

Part 2

Creating a Special Service District

17D-1-201 Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

- (1) water;
- (2) sewerage;
- (3) drainage;
- (4) flood control;
- (5) garbage collection and disposal;
- (6) health care;
- (7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;
- (8) recreation;
- (9) fire protection, including:
 - (a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;
 - (b) Firewise Communities programs and the development of community wildfire protection plans; and
 - (c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);
- (10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
- (11) street lighting;
- (12) consolidated 911 and emergency dispatch;
- (13) animal shelter and control;
- (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to provide construction and maintenance of public facilities, traditional governmental services, and planning, as a means for mitigating impacts from extractive mineral industries;
- (15) in a county of the first class, extended police protection;
- (16) control or abatement of earth movement or a landslide;
- (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act; or
- (18) cemetery.

Amended by Chapter 371, 2016 General Session

17D-1-202 Limitations on the creation of a special service district.

- (1) Subject to Subsection (2), the boundary of a proposed special service district may include all or part of the area within the boundary of the county or municipality that creates the special service district.
- (2)

- (a) The boundary of a proposed special service district may not include an area included within the boundary of an existing special service district that provides the same service that the proposed special service district is proposed to provide.
 - (b) The boundary of a proposed special service district may not include an area included within the boundary of an existing local district that provides the same service that the proposed special service district is proposed to provide, unless the local district consents.
 - (c) A proposed special service district may not include land that will not be benefitted by the service that the special service district is proposed to provide, unless the owner of the nonbenefitted land consents to the inclusion.
 - (d) A county may not create a special service district that includes some or all of the area within a municipality unless the legislative body of that municipality adopts a resolution or ordinance consenting to the inclusion.
- (3) All areas included within a special service district need not be contiguous.

Enacted by Chapter 360, 2008 General Session

17D-1-203 Initiating the process to create a special service district.

- (1) The process to create a special service district is initiated by:
- (a) the legislative body of a county or municipality that proposes to create a special service district adopting a resolution that:
 - (i) declares that the public health, convenience, and necessity require the creation of a special service district;
 - (ii) indicates the legislative body's intent to create a special service district; and
 - (iii) complies with the requirements of Subsection (3); or
 - (b) the filing of a petition that:
 - (i) proposes the creation of a special service district;
 - (ii) complies with the requirements of Subsections (2) and (3); and
 - (iii) is filed with the legislative body of the county or municipality in whose boundary the proposed special service district is located.
- (2) Each petition under Subsection (1)(b) shall:
- (a) be signed by:
 - (i) the owners of at least 10% of the taxable value of taxable property within the proposed special service district; or
 - (ii) at least 10% of the registered voters residing within the proposed special service district; and
 - (b) indicate:
 - (i) the residence address of each person who signs the petition; and
 - (ii) if the person signs the petition as a property owner, the address or other description of the person's property sufficient to identify the property.
- (3) Each resolution under Subsection (1)(a) and petition under Subsection (1)(b) shall:
- (a) describe the boundaries of the proposed special service district;
 - (b) specify each service that the special service district is proposed to provide; and
 - (c) designate a name for the proposed special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-204 Prerequisites for adopting a resolution or ordinance approving the creation of a special service district.

Before the legislative body of a county or municipality may adopt a resolution or ordinance under Section 17D-1-208 approving the creation of a special service district:

- (1) the clerk or recorder, as the case may be, of the county or municipality shall give written notice as provided in Section 17D-1-205;
- (2) the legislative body shall hold a public hearing, as provided in Section 17D-1-207; and
- (3) the period for filing protests under Section 17D-1-206 shall have passed without adequate protests having been filed.

Amended by Chapter 350, 2009 General Session

17D-1-205 Notice.

- (1) Each notice required under Subsection 17D-1-204(1) shall:
 - (a) state that:
 - (i) the legislative body has adopted a resolution stating its intent to create a special service district; or
 - (ii) a petition has been filed proposing the creation of a special service district;
 - (b) describe the boundary of the proposed special service district;
 - (c) generally describe each service that the special service district is proposed to provide;
 - (d) state that taxes may be levied annually upon all taxable property within the proposed special service district;
 - (e) state that fees or charges may be imposed to pay for some or all of the services that the special service district is proposed to provide;
 - (f) explain the process, requirements, and timetable for filing a protest against the creation of the special service district or against a service that the special service district is proposed to provide;
 - (g) designate a date, time, and place for a public hearing on the proposed creation of the special service district; and
 - (h) except as provided in Subsection (2), be published:
 - (i)
 - (A) once a week for four consecutive weeks;
 - (B) not fewer than five days and no more than 20 days before the date of the public hearing required under Subsection 17D-1-204(2); and
 - (C) in a newspaper of general circulation in the county or municipality by which the special service district is proposed to be created; and
 - (ii) in accordance with Section 45-1-101 for 35 days before the date of the public hearing required under Subsection 17D-1-204(2).
- (2) Notwithstanding Subsection (1)(h)(i), if the proposed special service district is located entirely within a city of the third, fourth, or fifth class or a town that has no newspaper of general circulation in the city or town, the legislative body of the city or town may provide that the notice required under Subsection 17D-1-204(1) be given by posting the notice in at least five public places in the city or town at least 21 days before the public hearing required under Subsection 17D-1-204(2).
- (3) The legislative body of the county or municipality by which the special service district is proposed to be created may include in a notice under this section any other information that the legislative body considers necessary or appropriate.

Amended by Chapter 265, 2013 General Session

17D-1-206 Protests.

- (1) An interested person may protest:
 - (a) the creation of a special service district; or
 - (b) a service that the special service district is proposed to provide.
- (2) Each protest under Subsection (1) shall:
 - (a) be in writing;
 - (b) be submitted:
 - (i) to the legislative body of the county or municipality by which the special service district is proposed to be created; and
 - (ii) no later than 60 days after the public hearing required under Subsection 17D-1-204(2); and
 - (c) explain why the person is protesting.
- (3) A person who submitted a written protest against the creation of a special service district may withdraw the protest or, having withdrawn a protest, cancel the withdrawal, no later than 60 days after the public hearing required under Subsection 17D-1-204(2).
- (4) The legislative body of a county or municipality may not adopt a resolution or ordinance creating a special service district if adequate protests are filed with respect to the creation of the special service district.
- (5) The legislative body of a county or municipality may not adopt a resolution or ordinance authorizing a special service district to provide a service if adequate protests are filed with respect to that service.

Amended by Chapter 265, 2013 General Session

17D-1-207 Public hearing.

- (1) On the date and at the time and place specified in the notice under Section 17D-1-205, the legislative body of the county or municipality by which the special service district is proposed to be created shall hold a public hearing.
- (2) At each public hearing under this section, the legislative body shall:
 - (a) give full consideration to each written protest that has been filed; and
 - (b) hear and consider each interested person desiring to be heard.
- (3) The legislative body may continue the hearing to another date and time.

Enacted by Chapter 360, 2008 General Session

17D-1-208 Adoption of a resolution or ordinance approving the creation of a special service district.

- (1) Subject to the provisions of and as provided in this part, the legislative body of a county or municipality may adopt a resolution or ordinance approving the creation of a special service district.
- (2)
 - (a) Subject to Subsection (2)(b), a resolution or ordinance adopted by a legislative body under Subsection (1) may contain changes from the proposal as set forth in a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), including changes in:
 - (i) the boundary of the special service district; and
 - (ii) the services to be provided by the special service district.
 - (b) The legislative body of a county or municipality may not adopt a resolution or ordinance under Subsection (1) that approves the creation of a special service district with a boundary that

includes more area than is included in, or that authorizes the special service district to provide a service not proposed in, a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), unless the requirements of Sections 17D-1-205, 17D-1-206, and 17D-1-207 are met with respect to the additional area or service, as the case may be.

Amended by Chapter 350, 2009 General Session

17D-1-209 Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

- (1) The legislative body adopting a resolution or ordinance approving the creation of a special service district shall:
 - (a) within 30 days after adopting the resolution or ordinance, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:
 - (i) the original notice of an impending boundary action;
 - (ii) the original certificate of incorporation;
 - (iii) the original approved final local entity plat; and
 - (iv) a certified copy of the resolution or ordinance approving the creation of the special service district.
- (2)
 - (a) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the special service district is created and incorporated.
 - (b)
 - (i) The effective date of a special service district's incorporation for purposes of assessing property within the special service district is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of the county in which the property is located:
 - (A) the county, city, or town that created the special service district may not levy or collect a property tax for special service district purposes on property within the special service district; and
 - (B) the special service district may not:
 - (I) levy or collect an assessment on property within the special service district; or
 - (II) charge or collect a fee for service provided to property within the special service district.

Amended by Chapter 350, 2009 General Session

17D-1-210 Services that special service district is authorized to provide.

- (1) After its creation, a special service district may provide the service or services:
 - (a) specified in the resolution or ordinance creating the special service district; or
 - (b) added under Part 4, Annexing a New Area and Adding a New Service.
- (2) Notwithstanding Subsection (1), a special service district created before May 5, 2008 may continue on and after that date to provide a service that the special service district was authorized before May 5, 2008 to provide.

Enacted by Chapter 360, 2008 General Session

17D-1-211 Municipality's ability to provide temporary jail facilities not affected by the creation of a special service district to provide jail services.

The creation of a special service district to provide jail services as provided in Subsection 17D-1-201(10) does not affect the ability of a municipality under Section 10-8-58 to provide, operate, and maintain facilities for the temporary incarceration, not to exceed 72 hours, of persons charged with the violation of a municipal ordinance.

Enacted by Chapter 360, 2008 General Session

17D-1-212 Action to challenge the creation of a special service district or a service to be provided.

- (1) A person may file an action in district court challenging the creation of a special service district or a service that a special service district is proposed to provide if:
 - (a) the person filed a written protest under Section 17D-1-206;
 - (b) the person:
 - (i)
 - (A) is a registered voter within the special service district; and
 - (B) alleges in the action that the procedures used to create the special service district violated applicable law; or
 - (ii)
 - (A) is an owner of property included within the boundary of the special service district; and
 - (B) alleges in the action that:
 - (I) the person's property will not be benefitted by a service that the special service district is proposed to provide; or
 - (II) the procedures used to create the special service district violated applicable law; and
 - (c) the action is filed within 30 days after the date that the legislative body adopts a resolution or ordinance creating the special service district.
 - (2) If an action is not filed within the time specified under Subsection (1), a registered voter or an owner of property located within the special service district may not contest the creation of the special service district or a service that the special service district is proposed to provide.

Enacted by Chapter 360, 2008 General Session