

**RECODIFICATION OF SPECIAL DISTRICTS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: R. Mont Evans**

AN ACT RELATING TO LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES.

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

ENACTS:

**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

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

**TITLE 17B. LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES**

**CHAPTER 1. RESERVED**

**CHAPTER 2. SERVICE DISTRICTS**

**Part 1. Reserved**

**Part 2. Creation**

Section 1. Section **17B-2-201** is enacted to read:

**17B-2-201. Definitions.**

(1) As used in this part:

(a) "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, a special district under Title 17A, Special Districts, or any other political subdivision or governmental entity

1 of the state.

2 (b) "Responsible body" means:

3 (i) the legislative body of the municipality in which the proposed service district is located,  
4 if the request or petition proposes the creation of a service district located entirely within a single  
5 municipality;

6 (ii) the legislative body of the county in which the proposed service district is located, if  
7 the request or petition proposes the creation of a service district located entirely within a single  
8 county and all or part of the proposed service district is located;

9 (A) within the unincorporated part of the county; or

10 (B) within more than one municipality within the county; and

11 (iii) the legislative body of the county whose boundaries include more of the area of the  
12 proposed service district than is included within the boundaries of any other county, if the  
13 proposed service district is located within more than one county.

14 (c) "Unincorporated" means not included within a municipality.

15 (2) For purposes of this part:

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

18 (b) the value of private real property shall be determined according to the last assessment  
19 roll for county taxes before the filing of the request or petition.

20 (3) For purposes of each provision of this part that requires the owners of private real  
21 property covering a percentage of the total private land area within an area to sign a request or  
22 petition:

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

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

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

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

31 (i) the person's representative capacity and the name of the owner the person represents

1 are indicated on the request or petition with the person's signature; and

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

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

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

7 **17B-2-202. Service district may be created.**

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

10 (a) the operation of an airport;

11 (b) the operation of a cemetery;

12 (c) the drainage of land;

13 (d) the operation of a system for the generation and distribution of electricity;

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

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

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

19 (f) fire protection;

20 (g) flood control;

21 (h) garbage and refuse collection and disposal;

22 (i) health care;

23 (j) the operation of a library;

24 (k) mosquito abatement;

25 (l) the operation of parks and recreation facilities;

26 (m) the operation of a system for the collection, treatment, and disposition of sewage;

27 (n) street lighting;

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

29 (p) transportation;

30 (q) the operation of a system for the collection, retention, and disposition of storm and  
31 flood waters;

1 (r) the operation of a system for the supply and distribution of irrigation water; or

2 (s) the operation of a system for the supply, treatment, and distribution of culinary water.

3 (2) For purposes of this section, "operation" includes all aspects of providing the indicated  
4 service including acquisition of property and acquisition, construction, and maintenance of  
5 facilities.

6 (3) A service district may be created to provide and may after its creation provide no more  
7 than two of the services listed in Subsections (1)(a) through (s).

8 (4) A service district may not be created to provide to an area a service already being  
9 provided to that area by another service district, a special district under Title 17A, Chapter 2,  
10 Independent Special Districts, a county, or a city or town.

11 Section 3. Section **17B-2-203** is enacted to read:

12 **17B-2-203. Process to initiate the creation of a service district.**

13 Subject to Section 17B-2-204, the process to create a service district is initiated by:

14 (1) a petition signed by the owners of private real property that:

15 (a) is located within the proposed service district;

16 (b) covers at least 50% of the total private land area within the proposed service district;

17 and

18 (c) is equal in value to at least 33% of the value of all private real property within the  
19 proposed service district;

20 (2) a petition signed by registered voters residing within the proposed service district equal  
21 in number to at least 50% of the number of votes cast in the proposed service district for the office  
22 of governor at the last regular general election prior to the filing of the petition;

23 (3) if the proposed service district is located entirely within the boundaries of one or more  
24 municipalities, by resolution of the legislative body of each municipality whose boundaries include  
25 some or all of the proposed service district;

26 (4) if the proposed service district is located entirely within the unincorporated area of one  
27 or more counties, by resolution of the legislative body of each county whose boundaries include  
28 some or all of the proposed service district; or

29 (5) if the proposed service district is located partly within the unincorporated area of one  
30 or more counties and partly within the boundaries of one or more municipalities, by resolution of  
31 the legislative body of each county and municipality whose boundaries include any of the

1 proposed service district.

2 Section 4. Section **17B-2-204** is enacted to read:

3 **17B-2-204. Request to county or municipality to provide services -- Procedure.**

4 (1) (a) A petition may not be filed under Subsection 17B-2-203(1) or (2) until each county  
5 and municipality in which any part of the proposed service district is located has declined, under  
6 the procedure provided in this section, to provide the service or services proposed to be provided  
7 by the service district.

8 (b) For purposes of Subsection (1)(a), an area proposed to be annexed to a municipality  
9 in a petition previously filed under Section 10-2-403 and still pending at the time of filing of a  
10 petition under Subsection 17B-2-203(1) or (2) shall be considered to be part of that municipality.

11 (2) A request to a county or municipality to provide the service or services proposed to be  
12 provided by the proposed service district shall:

13 (a) be signed by:

14 (i) the owners of private real property that:

15 (A) is located within the proposed service district;

16 (B) covers at least 10% of the total private land area within the proposed service district;

17 and

18 (C) is equal in value to at least 7% of the value of all private real property within the  
19 proposed service district; or

20 (ii) registered voters residing within the proposed service district equal in number to at  
21 least 10% of the number of votes cast in the proposed service district for the office of governor at  
22 the last general election prior to the filing of the request; and

23 (b) comply with the requirements of Subsection 17B-2-205(1).

24 (3) (a) Within 60 days of certification of a request under Section 17B-2-206 and subject  
25 to Subsection (3)(b), the responsible body shall hold a public hearing within:

26 (i) the unincorporated part of each county that has unincorporated territory included within  
27 the proposed service district; and

28 (ii) each municipality that has territory included within the proposed service district.

29 (b) Each hearing required under Subsection (3)(a) shall be held within the proposed service  
30 district.

31 (4) (a) (i) Within 60 days of the last hearing required under Subsection (3), the legislative

1 body of each county with all or part of the proposed service district within its unincorporated  
2 territory and the legislative body of each municipality with all or part of the proposed service  
3 district within its boundaries shall adopt a resolution indicating whether the county or municipality  
4 will provide to the area of the proposed service district the service or services proposed to be  
5 provided by the proposed service district.

6 (ii) If the legislative body of a county or municipality fails to adopt a resolution within the  
7 time provided under Subsection (4)(a)(i), the county or municipal legislative body shall be  
8 considered to have declined to provide the service or services requested.

9 (b) If the county or municipality adopts a resolution under Subsection (4)(a) indicating that  
10 it will provide the requested service or services but has not, within one year of the adoption of that  
11 resolution, taken substantial measures to provide the requested service or services, the county or  
12 municipal legislative body shall be considered to have declined to provide the requested service  
13 or services.

14 Section 5. Section **17B-2-205** is enacted to read:

15 **17B-2-205. Request and petition requirements.**

16 (1) Each petition under Subsection 17B-2-203(1) or (2) and each request under Subsection  
17 17B-2-204(2) shall:

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

20 (b) describe the area proposed to be included within the proposed service district;

21 (c) specify the service or services proposed to be provided by the proposed service district;

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

24 (e) be filed with:

25 (i) the clerk or recorder of the municipality in which the proposed service district is  
26 located, if all of the proposed service district is located within a single municipality;

27 (ii) the clerk of the county in which the proposed service district is located, if:

28 (A) all of the proposed service district is located within that county; and

29 (B) all or part of the proposed service district is located:

30 (I) within the unincorporated part of the county; or

31 (II) within more than one municipality within the county; or

1 (iii) the clerk of the county whose boundaries include more of the area of the proposed  
2 service district than is included within the boundaries of any other county, if the proposed service  
3 district is located within more than one county.

4 (2) A petition under Subsection 17B-2-203(1) or (2) may not propose the creation of a  
5 service district whose area includes:

6 (a) some or all of an area described in a petition previously filed under Subsection  
7 17B-2-203(1) or (2) that:

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

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

11 (b) some or all of an area within a county, a city or town, a special district under Title 17A,  
12 Chapter 2, Independent Special Districts, or a service district under this title, that provides in that  
13 area the same service or services proposed to be provided by the service district that is the subject  
14 of the petition.

15 (3) A petition under Subsection 17B-2-203(1) or (2) may not be filed more than 12 months  
16 after the county or municipal legislative body declines or is considered to have declined to provide  
17 the requested service or services under Subsection 17B-2-204(4).

18 (4) A signature on a request under Subsection 17B-2-204(2) may be used toward fulfilling  
19 the signature requirement of a petition under Subsection 17B-2-203(1) or (2):

20 (a) if the request under Subsection 17B-2-204(2) notified the signer in conspicuous  
21 language that the signature, unless withdrawn, would also be used for purposes of a petition to  
22 create a service district under Subsection 17B-2-203(1) or (2); and

23 (b) unless the signer files a written withdrawal of the signature before the petition under  
24 Subsection 17B-2-203(1) or (2) is filed.

25 Section 6. Section **17B-2-206** is enacted to read:

26 **17B-2-206. Request and petition certification -- Amended request or petition.**

27 (1) Within 30 days of the filing of a request or petition, the county clerk or municipal clerk  
28 or recorder, as the case may be, shall:

29 (a) with the assistance of other county or municipal officers from whom the county clerk  
30 or municipal clerk or recorder requests assistance, determine whether the request or petition  
31 complies with:

1 (i) in the case of a request, Subsections 17B-2-204(2) and 17B-2-205(1); or

2 (ii) in the case of a petition, Subsections 17B-2-203(1) or (2), as the case may be, and  
3 Subsections 17B-2-204(1) and 17B-2-205(1) and (2); and

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

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

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

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

12 (2) The county clerk or municipal clerk or recorder shall certify or reject:

13 (a) requests filed under Subsection 17B-2-204(2) in the order in which they are filed; and

14 (b) petitions filed under Subsection 17B-2-203(1) or (2) in the order in which they are  
15 filed.

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

19 (ii) A valid signature on a request or petition that was rejected under Subsection (1)(b)(ii)  
20 may be used toward fulfilling the applicable signature requirement of the request or petition as  
21 amended under Subsection (3)(a)(i).

22 (b) If a request or petition is amended and refiled under Subsection (3)(a) after having been  
23 rejected by the county clerk or municipal clerk or recorder under Subsection (1)(b)(ii), the  
24 amended request or petition shall be considered as newly filed, and its processing priority is  
25 determined by the date on which it is refiled.

26 Section 7. Section **17B-2-207** is enacted to read:

27 **17B-2-207. Hearing -- Petition -- Election.**

28 (1) (a) Within 60 days of certification of a petition under Section 17B-2-206 or adoption  
29 of a resolution under Subsections 17B-2-203(3), (4), or (5) and subject to Subsection (1)(b), the  
30 responsible body shall hold a public hearing within:

31 (i) the unincorporated part of each county that has unincorporated territory included within



1 the proposed service district; and

2 (ii) each municipality that has territory included within the proposed service district.

3 (b) Each hearing required under Subsection (1)(a) shall be held within the proposed service  
4 district.

5 (2) At the next special or general election date more than 45 days after the last hearing  
6 required under Subsection (1) and except as provided under Section 17B-2-208, the responsible  
7 body shall hold an election on the question of whether the service district should be created.

8 (3) The hearing requirement of Subsection (1) and the election requirement of Subsection  
9 (2) do not apply:

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

12 (i) is located within the proposed service district;

13 (ii) covers at least 67% of the total private land area within the proposed service district;

14 and

15 (iii) is equal in value to at least 50% of the value of all private real property within the  
16 proposed service district; and

17 (b) to a petition filed under Subsection 17B-2-203(2) if it contains the signatures of  
18 registered voters residing within the proposed service district equal in number to at least 67% of  
19 the number of votes cast in the proposed service district for the office of governor at the last  
20 general election prior to the filing of the petition.

21 Section 8. Section **17B-2-208** is enacted to read:

22 **17B-2-208. Protest after adoption of resolution.**

23 (1) A county or municipal legislative body that adopts a resolution under Subsection  
24 17B-2-203(3), (4), or (5) may not hold an election under Subsection 17B-2-207(2) or pursue any  
25 further efforts to create a service district providing the same service or services as proposed to be  
26 provided by the proposed service district if, within 90 days of the adoption of the resolution,  
27 written protests are filed with the county clerk or municipal clerk or recorder, as the case may be,  
28 signed by:

29 (a) the owners of private real property that:

30 (i) is located within the proposed service district;

31 (ii) covers at least 25% of the total private land area within the proposed service district;

1 and  
2 (iii) is equal in value to at least 15% of the value of all private real property within the  
3 proposed service district; or  
4 (b) registered voters residing within the proposed service district equal in number to at  
5 least 25% of the number of votes cast in the proposed service district for the office of governor at  
6 the last general election prior to the adoption of the resolution.  
7 (2) If a county or municipality is prevented from creating a service district by written  
8 protests under Subsection (1), the county or municipality may not adopt a resolution under  
9 Subsection 17B-2-203(3), (4), or (5) for a period of two years.

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**Legislative Review Note**  
**as of 11-25-97 10:39 AM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Political Subdivisions Interim Committee recommended this bill.