

Senator R. Mont Evans proposes to substitute the following bill:

RECODIFICATION OF SPECIAL DISTRICTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

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

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

15 AMENDS:

16 **17A-2-202**, as last amended by Chapter 227, Laws of Utah 1993

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

18 **17A-2-402**, as last amended by Chapter 21, Laws of Utah 1997

19 **17A-2-403**, as renumbered and amended by Chapter 186, Laws of Utah 1990

20 **17A-2-411**, as last amended by Chapter 21, Laws of Utah 1997

21 **17A-2-412**, as last amended by Chapter 227, Laws of Utah 1993

22 **17A-2-502**, as last amended by Chapter 273, Laws of Utah 1991

23 **17A-2-508**, as last amended by Chapter 227, Laws of Utah 1993

24 **17A-2-601**, as renumbered and amended by Chapter 186, Laws of Utah 1990

SB0080S3

- 1 **17A-2-607**, as last amended by Chapter 227, Laws of Utah 1993
- 2 **17A-2-701**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 3 **17A-2-702**, as last amended by Chapter 322, Laws of Utah 1997
- 4 **17A-2-803**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 5 **17A-2-906**, as last amended by Chapter 273, Laws of Utah 1991
- 6 **17A-2-1048**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 7 **17A-2-1404**, as last amended by Chapter 10, Laws of Utah 1997

8 ENACTS:

- 9 **17A-2-101**, Utah Code Annotated 1953
- 10 **17B-2-101**, Utah Code Annotated 1953
- 11 **17B-2-201**, Utah Code Annotated 1953
- 12 **17B-2-202**, Utah Code Annotated 1953
- 13 **17B-2-203**, Utah Code Annotated 1953
- 14 **17B-2-204**, Utah Code Annotated 1953
- 15 **17B-2-205**, Utah Code Annotated 1953
- 16 **17B-2-206**, Utah Code Annotated 1953
- 17 **17B-2-207**, Utah Code Annotated 1953
- 18 **17B-2-208**, Utah Code Annotated 1953
- 19 **17B-2-209**, Utah Code Annotated 1953
- 20 **17B-2-210**, Utah Code Annotated 1953
- 21 **17B-2-211**, Utah Code Annotated 1953
- 22 **17B-2-212**, Utah Code Annotated 1953
- 23 **17B-2-213**, Utah Code Annotated 1953
- 24 **17B-2-214**, Utah Code Annotated 1953
- 25 **17B-2-215**, Utah Code Annotated 1953
- 26 **17B-2-216**, Utah Code Annotated 1953
- 27 **17B-2-216.1**, Utah Code Annotated 1953

28 REPEALS:

- 29 **17A-2-804**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 30 **17A-2-805**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 31 **17A-2-806**, as renumbered and amended by Chapter 186, Laws of Utah 1990

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

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

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

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

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

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

17 (b) If application of the provisions of Title 17B, Chapter 2, Part 2, Creation of Local
18 Districts, results in the creation of an independent special district before the governing body of that
19 district, under the applicable provisions of this chapter, takes office, the responsible body, as
20 defined in Subsection 17B-2-201(1)(l), shall be the governing body of the district until the
21 governing body takes office under the applicable provisions of this chapter.

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

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

26 **17A-2-202. Creation and organization of district.**

27 (1) If the owners of at least 55% of the taxable value of lands and not less than 55% of the
28 total land area aggregating not less than 3,000 acres of contiguous territory or consisting of
29 contiguous territory of less extent but having a taxable value of at least \$500,000 at the last
30 preceding county assessment, desire to provide for the organization of the territory as a cemetery
31 maintenance district, none of their lands being included within the boundaries of an already created

1 and organized cemetery maintenance district under the terms of this part, the district may be
 2 created and organized as provided in this part. For purposes of this section, the taxable value of
 3 the property within the proposed district shall be determined from the last assessment roll for ad
 4 valorem taxes completed prior to the submission of the petition to the county legislative body.

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

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

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

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

12 **17A-2-301. Improvement district authority -- Area -- Creation provisions superseded**
 13 **-- Exception.**

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

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

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

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

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

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

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

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

30 (b) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas
 31 corporation regulated under Section 54-4-1 and not by the district.

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

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

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

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

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

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

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

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

22 **17A-2-402. Legislative intent.**

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

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

28 ~~[(3)]~~ (1) The Legislature finds that the ~~[necessity]~~ need for ~~[establishing these]~~ county
29 service areas is a result of the growth in unincorporated areas of some counties. As a result of the
30 large population growth and intensive residential, commercial, and industrial development in
31 unincorporated areas, extended governmental services are needed.

1 ~~[(4)]~~ (2) The Legislature recognizes the duty of counties as instruments of state
2 government to meet adequately the needs of unincorporated areas, and also recognizes that
3 unincorporated areas should pay for the extended services provided.

4 ~~[(5)]~~ (3) The Legislature recognizes that the services provided by a county service area
5 may also be extended to incorporated areas of the county at the request of the municipality and
6 pursuant to procedures set forth in this part.

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

8 **17A-2-403. Services which may be supplied by a county service area -- Creation**
9 **provisions superseded -- Exception.**

10 (1) Whenever an unincorporated area in a county requires one or more of the following
11 extended services which are not provided on a countywide basis: extended police protection; fire
12 protection; culinary or irrigation water retail service; water conservation; local park, recreation or
13 parkway facilities and services; cemeteries; public libraries; sewers, sewage and storm water
14 treatment and disposal; flood control; garbage and refuse collection; street lighting; airports;
15 planning and zoning; local streets and roads; curb, gutter and sidewalk construction and
16 maintenance; mosquito abatement; health department services; hospital service, such services may
17 be supplied by a county service area. If the provision of said services shall require the issuance
18 of bonds or the creation of long-term obligations said services may be supplied by means available
19 at law as herein provided.

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

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

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

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

27 **17A-2-411. Board of trustees -- Selection procedures -- Terms -- Surety bonds.**

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

30 (2) (a) ~~[In the ordinance creating the]~~ Upon the creation of a county service area, the
31 county legislative body may ~~[declare]~~ adopt an ordinance declaring that the county legislative body

1 of the county shall act as the trustees of the service area.

2 (b) Upon passage of the ordinance, the county legislative body of the county shall act as
3 trustees of the service area with all the powers, authority, and responsibility vested in the trustees
4 under this part.

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) At any time within 30 days after the county legislative body has called a bond election,

1 but not less than 15 days before the day of election, any person who is qualified to vote in the
2 service area may file a signed statement with the county clerk announcing [that he is a candidate]
3 the person's candidacy to be one of the first elected trustees of the service area.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Special District Board Selection Procedures.

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

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

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

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

10 **17A-2-412. Service area deemed body corporate -- Powers.**

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

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

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

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

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

23 [(4) ~~The power to~~] (d) impose and collect charges or fees for any commodities, services,
24 or facilities afforded by the service area to its consumers and [~~to~~] pledge all or any part of the
25 revenues so derived to the payment of any bonds of the service area, whether the bonds are issued
26 as revenue bonds or as general obligations of the service area [~~. Where revenue bonds are issued~~
27 payable solely from the revenue of commodities, services and facilities, the fees and charges
28 imposed shall always be sufficient to carry out the provisions of the resolution authorizing the
29 bonds. The board of trustees may do such things and adopt such regulations necessary to assure
30 the collection and enforcement of all fees and charges imposed. Where more than one commodity,
31 service or facility is furnished to a consumer by the service area, the fees and charges for all

1 commodities, services and facilities may be billed to the consumer in a single bill. All or any of
 2 the commodities, services and facilities furnished to a consumer by the service area may be
 3 suspended if any fees and charges due the service area are not paid in full when due.];

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

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

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

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

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

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

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

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

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

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

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

31 (c) If the county service area furnishes more than one commodity, service, or facility, the

1 board of trustees may bill for the fees and charges for all commodities, services, and facilities in
2 a single bill.

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

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

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

9 **17A-2-502. Formation -- Time limit.**

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

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

14 **17A-2-508. Bonds of supervisors.**

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

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

22 (3) Bonds [~~herein~~] provided for in this section shall be in the form prescribed by law for
23 the official bonds of county officers.

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

25 **17A-2-601. Establishment -- Time limit -- Exceptions.**

26 [~~Fire protection districts for the protection of life and property against fire and the~~
27 ~~elimination of fire hazards in this state are hereby authorized to be established as in this part~~
28 ~~provided; but no~~] A fire protection district [~~shall~~] under this part may not be established after June
29 30, 1975, except that fire protection services may be rendered as provided under [~~the provisions~~
30 ~~of the~~] Part 13, Utah Special Service District Act, [~~the provisions of~~] Title 17, Chapter 34,
31 Municipal-Type Services to Unincorporated Areas, or [~~the provisions of Chapter 2,~~] Part 4, County

1 Service Area Act.2 Section 11. Section **17A-2-607** is amended to read:3 **17A-2-607. Legal existence of district -- Powers.**

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

11 Section 12. Section **17A-2-701** is amended to read:12 **17A-2-701. Certain exemptions -- Entrymen.**

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

20 (1) If ditches, canals, or reservoirs have been constructed before 1919, [such] those
21 ditches, canals, reservoirs and franchises, and the lands fully watered [thereby] by them shall be
22 exempt from the operation of this [law] part, unless [such] the district [shall be] is formed to
23 purchase, acquire, lease or rent [such] those ditches, canals, reservoirs and their franchises, or
24 unless [such] the district [shall be] is formed to make contract with the United States under any
25 federal law[; provided, further, that resident].

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

1 Reclamation of Arid Lands."

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

3 **17A-2-702. Petition for irrigation district -- Duty of the county legislative body and**
4 **state engineer -- Creation provisions superseded -- Exception.**

5 (1) For the purpose of establishing an irrigation district as provided by this part, a petition
6 shall be filed with the county legislative body of the county which embraces the largest acreage
7 of the proposed district; said petition shall state that it is the purpose of the petitions to organize
8 an irrigation district under the provisions of this part, and shall state the proposed means of water
9 supply, the name proposed for such district and shall be accompanied by an ownership plat as
10 shown by the county records of the lands to be included in the proposed district; the petition shall
11 pray the county legislative body to request that a water survey and allotment of water for the lands
12 within the proposed district be made, that the land to be included in the proposed district be
13 determined, listed with water allotment and platted, and that the question of final organization of
14 the same be submitted to the vote of landowners within the proposed district; the petition shall be
15 signed by the governor, or if proposed by landowners, by 50 or a majority of such landowners or
16 holders of title or evidence of title to land within the proposed district. If the petition is presented
17 by landowners it must be accompanied by a good and sufficient bond to be approved by the county
18 legislative body in double the amount of the probable cost of organizing such district inclusive of
19 the cost of water survey and conditioned for the payment of all such costs incurred in said
20 proceeding including the cost of water survey in case said organization shall not be effected; no
21 bond need accompany the petition by the governor. The cost of the water survey, and all other
22 costs incurred upon petition filed by the governor, shall, if organization of the district be not
23 effected, be borne 1/2 by the county or counties in which the proposed district is situated, in
24 proportion to the acreage, and 1/2 by the state of Utah. In case organization of the district is
25 effected, all organizing costs and expenses, including the cost of the water survey, shall be repaid
26 by said district. Upon the filing of such petition with the county legislative body they shall send
27 a certified copy of same to the state engineer of the state of Utah, with a request that the water
28 survey and allotment be made. Thereupon it shall be the duty of the state engineer to cause to be
29 made a water survey of all lands within the district for the purpose of determining and allotting the
30 maximum amounts of water which could be beneficially used on such land; each 40-acre tract or
31 smaller tracts in separate ownership within each such legal subdivision shall be separately

1 surveyed and the allotment made therefor. On completion of said survey and allotment, the state
2 engineer shall file with the county legislative body with which the petition for the said district is
3 filed, his return of survey and report of allotment. Upon receipt of the report and return from the
4 state engineer, the county legislative body shall cause to be published, notice that petition for
5 formation of an irrigation district has been filed, water survey and allotment made, and a date set
6 for the hearing of applications for exclusion and inclusion of lands and revision of allotments.
7 Such notice shall be published once a week for three consecutive weeks, the last publication of
8 which shall be at least one week prior to the date set for hearing, in some newspaper of general
9 circulation published in the county, or if the district embraces lands in more than one county, then
10 in a newspaper of general circulation published in each such county, or if there be no such paper
11 published in any such county or counties, then in some newspaper having general circulation in
12 such county or counties.

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

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

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

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

20 **17A-2-803. Purpose and corporate existence of districts -- Creation provisions**
21 **superseded -- Exception.**

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

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

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

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

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

8 **17A-2-906. Board of trustees -- Appointment -- Number.**

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

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

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

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

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

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

25 **17A-2-1048. Annexations to or consolidations with municipalities already within**
26 **district.**

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

29 (1) If any area is annexed to or consolidated with any municipality which is a part of a
30 district organized under these provisions, the annexed or consolidated area shall by virtue of its
31 annexation or consolidation become part of the district and be taxable in accordance with the

1 provisions of this part to pay the indebtedness of the district outstanding at the time of annexation
2 or consolidation.

3 (2) The governing body of any municipality or of any county may apply to and obtain
4 from the comptroller of the district a financial statement showing the financial condition of the
5 district, its assets and liabilities, taxable value of taxable property according to the last assessment,
6 and the names of the municipalities and a description of other areas included in the district. After
7 consideration of the statement, the governing body of the municipality or county may apply to the
8 board of directors of the district for consent to annex the municipality or described county area.
9 The board of directors after reasonable notice and public hearing may grant or deny the application
10 and in granting it may fix the terms and conditions upon which the area may be annexed. The
11 action of the board of directors evidenced by order made on motion shall be promptly transmitted
12 to the governing body or bodies of the entities applying for annexation, which shall promptly
13 submit the proposition of annexation to the qualified electors of the area. Notice of election shall
14 be given by posting or publication. When notice is given by posting, notice shall be posted for at
15 least ten days in three public places in each area to be annexed. When notice is given by
16 publication, notice shall be published at least once ten days before the date fixed for election in a
17 newspaper of general circulation in the municipality and county area. Publication may be made
18 in one newspaper having general circulation in each of the areas sought to be annexed. Notice
19 shall contain the substance of the terms and conditions fixed by the board of directors [as provided,
20 and in other respects be in form similar to the notice published to create the district]. Elections
21 shall be conducted and returns canvassed by the governing bodies of the areas seeking annexation.
22 If the annexation proposition receives the affirmative vote of a majority of the electors, the
23 governing body of the municipality or county shall certify the election results to the board of
24 directors of the district and a certificate of proceedings shall be made by the secretary of the district
25 and filed with the lieutenant governor. Upon filing the certificate in the office of the lieutenant
26 governor, the municipality or county area shall become an integral part of the district and the
27 taxable property in the municipality or area subject to taxation for the purposes of the district,
28 including the payment of bonds and other obligations of the district at the time authorized or
29 outstanding.

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

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

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

4 **17A-2-1404. Establishment of district -- Petition -- Effect of defects.**

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

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

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

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

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

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

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

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

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

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

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

30 (7) The petition shall set forth:

31 (a) the proposed name of the district;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) remain valid to the extent they establish, govern, or state the requirements or procedure

1 for the organization of a subdistrict.

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

3 **CHAPTER 1. RESERVED**

4 **CHAPTER 2. LOCAL DISTRICTS**

5 **Part 1. General Provisions**

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

7 **17B-2-101. Definitions.**

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

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

14 **Part 2. Creation of Local Districts**

15 **17B-2-201. Definitions and general provisions.**

16 (1) As used in this part:

17 (a) "Applicable area" means:

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

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

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

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

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

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

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

1 district, or any other political subdivision of the state.

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

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

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

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

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

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

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

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

15 (A) the unincorporated part of the county; or

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

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

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

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

23 (2) For purposes of this part:

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

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

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

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

1 (iii) the county, for all other property.

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

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

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

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

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

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

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

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

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

20 **17B-2-202. Local district may be created -- Services that may be provided --**

21 **Limitations -- Name.**

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

24 (a) the operation of an airport;

25 (b) the operation of a cemetery;

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

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

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

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

- 1 (e) fire protection;
- 2 (f) garbage collection and disposal;
- 3 (g) health care;
- 4 (h) the operation of a library;
- 5 (i) abatement or control of mosquitos and other insects;
- 6 (j) the operation of parks or recreation facilities;
- 7 (k) the operation of a sewage system;
- 8 (l) street lighting;
- 9 (m) the construction and maintenance of curb, gutter, and sidewalk;
- 10 (n) transportation;
- 11 (o) the operation of a system for the control of storm or flood waters;
- 12 (p) the operation of an irrigation water system; or
- 13 (q) the operation of a culinary water system.

14 (2) For purposes of this section:

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

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

- 21 (i) for a sewage system, collection and treatment;
- 22 (ii) for an irrigation or culinary water system, collection, retention, treatment, and
23 distribution to either the end user or another that in turn distributes to the end user.

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

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

- 29 (i) the operation of some or all of the components of a sewage system;
- 30 (ii) the operation of some or all of the components of an irrigation water system; and
- 31 (iii) the operation of some or all of the components of a culinary water system.

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

4 (b) For purposes of Subsection (4)(a), a local district does not provide the same service
5 as another political subdivision if it:

6 (i) operates a component of a system that is different from a component operated by
7 another political subdivision but within the same:

8 (A) sewage system;

9 (B) irrigation water system; or

10 (C) culinary water system.

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

13 (6) The name of a local district:

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

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

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

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

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

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

21 (i) is located within the proposed local district;

22 (ii) covers at least 33% of the total private land area within the proposed local district as
23 a whole and within each applicable area;

24 (iii) is equal in value to at least 25% of the value of all private real property within the
25 proposed local district as a whole and within each applicable area; and

26 (iv) complies with the requirements of Subsection 17B-2-205(1) and Section 17B-2-208;

27 (b) subject to Section 17B-2-204, a petition that:

28 (i) is signed by registered voters residing within the proposed local district as a whole and
29 within each applicable area, equal in number to at least 33% of the number of votes cast in the
30 proposed local district as a whole and in each applicable area, respectively, for the office of
31 governor at the last regular general election prior to the filing of the petition; and

1 (ii) complies with the requirements of Subsection 17B-2-205(1) and Section 17B-2-208;

2 or

3 (c) a resolution proposing the creation of a local district, adopted by the legislative body
4 of each county whose unincorporated area includes and each municipality whose boundaries
5 include any of the proposed local district.

6 (2) (a) Each resolution under Subsection (1)(c) shall:

7 (i) describe the area proposed to be included in the proposed local district;

8 (ii) be accompanied by a map that shows the boundaries of the proposed local district;

9 (iii) describe the service proposed to be provided by the proposed local district;

10 (iv) explain the anticipated method of paying the costs of providing the proposed service;

11 and

12 (v) state the estimated average financial impact on a household within the proposed local
13 district.

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

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

20 **17B-2-204. Request for service required before filing of petition -- Request**
21 **requirements.**

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

23 (a) a request has been filed with:

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

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

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

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

31 (ii) is considered to have declined to provide the requested service under Subsection

1 17B-2-212(2) or (3).

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

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

5 (b) be signed by:

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

7 (A) is located within the proposed local district;

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

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

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

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

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

18 **17B-2-205. Petition and request requirements -- Withdrawal of signature.**

19 (1) Each petition and request shall:

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

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

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

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

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

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

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

1 (a) in the case of a request:

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

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

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

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

8 **17B-2-206. Request certification -- Amended request.**

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

11 (a) with the assistance of other county or municipal officers from whom the clerk or
12 recorder requests assistance, determine, for the clerk or recorder's respective county or
13 municipality, whether the request complies with the requirements of Subsections 17B-2-204(2)
14 and 17B-2-205(1); and

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

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

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

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

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

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

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

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

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

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

4 **17B-2-207. Signature on request may be used on petition.**

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

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

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

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

11 **17B-2-208. Additional petition requirements and limitations.**

12 (1) Each petition shall:

13 (a) be filed with the responsible clerk; and

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

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

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

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

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

30 (a) some or all of an area described in a previously filed petition that, subject to Subsection
31 17B-2-202(4)(b):

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

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

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

6 (4) A petition may not be filed more than 12 months after a county or municipal legislative
7 body declines to provide the requested service under Subsection 17B-2-212(1) or is considered to
8 have declined to provide the requested service under Subsection 17B-2-212(2) or (3).

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

10 **17B-2-209. Petition certification -- Amended petition.**

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

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

17 (i) with the assistance of other county or municipal officers from whom the county clerk
18 or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective
19 county or municipality, whether the petition complies with the requirements of Subsection
20 17B-2-203(1)(a) or (b), as the case may be, and Subsections 17B-2-208(2), (3), and (4); and

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

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

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

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

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

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

1 (B) mail or deliver written notification of the certification to the contact sponsor; or
2 (ii) if the responsible clerk determines that the petition fails to comply with any of the
3 applicable requirements, reject the petition and notify the contact sponsor in writing of the
4 rejection and the reasons for the rejection.

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

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

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

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

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

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

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

20 **17B-2-210. Public hearing.**

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

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

26 (a) no later than 45 days after:

27 (i) for a public hearing on a request, certification of a request under Subsection
28 17B-2-206(1)(b)(i); or

29 (ii) for a public hearing on a resolution, adoption of a resolution under Subsection
30 17B-2-203(1)(c);

31 (b) within the proposed local district;

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

2 (d) for the purpose of:

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **17B-2-211. Notice of public hearings -- Publication of resolution.**

29 (1) Before holding a public hearing or set of public hearings under Section 17B-2-210, the
30 legislative body of each county or municipality with which a request is filed or that adopts a
31 resolution under Subsection 17B-2-203(1)(c) shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (4) County or municipal legislative bodies may jointly provide the notice required under
29 this section if all the requirements of this section are met as to each notice.

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

31 **17B-2-212. Resolution indicating whether the requested service will be provided.**

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

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

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

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

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

18 **17B-2-213. Protest after adoption of resolution.**

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

20 (a) filed with the county clerk or municipal clerk or recorder, as the case may be, within
21 60 days after the last public hearing required under Section 17B-2-210; and

22 (b) signed by:

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

24 (A) is located within the proposed local district;

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

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

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

31 (2) If adequate protests are filed, the county or municipal legislative body that adopted a

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

2 (a) may not:

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

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

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

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

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

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

16 **17B-2-214. Election.**

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

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

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

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

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

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

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

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

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

6 (i) is located within the proposed local district;

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

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

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

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

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

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

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

25 **17B-2-215. Certification to lieutenant governor -- Certificate of incorporation --**
26 **Notice to State Tax Commission and state auditor -- Local district incorporated --**
27 **Incorporation presumed conclusive.**

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

30 (a) the canvass of an election under Section 17B-2-214, if a majority of those voting at the
31 election within at least one applicable area vote in favor of the creation of a local district; or

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

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

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

5 (i) certify the results of the election; and

6 (ii) describe each applicable area in which a majority of those voting voted in favor of the
7 creation of a local district; and

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

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

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

14 (i) if an election was held under Section 17B-2-214, each applicable area for which a
15 majority of those voting voted in favor of the creation of a local district; or

16 (ii) if an election was not required because of Subsection 17B-2-214(3), the area of the
17 proposed local district as described in the petition.

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

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

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

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

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

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

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

1 **17B-2-216. Costs and expenses of creating local district.**

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

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

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

10 **17B-2-216.1. Limitation on initiating process to create local district.**

11 Notwithstanding any other provision of this part and except as provided in Section
12 17A-2-101, the process to create a local district under this part may not be initiated before May
13 3, 1999.

14 Section 36. **Repealer.**

15 This act repeals:

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

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

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

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

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

21 Section **17A-2-809, Election districts.**

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

23 Section **17A-2-817, Validity.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Section 17A-2-1403, District courts vested with jurisdiction to establish districts --
11 Limitation of powers.

12 Section 37. Effective date.

13 If approved by two-thirds of all the members elected to each house, this act takes effect
14 upon approval by the governor, or the day following the constitutional time limit of Utah
15 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
16 date of veto override.

17 Section 38. Coordination clause.

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

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

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

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

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

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

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