

1 **GENERAL GOVERNMENT AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Trisha S. Beck**

5 AN ACT RELATING TO SPECIAL DISTRICTS; PROVIDING FOR A PROCEDURE IN
6 DISTRICT COURT FOR WITHDRAWING MUNICIPAL TERRITORY FROM A
7 METROPOLITAN WATER DISTRICT; AND MAKING TECHNICAL CHANGES.

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

9 AMENDS:

10 **17A-2-842**, as last amended by Chapter 322, Laws of Utah 1997

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

12 Section 1. Section **17A-2-842** is amended to read:

13 **17A-2-842. Withdrawal from district.**

14 [Any] (1) (a) A municipality [~~whose corporate area has become or~~] that is a part of [any]
15 a metropolitan water district may withdraw [~~therefrom in the following manner:~~] from the district
16 as provided in this Subsection (1).

17 (b) The [~~governing~~] legislative body of [~~any such~~] a municipality that is part of a
18 metropolitan water district may submit to the [~~electors thereof~~] voters of the municipality at any
19 general or special election the proposition of withdrawing from [any] the metropolitan water
20 district [~~incorporated thereunder~~].

21 (c) Notice of such election shall be given in the manner provided in Subsection
22 17A-2-841(3)(e). [~~Such~~]

23 (d) Each election under this Subsection (1) shall be conducted and the returns [~~thereof~~]
24 canvassed in the manner provided by law for the conduct of municipal elections [~~in said city~~]. [~~In~~
25 ~~the event that the~~]

26 (e) If a majority of [~~the electors~~] those voting [~~thereon~~] on the withdrawal vote in favor
27 of [~~such~~] withdrawal, the result [~~thereof~~] shall be certified by the [~~governing~~] municipal legislative

28 body ~~[of such municipality]~~ to the board of directors of the district.

29 (f) (i) A certificate of the proceedings [hereunder] shall be made by the secretary of the
30 district and filed with the lieutenant governor, and upon the filing of such certificate the area of
31 the municipality so withdrawing shall be excluded from the [said] metropolitan water district, and
32 shall no longer be a part [thereof; provided, however, that] of it.

33 (ii) Notwithstanding Subsection (1)(f)(i), the property within the [said] municipality [as
34 it shall exist] at the time of [such] the exclusion shall continue taxable for the purpose of paying
35 [said] bonded and other indebtedness outstanding or contracted for, at the time of [such] the
36 exclusion and until such bonded or other indebtedness [shall have] has been satisfied.

37 (2) (a) Notwithstanding Subsection (1), an area that is a portion of a municipality and is
38 also located within a municipal water district may be withdrawn from the district as provided in
39 this Subsection (2).

40 (b) (i) The process to withdraw an area from a metropolitan water district under this
41 Subsection (2) is initiated by filing a petition with the district court for the county in which the area
42 proposed to be withdrawn is located.

43 (ii) Each petition under Subsection (2)(b)(i) shall:

44 (A) be signed by the owners of a majority of the property within the area proposed to be
45 withdrawn;

46 (B) request that the area be withdrawn from the metropolitan water district;

47 (C) state the reasons for the requested withdrawal;

48 (D) be accompanied by a map of the area proposed to be withdrawn; and

49 (E) designate up to five persons empowered to act for the petitioners in the proceedings
50 initiated by the petition.

51 (c) Upon the filing of a petition under Subsection (2)(b), the court shall cause a notice of
52 the filing:

53 (i) to be served upon the board of directors of the metropolitan water district in the same
54 manner as a summons in a civil action; and

55 (ii) to be published in a newspaper of general circulation in the metropolitan water district
56 for a period of ten days.

57 (d) The issues raised by a petition under Subsection (2)(b) shall be tried as provided in the
58 Utah Rules of Civil Procedure as in a civil action.

59 (e) Any person interested in the issues raised by the petition, including members of the
60 board of directors or another authorized representative of the metropolitan water district, may
61 appear and contest the granting of the petition.

62 (f) (i) The court shall appoint three disinterested persons as commissioners if the court
63 finds that:

64 (A) the petition complies with the requirements of Subsection (2)(b)(ii);

65 (B) the allegations of the petition are true; and

66 (C) at the time the petition was filed, the metropolitan water district was not furnishing
67 service to the area proposed to be withdrawn.

68 (ii) The commissioners shall establish terms of withdrawal with respect to:

69 (A) liabilities of the metropolitan water district that have been incurred while the area
70 proposed to be withdrawn has been a part of the district; and

71 (B) the rights between the metropolitan water district and the area to be withdrawn.

72 (iii) For purposes of determining whether the petition complies with the signature
73 requirements of Subsection (2)(b)(ii)(A):

74 (A) the owner of real property shall be the record title owner according to the records of
75 the county recorder on the date of the filing of the petition;

76 (B) the signature of a person signing a petition in a representative capacity on behalf of an
77 owner is invalid unless the person's representative capacity and the name of the owner the person
78 represents are indicated on the petition with the person's signature;

79 (C) subject to Subsection (2)(f)(iii)(B), a duly appointed personal representative may sign
80 a petition on behalf of a deceased owner; and

81 (D) a parcel of real property may not be included in the calculation of the required amount
82 of property unless:

83 (I) except as provided in Subsection (2)(f)(iii)(D)(II), the petition is signed by owners
84 representing a majority ownership interest in that parcel; or

85 (II) for property owned in joint tenancy or tenancy by the entirety, the petition is signed
86 by at least 50% of the owners of that parcel.

87 (g) The commissioners appointed under Subsection (2)(f)(i) shall:

88 (i) schedule and hold a hearing to allow those representing the metropolitan water district
89 and those representing the petition signers to present information relating to the issues for which

90 the commissioners have responsibility; and

91 (ii) as soon as practicable after the hearing, report their findings to the court.

92 (h) After the commissioners have filed their report, the court may:

93 (i) accept the report or, for good cause, modify the report and, subject to Subsection (2)(i),

94 enter its decree in accordance with the report or modified report; or

95 (ii) reject the report and appoint new commissioners to proceed as provided in Subsection

96 (2)(g).

97 (i) Each court decree under this Subsection (2) shall provide that:

98 (i) the property in the withdrawn area shall remain taxable for paying its share of the
99 general obligation bonds of the metropolitan water district outstanding at the time of the filing of
100 the petition until the bonds are paid in full;

101 (ii) except as provided in Subsection (2)(i)(iii), the property in the withdrawn area shall
102 be relieved of all other taxes and charges, including taxes and charges for the payment of revenue
103 bonds and maintenance and operation costs of the metropolitan water district; and

104 (iii) notwithstanding Subsection (2)(i)(ii), if the metropolitan water district has outstanding
105 revenue bonds on the date of the filing of the petition, the withdrawn area shall be taxable only to
106 the extent and in those years that it becomes necessary to levy a tax on the withdrawn area to pay
107 the withdrawn area's proportionate share of the amount necessary to forestall or prevent a default
108 in the payment of principal or interest on those revenue bonds.

109 (j) (i) The court may order the county legislative body to levy taxes from time to time on
110 the property within the withdrawn area as required under Subsection (2)(i)(i).

111 (ii) The county legislative body shall levy taxes on the withdrawn area as ordered by the
112 court, and the county treasurer shall collect those taxes in the same manner as other taxes on
113 property in the county.

114 (k) (i) Upon the court entering a decree withdrawing an area from a metropolitan water
115 district, the court clerk shall file a certified copy of the decree and of the map of the withdrawn
116 area in the office of the recorder of the county in which the withdrawn area is located.

117 (ii) The area shall be considered withdrawn upon the filing of the certified copy of the
118 decree and map under Subsection (2)(k)(i).

119 (l) Each party to a withdrawal proceeding under this Subsection (2) shall pay the party's
120 own witness fees, and the petitioners shall pay all other costs.

Legislative Review Note
as of 2-7-00 9:57 AM

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

Office of Legislative Research and General Counsel