

RECODIFICATION OF SPECIAL DISTRICTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO SPECIAL DISTRICTS AND LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES; INCREASING THE MAXIMUM ALLOWABLE AMOUNT OF ANNUAL COMPENSATION FOR COUNTY SERVICE AREA TRUSTEES; REPEALING CREATION PROCEDURES FOR CERTAIN TYPES OF INDEPENDENT SPECIAL DISTRICTS; ENACTING CREATION PROCEDURES FOR LOCAL DISTRICTS AND APPLYING THOSE PROCEDURES TO CERTAIN TYPES OF INDEPENDENT SPECIAL DISTRICTS; MAKING CONFORMING CORRECTIONS; MAKING TECHNICAL CORRECTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-202, as last amended by Chapter 227, Laws of Utah 1993

17A-2-301, as last amended by Chapters 173, 316 and 342, Laws of Utah 1995

17A-2-402, as last amended by Chapter 21, Laws of Utah 1997

17A-2-403, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-411, as last amended by Chapter 21, Laws of Utah 1997

17A-2-412, as last amended by Chapter 227, Laws of Utah 1993

17A-2-502, as last amended by Chapter 273, Laws of Utah 1991

17A-2-508, as last amended by Chapter 227, Laws of Utah 1993

17A-2-601, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-607, as last amended by Chapter 227, Laws of Utah 1993

17A-2-701, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-702, as last amended by Chapter 322, Laws of Utah 1997

17A-2-803, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-906, as last amended by Chapter 273, Laws of Utah 1991

17A-2-1048, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1404, as last amended by Chapter 10, Laws of Utah 1997

ENACTS:

17A-2-101, Utah Code Annotated 1953

17B-2-101, Utah Code Annotated 1953

17B-2-201, Utah Code Annotated 1953

17B-2-202, Utah Code Annotated 1953

17B-2-203, Utah Code Annotated 1953

17B-2-204, Utah Code Annotated 1953

17B-2-205, Utah Code Annotated 1953

17B-2-206, Utah Code Annotated 1953

17B-2-207, Utah Code Annotated 1953

17B-2-208, Utah Code Annotated 1953

17B-2-209, Utah Code Annotated 1953

17B-2-210, Utah Code Annotated 1953

17B-2-211, Utah Code Annotated 1953

17B-2-212, Utah Code Annotated 1953

17B-2-213, Utah Code Annotated 1953

17B-2-214, Utah Code Annotated 1953

17B-2-215, Utah Code Annotated 1953

17B-2-216, Utah Code Annotated 1953

17B-2-216.1, Utah Code Annotated 1953

REPEALS:

17A-2-804, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-805, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-806, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-807, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-808, as renumbered and amended by Chapter 186, Laws of Utah 1990

- 17A-2-809, as last amended by Chapter 227, Laws of Utah 1993
- 17A-2-816, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-817, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-902, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-903, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-904, as last amended by Chapter 146, Laws of Utah 1994
- 17A-2-905, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1005, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1006, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1007, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1008, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1009, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1010, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1011, as last amended by Chapter 5, Laws of Utah 1991
- 17A-2-1012, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1013, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1014, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1015, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-2-1403, as renumbered and amended by Chapter 186, Laws of Utah 1990

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17A-2-101** is enacted to read:

Part 1. General Provisions

17A-2-101. Creation procedures for certain independent special districts.

(1) (a) Beginning the effective date of this section, the creation of a special district under Part 2, Cemetery Maintenance Districts, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, Part 4, County Service Area Act, Part 7, Irrigation Districts, Part 8, Metropolitan Water District Act, Part 9, Mosquito Abatement Districts, and Part 10, Utah Public Transit District Act, shall, except as provided under Subsection (2)(a), be governed by Title 17B,

Chapter 2, Part 2, Creation of Local Districts, except Section 17B-2-216.1, in the same manner as if a local district under Title 17B, Chapter 2, Local Districts, were proposed to be created.

(b) Beginning September 15, 1998, the creation of a special district under Part 14, Water Conservancy Districts, shall, except as provided under Subsection (2)(b), be governed by Title 17B, Chapter 2, Part 2, Creation of Local Districts, except Section 17B-2-216.1, in the same manner as if a local district under Title 17B, Chapter 2, Local Districts, were proposed to be created.

(2) (a) Proceedings for the creation of one of the types of independent special districts listed in Subsection (1)(a) that were initiated before and are pending on the effective date of this section:

(i) are not governed by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, notwithstanding Subsection (1)(a); and

(ii) may continue to completion under the statutes in effect immediately before the effective date of this section, despite the repeal on the effective date of this section of statutory provisions governing the creation process for that type of independent special district.

(b) Proceedings for the creation of a water conservancy district under Part 14, Water Conservancy Districts, that were initiated before and are pending on September 15, 1998:

(i) are not governed by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, notwithstanding Subsection (1); and

(ii) may continue to completion under the provisions of Part 14, Water Conservancy Districts, in effect immediately before September 15, 1998.

(3) The provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, do not apply to an independent special district under this chapter created before the effective date of this section.

(4) (a) For each type of independent special district listed in Subsection (1), the provisions of the part under this chapter that applies to that district govern with respect to the appointment or election of the governing body of that type of independent special district after its creation under Title 17B, Chapter 2, Part 2, Creation of Local Districts.

(b) If application of the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, results in the creation of an independent special district before the governing body of that district, under the applicable provisions of this chapter, takes office, the responsible body, as defined

in Subsection 17B-2-201(1)(l), shall be the governing body of the district until the governing body takes office under the applicable provisions of this chapter.

(5) Notwithstanding Section 17B-2-202, an independent special district listed in Subsection (1) may be created to provide only the services that are authorized under the part of this chapter applicable to that type of district.

Section 2. Section **17A-2-202** is amended to read:

17A-2-202. Creation and organization of district.

(1) If the owners of at least 55% of the taxable value of lands and not less than 55% of the total land area aggregating not less than 3,000 acres of contiguous territory or consisting of contiguous territory of less extent but having a taxable value of at least \$500,000 at the last preceding county assessment, desire to provide for the organization of the territory as a cemetery maintenance district, none of their lands being included within the boundaries of an already created and organized cemetery maintenance district under the terms of this part, the district may be created and organized as provided in this part. For purposes of this section, the taxable value of the property within the proposed district shall be determined from the last assessment roll for ad valorem taxes completed prior to the submission of the petition to the county legislative body.

(2) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of a cemetery maintenance district:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, with respect to the creation of a cemetery maintenance district; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for annexation to an existing cemetery maintenance district.

Section 3. Section **17A-2-301** is amended to read:

17A-2-301. Improvement district authority -- Area -- Creation provisions superseded -- Exception.

(1) [Improvement districts] (a) An improvement district may be established [in any county in this state as provided in] under this part [for the purposes hereinafter stated] and may acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and

may operate all or any part of ~~[the following]~~:

~~[(a) systems]~~ (i) a system for the supply, treatment, and distribution of water;

~~[(b) systems]~~ (ii) a system for the collection, treatment, and disposition of sewage;

~~[(c) systems]~~ (iii) a system for the collection, retention, and disposition of storm and flood waters;

~~[(d) systems]~~ (iv) a system for the generation, distribution, and sale of electricity; and

~~[(e) systems]~~ (v) a system for the transmission of natural or manufactured gas ~~[that are]~~ if the system is:

(i) (A) connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, regulated under Section 54-4-1; and

(ii) (B) to be used to facilitate gas utility service within the district if ~~[such]~~ the gas utility service is not available within the district prior to the acquisition or construction of ~~[such systems]~~ the system. ~~[Such]~~

(b) 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.

(2) (a) The area of any district ~~[created]~~ authorized under this part may include all or part of any county or counties, including all or any part of any incorporated municipalities, other incorporated areas, and unincorporated areas, as the needs of the inhabitants of the proposed districts may appear.

(b) The boundaries of a district ~~[created]~~ authorized under this part do not need to be contiguous.

~~[(c) Where a district created under this part is operating any facility or system mentioned in this part, no other district overlapping that district, in whole or in part, may be created in a manner as to have authority to own or operate a facility or system of like kind.]~~

(3) ~~[Where any]~~ If a district ~~[is created]~~ authorized under this part was created solely for the purpose of acquiring a system for the collection, retention, or disposition of storm and flood waters, the county legislative body ~~[creating]~~ that created the district may, in its discretion and despite anything to the contrary in Section 17A-2-305, act as the board of trustees of the district for so long

as it considers desirable.

(4) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of an improvement district:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, with respect to the creation of an improvement district; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for annexation to an existing improvement district.

Section 4. Section **17A-2-402** is amended to read:

17A-2-402. Legislative intent.

~~[(1) The purpose of this part is to provide a method whereby county service areas may be created.]~~

~~[(2) County service areas shall be initially created in unincorporated geographical areas in the various counties to enable those areas to receive special types of service not common to the entire county and establish a system for the payment of the costs entailed.]~~

~~[(3)] (1) The Legislature finds that the [necessity] need for [establishing these] county service areas is a result of the growth in unincorporated areas of some counties. As a result of the large population growth and intensive residential, commercial, and industrial development in unincorporated areas, extended governmental services are needed.~~

~~[(4)] (2) The Legislature recognizes the duty of counties as instruments of state government to meet adequately the needs of unincorporated areas, and also recognizes that unincorporated areas should pay for the extended services provided.~~

~~[(5)] (3) The Legislature recognizes that the services provided by a county service area may also be extended to incorporated areas of the county at the request of the municipality and pursuant to procedures set forth in this part.~~

Section 5. Section **17A-2-403** is amended to read:

17A-2-403. Services which may be supplied by a county service area -- Creation provisions superseded -- Exception.

(1) (a) Whenever an unincorporated area in a county requires one or more of the following

extended services which are not provided on a countywide basis: extended police protection; fire protection; culinary or irrigation water retail service; water conservation; local park, recreation or parkway facilities and services; cemeteries; public libraries; sewers, sewage and storm water treatment and disposal; flood control; garbage and refuse collection; street lighting; airports; planning and zoning; local streets and roads; curb, gutter and sidewalk construction and maintenance; mosquito abatement; health department services; hospital service; or the underground installation of an electric utility line or the conversion to underground of an existing electric utility line, such services may be supplied by a county service area. If the provision of said services shall require the issuance of bonds or the creation of long-term obligations said services may be supplied by means available at law as herein provided.

(b) Each county service area that supplies the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(2) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of a county service area:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, with respect to the creation of a county service area; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for annexation to an existing county service area.

Section 6. Section **17A-2-411** is amended to read:

17A-2-411. Board of trustees -- Selection procedures -- Terms -- Surety bonds.

(1) Each service area ~~[created by]~~ authorized under this part shall be governed by a board of trustees consisting of three or more members created as provided in this section.

(2) (a) ~~[In the ordinance creating the]~~ Upon the creation of a county service area, the county legislative body may ~~[declare]~~ adopt an ordinance declaring that the county legislative body of the county shall act as the trustees of the service area.

(b) Upon passage of the ordinance, the county legislative body of the county shall act as

trustees of the service area with all the powers, authority, and responsibility vested in the trustees under this part.

(c) (i) The county legislative body, when acting as trustees, may use any existing county offices, officers, or employees for the purposes of the service area.

(ii) The county legislative body shall charge costs of those services to the service area and require them to be paid to the county treasurer for the general fund of the county.

(3) At any time after the creation of a board of trustees as provided in Subsection (1), if no elected board has been established as provided in this section, the county legislative body of the [initiating] county in which the service area is located may:

(a) by ordinance, delegate its powers to an appointed or elected board of trustees as provided in [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures; and

(b) provide for the appointment or election of the board by following the procedures and requirements of [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures.

(4) At any time after the creation of a board of trustees as provided in Subsections (2) and (3), the county legislative body shall hold an election for trustees by following the procedures and requirements of [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures, if:

(a) the county legislative body receives a petition requesting that an election for trustees be held that is:

(i) signed by at least 10% of persons eligible to vote in [~~any~~] an election in [~~any~~] a service area [~~created~~] authorized under this part; and

(ii) filed with the county legislative body at least 30 days before the date set for a bond election or 90 days before the date set for any municipal election; or

(b) territory located within a municipality is annexed into the county service area under Section 17A-2-417.

(5) (a) If there is no elected board of trustees at the time of the first bond election, trustees shall be elected in conjunction with that bond election.

(b) Candidates for election to the board of trustees shall be taxpayers and qualified voters in the service area.

(c) At any time within 30 days after the county legislative body has called a bond election, but not less than 15 days before the day of election, any person who is qualified to vote in the service area may file a signed statement with the county clerk announcing [~~that he is a candidate~~] the person's candidacy to be one of the first elected trustees of the service area.

(d) The board of trustees shall provide a ballot separate from the bond ballot that contains the names of the candidates and blanks in which the voters may write in additional names.

(e) [~~Each~~] A voter at the election may vote for the number of trustee positions to be filled.

(f) The persons receiving the highest number of votes at the election are members of the board of trustees.

(6) (a) Members of the first board of trustees shall serve for two and four year terms, beginning on the first Monday in January after the election.

(b) Initial terms shall be selected by lot and shall be apportioned so that, whenever possible, equal numbers of the board will serve for two years and four years.

(c) After the first election, except for appointments made to fill unexpired terms, the term of each member is four years.

(7) (a) Each member of the board of trustees may vote on all questions, orders, resolutions, and ordinances coming before the board.

(b) Each trustee shall receive total compensation of not more than [~~\$1,500~~] \$2,500 per year as determined by the board of trustees, except that when the county legislative body acts as the board of trustees, no compensation may be paid to them as trustees.

(c) Each trustee who is also a member of the county legislative body shall take the oath of office and shall give the bond that is required by law for members of the county legislative body.

(d) All laws pertinent to the giving and filing of oaths and bonds for members of the county legislative body apply to the trustees.

(e) Trustees who are not members of the county legislative body shall take the oath of office and shall give a bond in the amount, and with the sureties, prescribed by the county legislative body.

(8) All qualified voters in the service area may vote in elections to select trustees and in elections to approve the issuance of bonds.

(9) (a) Following the election or appointment of the first trustees, ~~[any]~~ each elected trustee shall be elected according to the procedures and requirements of ~~[Title 17A,]~~ Chapter 1, Part 3, Special District Board Selection Procedures.

(b) Each trustee shall take office on the first Monday in January following ~~[his]~~ the trustee's election.

(10) Within a reasonable time after their appointment, the trustees shall meet and elect one of their members as chairman and shall appoint a clerk and a treasurer, or a clerk-treasurer.

(11) ~~[All vacancies of]~~ Each vacancy of an elected ~~[trustees]~~ trustee in office shall be filled according to the procedures and requirements of ~~[Title 17A,]~~ Chapter 1, Part 3, Special District Board Selection Procedures.

Section 7. Section **17A-2-412** is amended to read:

17A-2-412. Service area deemed body corporate -- Powers.

~~[On and after the effective date of the ordinance creating]~~ (1) Upon its creation, a county service area ~~[the service area shall be deemed]~~ is a body corporate and politic and a quasi-municipal public corporation ~~[and the]~~.

(2) A county service area ~~[, acting through its board of trustees, shall have the following powers and authority provided by the County Service Area Act]~~ may:

~~[(1) The power to]~~ (a) exercise all powers of eminent domain possessed by counties in Utah in the manner provided by law for the exercise of eminent domain power by counties~~[-];~~

~~[(2) The right to]~~ (b) sue and be sued~~[-];~~

~~[(3) The power to]~~ (c) enter into contracts considered desirable by the board of trustees of the service area to carry out the functions of the service area including~~[-, but without limitation, the power to enter into]~~ contracts with municipal corporations, counties or other public corporations, county service areas or districts~~[-];~~

~~[(4) The power to]~~ (d) impose and collect charges or fees for any commodities, services, or facilities afforded by the service area to its consumers and ~~[to]~~ pledge all or any part of the revenues so derived to the payment of any bonds of the service area, whether the bonds are issued as revenue bonds or as general obligations of the service area~~[-. Where revenue bonds are issued payable solely~~

from the revenue of commodities, services and facilities, the fees and charges imposed shall always be sufficient to carry out the provisions of the resolution authorizing the bonds. The board of trustees may do such things and adopt such regulations necessary to assure the collection and enforcement of all fees and charges imposed. Where more than one commodity, service or facility is furnished to a consumer by the service area, the fees and charges for all commodities, services and facilities may be billed to the consumer in a single bill. All or any of the commodities, services and facilities furnished to a consumer by the service area may be suspended if any fees and charges due the service area are not paid in full when due.];

~~[(5) The power to]~~ (e) sell, lease, mortgage, encumber or otherwise dispose of any properties, including water and water rights, owned by the service area upon such terms and conditions as the board of trustees may determine[-];

~~[(6) The power to]~~ (f) own any and all property or interests in property, including water and water rights, ~~[deemed]~~ that the board of trustees considers necessary or appropriate ~~[by the board of trustees in carrying]~~ to carry out the purposes of the service area and ~~[the power to]~~ acquire ~~[the same]~~ property or interests in property by purchase, lease, gift, devise, or bequest[-];

~~[(7) The right to]~~ (g) request the county executive to utilize any existing county offices, officers, or employees for purposes of the service area when in the opinion of the board of trustees it is advisable to do so; ~~[but in any event, the county executive may charge the service area a reasonable amount for the services rendered, other than for services rendered by the county executive.]~~

~~[(8) The right to]~~ (h) employ officers, employees, and agents ~~[of the service area,]~~ including attorneys, accountants, engineers, and fiscal agents, and ~~[to]~~ fix their compensation~~[-The board of trustees may];~~

(i) (A) require officers and employees charged with the handling of funds to furnish good and sufficient surety bonds; or ~~[the board may]~~

(B) purchase a blanket surety bond for all officers and employees[-];

~~[(9) The right to]~~ (j) fix the times for holding regular meetings[-];

~~[(10) The right to]~~ (k) adopt an official seal[-]; and

~~[(11) The right to]~~ (1) adopt bylaws and regulations for the conduct of its business and affairs.

(3) (a) If the county service area issues revenue bonds payable solely from the revenue of commodities, services, and facilities, the fees and charges imposed shall always be sufficient to carry out the provisions of the resolution authorizing the bonds.

(b) The board of trustees may take necessary action and adopt regulations to assure the collection and enforcement of all fees and charges imposed.

(c) If the county service area furnishes more than one commodity, service, or facility, the board of trustees may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(d) The board of trustees may suspend furnishing commodities, services, or facilities to a consumer if the consumer fails to pay all fees and charges when due.

(4) Except for services rendered by the county executive, a county may charge the county service area a reasonable amount for services rendered pursuant to a request under Subsection (2)(g).

Section 8. Section **17A-2-502** is amended to read:

17A-2-502. Formation -- Time limit.

No drainage district under this part may be formed ~~[under the provisions of this title]~~ after June 30, 1975, but a special [districts] service district for ~~[this purpose]~~ drainage services may be formed under ~~[the provisions of Title 17A, Chapter 2,]~~ Part 13, Utah Special Service District Act.

Section 9. Section **17A-2-508** is amended to read:

17A-2-508. Bonds of supervisors.

~~[After said district has been established by proclamation, and after the members of said board of supervisors have been duly appointed, and before]~~ (1) Before entering upon the duties of ~~[their]~~ office, each ~~[of the members]~~ member of ~~[such]~~ a board of supervisors shall take and subscribe to the constitutional oath of office~~[-, which oath shall be filed]~~ and file it with the county clerk.

(2) Each supervisor shall execute an official bond to the district in such sum as may be fixed and with sureties approved by the county legislative body.

(3) Bonds [herein] provided for in this section shall be in the form prescribed by law for the

official bonds of county officers.

Section 10. Section **17A-2-601** is amended to read:

17A-2-601. Establishment -- Time limit -- Exceptions.

~~[Fire protection districts for the protection of life and property against fire and the elimination of fire hazards in this state are hereby authorized to be established as in this part provided; but no]~~
A fire protection district [shall] under this part may not be established after June 30, 1975, except that fire protection services may be rendered as provided under [the provisions of the] Part 13, Utah Special Service District Act, [the provisions of] Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas, or [the provisions of Chapter 2,] Part 4, County Service Area Act.

Section 11. Section **17A-2-607** is amended to read:

17A-2-607. Legal existence of district -- Powers.

~~[If no appeal is taken to a district court within 30 days from the determination of the county legislative body declaring a fire protection district organized, the creation of the district shall be complete and its legal existence cannot thereafter be questioned by any person by reason of any defect in the proceedings had for the organization thereof.] A fire protection district [thus organized] is [and shall be held and construed to be] a public corporation [within the provisions of the laws of the state of Utah] with all the usual powers that [may now or hereafter be] are specifically conferred by law upon such corporation.~~

Section 12. Section **17A-2-701** is amended to read:

17A-2-701. Certain exemptions -- Entry men.

~~[In the interest of conserving and putting to beneficial use the public waters of the state, and preventing undue waste of such waters, the governor of the state of Utah, upon the recommendation of the executive director of natural resources and the state engineer, or 50 or a majority of owners of lands or holders of title or evidence of title to lands requiring water in any district, may propose the organization of any irrigation district under the provisions of this part, and when so organized such district shall have the powers conferred or that may hereafter be conferred by law upon irrigation districts; provided, that where]~~

(1) If ditches, canals, or reservoirs have been constructed before 1919, ~~[such]~~ those ditches,

canals, reservoirs and franchises, and the lands fully watered [~~thereby~~] by them shall be exempt from the operation of this [law] part, unless [such] the district [~~shall be~~] is formed to purchase, acquire, lease, or rent [such] those ditches, canals, reservoirs and their franchises, or unless [such] the district [~~shall be~~] is formed to make contract with the United States under any federal law[; ~~provided, further, that resident~~].

(2) Resident entrymen upon public lands of the United States, and purchasers of state lands, within the [proposed] district [~~shall be deemed to be the owners of lands or holders of title or evidence of title to lands within the district for the purpose of becoming petitioners for the organization of such irrigation district, and~~] shall share all the privileges and obligations of private landowners within the district, entrymen upon the public lands of the United States to be subject to the terms of the act of Congress approved August 11, 1916, entitled "An Act to Promote Reclamation of Arid Lands."

Section 13. Section **17A-2-702** is amended to read:

17A-2-702. Petition for irrigation district -- Duty of the county legislative body and state engineer -- Creation provisions superseded -- Exception.

(1) For the purpose of establishing an irrigation district as provided by this part, a petition shall be filed with the county legislative body of the county which embraces the largest acreage of the proposed district; said petition shall state that it is the purpose of the petitions to organize an irrigation district under the provisions of this part, and shall state the proposed means of water supply, the name proposed for such district and shall be accompanied by an ownership plat as shown by the county records of the lands to be included in the proposed district; the petition shall pray the county legislative body to request that a water survey and allotment of water for the lands within the proposed district be made, that the land to be included in the proposed district be determined, listed with water allotment and platted, and that the question of final organization of the same be submitted to the vote of landowners within the proposed district; the petition shall be signed by the governor, or if proposed by landowners, by 50 or a majority of such landowners or holders of title or evidence of title to land within the proposed district. If the petition is presented by landowners it must be accompanied by a good and sufficient bond to be approved by the county legislative body in double

the amount of the probable cost of organizing such district inclusive of the cost of water survey and conditioned for the payment of all such costs incurred in said proceeding including the cost of water survey in case said organization shall not be effected; no bond need accompany the petition by the governor. The cost of the water survey, and all other costs incurred upon petition filed by the governor, shall, if organization of the district be not effected, be borne 1/2 by the county or counties in which the proposed district is situated, in proportion to the acreage, and 1/2 by the state of Utah. In case organization of the district is effected, all organizing costs and expenses, including the cost of the water survey, shall be repaid by said district. Upon the filing of such petition with the county legislative body they shall send a certified copy of same to the state engineer of the state of Utah, with a request that the water survey and allotment be made. Thereupon it shall be the duty of the state engineer to cause to be made a water survey of all lands within the district for the purpose of determining and allotting the maximum amounts of water which could be beneficially used on such land; each 40-acre tract or smaller tracts in separate ownership within each such legal subdivision shall be separately surveyed and the allotment made therefor. On completion of said survey and allotment, the state engineer shall file with the county legislative body with which the petition for the said district is filed, his return of survey and report of allotment. Upon receipt of the report and return from the state engineer, the county legislative body shall cause to be published, notice that petition for formation of an irrigation district has been filed, water survey and allotment made, and a date set for the hearing of applications for exclusion and inclusion of lands and revision of allotments. Such notice shall be published once a week for three consecutive weeks, the last publication of which shall be at least one week prior to the date set for hearing, in some newspaper of general circulation published in the county, or if the district embraces lands in more than one county, then in a newspaper of general circulation published in each such county, or if there be no such paper published in any such county or counties, then in some newspaper having general circulation in such county or counties.

(2) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of an irrigation district:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local

Districts, with respect to the creation of an irrigation district; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for annexation to an existing irrigation district.

Section 14. Section **17A-2-803** is amended to read:

17A-2-803. Purpose and corporate existence of districts -- Creation provisions superseded -- Exception.

(1) Metropolitan water districts may be organized hereunder for the purpose of acquiring, appropriating, developing, storing, selling, leasing and distributing water for, and devoting water to, municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical and any and all other beneficial uses, and such district may be formed of the territory included within the corporate boundaries of any one or more municipalities, which need not be contiguous, and may be organized and incorporated and thereafter governed, maintained and operated as herein provided, and when so incorporated shall have and exercise such powers as are herein expressly granted, together with such powers as are reasonably implied herefrom and necessary and proper to carry out the objects and purposes of such incorporated districts. Each such district when so incorporated shall be a separate and independent political corporate entity.

(2) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of a metropolitan water district:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, with respect to the creation of a metropolitan water district; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for annexation to an existing metropolitan water district.

Section 15. Section **17A-2-906** is amended to read:

17A-2-906. Board of trustees -- Appointment -- Number.

(1) (a) Within 30 days after the [~~certificate of incorporation is filed with the lieutenant governor~~] creation of the mosquito abatement district, the county and municipal legislative bodies shall appoint a board of trustees by following the procedures and requirements of [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures.

(b) The board shall consist of one trustee appointed from the district at large by the county legislative body and [of] one trustee appointed by each municipal legislative body within the district.

(c) If the board of trustees consists of less than five members, the county legislative body shall appoint enough additional at large members from a district to make a board of five trustees.

(d) If 75% or more of the lands in the district are wholly within the boundaries of a municipality, that municipal legislative body shall appoint all five members of the board of trustees.

(2) Each trustee appointed by a municipal legislative body shall be a registered voter of the municipality and each trustee appointed by the county legislative body shall be an elector of the district.

Section 16. Section **17A-2-1048** is amended to read:

17A-2-1048. Annexations to or consolidations with municipalities already within district.

Additional municipalities and county areas may be included within or become part of a district by either of the following methods:

(1) If any area is annexed to or consolidated with any municipality which is a part of a district organized under these provisions, the annexed or consolidated area shall by virtue of its annexation or consolidation become part of the district and be taxable in accordance with the provisions of this part to pay the indebtedness of the district outstanding at the time of annexation or consolidation.

(2) The governing body of any municipality or of any county may apply to and obtain from the comptroller of the district a financial statement showing the financial condition of the district, its assets and liabilities, taxable value of taxable property according to the last assessment, and the names of the municipalities and a description of other areas included in the district. After consideration of the statement, the governing body of the municipality or county may apply to the board of directors of the district for consent to annex the municipality or described county area. The board of directors after reasonable notice and public hearing may grant or deny the application and in granting it may fix the terms and conditions upon which the area may be annexed. The action of the board of directors evidenced by order made on motion shall be promptly transmitted to the

governing body or bodies of the entities applying for annexation, which shall promptly submit the proposition of annexation to the qualified electors of the area. Notice of election shall be given by posting or publication. When notice is given by posting, notice shall be posted for at least ten days in three public places in each area to be annexed. When notice is given by publication, notice shall be published at least once ten days before the date fixed for election in a newspaper of general circulation in the municipality and county area. Publication may be made in one newspaper having general circulation in each of the areas sought to be annexed. Notice shall contain the substance of the terms and conditions fixed by the board of directors [~~as provided, and in other respects be in form similar to the notice published to create the district~~]. Elections shall be conducted and returns canvassed by the governing bodies of the areas seeking annexation. If the annexation proposition receives the affirmative vote of a majority of the electors, the governing body of the municipality or county shall certify the election results to the board of directors of the district and a certificate of proceedings shall be made by the secretary of the district and filed with the lieutenant governor. Upon filing the certificate in the office of the lieutenant governor, the municipality or county area shall become an integral part of the district and the taxable property in the municipality or area subject to taxation for the purposes of the district, including the payment of bonds and other obligations of the district at the time authorized or outstanding.

(3) No action to contest the validity of annexation proceedings may be commenced more than three months after the certificate of proceedings is filed with the lieutenant governor.

(4) Upon annexation the annexed area shall have a representative on the board of directors on the same basis as it would have had had it been included in the district as originally organized.

Section 17. Section **17A-2-1404** is amended to read:

17A-2-1404. Establishment of district -- Petition -- Effect of defects.

(1) Before any water conservancy district is established under this part, a petition must be filed in the clerk's office of the court vested with jurisdiction in a county in which all or part of the lands within the proposed water conservancy district are situated.

(2) (a) A petition for the establishment of a water conservancy district situated in a single county must be signed by the following number of owners of land within the county and within the

proposed district:

(i) not fewer than 20% of the owners of land outside the limits of any incorporated city or town; and

(ii) not fewer than 5% of the owners of land within the limits of each incorporated city or town.

(3) A petition for the establishment of a water conservancy district situated in more than one county must be signed by the following number of owners of land within each county and within the proposed district:

(a) not fewer than 10%, or 500, whichever is less, of the owners of land outside the limits of any incorporated city or town; and

(b) not fewer than 5% of the owners of land within the limits of each incorporated city or town.

(4) The property identification number of each tract of land that is owned by a petitioner and is within the proposed water conservancy district must be listed opposite the petitioner's name.

(5) (a) If a petitioner signs a petition, both as owner of land situated within and outside a municipality, the petitioner's name shall be counted only as an owner of land situated outside a municipality.

(b) A signing petitioner is not permitted to withdraw his name after the petition is filed.

(6) A district may not be formed under this part unless the taxable value of land within the proposed district, together with improvements on the land, exceeds \$500,000.

(7) The petition shall set forth:

(a) the proposed name of the district;

(b) that property within the proposed district will be benefited by the accomplishment of the purposes enumerated in Section 17A-2-1403;

(c) a general description of the purpose of the contemplated improvement and of the territory to be included in the proposed district;

(d) a general designation of the district's divisions and the number of directors proposed for each division; and

(e) a request to organize the district by the name proposed.

(8) The description of a water conservancy district's territory, as set forth in the petition, need not be given by metes and bounds or by legal subdivisions, but it must be sufficiently detailed to enable a property owner to ascertain whether his property is within the territory proposed to be organized as a district.

(9) The territory of a proposed water conservancy district:

(a) may include area within an existing water conservancy district; and

(b) need not be contiguous, provided it is so situated that the organization of a single district for the territory described is calculated to promote one or more of the purposes enumerated in Section 17A-2-1403.

(10) (a) No petition with the requisite signatures may be declared void because of alleged defects, but the court may permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or other errors.

(b) Similar petitions or multiple copies of the same petition:

(i) may be filed and together shall be regarded as one petition; and

(ii) if filed prior to the hearing on the first petition, shall be considered by the court to be filed with the first petition.

(11) In determining whether the requisite number of landowners have signed or are considered to have signed the petition, the court shall be governed by the names as they appear upon the tax roll, which is prima facie evidence of land ownership.

(12) All provisions of this part that establish, govern, or state the requirements and procedure for the creation of a water conservancy district:

(a) are superseded by the provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, with respect to the creation of a water conservancy district; and

(b) remain valid to the extent they establish, govern, or state the requirements or procedure for the organization of a subdistrict.

TITLE 17B. LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES

CHAPTER 1. RESERVED

CHAPTER 2. LOCAL DISTRICTS**Part 1. General Provisions**

Section 18. Section **17B-2-101** is enacted to read:

17B-2-101. Definitions.

As used in this chapter, "local district" means a local government entity, created according to the provisions of Part 2, Creation of Local Districts, that is not a general purpose government entity but is a separate legal and corporate entity and a political subdivision of the state, authorized to provide limited services in a defined geographic area, as provided in Part 2, Creation of Local Districts.

Section 19. Section **17B-2-201** is enacted to read:

Part 2. Creation of Local Districts**17B-2-201. Definitions and general provisions.**

(1) As used in this part:

(a) "Applicable area" means:

(i) for a county, the unincorporated area of the county that is included within the proposed local district; or

(ii) for a municipality, the area of the municipality that is included within the proposed local district.

(b) "Municipal" means of or relating to a municipality.

(c) "Municipality" means a city or town.

(d) "Petition" means a petition under Subsection 17B-2-203(1)(a) or (b).

(e) "Political subdivision" means a county, city, town, local district under this chapter, independent special district under Title 17A, Chapter 2, Independent Special Districts, or an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(f) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, an independent special district under Title 17A, Chapter 2, Independent Special Districts, a local district, or any other political subdivision of the state.

(g) "Property owner petition" means a petition under Subsection 17B-2-203(1)(a).

(h) "Property owner request" means a request under Section 17B-2-204 that is signed by owners of real property as provided in Subsection 17B-2-204(2)(b)(i).

(i) "Registered voter petition" means a petition under Subsection 17B-2-203(1)(b).

(j) "Registered owner request" means a request under Section 17B-2-204 that is signed by registered voters as provided in Subsection 17B-2-204(2)(b)(ii).

(k) "Request" means a request as described in Section 17B-2-204.

(l) "Responsible body" means the legislative body of:

(i) the municipality in which the proposed local district is located, if the petition proposes the creation of a local district located entirely within a single municipality;

(ii) the county in which the proposed local district is located, if the petition proposes the creation of a local district located entirely within a single county and all or part of the proposed local district is located within:

(A) the unincorporated part of the county; or

(B) more than one municipality within the county; or

(iii) if the petition proposes the creation of a local district located within more than one county, the county whose boundaries include more of the area of the proposed local district than is included within the boundaries of any other county.

(m) "Responsible clerk" means the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body.

(n) "Unincorporated" means not included within a municipality.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and

(b) the value of private real property shall be determined according to the last assessment before the filing of the request or petition, as determined by:

(i) the county under Title 59, Chapter 2, Part 3, County Assessment, for property subject to assessment by the county;

(ii) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of Property, for property subject to assessment by the State Tax Commission; or

(iii) the county, for all other property.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage of the total private land area within the proposed local district to sign a request, petition, or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage unless the request or petition is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that reasonably substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Section 20. Section **17B-2-202** is enacted to read:

17B-2-202. Local district may be created -- Services that may be provided --

Limitations -- Name.

(1) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(a) the operation of an airport;

(b) the operation of a cemetery;

(c) the operation of a system for the generation or distribution of electricity;

(d) the operation of a system for the transmission of natural or manufactured gas that is:

(i) 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; and

(ii) to be used to facilitate gas utility service within the district if such gas utility service is not available within the district prior to the acquisition or construction of such a system;

(e) fire protection;

(f) garbage collection and disposal;

(g) health care;

(h) the operation of a library;

(i) abatement or control of mosquitos and other insects;

(j) the operation of parks or recreation facilities;

(k) the operation of a sewage system;

(l) street lighting;

(m) the construction and maintenance of curb, gutter, and sidewalk;

(n) transportation;

(o) the operation of a system for the control of storm or flood waters;

(p) the operation of an irrigation water system;

(q) the operation of a culinary water system; or

(r) the underground installation of an electric utility line or the conversion to underground of an existing electric utility line.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including:

(i) for a sewage system, collection and treatment;

(ii) for an irrigation or culinary water system, collection, retention, treatment, and distribution to either the end user or another that in turn distributes to the end user.

(3) (a) Except as provided in Subsection (3)(b), a local district may be created to provide and may after its creation provide no more than two of the services listed in Subsection (1).

(b) Notwithstanding Subsection (3)(a), a local district may be created to provide and may after its creation provide services consisting of:

(i) the operation of some or all of the components of a sewage system;

(ii) the operation of some or all of the components of an irrigation water system; and

(iii) the operation of some or all of the components of a culinary water system.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service already being provided to that area by another political subdivision.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system;

(ii) irrigation water system; or

(iii) culinary water system.

(5) The area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(6) The name of a local district:

(a) may include words descriptive of the type of service provided by the local district; and

(b) may not include the name of a county or municipality.

Section 21. Section **17B-2-203** is enacted to read:

17B-2-203. Process to initiate the creation of a local district -- Petition or resolution.

(1) The process to create a local district may be initiated by:

(a) subject to Section 17B-2-204, a petition signed by the owners of private real property that:

- (i) is located within the proposed local district;
- (ii) covers at least 33% of the total private land area within the proposed local district as a whole and within each applicable area;
- (iii) is equal in value to at least 25% of the value of all private real property within the proposed local district as a whole and within each applicable area; and
- (iv) complies with the requirements of Subsection 17B-2-205(1) and Section 17B-2-208;
- (b) subject to Section 17B-2-204, a petition that:
 - (i) is signed by registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and
 - (ii) complies with the requirements of Subsection 17B-2-205(1) and Section 17B-2-208; or
 - (c) a resolution proposing the creation of a local district, adopted by the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed local district.
- (2) (a) Each resolution under Subsection (1)(c) shall:
 - (i) describe the area proposed to be included in the proposed local district;
 - (ii) be accompanied by a map that shows the boundaries of the proposed local district;
 - (iii) describe the service proposed to be provided by the proposed local district;
 - (iv) explain the anticipated method of paying the costs of providing the proposed service;

and

 - (v) state the estimated average financial impact on a household within the proposed local district.
- (b) Each county or municipal legislative body adopting a resolution under Subsection (1)(c) shall, on or before the first public hearing under Section 17B-2-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same local district.

Section 22. Section **17B-2-204** is enacted to read:

17B-2-204. Request for service required before filing of petition -- Request requirements.

(1) A petition may not be filed until after:

(a) a request has been filed with:

(i) the clerk of each county in whose unincorporated area any part of the proposed local district is located; and

(ii) the clerk or recorder of each municipality in which any part of the proposed local district is located; and

(b) each county and municipality with which a request under Subsection (1)(a) is filed:

(i) has adopted a resolution under Subsection 17B-2-212(1) indicating whether it will provide the requested service; or

(ii) is considered to have declined to provide the requested service under Subsection 17B-2-212(2) or (3).

(2) Each request under Subsection (1)(a) shall:

(a) ask the county or municipality to provide the service proposed to be provided by the proposed local district within the applicable area; and

(b) be signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 10% of the total private land area within the applicable area; and

(C) is equal in value to at least 7% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.

(3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing

of a petition shall be considered to be part of that municipality.

Section 23. Section **17B-2-205** is enacted to read:

17B-2-205. Petition and request requirements -- Withdrawal of signature.

(1) Each petition and request shall:

(a) indicate the typed or printed name and current residence address of each property owner or registered voter signing the petition;

(b) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition;

(c) describe the entire area of the proposed local district;

(d) be accompanied by a map showing the boundaries of the entire proposed local district;

(e) specify the service proposed to be provided by the proposed local district; and

(f) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:

(a) in the case of a request:

(i) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request; or

(ii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

(b) in the case of a petition, the responsible clerk.

Section 24. Section **17B-2-206** is enacted to read:

17B-2-206. Request certification -- Amended request.

(1) Within 30 days after the filing of a request, the clerk of each county and the clerk or recorder of each municipality with which a request was filed shall:

(a) with the assistance of other county or municipal officers from whom the clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether

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

(b) (i) if the clerk or recorder determines that the request complies with the requirements:

(A) certify the request and deliver it to the legislative body of the county or municipality, as the case may be; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk or recorder determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) If the clerk or recorder fails to certify or reject a request within 30 days after its filing, the request shall be considered to be certified.

(3) Each county clerk or municipal clerk or recorder shall certify or reject requests in the order in which they are filed.

(4) (a) If the county clerk or municipal clerk or recorder rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a request that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the request as amended under Subsection (4)(a).

(5) Each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Section 25. Section **17B-2-207** is enacted to read:

17B-2-207. Signature on request may be used on petition.

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

(1) if the request notifies the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition to create a local district; and

(2) unless the signer files a written withdrawal of the signature before the petition is filed.

Section 26. Section **17B-2-208** is enacted to read:

17B-2-208. Additional petition requirements and limitations.

(1) Each petition shall:

(a) be filed with the responsible clerk; and

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the proposed local district are grouped separately.

(2) (a) A petition may not propose the creation of a local district that includes an area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-2-212(1) indicating that the county or municipality will provide to that area the service proposed to be provided by the proposed local district.

(b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-2-212(3).

(c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a local district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-2-212, it will provide the requested service.

(3) A petition may not propose the creation of a local district whose area includes:

(a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-2-202(4)(b):

(i) proposes the creation of a local district to provide the same service as proposed by the later filed petition; and

(ii) is still pending at the time the later petition is filed; or

(b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed local district.

(4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-2-212(1) or is considered to

have declined to provide the requested service under Subsection 17B-2-212(2) or (3).

Section 27. Section **17B-2-209** is enacted to read:

17B-2-209. Petition certification -- Amended petition.

(1) Within five days after the filing of a petition, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed local district is located.

(2) (a) Within 35 days after the filing of a petition, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed local district shall:

(i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-2-203(1)(a) or (b), as the case may be, and Subsections 17B-2-208(2), (3), and (4); and

(ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).

(b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).

(3) Within 45 days after the filing of a petition, the responsible clerk shall:

(a) determine whether the petition complies with Subsection 17B-2-203(1)(a) or (b), as the case may be, Subsection 17B-2-205(1), and Section 17B-2-208; and

(b) (i) if the responsible clerk determines that the petition complies with the applicable requirements:

(A) certify the petition and deliver the certified petition to the responsible body;

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the responsible clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(4) If the responsible clerk fails to certify or reject a petition within 45 days after its filing, the petition shall be considered to be certified.

(5) The responsible clerk shall certify or reject petitions in the order in which they are filed.

(6) (a) If the responsible clerk rejects a petition under Subsection (3)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (3)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).

(c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection (3)(b)(ii), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

(7) The responsible clerk and each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Section 28. Section **17B-2-210** is enacted to read:

17B-2-210. Public hearing.

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

(2) Each public hearing under Subsection (1) shall be held:

(a) no later than 45 days after:

(i) for a public hearing on a request, certification of a request under Subsection 17B-2-206(1)(b)(i); or

(ii) for a public hearing on a resolution, adoption of a resolution under Subsection 17B-2-203(1)(c);

(b) within the proposed local district;

(c) except as provided in Subsections (6) and (7), within the applicable area; and

(d) for the purpose of:

(i) for a public hearing on a request, allowing public input on:

(A) whether the requested service is needed in the area of the proposed local district;

(B) whether the service should be provided by the county or municipality or the proposed local district; and

(C) all other matters relating to the request or the proposed local district; or

(ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the legislative body of each county or municipality holding the hearing regarding the issues contained in or raised by the resolution.

(3) A quorum of the legislative body of each county or municipal legislative body holding a public hearing under this section shall be present throughout each hearing held by that county or municipal legislative body.

(4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.

(5) At the beginning and end of each hearing concerning a resolution, the legislative body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.

(7) Notwithstanding Subsection (2)(c), a county or municipal legislative body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

Section 29. Section **17B-2-211** is enacted to read:

17B-2-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-2-210, the legislative body of each county or municipality with which a request is filed or that adopts a

resolution under Subsection 17B-2-203(1)(c) shall:

(a) (i) except as provided in Subsection (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area; or

(ii) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post at least one notice per 1,000 population of that area, at places within the area that are most likely to provide actual notice to residents of the area; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

(2) Each published notice under Subsection (1)(a) shall:

(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(b) if possible, appear in a newspaper that is published at least one day per week;

(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;

(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and

(e) be run at least once each week for two successive weeks, with the final publication being no less than three and no more than ten days before the hearing or the first of the set of hearings.

(3) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each county or municipal legislative body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(4) County or municipal legislative bodies may jointly provide the notice required under this

section if all the requirements of this section are met as to each notice.

Section 30. Section **17B-2-212** is enacted to read:

17B-2-212. Resolution indicating whether the requested service will be provided.

(1) Within 60 days after the last hearing required under Section 17B-2-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed local district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed local district within its boundaries the service proposed to be provided by the proposed local district.

(2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested.

(3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.

(4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service shall diligently proceed to take all measures necessary to provide the service.

Section 31. Section **17B-2-213** is enacted to read:

17B-2-213. Protest after adoption of resolution.

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk or municipal clerk or recorder, as the case may be, within 60 days after the last public hearing required under Section 17B-2-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the adoption of the resolution.

(2) If adequate protests are filed, the county or municipal legislative body that adopted a resolution under Subsection 17B-2-203(1)(c):

(a) may not:

(i) hold or participate in an election under Subsection 17B-2-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-2-203(1)(c) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days of receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(3) Subsection (2)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

Section 32. Section **17B-2-214** is enacted to read:

17B-2-214. Election.

(1) (a) Except as provided under Subsection 17B-2-213(2)(a), an election on the question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located,

in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-2-209(3)(b)(i); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-2-210.

(3) The election requirement of Subsection (1) does not apply:

(a) to a petition filed under Subsection 17B-2-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area; or

(b) to a petition filed under Subsection 17B-2-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition.

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Elections.

Section 33. Section **17B-2-215** is enacted to read:

17B-2-215. Certification to lieutenant governor -- Certificate of incorporation -- Notice to State Tax Commission and state auditor -- Local district incorporated -- Incorporation presumed conclusive.

(1) The responsible body shall file a notice with the lieutenant governor within ten days after:

(a) the canvass of an election under Section 17B-2-214, if a majority of those voting at the election within the proposed local district as a whole vote in favor of the creation of a local district;

or

(b) certification of a petition as to which the election requirement of Subsection 17B-2-214(1) does not apply because of Subsection 17B-2-214(3).

(2) In each notice under Subsection (1) the responsible body shall:

(a) if the notice follows an election under Section 17B-2-214:

(i) certify the results of the election; and

(ii) describe the boundaries of the new local district; and

(b) certify that all requirements for the creation of a local district have been complied with.

(3) (a) Within ten days after receiving the notice under Subsection (1), the lieutenant governor shall issue a certificate of incorporation for the new local district and send a copy of the certificate to the responsible body.

(b) The area of each local district declared to be incorporated by a certificate of incorporation issued under this section shall consist of:

(i) if an election was held under Section 17B-2-214, the area of the new local district as approved at the election; or

(ii) if an election was not required because of Subsection 17B-2-214(3), the area of the

proposed local district as described in the petition.

(4) (a) Within 30 days after receiving a certificate of incorporation under Subsection (3), the responsible body shall file a written notice of the creation of the local district with the State Tax Commission and the state auditor.

(b) Each notice to the State Tax Commission under Subsection (4)(a) shall be accompanied by:

(i) a copy of the lieutenant governor's certificate of incorporation; and

(ii) a map showing the boundaries of the local district, prepared and certified by a licensed surveyor.

(5) Upon the lieutenant governor's issuance of the certificate of incorporation, the local district is created and incorporated.

(6) A local district shall be conclusively presumed to be lawfully incorporated if no challenge to the existence or incorporation of the local district is filed in district court within 90 days after the lieutenant governor issues a certificate of incorporation.

Section 34. Section **17B-2-216** is enacted to read:

17B-2-216. Costs and expenses of creating local district.

(1) Except as provided in Subsection (2), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed local district shall bear their respective costs and expenses associated with the procedure under this part for creating a local district.

(2) Within a year after its creation, each local district shall reimburse the costs and expenses associated with the preparation and certification of the map of the local district under Subsection 17B-2-215(3)(b)(ii).

Section 35. Section **17B-2-216.1** is enacted to read:

17B-2-216.1. Limitation on initiating process to create local district.

Notwithstanding any other provision of this part and except as provided in Section 17A-2-101, the process to create a local district under this part may not be initiated before May 3, 1999.

Section 36. Repealer.

This act repeals:

Section 17A-2-804, Organization -- Ordinance.

Section 17A-2-805, Copies to be mailed.

Section 17A-2-806, Approval or rejection.

Section 17A-2-807, Resolution forwarded -- Preliminary expenses.

Section 17A-2-808, Call for election.

Section 17A-2-809, Election districts.

Section 17A-2-816, Incorporation -- Certificate -- Date effective.

Section 17A-2-817, Validity.

Section 17A-2-902, Creation of district -- Minimum population.

Section 17A-2-903, Petition -- Signers -- Contents -- Publication.

Section 17A-2-904, Petition -- Hearing -- Notice.

Section 17A-2-905, Findings -- When incorporation complete.

Section 17A-2-1005, Organization and incorporation -- Contents of ordinance.

Section 17A-2-1006, Certified copy of ordinance -- Duty to mail.

Section 17A-2-1007, Approval or rejection of ordinance.

Section 17A-2-1008, Area-wide election to be held.

Section 17A-2-1009, Ordinances calling for election -- Contents.

Section 17A-2-1010, Ordinances calling for election -- Publication.

Section 17A-2-1011, Ballot -- Contents.

Section 17A-2-1012, Results of election -- Taxable value of approving areas to be considered -- Public interest must be served.

Section 17A-2-1013, Certification to lieutenant governor.

Section 17A-2-1014, Certificate of incorporation -- Copies to municipalities and counties.

Section 17A-2-1015, Validity of incorporation of district.

Section 17A-2-1403, District courts vested with jurisdiction to establish districts --

Limitation of powers.Section 37. **Effective date.**

(1) If approved by two-thirds of all the members elected to each house, this act, except as provided in Subsection (2), takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The repeal of Section 17A-2-1403 shall take effect on September 15, 1998.

Section 38. **Coordination clause.**

If this bill and 1st Sub. H.B. 194, Amendments to County Improvement Districts for Water Services, both pass, it is the intent of the Legislature that, after both bills take effect:

(1) the amendments in this bill to Subsections 17A-2-301(1) and (2)(b) and (c) shall supersede the amendments to those subsections in 1st Sub. H.B. 194;

(2) Subsection 17A-2-301(4) in this bill shall be retained;

(3) the amendments in 1st Sub. H.B. 194 to Subsection 17A-2-301(2)(a) shall supersede the amendments to that subsection in this bill, except that the word "created" shall be bracketed;

(4) Subsection 17A-2-301(2)(d) in 1st Sub. H.B. 194 shall be retained; and

(5) Subsection 17A-2-301(3) shall read:

"(3) [~~Where any~~] If an improvement district [is created] authorized under this part was created solely for the purpose of acquiring a system for the collection, retention, or disposition of storm and flood waters, the county legislative body [creating] that created the district may, in its discretion and despite anything to the contrary in Section 17A-2-305, act as the board of trustees of the district for so long as it considers desirable."