governmental entity consents.
- (2)
 - (a) A public transit district may not establish, directly or indirectly, a public transit service or system, or acquire a facility necessary or incidental to a public transit service or system, in a manner or form that diverts, lessens, or competes for the patronage or revenue of a

preexisting system of a publicly or privately owned public carrier furnishing like service, unless the district obtains the consent of the publicly or privately owned carrier.

- (b) A public transit district's maintenance and operation of an existing system that the district acquires from a publicly or privately owned public carrier may not be considered to be the establishment of a public transit service or system under this Subsection (2).
- (c) A public transit district's introduction, maintenance, or operation of a system may not be considered to be the establishment of a public transit service or system under this Subsection (2) if the service or system is introduced, maintained, or operated by the public transit district:
 - (i) as part of a program of projects approved by the Federal Transit Administration;
 - (ii) in cooperation with the state or a political subdivision of the state, pursuant to an interlocal agreement; or
 - (iii) in accordance with Title 72, Chapter 12, Travel Reduction Act.

Amended by Chapter 146, 2011 General Session

17B-2a-806 Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district -- Equitable allocation of resources within the public transit district.

- (1) The state or an agency of the state may:
 - (a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper;
 - (b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform; or
 - (c) perform any action that the state agency is authorized by law to perform for the benefit of a public transit district.
- (2)
 - (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.
 - (b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section 17-53-220.
- (3)
 - (a) To allocate resources and funds for development and operation of a public transit district, whether received under this section or from other sources, and subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, a public transit district may:
 - (i) give priority to public transit services that feed rail fixed guideway services; and
 - (ii) allocate funds according to population distribution within the public transit district.
 - (b) The comptroller of a public transit district shall report the criteria and data supporting the allocation of resources and funds in the statement required in Section 17B-2a-812.

Amended by Chapter 22, 2023 General Session

17B-2a-807 Small public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

- (1)
 - (a) For a small public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county.

- (b) The legislative bodies of each municipality, county, or unincorporated area within any county shall establish a governing ordinance for the small public transit district, which shall include:
 - (i) the method for apportioning representation on the board of trustees among the relevant municipalities, counties, or unincorporated areas of any counties within the boundary of the small public transit district;
 - (ii) subject to Subsection (1)(c), the number of members of the board of trustees;
 - (iii) the method for reapportionment of representation on the board of trustees based on changes in the boundary of the small public transit district; and
 - (iv) other aspects of appointment and apportionment of membership of the board of trustees as necessary.
- (c) A board of trustees of a small public transit district may have membership of not less than five and not more than nine members.
- (d) The board of trustees of a public transit district under this section may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (8), who shall serve as a nonvoting, ex officio member.
- (2) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, membership on the board of trustees of the small public transit district shall reapportion membership as described in the governing ordinance enacted pursuant to Subsection (1)(b).
- (3)
 - (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.
 - (b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the small public transit district shall fill the vacancy.
- (4)
 - (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.
 - (b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.
 - (c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.
- (5) Each public transit district shall pay to each member per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.
- (6)
 - (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.
 - (b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.
 - (c) The members elected under Subsection (6)(b) shall serve for a period of two years or until their successors shall be elected and qualified.
 - (d) A locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.
- (7)
 - (a) Except as otherwise authorized under Subsection (7)(b), at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

- (b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.
- (8) The Transportation Commission created in Section 72-1-301 may appoint a commissioner of the Transportation Commission to serve on the board of trustees of a small public transit district as a nonvoting, ex officio member.
- (9)
 - (a)
 - (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.
 - (ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.
 - (iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.
 - (b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.
 - (c) If a board member is recalled or resigns under this Subsection (9), the vacancy shall be filled as provided in Subsection (3).

Amended by Chapter 508, 2023 General Session

17B-2a-807.1 Large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

- (1)
 - (a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).
 - (b)
 - (i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making an appointment from nominations given from each region created in Subsection (1)(b)(ii).
 - (ii)
 - (A) Before creation of a large public transit district, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.
 - (B) For a large public transit district created after January 1, 2019, the Legislature, after receiving and considering the proposal described in Subsection (1)(b)(ii)(A), shall designate three regions for nominating members to the board of trustees of the large public transit district, and further describe the process for nomination for appointment to the board of trustees.
 - (c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.
 - (d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.
 - (e) The compensation package for the board of trustees shall be determined by a local advisory council as described in Section 17B-2a-808.2.
 - (f)

- (i) Subject to Subsection (1)(f)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.
 - (ii) Action by a majority of a quorum constitutes an action of the board of trustees.
 - (iii) A meeting of a quorum of the board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.
- (2)
- (a) Subject to Subsections (3), (4), and (7), each member of the board of trustees of a large public transit district shall serve for a term of four years.
 - (b) A member of the board of trustees may serve an unlimited number of terms.
- (3) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.
- (4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:
- (a) one member of the board of trustees shall serve an initial term of two years;
 - (b) one member of the board of trustees shall serve an initial term of three years; and
 - (c) one member of the board of trustees shall serve an initial term of four years.
- (5) The governor shall designate one member of the board of trustees as chair of the board of trustees.
- (6)
- (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.
 - (b) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (2)(b).
 - (c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.
- (7) Each board of trustees member shall serve until a successor is duly nominated, appointed, and qualified, unless the board of trustees member is removed from office or resigns or otherwise leaves office.

Amended by Chapter 239, 2021 General Session

17B-2a-807.2 Existing large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

- (1)
- (a)
 - (i) For a large public transit district created before January 1, 2019, and except as provided in Subsection (7), the board of trustees shall consist of three members appointed as described in Subsection (1)(b).
 - (ii) For purposes of a large public transit district created before January 1, 2019, the nominating regions are as follows:
 - (A) a central region that is Salt Lake County;
 - (B) a southern region that is comprised of Utah County and the portion of Tooele County that is part of the large public transit district; and
 - (C) a northern region that is comprised of Davis County, Weber County, and the portion of Box Elder County that is part of the large public transit district.
 - (iii)

- (A) If a large public transit district created before January 1, 2019, annexes an additional county into the large public transit district pursuant to Section 17B-1-402, following the issuance of the certificate of annexation by the lieutenant governor, the political subdivisions making up the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.
- (B) If a large public transit district created before January 1, 2019, has a change to the boundaries of the large public transit district, the Legislature, after receiving and considering the proposal described in Subsection (1)(a)(iii)(A), shall designate the three regions for nominating members to the board of trustees of the large public transit district.
- (b)
- (i) Except as provided in Subsection (5), the governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:
- (A) one appointment from individuals nominated from the central region as described in Subsection (2);
- (B) one appointment from individuals nominated from the southern region described in Subsection (3); and
- (C) one appointment from individuals nominated from the northern region described in Subsection (4).
- (2) For the appointment from the central region, the governor shall appoint one individual selected from five individuals nominated as follows:
- (a) two individuals nominated by the council of governments of Salt Lake County; and
- (b) three individuals nominated by the mayor of Salt Lake County, with approval of the Salt Lake County council.
- (3) For the appointment from the southern region, the governor shall appoint one individual selected from five individuals nominated as follows:
- (a) two individuals nominated by the council of governments of Utah County;
- (b) two individuals nominated by the county commission of Utah County; and
- (c) one individual nominated by the county commission of Tooele County.
- (4) For the appointment from the northern region, the governor shall appoint one individual selected from five individuals nominated as follows:
- (a) one individual nominated by the council of governments of Davis County;
- (b) one individual nominated by the council of governments of Weber County;
- (c) one individual nominated by the county commission of Davis County;
- (d) one individual nominated by the county commission of Weber County; and
- (e) one individual nominated by the county commission of Box Elder County.
- (5)
- (a) The nominating counties described in Subsections (2) through (4) shall ensure that nominations are submitted to the governor no later than June 1 of each respective nominating year.
- (b) If the governor fails to appoint one of the individuals nominated as described in Subsection (2), (3), or (4), as applicable, within 60 days of the nominations, the following appointment procedures apply:
- (i) for an appointment for the central region, the Salt Lake County council shall appoint an individual, with confirmation by the Senate;
- (ii) for an appointment for the southern region, the Utah County commission shall appoint an individual, in consultation with the Tooele County commission, with confirmation by the Senate; and

- (iii) for an appointment for the northern region, the Davis County commission and the Weber County commission, collectively, and in consultation with the Box Elder County commission, shall appoint an individual, with confirmation by the Senate.
- (6)
- (a) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.
 - (b) The board of trustees of a large public transit district shall be full-time employees of the public transit district.
 - (c) The compensation package for the board of trustees shall be determined by the local advisory council as described in Section 17B-2a-808.2.
 - (d)
 - (i) Subject to Subsection (6)(d)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.
 - (ii) Action by a majority of a quorum constitutes an action of the board of trustees.
 - (iii) A meeting of a quorum of a board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.
- (7)
- (a) Subject to Subsection (8), each member of the board of trustees of a large public transit district shall serve for a term of four years.
 - (b) A member of the board of trustees may serve an unlimited number of terms.
 - (c) Notwithstanding Subsection (2), (3), or (4), as applicable, at the expiration of a term of a member of the board of trustees, if the respective nominating entities and individuals for the respective region described in Subsection (2), (3), or (4), unanimously agree to retain the existing member of the board of trustees, the respective nominating individuals or bodies described in Subsection (2), (3), or (4) are not required to make nominations to the governor, and the governor may reappoint the existing member to the board of trustees.
- (8) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.
- (9) Subject to Subsections (7) and (8), a board of trustees of a large public transit district that is in place as of February 1, 2019, may remain in place.
- (10) The governor shall designate one member of the board of trustees as chair of the board of trustees.
- (11)
- (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (2), (3), or (4), and, if applicable, Subsection (5), for the respective member of the board of trustees creating the vacancy.
 - (b) If a vacancy occurs on the board of trustees of a large public transit district, the respective nominating region shall nominate individuals to the governor as described in this section within 60 days after the vacancy occurs.
 - (c) If the respective nominating region does not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.
 - (d) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (7)(b).

Amended by Chapter 259, 2022 General Session

17B-2a-808 Small public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

- (1) The powers and duties of a board of trustees of a small public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.
- (2) The board of trustees of each small public transit district shall:
- (a) appoint and fix the salary of a general manager, a chief executive officer, or both, as provided in Section 17B-2a-811;
 - (b) determine the transit facilities that the district should acquire or construct;
 - (c) supervise and regulate each transit facility that the district owns and operates, including:
 - (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals, and charges; and
 - (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;
 - (d) control the investment of all funds assigned to the district for investment, including funds:
 - (i) held as part of a district's retirement system; and
 - (ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;
 - (e) invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;
 - (g)
 - (i) cause an annual audit of all district books and accounts to be made by an independent certified public accountant;
 - (ii) as soon as practicable after the close of each fiscal year, submit to the chief administrative officer and legislative body of each county and municipality with territory within the district a financial report showing:
 - (A) the result of district operations during the preceding fiscal year; and
 - (B) the district's financial status on the final day of the fiscal year; and
 - (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon request in a quantity that the board considers appropriate;
 - (h) report at least annually to the Transportation Commission created in Section 72-1-301 the district's short-term and long-range public transit plans, including the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134;
 - (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines to be the most critical to the success of the organization; and
 - (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).
- (3) A board of trustees of a public transit district may:
- (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:
 - (i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and
 - (ii) necessary for:
 - (A) the government and management of the affairs of the district;
 - (B) the execution of district powers; and
 - (C) carrying into effect the provisions of this part;

- (b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:
 - (i) for a purpose for which the expenditure has been previously approved by the board;
 - (ii) in an amount no greater than the amount authorized; and
 - (iii) approved by the general manager or other officer or deputy as the board prescribes;
 - (c)
 - (i) hold public hearings and subpoena witnesses; and
 - (ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and
 - (d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(f).
- (4) A member of the board of trustees of a public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.
- (5)
- (a) The vote of the board of trustees on each ordinance shall be by roll call vote with each affirmative and negative vote recorded.
 - (b)
 - (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or order by voice vote.
 - (ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if a member of the board so demands.
 - (c)
 - (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public transit district may not adopt an ordinance unless it is:
 - (A) introduced at least a day before the board of trustees adopts it; or
 - (B) mailed by registered mail, postage prepaid, to each member of the board of trustees at least five days before the day upon which the ordinance is presented for adoption.
 - (ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote of all board members present at a meeting at which at least 3/4 of all board members are present.
 - (d) Each ordinance adopted by a public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

Amended by Chapter 424, 2018 General Session

17B-2a-808.1 Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

- (1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.
- (2) The board of trustees of each large public transit district shall:
 - (a) hold public meetings and receive public comment;
 - (b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;
 - (c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;
 - (d) approve any interlocal agreement with a local jurisdiction;
 - (e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;
 - (f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

- (i) develop and approve a strategic plan for development and operations on at least a four-year basis; and
- (ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;
- (g) annually report the public transit district's long-term financial plan to the State Bonding Commission;
- (h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;
- (i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;
- (j) hire, set salaries, and develop performance targets and evaluations for:
 - (i) the executive director; and
 - (ii) all chief level officers;
- (k) supervise and regulate each transit facility that the public transit district owns and operates, including:
 - (i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and
 - (ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;
- (l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:
 - (i) held as part of a district's retirement system; and
 - (ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;
- (m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
- (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;
- (o)
 - (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;
 - (ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:
 - (A) the result of district operations during the preceding fiscal year;
 - (B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;
 - (C) the district's financial status on the final day of the fiscal year; and
 - (D) the district's progress and efforts to improve efficiency relative to the previous fiscal year;and
 - (iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;
- (p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

- (i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and
- (ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;
- (q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;
- (r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);
- (s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:
 - (i) how negotiations occurred;
 - (ii) the rationale for providing a reduced fare; and
 - (iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;
- (t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and
- (u) review and approve any:
 - (i) contract or expense exceeding \$200,000; or
 - (ii) proposed change order to an existing contract if the change order:
 - (A) increases the total contract value to \$200,000 or more;
 - (B) increases a contract of or expense of \$200,000 or more by 15% or more; or
 - (C) has a total change order value of \$200,000 or more.
- (3) A board of trustees of a large public transit district may:
 - (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:
 - (i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and
 - (ii) necessary for:
 - (A) the governance and management of the affairs of the district;
 - (B) the execution of district powers; and
 - (C) carrying into effect the provisions of this part;
 - (b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:
 - (i) for a purpose for which the expenditure has been previously approved by the board;
 - (ii) in an amount no greater than the amount authorized; and
 - (iii) approved by the executive director or other officer or deputy as the board prescribes;
 - (c) in consultation with the local advisory council created in Section 17B-2a-808.2:
 - (i) hold public hearings and subpoena witnesses; and
 - (ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and
 - (d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).
- (4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:
 - (a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

- (b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and
 - (c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.
- (5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Finance Review Commission created in Section 63C-25-201.
- (6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.
- (7)
- (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.
 - (b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.
 - (c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.
- (8)
- (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.
 - (b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.
 - (c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Amended by Chapter 207, 2022 General Session

17B-2a-808.2 Large public transit district local advisory council -- Powers and duties.

- (1) A large public transit district shall create and consult with a local advisory council.
- (2)
- (a)
 - (i) For a large public transit district in existence as of January 1, 2019, the local advisory council shall have membership selected as described in Subsection (2)(b).
 - (ii)
 - (A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).
 - (B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.
 - (b)
 - (i) The council of governments of Salt Lake County shall appoint three members to the local advisory council.
 - (ii) The mayor of Salt Lake City shall appoint one member to the local advisory council.

- (iii) The council of governments of Utah County shall appoint two members to the local advisory council.
 - (iv) The council of governments of Davis County and Weber County shall each appoint one member to the local advisory council.
 - (v) The councils of governments of Box Elder County and Tooele County shall jointly appoint one member to the local advisory council.
- (3) The local advisory council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.
- (4)
- (a) The duties of the local advisory council shall include:
 - (i) setting the compensation packages of the board of trustees, which salary, except as provided in Subsection (4)(b), may not exceed \$150,000 for a newly appointed board member, plus additional retirement and other standard benefits;
 - (ii) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;
 - (iii) except for a fixed guideway capital development project under the authority of the Department of Transportation as described in Section 72-1-202, reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;
 - (iv) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;
 - (v) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;
 - (vi) assisting with coordinated mobility and constituent services provided by the public transit district;
 - (vii) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and
 - (viii) other duties described in Section 17B-2a-808.1.
 - (b) The local advisory council may approve an increase in the compensation for members of the board of trustees based on a cost-of-living adjustment at the same rate as government employees of the state for the same year.
- (5) The local advisory council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Amended by Chapter 219, 2023 General Session

17B-2a-809 Public transit districts to submit agendas and minutes of board meetings.

- (1) The board of trustees of each public transit district shall submit to each constituent entity, as defined in Section 17B-1-701:
- (a) a copy of the board agenda and a notice of the location and time of the board meeting within the same time frame provided to members of the board prior to the meeting; and
 - (b) a copy of the minutes of board meetings within five working days following approval of the minutes.
- (2) The board may submit notices, agendas, and minutes by electronic mail if agreed to by the constituent entity as defined under Section 17B-1-701.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-810 Officers of a public transit district.

- (1)
 - (a) The officers of a public transit district shall consist of:
 - (i) the members of the board of trustees;
 - (ii) for a small public transit district, a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);
 - (iii) a secretary, appointed by the board of trustees;
 - (iv)
 - (A) for a small public transit district, a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both; or
 - (B) for a large public transit district, an executive director appointed by the board of trustees as provided in Section 17B-2a-811.1;
 - (v) for a small public transit district, a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;
 - (vi) for a small public transit district, a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
 - (vii) a treasurer, appointed as provided in Section 17B-1-633;
 - (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);
 - (ix) for a large public transit district, an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and
 - (x) other officers, assistants, and deputies that the board of trustees considers necessary.
 - (b) The board of trustees of a small public transit district may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.
 - (c) The district chair and vice chair of a small public transit district shall be members of the board of trustees.
 - (d) The person appointed as general counsel for a small public transit district shall:
 - (i) be admitted to practice law in the state; and
 - (ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.
 - (e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.
 - (f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.
- (2)
 - (a) For a small public transit district, the district's general manager or chief executive officer, as the board prescribes, or for a large public transit district, the executive director, shall appoint all officers and employees not specified in Subsection (1).
 - (b) Each officer and employee appointed by the district's general manager or chief executive officer of a small public transit district, or the executive director of a large public transit district, serves at the pleasure of the appointing general manager, chief executive officer, or executive director.
- (3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.
- (4)

- (a) Each officer appointed by the board of trustees or by the district's general manager, chief executive officer, or executive director shall take the oath of office specified in Utah Constitution, Article IV, Section 10.
- (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

Amended by Chapter 424, 2018 General Session

17B-2a-810.1 Attorney general as legal counsel for a large public transit district -- Large public transit district may sue and be sued.

- (1) Subject to Subsection (2), in accordance with Title 67, Chapter 5, Attorney General, the Utah attorney general shall serve as legal counsel for a large public transit district.
- (2)
 - (a) For any large public transit district in existence as of May 8, 2018, the transition to legal representation by the Utah attorney general shall occur as described in this Subsection (2), but no later than July 1, 2019.
 - (b)
 - (i) For any large public transit district in existence as of May 8, 2018, in partnership with the Utah attorney general, the board of trustees of the large public transit district shall study and develop a strategy to transition legal representation from a general counsel to the Utah attorney general.
 - (ii) In partnership with the Utah attorney general, the board of trustees of the large public transit district shall present a report to the Transportation Interim Committee before November 30, 2018, to:
 - (A) outline the transition strategy; and
 - (B) request any legislation that might be required for the transition.
- (3) Sections 67-5-6 through 13, Attorney General Career Service Act, apply to representation of a large public transit district by the Utah attorney general.
- (4) A large public transit district may sue, and it may be sued only on written contracts made by it or under its authority.
- (5) In all matters requiring legal advice in the performance of the attorney general's duties and in the prosecution or defense of any action growing out of the performance of the attorney general's duties, the attorney general is the legal adviser of a large public transit district and shall perform any and all legal services required by the large public transit district.
- (6) The attorney general shall aid in any investigation, hearing, or trial under the provisions of this part and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or ordinance of the large public transit district affecting and related to public transit, persons, and property.

Enacted by Chapter 424, 2018 General Session

17B-2a-811 General manager or chief executive officer of a small public transit district.

- (1)
 - (a) The board of trustees of a small public transit district shall appoint a person as a general manager.
 - (b) The board of trustees of a small public transit district may, at its discretion, appoint a person as a chief executive officer.

- (c) The board of trustees of a small public transit district shall allocate the responsibilities defined in Subsection (2) between the general manager and the chief executive officer, if the board of trustees appoints a chief executive officer.
 - (d) The chief executive officer shall have the same rights allocated to the general manager under Subsections (3) and (4).
 - (e) The appointment of a general manager, chief executive officer, or both, shall be by the affirmative vote of a majority of all members of the board of trustees.
 - (f) The board's appointment of a person as general manager, chief executive officer, or both, shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.
 - (g) A person appointed as general manager or chief executive officer of a small public transit district is not required to be a resident of the state at the time of appointment.
- (2) A general manager or chief executive officer of a small public transit district shall have the following responsibilities as allocated by the board of trustees:
- (a) be a full-time officer and devote full time to the district's business;
 - (b) ensure that all district ordinances are enforced;
 - (c) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;
 - (d) keep the board of trustees advised as to the district's needs;
 - (e) prepare or cause to be prepared all plans and specifications for the construction of district works;
 - (f) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times; and
 - (g) attend meetings of the board of trustees.
- (3) A general manager of a small public transit district:
- (a) serves at the pleasure of the board of trustees;
 - (b) holds office for an indefinite term;
 - (c) may be removed by the board of trustees upon the adoption of a resolution by the affirmative vote of a majority of all members of the board, subject to Subsection (5);
 - (d) has full charge of:
 - (i) the acquisition, construction, maintenance, and operation of district facilities; and
 - (ii) the administration of the district's business affairs;
 - (e) is entitled to participate in the deliberations of the board of trustees as to any matter before the board; and
 - (f) may not vote at a meeting of the board of trustees.
- (4) The board of trustees may not reduce the general manager's salary below the amount fixed at the time of original appointment unless:
- (a) the board adopts a resolution by a vote of a majority of all members; and
 - (b) if the general manager demands in writing, the board gives the general manager the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution reducing the general manager's salary.
- (5)
- (a) Before adopting a resolution providing for a general manager's removal as provided in Subsection (3)(c), the board shall, if the manager makes a written demand:
 - (i) give the general manager a written statement of the reasons alleged for the general manager's removal; and
 - (ii) allow the general manager to be publicly heard at a meeting of the board of trustees.

- (b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district may suspend a general manager from office pending and during a hearing under Subsection (5)(a)(ii).
- (6) The action of a board of trustees suspending or removing a general manager or reducing the general manager's salary is final.

Amended by Chapter 424, 2018 General Session

17B-2a-811.1 Executive director of a large public transit district.

- (1)
 - (a) The board of trustees of a large public transit district shall appoint a person as an executive director.
 - (b) The appointment of an executive director shall be by the affirmative vote of a majority of the board of trustees.
 - (c) The board's appointment of a person as executive director shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.
 - (d) A person appointed as executive director of a large public transit district is not required to be a resident of the state at the time of appointment.
- (2) An executive director of a large public transit district shall:
 - (a) be a full-time officer and devote full time to the district's business;
 - (b) serve at the pleasure of the board of trustees;
 - (c) hold office for an indefinite term;
 - (d) ensure that all district ordinances are enforced;
 - (e) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;
 - (f) advise the board of trustees regarding the needs of the district;
 - (g) in consultation with the board of trustees, prepare or cause to be prepared all plans and specifications for the construction of district works;
 - (h) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times;
 - (i) attend meetings of the board of trustees;
 - (j) in consultation with the board of trustees, have charge of:
 - (i) the acquisition, construction, maintenance, and operation of district facilities; and
 - (ii) the administration of the district's business affairs; and
 - (k) be entitled to participate in the deliberations of the board of trustees as to any matter before the board.
- (3) The board of trustees may not remove the executive director or reduce the executive director's salary below the amount fixed at the time of original appointment unless:
 - (a) the board adopts a resolution by a vote of a majority of all members; and
 - (b) if the executive director demands in writing, the board gives the executive director the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution removing the executive director or reducing the executive director's salary.
- (4)
 - (a) Before adopting a resolution providing for the removal of the executive director or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if the executive director makes a written demand:

- (i) give the executive director a written statement of the reasons alleged for the removal or reduction in salary; and
- (ii) allow the executive director to be publicly heard at a meeting of the board of trustees.
- (b) Notwithstanding Subsection (4)(a), the board of trustees of a public transit district may suspend an executive director from office pending and during a hearing under Subsection (4)(a)(ii).
- (5) The action of a board of trustees suspending or removing an executive director or reducing the executive director's salary is final.

Enacted by Chapter 424, 2018 General Session

17B-2a-812 Comptroller required to provide statement of revenues and expenditures.

The comptroller of each public transit district shall, as soon as possible after the close of each fiscal year:

- (1) prepare a statement of revenues and expenditures for the fiscal year just ended, in the detail that the board of trustees prescribes; and
- (2) transmit a copy of the statement to the chief executive officer of:
 - (a) each municipality within the district; and
 - (b) each county with unincorporated area within the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-813 Rights, benefits, and protective conditions for employees of a public transit district -- Strike prohibited -- Employees of an acquired transit system.

- (1) As used in this section:
 - (a)
 - (i) "Employee" means an individual employed by an employer.
 - (ii) "Employee" does not include a person employed as a supervisor, managerial employee, or confidential employee.
 - (b) "Employer" means a person that employs an employee.
- (2) The rights, benefits, and other employee protective conditions and remedies of Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as determined by the Secretary of Labor, apply to a public transit district's establishment and operation of a public transit service or system.
- (3)
 - (a) Employees of a public transit system established and operated by a public transit district have the right to:
 - (i) self-organization;
 - (ii) form, join, or assist labor organizations; and
 - (iii) bargain collectively through representatives of their own choosing.
 - (b) Employees of a public transit district and labor organizations may not join in a strike against the public transit system operated by the public transit district.
 - (c) Each public transit district shall:
 - (i) recognize and bargain exclusively with any labor organization representing a majority of the district's employees in an appropriate unit with respect to wages, salaries, hours, working conditions, and welfare, pension, and retirement provisions; and
 - (ii) upon reaching agreement with the labor organization, enter into and execute a written contract incorporating the agreement.

- (4) If a public transit district acquires an existing public transit system:
 - (a) all employees of the acquired system who are necessary for the operation of the acquired system, except executive and administrative officers and employees, shall be:
 - (i) transferred to and appointed employees of the acquiring public transit district; and
 - (ii) given sick leave, seniority, vacation, and pension or retirement credits in accordance with the acquired system's records;
 - (b) members and beneficiaries of a pension or retirement plan or other program of benefits that the acquired system has established shall continue to have rights, privileges, benefits, obligations, and status with respect to that established plan or program; and
 - (c) the public transit district may establish, amend, or modify, by agreement with employees or their authorized representatives, the terms, conditions, and provisions of a pension or retirement plan or of an amendment or modification of a pension or retirement plan.
- (5) A pension administrator for a retirement plan sponsored by a public transit district or a person designated by the administrator shall maintain retirement records in accordance with Subsection 49-11-618(2).

Amended by Chapter 476, 2023 General Session

17B-2a-814 Public transit district trustees, officers, and employees subject to Utah Public Officers' and Employees' Ethics Act.

Each trustee, officer, and employee of a public transit district is subject to the provisions of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 223, 2011 General Session

17B-2a-815 Rates and charges for service -- Fare collection information private.

- (1) The board of trustees of a public transit district shall fix rates and charges for service provided by the district by a two-thirds vote of all board members.
- (2) Rates and charges shall:
 - (a) be reasonable; and
 - (b) to the extent practicable:
 - (i) result in enough revenue to make the public transit system self supporting; and
 - (ii) be sufficient to:
 - (A) pay for district operating expenses;
 - (B) provide for repairs, maintenance, and depreciation of works and property that the district owns or operates;
 - (C) provide for the purchase, lease, or acquisition of property and equipment;
 - (D) pay the interest and principal of bonds that the district issues; and
 - (E) pay for contracts, agreements, leases, and other legal liabilities that the district incurs.
- (3)
 - (a) In accordance with Section 63G-2-302, the following personal information received by the district from a customer through any debit, credit, or electronic fare payment process is a private record under Title 63G, Chapter 2, Government Records Access and Management Act:
 - (i) travel data, including:
 - (A) the identity of the purchasing individual or entity;
 - (B) travel dates, times, or frequency of use; and
 - (C) locations of use;

- (ii) service type or vehicle identification used by the customer;
 - (iii) the unique transit pass identifier assigned to the customer; or
 - (iv) customer account information, including the cardholder's name, the credit or debit card number, the card issuer identification, or any other related information.
- (b) Private records described in this Subsection (3) that are received by a public transit district may only be disclosed in accordance with Section 63G-2-202.

Amended by Chapter 216, 2013 General Session

17B-2a-816 Hearing on a rate or charge or a proposal to fix the location of district facilities.

- (1)
- (a) The legislative body of a county or municipality with territory within a public transit district may, on behalf of a person who is a resident of the county or municipality, respectively, and who is a user of a public transit system operated by the public transit district, file a request for a hearing before the public transit district's board of trustees as to:
 - (i) the reasonableness of a rate or charge fixed by the board of trustees; or
 - (ii) a proposal for fixing the location of district facilities.
 - (b) Each request under Subsection (1)(a) shall:
 - (i) be in writing;
 - (ii) be filed with the board of trustees of the public transit district; and
 - (iii) state the subject matter on which a hearing is requested.
- (2)
- (a) At least 15 but not more than 60 days after a request under Subsection (1)(a) is filed, the public transit district's board of trustees shall hold a hearing on, as the case may be:
 - (i) the reasonableness of a rate or charge fixed by the board of trustees; or
 - (ii) a proposal for fixing the location of district facilities.
 - (b) The public transit district board of trustees shall provide notice of the hearing by:
 - (i) mailing, postage prepaid, a notice to:
 - (A) the county or municipality requesting the hearing; and
 - (B) the legislative body of each other county and municipality with territory within the public transit district; and
 - (ii) once publishing a notice.
- (3) At each hearing under Subsection (2)(a):
- (a) the legislative body of a county or municipality may intervene, be heard, and introduce evidence if the county or municipality:
 - (i) is eligible to file a request for hearing under Subsection (1); and
 - (ii) did not file a request for hearing;
 - (b) the public transit district, the county or municipality that filed the request for hearing, and an intervening county or municipality under Subsection (3)(a) may:
 - (i) call and examine witnesses;
 - (ii) introduce exhibits;
 - (iii) cross-examine opposing witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination; and
 - (iv) rebut evidence introduced by others;
 - (c) evidence shall be taken on oath or affirmation;
 - (d) technical rules of evidence need not be followed, regardless of the existence of a common law or statutory rule that makes improper the admission of evidence over objection in a civil action;

- (e) hearsay evidence is admissible in order to supplement or explain direct evidence, but is not sufficient in itself to support a finding unless it would be admissible over objection in a civil action; and
 - (f) the public transit district board of trustees shall appoint a reporter to take a complete record of all proceedings and testimony before the board.
- (4)
- (a) Within 60 days after the conclusion of a hearing under Subsection (2)(a), the public transit district board of trustees shall render its decision in writing, together with written findings of fact.
 - (b) The board of trustees shall mail by certified mail, postage prepaid, a copy of the decision and findings to:
 - (i) the county or municipality that filed a request under Subsection (1); and
 - (ii) each county and municipality that intervened under Subsection (3)(a).
- (5) In any action to review a decision of a public transit district board of trustees under this section, the record on review shall consist of:
- (a) the written request for hearing, the transcript of the testimony at the hearing, and all exhibits introduced at the hearing; or
 - (b) if the parties stipulate in writing:
 - (i) the evidence specified in the stipulation; and
 - (ii) the written stipulation itself.

Enacted by Chapter 329, 2007 General Session

17B-2a-817 Voter approval required for property tax levy.

Notwithstanding the provisions of Section 17B-1-1001 and in addition to a property tax under Section 17B-1-1103 to pay general obligation bonds of the district, a public transit district may levy a property tax, as provided in and subject to Chapter 1, Part 10, Special District Property Tax Levy, if:

- (1) the district first submits the proposal to levy the property tax to voters within the district; and
- (2) a majority of voters within the district voting on the proposal vote in favor of the tax at an election held for that purpose on a date specified in Section 20A-1-204.

Amended by Chapter 15, 2023 General Session

17B-2a-818 Requirements applicable to public transit district contracts.

- (1) A public transit district shall comply with the applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.
 - (2) If construction of a district facility or work exceeds \$750,000, the construction shall be let as provided in:
 - (a) Title 63G, Chapter 6a, Utah Procurement Code; and
 - (b) Section 17B-2a-818.5.
- (3)
- (a) In addition to the requirements of Title 63G, Chapter 6a, Utah Procurement Code, before beginning a procurement process for a passenger railcar or 10 or more passenger buses for a zero emissions project, a large public transit district shall complete a request for information in accordance with Section 63G-6a-409 to compare the costs for different types of available zero emissions propulsion systems for the passenger railcar or passenger buses.

- (b) In performing the cost comparison described in Subsection (3)(a), the large public transit district shall consider:
 - (i) the purchase price;
 - (ii) the fuel cost per mile per gallon equivalent;
 - (iii) the service and maintenance costs over a 15-year period;
 - (iv) the estimated lifespan;
 - (v) passenger capacity; and
 - (vi) supply chain risks and costs.

Amended by Chapter 76, 2022 General Session

17B-2a-818.5 Contracting powers of public transit districts -- Health insurance coverage.

- (1) As used in this section:
 - (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
 - (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
 - (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
 - (i) works at least 30 hours per calendar week; and
 - (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.
 - (d) "Health benefit plan" means:
 - (i) the same as that term is defined in Section 31A-1-301; or
 - (ii) an employee welfare benefit plan:
 - (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
 - (B) for an employer with 100 or more employees; and
 - (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
 - (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
 - (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
 - (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- (2) Except as provided in Subsection (3), the requirements of this section apply to:
 - (a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
 - (b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- (3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:
 - (a) the application of this section jeopardizes the receipt of federal funds;
 - (b) the contract is a sole source contract; or
 - (c) the contract is an emergency procurement.
- (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

- (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:
- (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
 - (ii) is from:
 - (A) an actuary selected by the contractor or the contractor's insurer;
 - (B) an underwriter who is responsible for developing the employer group's premium rates; or
 - (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
 - (iii) was created within one year before the day on which the statement is submitted.
- (b)
- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.
 - (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
 - (A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
 - (B) the public transit district.
- (c) A contractor that is subject to the requirements of this section shall:
- (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
 - (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
 - (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
 - (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and
 - (C) was created within one year before the day on which the contractor obtains the statement.
- (d)
- (i)
 - (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).
 - (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
 - (ii)
 - (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to

penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

- (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;
- (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and
- (v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

- (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
 - (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;
 - (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
 - (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);
- (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
 - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;
 - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;
 - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
 - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and
- (iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)

(a)

- (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.
 - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
 - (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or
 - (B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).
- (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

- (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.
- (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
 - (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
 - (i) Section 63G-6a-1602; or
 - (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
 - (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.
- (10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
 - (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;
 - (b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and
 - (c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Amended by Chapter 327, 2023 General Session

17B-2a-819 Compliance with state and local laws and regulations.

- (1) Each public transit district is subject to department regulations relating to safety appliances and procedures.
- (2)
 - (a) Each installation by a public transit district in a state highway or freeway is subject to the approval of the department.
 - (b) There is a presumption that the use of a street, road, highway, or other public place by a public transit district for any of the purposes permitted in this part constitutes no greater burden on an adjoining property than the use existing on July 9, 1969.
 - (c) If a street, road, or highway, excluding a state highway or freeway, or a pipeline, sewer, water main, storm drain, pole, or communication wire is required to be relocated, replaced, or altered in order for a public transit district to construct or operate its system or to preserve and maintain an already constructed district facility:
 - (i) the public or private owner of the facility required to be relocated, replaced, or altered shall relocate, replace, or alter the facility with reasonable promptness; and
 - (ii) the public transit district shall, by prior agreement, reimburse the owner for the reasonable cost incurred in the relocation, replacement, or alteration.
 - (d)
 - (i) A public transit district may enter into an agreement with a county or municipality to:
 - (A) close a street or road over which the county or municipality has jurisdiction at or near the point of its interception with a district facility; or
 - (B) carry the street or road over or under or to a connection with a district facility.
 - (ii) A public transit district may do all work on a street or road under Subsection (2)(d)(i) as is necessary.

- (iii) A street or road may not be closed, directly or indirectly, by the construction of a district facility unless the closure is:
 - (A) pursuant to agreement under Subsection (2)(d)(i); or
 - (B) temporarily necessary during the construction of a district facility.
- (3) Each public transit district is subject to the laws and regulations of the state and each applicable municipality relating to traffic and operation of vehicles upon streets and highways.

Enacted by Chapter 329, 2007 General Session

17B-2a-820 Authority for other governmental entities to acquire property by eminent domain for a public transit district.

The state, a county, or a municipality may, by eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain, acquire within its boundaries a private property interest, including fee simple, easement, air right, right-of-way, or other interest, necessary for the establishment or operation of a public transit district.

Amended by Chapter 3, 2008 General Session

17B-2a-821 Multicounty district may establish and enforce parking ordinance.

The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.

Amended by Chapter 273, 2016 General Session

17B-2a-822 Multicounty district may employ or contract for law enforcement officers -- Law enforcement officer status, powers, and jurisdiction.

- (1) The board of trustees of a multicounty district may employ law enforcement officers or contract with other law enforcement agencies to provide law enforcement services for the district.
- (2) A law enforcement officer employed or provided by contract under Subsection (1) is a law enforcement officer under Section 53-13-103 and shall be subject to the provisions of that section.

Amended by Chapter 381, 2022 General Session

17B-2a-823 Public transit district special services.

- (1) As used in this section, "bureau" means a recreational, tourist, or convention bureau under Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus.
- (2)
 - (a) A public transit district may lease its buses to private certified public carriers or operate transit services requested by a public entity if a bureau certifies that privately owned carriers furnishing like services or operating like equipment within the area served by the bureau:
 - (i) have declined to provide the service; or
 - (ii) do not have the equipment necessary to provide the service.
 - (b) A public transit district may lease its buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.
- (3) If part or all of the transportation services are paid for by public funds, a public transit district may:

- (a) provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district; or
 - (b) provide the transportation of passengers covered by a program within the district for people who are elderly or who have a disability.
- (4) Notwithstanding the provisions in Subsection (3), a municipality or county is not prohibited from providing the transportation services identified in Subsection (3).

Amended by Chapter 136, 2019 General Session

17B-2a-824 Property acquired on behalf of a public transit district.

- (1) Title to property acquired on behalf of a public transit district under this part immediately and by operation of law vests in the public transit district.
- (2) Property described in Subsection (1) is dedicated and set apart for the purposes set forth in this part.

Enacted by Chapter 329, 2007 General Session

17B-2a-825 Criminal background checks authorized -- Employment eligibility.

- (1) A public transit district may require an individual described in Subsection (2) to:
 - (a) submit a fingerprint card in a form acceptable to the public transit district; and
 - (b) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) A person shall comply with the requirements of Subsection (1) if the person:
 - (a) is applying for or continuing employment with the public transit district:
 - (i) working in a safety-sensitive position or other position that may affect:
 - (A) the safety or well-being of patrons of the public transit district; or
 - (B) the safety or security of the transit buildings, stations, platforms, railways, bus systems, and transit vehicles;
 - (ii) handling personally identifiable information, financial information, or other sensitive information including personal health information;
 - (iii) working in security-sensitive areas; or
 - (iv) handling security-sensitive information, including information system technologies; or
 - (b) is seeking access to designated security-sensitive areas.
- (3) A public transit district may use the information obtained in accordance with this section only for one or more of the following purposes:
 - (a) to determine whether or not an individual is convicted of:
 - (i) a felony under federal or state law within the last 10 years;
 - (ii) a violation within the last 10 years of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;
 - (iii) a crime involving moral turpitude; or
 - (iv) two or more convictions within the last 10 years for a violation of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;
 - (b) to determine whether or not an individual has accurately disclosed the person's criminal history on an application or document filed with the public transit district;
 - (c) to approve or deny an application for employment with the public transit district; or

- (d) to take disciplinary action against an employee of the public transit district, including possible termination of employment.
- (4) A person is not eligible for employment with a public transit district in a capacity described in Subsection (2) if the person has been convicted of any of the offenses described in Subsection (3).

Amended by Chapter 377, 2014 General Session

17B-2a-826 Public transit district office of constituent services and office of coordinated mobility.

- (1)
 - (a) The board of trustees of a large public transit district shall create and employ an office of constituent services.
 - (b) The duties of the office of constituent services described in Subsection (1)(a) shall include:
 - (i) establishing a central call number to hear and respond to complaints, requests, comments, concerns, and other communications from customers and citizens within the district;
 - (ii) keeping a log of the complaints, comments, concerns, and other communications from customers and citizens within the district; and
 - (iii) reporting complaints, comments, concerns, and other communications to management and to the local advisory council created in Section 17B-2a-808.2.
- (2)
 - (a) A large public transit district shall create and employ an office of coordinated mobility.
 - (b) The duties of the office of coordinated mobility shall include:
 - (i) establishing a central call number to facilitate human services transportation;
 - (ii) coordinating all human services transportation needs within the public transit district;
 - (iii) receiving requests and other communications regarding human services transportation;
 - (iv) receiving requests and other communications regarding vans, buses, and other vehicles available for use from the public transit district to maximize the utility of and investment in those vehicles; and
 - (v) supporting local efforts and applications for additional funding.

Amended by Chapter 479, 2019 General Session

17B-2a-827 Integration of public transit services and facilities.

- (1) If a public transit district provides public transit services in an area that is adjacent to or overlaps with an area in which public transit services are also provided by another public transit provider, including a public-private partnership entity, the public transit district and the public transit provider entity shall ensure that:
 - (a) any public transit facilities of one provider connect with the public transit facilities of the other provider;
 - (b) the schedules of all relevant public transit providers are coordinated as one public transit system; and
 - (c)
 - (i) if both public transit providers collect a fare directly from public transit passengers, an integrated and uniform fare system is implemented across the coordinated public transit system; and
 - (ii) the revenue generated from the uniform fare system is equitably divided among the public transit providers according to service provided and mileage covered.

- (2) A public transit district and a public transit provider, including a public-private partnership entity, may negotiate the ability of one public transit provider to operate on the transit facilities of the other public transit provider.
- (3)
 - (a) The Department of Transportation shall oversee the negotiation, integration, and coordination described in Subsection (1).
 - (b) For the negotiation, integration, or coordination between a public transit district and a public-private partnership, the oversight described in Subsection (3)(a) applies only to fixed-route bus or rail services.

Enacted by Chapter 479, 2019 General Session

Part 9 Service Area Act

17B-2a-901 Title.

This part is known as the "Service Area Act."

Enacted by Chapter 329, 2007 General Session

Superseded 7/1/2024

17B-2a-902 Provisions applicable to service areas.

- (1) Each service area is governed by and has the powers stated in:
 - (a) this part; and
 - (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to service areas.
- (3) A service area is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5)
 - (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:
 - (i) law enforcement services;
 - (ii) fire protection services;
 - (iii) 911 ambulance or paramedic services as defined in Section 26B-4-101 that are provided under a contract in accordance with Section 26B-4-156; or
 - (iv) emergency services.
 - (b) Subsection (5)(a) does not apply to:
 - (i) a fee charged or collected on an individual basis rather than a general basis;
 - (ii) a non-911 service as defined in Section 26B-4-101 that is provided under a contract in accordance with Section 26B-4-156;
 - (iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or
 - (iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Amended by Chapter 15, 2023 General Session
Amended by Chapter 327, 2023 General Session

Effective 7/1/2024

17B-2a-902 Provisions applicable to service areas.

- (1) Each service area is governed by and has the powers stated in:
 - (a) this part; and
 - (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to service areas.
- (3) A service area is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5)
 - (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:
 - (i) law enforcement services;
 - (ii) fire protection services;
 - (iii) 911 ambulance or paramedic services as defined in Section 53-2d-101 that are provided under a contract in accordance with Section 53-2d-505.2; or
 - (iv) emergency services.
 - (b) Subsection (5)(a) does not apply to:
 - (i) a fee charged or collected on an individual basis rather than a general basis;
 - (ii) a non-911 service as defined in Section 53-2d-101 that is provided under a contract in accordance with Section 53-2d-505.2;
 - (iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or
 - (iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Amended by Chapter 15, 2023 General Session
Amended by Chapter 310, 2023 General Session
Amended by Chapter 327, 2023 General Session

17B-2a-903 Additional service area powers -- Property tax limitation for service area providing law enforcement service.

- (1) In addition to the powers conferred on a service area under Section 17B-1-103, a service area:
 - (a) may issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
 - (b) that, until April 30, 2007, was a regional service area, may provide park, recreation, or parkway services, or any combination of those services; and
 - (c) may, with the consent of the county in which the service area is located, provide planning and zoning service.
- (2) A service area that provides law enforcement service may not levy a property tax or increase its certified tax rate, as defined in Section 59-2-924, without the prior approval of:
 - (a)
 - (i) the legislative body of each municipality that is partly or entirely within the boundary of the service area; and

- (ii) the legislative body of the county with an unincorporated area within the boundary of the service area; or
- (b)
 - (i) a majority of the legislative bodies of all municipalities that are partly or entirely within the boundary of the service area; and
 - (ii) two-thirds of the legislative body of the county with an unincorporated area within the boundary of the service area.

Amended by Chapter 15, 2023 General Session

17B-2a-904 Regional service areas to become service areas -- Change from regional service area to service area not to affect rights, obligations, board makeup, or property of former regional service area.

- (1) Each regional service area, created and operating under the law in effect before April 30, 2007, becomes on that date a service area, governed by and subject to Chapter 1, Provisions Applicable to All Special Districts, and this part.
- (2) The change of an entity from a regional service area to a service area under Subsection (1) does not affect:
 - (a) the entity's basic structure and operations or its nature as a body corporate and politic and a political subdivision of the state;
 - (b) the ability of the entity to provide the service that the entity:
 - (i) was authorized to provide before the change; and
 - (ii) provided before the change;
 - (c) the validity of the actions taken, bonds issued, or contracts or other obligations entered into by the entity before the change;
 - (d) the ability of the entity to continue to impose and collect taxes, fees, and other charges for the service it provides;
 - (e) the makeup of the board of trustees;
 - (f) the entity's ownership of property acquired before the change; or
 - (g) any other powers, rights, or obligations that the entity had before the change, except as modified by this part.

Amended by Chapter 15, 2023 General Session

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

- (1)
 - (a) Except as provided in Subsection (2), (3), or (4):
 - (i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:
 - (A) consist of the county legislative body;
 - (B) be appointed, as provided in Section 17B-1-304; or
 - (C) be elected, as provided in Section 17B-1-306;
 - (ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and
 - (iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

- (A) the service area is not entirely within the unincorporated area of a single county;
 - (B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or
 - (C) an election is held to authorize the service area's issuance of bonds.
- (b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:
- (i) board members shall be elected in conjunction with the bond election;
 - (ii) the board of trustees shall:
 - (A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and
 - (B) provide a ballot for the election of board members separate from the bond ballot; and
 - (iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.
- (2)
- (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:
- (i) the service area was created to provide:
 - (A) fire protection, paramedic, and emergency services; or
 - (B) law enforcement service;
 - (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and
 - (iii) the service area is not a service area described in Subsection (3).
- (b)
- (i) Each county with unincorporated area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint up to three members to the board of trustees.
 - (ii) Each municipality with an area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later service area annexation or municipal incorporation or annexation, shall appoint one member to the board of trustees, unless the area of the municipality is withdrawn from the service area.
 - (iii) Each member that a county or municipality appoints under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.
- (c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).
- (3)
- (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:
- (i) the service area was created to provide fire protection, paramedic, and emergency services;
 - (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and
 - (iii) each municipality with an area that is included within the service area or county with unincorporated area, whether in whole or in part, that is included within a service area is a party to an agreement:
 - (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with all the other municipalities or counties with an area that is included in the service area;
 - (B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).

(b)

- (i) Each county with unincorporated area, whether in whole or in part, that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.
 - (ii) Each municipality with an area that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.
 - (iii) Each member that a county or municipality appoints under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.
 - (iv) A vote by a member of the board of trustees may be weighted or proportional.
- (c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (3)(a) is the number resulting from the application of Subsection (3)(b).

(4)

(a) This Subsection (4) applies to a service area if:

- (i) the service area provides a service to a municipality in accordance with an agreement between the service area and the municipality in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
 - (ii) the municipality is not included within the service area's boundary;
 - (iii) the governing body of the municipality petitions the service area to request authority to appoint one member of the board of trustees of the service area; and
 - (iv) the service area board of trustees approves the petition.
- (b) The governing body of a municipality described in Subsection (4)(a) may appoint a member of a service area board of trustees as follows:
- (i) the governing body shall make the appointment in accordance with:
 - (A) Section 17B-1-304; or
 - (B) to fill a mid-term vacancy, Subsection 20A-1-512(1);
 - (ii) the governing body may not appoint an individual who is not a registered voter residing within the municipality;
 - (iii) the district boundary requirement in Subsection 17B-1-302(1) does not apply to the governing body's appointee;
 - (iv) the governing body and the service area board of trustees may not shorten the term of office of any member of the board due to the governing body's appointment;
 - (v) notwithstanding Subsection 17B-1-302(4), the number of members of the board of trustees of a service area described in Subsection (4)(a) may be odd or even; and
 - (vi) if the number of members of a service area board of trustees is odd before the governing body's appointment, the member that the governing body appoints may replace a member whose term is expiring or who otherwise leaves a vacancy on the board or, if no expiring term or vacancy exists:
 - (A) the number of board members may temporarily be even, including the member that the governing body appoints, until an expiring term or vacancy exists that restores the board membership to an odd number; and
 - (B) no appointing authority may fill the expiring term or vacancy that restores the board membership to an odd number.

(c)

- (i) The service area board of trustees may rescind the approval described in Subsection (4)(a) at any time.
- (ii) If the service area board of trustees rescinds the approval described in Subsection (4)(a) during the term of a board member that the governing body appointed, the appointee shall remain on the board for the remainder of the appointee's term.

Amended by Chapter 108, 2019 General Session

17B-2a-907 Adding a new service within a service area.

A service area may begin to provide within the boundaries of the service area a service that it had not previously provided by using the procedures set forth in Chapter 1, Part 2, Creation of Special District, for the creation of a service area as though a new service area were being created to provide that service.

Amended by Chapter 15, 2023 General Session

Part 10
Water Conservancy District Act

17B-2a-1001 Title.

This part is known as the "Water Conservancy District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-1002 Legislative intent -- Purpose of water conservancy districts.

- (1) It is the intent of the Legislature and the policy of the state to:
 - (a) provide for the conservation and development of the water and land resources of the state;
 - (b) provide for the greatest beneficial use of water within the state;
 - (c) control and make use of all unappropriated waters in the state and to apply those waters to direct and supplemental beneficial uses including domestic, manufacturing, irrigation, and power;
 - (d) obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law;
 - (e) cooperate with the United States and its agencies under federal reclamation or other laws and to construct, finance, operate, and maintain works in the state; and
 - (f) promote the greater prosperity and general welfare of the people of the state by encouraging the organization of water conservancy districts.
- (2) The creation and operation of water conservancy districts are a public use to help accomplish the intent and policy stated in Subsection (1) and will:
 - (a) be essentially for the benefit and advantage of the people of the state;
 - (b) indirectly benefit all industries of the state;
 - (c) indirectly benefit the state by increasing the value of taxable property in the state;
 - (d) directly benefit municipalities by providing adequate supplies of water for domestic use;
 - (e) directly benefit lands to be irrigated or drained;
 - (f) directly benefit lands now under irrigation by stabilizing the flow of water in streams and by increasing flow and return flow of water to those streams; and

- (g) promote the comfort, safety, and welfare of the people of the state.

Enacted by Chapter 329, 2007 General Session

17B-2a-1003 Provisions applicable to water conservancy districts.

- (1) Each water conservancy district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (2) This part applies only to water conservancy districts.
- (3) A water conservancy district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (5) Before September 30, 2019, a water conservancy district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the water conservancy district's fiscal year that ended in 2018, the percentage and amount of revenue in the water conservancy district from:
 - (a) property taxes;
 - (b) water rates; and
 - (c) all other sources.

Amended by Chapter 15, 2023 General Session

17B-2a-1004 Additional water conservancy district powers -- Limitations on water conservancy districts.

- (1) In addition to the powers conferred on a water conservancy district under Section 17B-1-103, a water conservancy district may:
 - (a) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;
 - (b) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district;
 - (c) acquire or construct works, facilities, or improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district;
 - (d) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water;
 - (e) fix rates and terms for the sale, lease, or other disposal of water;
 - (f) acquire rights to the use of water from works constructed or operated by the district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works;
 - (g) levy assessments against lands within the district to which water is allotted on the basis of:
 - (i) a uniform district-wide value per acre foot of irrigation water; or
 - (ii) a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units;
 - (h) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service;
 - (i) adopt and modify plans and specifications for the works for which the district was organized;

- (j) investigate and promote water conservation and development;
 - (k) appropriate and otherwise acquire water and water rights inside or outside the state;
 - (l) develop, store, treat, and transport water;
 - (m) acquire stock in canal companies, water companies, and water users associations;
 - (n) acquire, construct, operate, or maintain works for the irrigation of land;
 - (o) subject to Subsection (2), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied;
 - (p) own property for district purposes within the boundaries of a municipality; and
 - (q) coordinate water resource planning among public entities.
- (2)
- (a) A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:
 - (i) the joint operation or use of works owned by any party to the contract; or
 - (ii) the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services.
 - (b) An agreement under Subsection (2)(a) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation.
 - (c) A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection (2)(a).
 - (d) An agreement under Subsection (2)(a) may include terms that the parties determine, including:
 - (i) a term of years specified by the contract;
 - (ii) a requirement that the purchasing party make specified payments, without regard to actual taking or use;
 - (iii) a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of water or services for any reason;
 - (iv) provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and establishing:
 - (A) the methods for financing the costs of acquisition, construction, and operation of the joint facilities;
 - (B) the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities;
 - (C) a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and
 - (D) the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and
 - (v) provisions that a purchasing party make payments from:
 - (A) general or other funds of the purchasing party;
 - (B) the proceeds of assessments levied under this part;

- (C) the proceeds of impact fees imposed by any party under Title 11, Chapter 36a, Impact Fees Act;
 - (D) revenues from the operation of the water system of a party receiving water or services under the contract;
 - (E) proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and
 - (F) any combination of the sources of payment listed in Subsections (2)(d)(v)(A) through (E).
- (3)
- (a) A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility.
 - (b) Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in Title 73, Chapter 3a, Water Exports.
- (4)
- (a) Except as provided in Subsection (4)(b), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality.
 - (b) Subsection (4)(a) does not apply if:
 - (i) the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and
 - (ii) after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation.
- (5) A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain.
- (6) A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property.
- (7) A water conservancy district may not acquire by eminent domain title to or beneficial use of vested water rights for transmountain diversion.

Amended by Chapter 15, 2023 General Session

17B-2a-1005 Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

- (1) Members of the board of trustees for a water conservancy district shall be:
- (a) elected in accordance with:
 - (i) the petition or resolution that initiated the process of creating the water conservancy district; and
 - (ii) Section 17B-1-306;
 - (b) appointed in accordance with Subsection (2); or
 - (c) elected under Subsection (4)(a).
- (2)
- (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).
 - (b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

- (c)
 - (i) For a district located in more than a single county, the governor, with the advice and consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).
 - (ii)
 - (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.
 - (B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.
 - (iii)
 - (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.
 - (B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.
 - (iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.
 - (v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.
 - (d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.
- (3)
- (a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts:
 - (i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and
 - (ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.
 - (b)
 - (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).
 - (ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.
 - (iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.
 - (iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the advice and consent of the Senate.

- (c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.
- (4)
 - (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):
 - (i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and
 - (ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.
 - (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.
- (5) The board of trustees of a water conservancy district shall consist of:
 - (a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or
 - (b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.
- (6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.
- (7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.
- (8)
 - (a) The board of trustees of a water conservancy district may:
 - (i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;
 - (ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;
 - (iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;
 - (iv) allocate and reallocate the use of water to lands within the district;
 - (v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;
 - (vi) create a lien, as provided in this part, upon land to which the use of water is transferred;
 - (vii) discharge a lien from land to which a lien has attached; and
 - (viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.
 - (b)
 - (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.
 - (ii)
 - (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.
 - (B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Amended by Chapter 352, 2020 General Session

17B-2a-1006 Limits on water conservancy district property tax levy -- Additional levy.

- (1) Except as provided in Subsection (2), and subject to Subsection (3) and Section 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not exceed:
 - (a) .0001 per dollar of taxable value of taxable property in the district, before the earliest of:
 - (i) the planning or design of works;
 - (ii) the acquisition of the site or right-of-way on which the works will be constructed; or
 - (iii) the commencement of construction of the works; and
 - (b) .0002 per dollar of taxable value of taxable property in the district, after the earliest of the events listed in Subsection (1)(a).
- (2) Subject to Subsection (3) and Section 17B-2a-1009:
 - (a) in a district that contains land located within the Lower Colorado River Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .001 per dollar of taxable value of taxable property in the district; and
 - (b) in a district to be served under a contract, water appropriation, water allotment, or otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .0004 per dollar of taxable value of taxable property.
- (3) A water conservancy district may impose an additional property tax levy, not to exceed .0001 per dollar of taxable value of taxable property in the district, if the additional levy is necessary to provide adequate funds to pay maturing bonds or other debts of the district.

Amended by Chapter 159, 2010 General Session

17B-2a-1007 Contract assessments -- Notice.

- (1) As used in this section:
 - (a) "Assessed land" means:
 - (i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract;
or
 - (ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.
 - (b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.
 - (c) "Governing body" means:
 - (i) for a county, city, or town, the legislative body of the county, city, or town;
 - (ii) for a special district, the board of trustees of the special district;
 - (iii) for a special service district:
 - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and
 - (iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.
 - (d) "Petitioner" means a private petitioner or a public petitioner.

- (e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.
 - (f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.
 - (g) "Public petitioner" means a political subdivision of the state:
 - (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and
 - (ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.
 - (h) "Public water user" means a political subdivision of the state:
 - (i) whose territory is partly or entirely within the boundaries of a water conservancy district; and
 - (ii) that enters into a water contract with the district.
 - (i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:
 - (i) land owned by the private water user; or
 - (ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.
 - (j) "Water user" means a private water user or a public water user.
- (2) A water conservancy district may levy a contract assessment as provided in this section.
- (3)
- (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.
 - (b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.
 - (c) Each petition under this Subsection (3) shall include:
 - (i) the petitioner's name;
 - (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;
 - (iii) a description of the land upon which the water will be used;
 - (iv) the price to be paid for the water;
 - (v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;
 - (vi) whether payment will be made in cash or annual installments;
 - (vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and
 - (viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.
- (4)
- (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:
 - (i) provide notice of the petition and of the hearing required under Subsection (4)(a)(ii) for the water conservancy district, as a class A notice under Section 63G-30-102, for at least two successive weeks immediately before the date of the hearing; and
 - (ii) hold a public hearing on the petition.
 - (b) Each notice under Subsection (4)(a)(i) shall:
 - (i) state that a petition has been filed and that the district is considering levying a contract assessment; and

- (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).
- (c)
 - (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:
 - (A) allow any interested person to appear and explain why the petition should not be granted; and
 - (B) consider each written objection to the granting of the petition that the board receives before or at the hearing.
 - (ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.
- (d)
 - (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.
 - (ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.
- (5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:
 - (a) deny the petition; or
 - (b) grant the petition, if the board considers granting the petition to be in the best interests of the district.
- (6) The board of a water conservancy district that grants a petition under this section may:
 - (a) make an allotment of water for the benefit of assessed land;
 - (b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;
 - (c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and
 - (d) levy a contract assessment on assessed land.
- (7)
 - (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:
 - (i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and
 - (ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.
 - (b) Upon the recording of the resolution, ordinance, or order, in accordance with Subsection (7)(a)(i):
 - (i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a political subdivision lien, as that term is defined in Section 11-60-102, on the assessed land, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and
 - (ii)
 - (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and
 - (B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.
- (c)

- (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.
 - (ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:
 - (A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and
 - (B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.
- (8)
- (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:
 - (i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and
 - (ii) publish a notice:
 - (A) for the water conservancy district, as a class A notice under Section 63G-30-102, for at least the two consecutive weeks before the day of the public hearing; and
 - (B) that contains a general description of the assessed land, the amount of the contract assessment, and the time and place of the public hearing under Subsection (8)(a)(i).
 - (b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.
 - (c)
 - (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.
 - (ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:
 - (A) shall enter a written order, stating its decision; and
 - (B) may modify the assessment.
 - (d)
 - (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).
 - (ii) Each petition under Subsection (8)(d)(i) shall:
 - (A) be filed within 30 days after the board enters its written order;
 - (B) state specifically the part of the board's order for which review is sought; and
 - (C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.
 - (iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.
 - (iv) The court shall act as quickly as possible after a petition is filed.
 - (v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.
 - (e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

- (9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.
- (10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

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

17B-2a-1008 Subdistricts to become water conservancy districts.

Each water conservancy subdistrict, created and operating under the law in effect before April 30, 2007 and existing on April 30, 2007, shall, on that date, become a water conservancy district.

Enacted by Chapter 329, 2007 General Session

17B-2a-1009 Limit on property tax authority -- Exceptions.

- (1) As used in this section:
 - (a) "Appointed board of trustees" means a board of trustees of a water conservancy district that includes a member who is appointed to the board of trustees in accordance with this part.
 - (b) "Elected board of trustees" means a board of trustees of a water conservancy district that consists entirely of members who are elected to the board of trustees in accordance with this part.
- (2)
 - (a) For a taxable year beginning on or after January 1, 2018, a water conservancy district may not collect property tax revenue that would exceed the certified tax rate under Section 59-2-924 unless the proposed tax levy has been previously approved by:
 - (i) an elected board of trustees;
 - (ii) subject to Subsection (2)(b), an appointed board of trustees;
 - (iii) a majority of the water conservancy district voters who vote in an election held for that purpose on a date specified in Section 20A-1-204; or
 - (iv) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.
 - (b) For a water conservancy district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the water conservancy district may impose a property tax levy that exceeds the certified tax rate.

Amended by Chapter 112, 2017 General Session
Amended by Chapter 418, 2017 General Session

17B-2a-1010 Capital asset assessment, maintenance, and replacement policy.

- (1) As used in this section:
 - (a) "Capital asset" means one of the following that is:
 - (i) a significant investment or an essential component necessary to provide a service, including:
 - (A) a facility;
 - (B) infrastructure, whether above or below ground level;
 - (C) equipment; or
 - (D) a communications network; and

- (ii) owned by a qualified water conservancy district.
 - (b) "Policy" means the capital asset assessment, maintenance, and replacement policy required under Subsection (2).
 - (c) "Qualified capital asset" means a capital asset that is:
 - (i) identified in a policy in accordance with Subsection (2)(b); and
 - (ii) inventoried, assessed, funded, or otherwise subject to a qualified water conservancy's policy in accordance with this section.
 - (d) "Qualified water conservancy district" means a water conservancy district with an annual operating budget greater than \$5,000,000.
- (2)
- (a) Each qualified water conservancy district shall adopt a policy for the assessment, maintenance, and replacement of capital assets that are qualified capital assets.
 - (b) The policy shall adopt language that defines in general or specific terms which capital assets are qualified capital assets.
- (3) The policy shall require the qualified water conservancy district to:
- (a) complete an inventory of each qualified capital asset, including for each qualified capital asset:
 - (i) an engineering description;
 - (ii) location;
 - (iii) physical dimensions and condition;
 - (iv) documentation of the qualified capital asset's standard features;
 - (v) warranties;
 - (vi) maintenance history;
 - (vii) replacement costs;
 - (viii) market value;
 - (ix) original useful life; and
 - (x) remaining useful life; and
 - (b) assess the physical condition of the qualified capital asset in accordance with a method established under Subsection (4)(a)(i) at least every five years.
- (4)
- (a) The policy shall establish:
 - (i) a method to assess the physical condition of each qualified capital asset;
 - (ii) performance and condition standards for each qualified capital asset;
 - (iii) a program for monitoring and reporting the qualified water conservancy district's application of and compliance with the policy, including a comparison of each qualified capital asset's current status and targeted standards for that qualified capital asset as set forth in the policy;
 - (iv) a process for the qualified water conservancy district to evaluate existing qualified capital assets for efficiency and expected service delivery; and
 - (v) objective criteria for the qualified water conservancy district to prioritize maintenance or replacement of qualified capital assets.
 - (b) A performance and condition standard described in Subsection (4)(a)(ii) may be:
 - (i) a mandated safety standard;
 - (ii) a standard condition of receiving federal, state, or local funding; or
 - (iii) an applicable engineering or other professional standard.
- (5) As part of the policy, the qualified water conservancy district shall adopt financial guidelines to dedicate revenue to a priority qualified capital asset identified under Subsection (4)(a)(v) in accordance with a multiyear qualified capital plan described in Subsection (6)(a).

- (6)
- (a) Each qualified water conservancy district shall adopt a multiyear qualified capital asset plan.
 - (b) Each qualified water conservancy district shall:
 - (i) include criteria and guidelines in the policy for allocating sufficient funds in a multiyear qualified capital asset plan and in the qualified water conservancy district's annual operating budget for assessing, maintaining, repairing, and replacing qualified capital assets;
 - (ii) establish an ongoing source of funds in the multiyear qualified capital asset plan and each annual operating budget for repair and replacement costs of qualified capital assets in accordance with the policy; and
 - (iii) establish a repair and replacement reserve for capital projects in its capital projects fund and allocate from the repair and replacement reserve subject to Subsection 17B-1-612(5).
 - (c) The board of trustees of a qualified water conservancy district shall adopt an annual operating budget that includes ongoing funding described in Subsection (6)(b)(ii).
- (7)
- (a) A qualified water conservancy district shall submit a report of the qualified water conservancy district's qualified capital asset facilities to the director of the Division of Water Resources, established in Section 73-10-18, no later than December 31, 2017, and no less than every five years thereafter.
 - (b) The qualified capital asset facilities report required under Subsection (7)(a) shall:
 - (i) describe the proposed replacement time frame for each qualified capital asset;
 - (ii) account for each funding source for the qualified capital asset and include any restrictions a funding source may impose on the use or disposal of qualified capital assets;
 - (iii) account for any change in a qualified capital asset's value since the last qualified capital asset facilities report submitted by the qualified water conservancy district; and
 - (iv) provide a statement of actual expenditures and performance data for each qualified capital asset compared to budgeted expenditures.

Enacted by Chapter 471, 2013 General Session

Part 11 Municipal Services District Act

17B-2a-1101 Title.

This part is known as the "Municipal Services District Act."

Enacted by Chapter 405, 2014 General Session

17B-2a-1102 Definitions.

As used in this part:

- (1) "Municipal services" means one or more of the services identified in Section 17-34-1, 17-36-3, or 17B-1-202.
- (2) "Metro township" means:
 - (a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or
 - (b) a metro township that subsequently joins a municipal services district.

Amended by Chapter 15, 2023 General Session

17B-2a-1103 Limited to counties of the first class -- Provisions applicable to municipal services districts.

- (1)
 - (a) Except as provided in Subsection (1)(b) and Section 17B-2a-1110, a municipal services district may be created only in unincorporated areas in a county of the first class.
 - (b) Subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.
 - (c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.
- (2) Each municipal services district is governed by the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts.
- (3) This part applies only to a municipal services district.
- (4) A municipal services district is not subject to the provisions of any other part of this chapter.
- (5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provisions in this part govern.

Amended by Chapter 352, 2015 General Session

17B-2a-1104 Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

- (1) notwithstanding Subsection 17B-1-202(3), provide no more than six municipal services;
- (2) assist a municipality or a county located within a municipal services district by providing staffing and administrative services, including:
 - (a) human resources staffing and services;
 - (b) finance and budgeting staffing and services; and
 - (c) information technology staffing and services; and
- (3) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

Amended by Chapter 15, 2023 General Session

17B-2a-1105 Creation of municipal services district.

- (1) Notwithstanding any other provision of law, the process to create a municipal services district is initiated by a resolution proposing the creation of the municipal services district, adopted by the legislative body of the county whose unincorporated area includes any of the proposed municipal services district.
- (2) The resolution described in Subsection (1) shall comply, as applicable, with the provisions of Subsection 17B-1-203(2)(a).
- (3) The legislative body shall comply with the requirements of Sections 17B-1-210 through 17B-1-212.

Enacted by Chapter 405, 2014 General Session

17B-2a-1106 Municipal services district board of trustees -- Governance.

- (1) Notwithstanding any other provision of law regarding the membership of a special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.
- (2)
 - (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:
 - (i) subject to Subsection (2)(b), a member of that municipality's governing body;
 - (ii) one member of the county council of the county in which the municipal services district is located; and
 - (iii) the total number of board members is not required to be an odd number.
 - (b) A member described in Subsection (2)(a)(i) shall be:
 - (i) for a municipality other than a metro township, designated by the municipal legislative body; and
 - (ii) for a metro township, the mayor of the metro township or, during any period of time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro township council elects in accordance with Subsection 10-3b-503(4).
- (3) For a board of trustees described in Subsection (2), each board member's vote is weighted using the proportion of the municipal services district population that resides:
 - (a) for each member described in Subsection (2)(a)(i), within that member's municipality; and
 - (b) for the member described in Subsection (2)(a)(ii), within the unincorporated county.
- (4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.
- (5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.
- (6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Amended by Chapter 15, 2023 General Session

17B-2a-1107 Exclusion of rural real property.

- (1) As used in this section, "rural real property" means an area:
 - (a) zoned primarily for manufacturing, commercial, or agricultural purposes; and
 - (b) that does not include residential units with a density greater than one unit per acre.
- (2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:
 - (a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;
 - (b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;
 - (c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or
 - (d) is located in whole or in part in one of the following as defined in Section 17-41-101:
 - (i) an agricultural protection area;

- (ii) a mining protection area; or
 - (iii) an industrial protection area.
- (3)
- (a) Subject to Subsection (3)(b), an owner of rural real property may withdraw consent to inclusion in a municipal services district at any time.
 - (b) An owner may withdraw consent by submitting a written and signed request to the municipal services district board of trustees that:
 - (i) identifies and describes the rural real property to be withdrawn; and
 - (ii) requests that the rural real property be withdrawn.
 - (c)
 - (i) No later than 30 days after the day on which the municipal services district board of trustees receives a request that complies with Subsection (3)(b), the board shall adopt a resolution withdrawing the rural real property as identified and described in the request.
 - (ii) The rural real property is withdrawn from and no longer in the jurisdiction of the municipal services district upon adoption of the resolution.

Amended by Chapter 352, 2015 General Session

17B-2a-1108 Municipality required to remit local option sales and use tax.

- (1)
- (a) A municipality located in whole or in part within a municipal services district shall remit to the municipal services district:
 - (i) an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
 - (ii) an amount equal to the amount of transportation funds the municipality receives under Section 72-2-108.
 - (b) The municipality shall remit to the municipal services district the amounts required in Subsection (1)(a) within 30 days after the day on which the municipality receives the funds identified in Subsections (1)(a)(i) and (1)(a)(ii).
- (2) For purposes of Subsection (1)(a)(i), the amount of local sales tax a municipality is required to remit to a municipal services district is an amount:
- (a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
 - (b) representative of only those taxes collected in the area of the municipality that is also located within the municipal services district.
- (3) For purposes of Subsection (1)(a)(ii), the amount of transportation funds a municipality is required to remit to a municipal services district is an amount equal to the amount of class B and class C road miles in that part of the municipality located within the municipal services district divided by the total class B and class C road miles in the municipality.
- (4) If the municipal legislative body of a municipality located in whole or in part within a municipal services district adopts and delivers a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall only remit to the municipal services district the amounts described in Subsection (1) that relate to the period that the municipality is in the municipal services district, regardless of when the municipality receives those amounts.

Amended by Chapter 13, 2017 General Session

17B-2a-1109 Counties and municipalities authorized to provide funds to a municipal services district.

- (1) A county or, subject to Section 17B-2a-1108, a municipality involved in the establishment or operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax and other revenue for district purposes.
- (2) A municipal services district may use sales tax or other revenue that the district receives from a county or a municipality under Subsection (1) to fund expenses and activities of a county or municipality that is part of the district.

Amended by Chapter 37, 2019 General Session

17B-2a-1110 Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Notice -- Revenues transferred to municipal services district.

- (1)
 - (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.
 - (b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).
- (2)
 - (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.
 - (b) The feasibility consultant shall be chosen:
 - (i) by the municipal legislative body; and
 - (ii) in accordance with applicable municipal procurement procedures.
- (3) The municipal legislative body shall require the feasibility consultant to:
 - (a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - (c) attend the public hearings under Subsection (5).
- (4)
 - (a) The feasibility study shall consider:
 - (i) population and population density within the withdrawing municipality;
 - (ii) 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;
 - (iii) projected growth in the withdrawing municipality during the next five years;
 - (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;
 - (v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;
 - (vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

- (vii) the fiscal impact on other municipalities serviced by the municipal services district.
- (b)
 - (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.
 - (ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:
 - (A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and
 - (B) the municipal services district's present and five-year projected cost of providing municipal services.
 - (iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.
- (5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:
 - (a) within the following 60 days; and
 - (b) for the purpose of allowing:
 - (i) the feasibility consultant to present the results of the study; and
 - (ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.
- (6) At a public hearing described in Subsection (5), the municipal legislative body shall:
 - (a) provide a copy of the feasibility study for public review; and
 - (b) allow the public to express its views about the proposed withdrawal from the municipal services district.
- (7)
 - (a) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5) for the municipality, as a class A notice under Section 63G-30-102, for at least three weeks before the day of the first hearing described in Subsection (5).
 - (b) The notice under Subsection (7)(a) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.
- (8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.
- (9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Amended by Chapter 435, 2023 General Session

17B-2a-1111 Withdrawal of a municipality that changes form of government.

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)(B) changes form of government in accordance with Title 10, Chapter 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Amended by Chapter 176, 2016 General Session

17B-2a-1112 Audit.

The board of trustees shall provide a copy of an accounting report, as defined in Section 51-2a-102, to each political subdivision that is provided municipal services by the municipal services district that is filed with the state auditor on behalf of the municipal services district in accordance with Section 51-2a-203.

Enacted by Chapter 352, 2015 General Session