

CREATION OF LOCAL DISTRICTS § AND SPECIAL DISTRICTS §

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO LOCAL DISTRICTS AND SPECIAL DISTRICTS; EXTENDING THE DATE BEFORE WHICH A LOCAL DISTRICT MAY NOT BE CREATED; CLARIFYING THE EFFECT OF THAT PROHIBITION ON THE CREATION OF SPECIFIED SPECIAL DISTRICTS; § **ESTABLISHING A CONCLUSIVE PRESUMPTION FOR CERTAIN SPECIAL DISTRICTS**; § REPEALING OBSOLETE LANGUAGE; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

17A-2-101, as enacted by Chapter 368, Laws of Utah 1998

17B-2-217, as last amended by Chapter 13, Laws of Utah 1999

§ **ENACTS:**

17A-2-103, Utah Code Annotated 1953 §

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

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

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

(1) (a) Beginning [~~the effective date of this section~~] March 23, 1998, the creation of a special district under Part 2, Cemetery Maintenance Districts, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, Part 4, County Service Area Act, Part 7, Irrigation Districts, Part 8, Metropolitan Water District Act, Part 9, Mosquito Abatement Districts, and Part 10, Utah Public Transit District Act, shall[~~, except as provided under Subsection (2)(a),~~] be governed by Title 17B, Chapter 2, Part 2, Creation of Local Districts, [~~except Section 17B-2-217,~~] in the same manner as if a local district under Title 17B, Chapter 2, Local Districts, were proposed to be created.

(b) Beginning September 15, 1998, the creation of a special district under Part 14, Water Conservancy Districts, shall[~~, except as provided under Subsection (2)(b),~~] be governed by Title 17B, Chapter 2, Part 2, Creation of Local Districts, [~~except Section 17B-2-217,~~] in the same

28 manner as if a local district under Title 17B, Chapter 2, Local Districts, were proposed to be
29 created.

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

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

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

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

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

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

44 (2) Subsection 17B-2-217(1) does not prohibit the creation of one of the types of
45 independent special districts listed in Subsection (1) under the creation provisions of Title 17B,
46 Chapter 2, Part 2, Creation of Local Districts.

47 (3) The provisions of Title 17B, Chapter 2, Part 2, Creation of Local Districts, do not apply
48 to an independent special district under this chapter created before ~~[the effective date of this~~
49 ~~section]~~ March 23, 1998.

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

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

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

61a **§ Section 2. Section 17A-2-103 is enacted to read:**

61b **17A-2-103. Conclusive presumption regarding creation and existence.**

61c **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDEPENDENT SPECIAL
 DISTRICT**

61d **UNDER THIS CHAPTER CREATED ON OR AFTER MAY 4, 1999 SHALL BE CONCLUSIVELY
 61e PRESUMED TO HAVE BEEN LAWFULLY CREATED AND EXISTING IF:**

61f **(1) FOR TWO YEARS FOLLOWING THE DISTRICT'S CREATION:**

61g **(a) THE DISTRICT HAS:**

61h **(i) LEVIED AND COLLECTED A TAX; OR**

61i **(ii) COLLECTED A FEE, CHARGE, ASSESSMENT, OR TAX INCREMENT FOR A COMMODITY,
 61j SERVICE, FACILITY, OR IMPROVEMENT PROVIDED BY THE DISTRICT; AND**

61k **(b) NO CHALLENGE HAS BEEN FILED IN COURT TO THE EXISTENCE OR CREATION OF THE
 61l DISTRICT; AND**

61m **(2) THE DISTRICT HAS COMPLIED WITH SUBSECTIONS 17A-1-102(1) AND 17A-1-504(1). §**

62 Section ~~§ [2]~~ **3** § . Section 17B-2-217 is amended to read:

63 **17B-2-217. Limitation on initiating process to create local district.**

64 (1) Notwithstanding any other provision of this part [and except as provided in Section
 65 17A-2-101], the process to create a local district under this part may not be initiated before [May
 66 2, 2000] June 1, 2001.

67 (2) Subsection (1) does not prohibit the creation of one of the types of independent special
 68 districts listed in Subsection 17A-2-101(1) under the provisions of this part.

Legislative Review Note

as of 1-24-00 7:24 AM

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

Office of Legislative Research and General Counsel