

**LIEUTENANT GOVERNOR CERTIFICATION OF
SPECIAL DISTRICT AND LOCAL DISTRICT
ANNEXATIONS, WITHDRAWALS, AND DISSOLUTIONS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies special district and local district provisions to provide a procedure for lieutenant governor certification of annexations, withdrawals, and dissolutions for certain special districts and for local districts. The act requires the appropriate local body to send notice of the annexation, withdrawal, or dissolution to the lieutenant governor and requires the lieutenant governor to issue a certificate of annexation, withdrawal, or dissolution and to send a copy of the applicable certificate to specified state and local agencies. The act also makes technical changes.

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

AMENDS:

17A-1-102, as enacted by Chapter 337, Laws of Utah 1998

17A-2-1311, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1327, as last amended by Chapter 322, Laws of Utah 1997

17A-2-1329, as renumbered and amended by Chapter 186, Laws of Utah 1990

17B-2-512, as enacted by Chapter 90, Laws of Utah 2001

17B-2-514, as enacted by Chapter 90, Laws of Utah 2001

17B-2-515, as enacted by Chapter 90, Laws of Utah 2001

17B-2-516, as enacted by Chapter 90, Laws of Utah 2001

17B-2-610, as enacted by Chapter 284, Laws of Utah 2002

17B-2-708, as enacted by Chapter 90, Laws of Utah 2001

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

Section 1. Section **17A-1-102** is amended to read:

17A-1-102. Notice to State Tax Commission -- Tax rate on new property included in the special district.

(1) ~~[(a)]~~ Except as provided in Subsection ~~[(1)(b);]~~ (5):

(a) the legislative body of each county, city, or town that creates a special district on or after May 4, 1998, shall, within 60 days of the special district's creation, file a written notice of the creation with the State Tax Commission~~[-]; and~~

~~(b) [Notwithstanding Subsection (1)(a);]~~ the board of each special district created on or after May 4, 1998, shall, within 60 days of the special district's creation, file a written notice of the creation with the State Tax Commission, if the special district was created by other than a county, city, or town.

(2) ~~[The]~~ Except as provided in Subsection (5), the board of each special district whose boundaries change through annexation, consolidation, or any other means, shall, within 60 days of the change, file a written notice of the change with the State Tax Commission.

(3) Each written notice required under Subsection (1) or (2) shall:

(a) be accompanied by:

(i) a copy of the ordinance, resolution, or other document that effectuated the creation of the special district or the boundary change; and

(ii) a map or plat that delineates a metes and bounds description of the area affected and evidence that the information has been recorded by the county recorder; and

(b) contain a certification by the legislative body of the county, city, or town or the special district board, as the case may be, that all necessary legal requirements relating to the creation or boundary change have been completed.

(4) Property included in a newly created special district or added to a special district through a boundary change shall carry the tax rate imposed by the special district if the notice required under Subsection (1) is filed with the State Tax Commission no later than December 31 of the year during which the creation or boundary change occurs.

(5) Subsections (1), (2), and (3) do not apply to:

(a) special service districts created under Chapter 2, Part 13, Utah Special Service District Act; and

(b) any of the types of independent special districts listed under Subsection

17A-2-101(1).

Section 2. Section **17A-2-1311** is amended to read:

17A-2-1311. Adoption of resolution -- Notice to lieutenant governor -- Certification by lieutenant governor -- Judicial review.

(1) (a) After conclusion of the hearing, and after the time for filing protests as provided in Section 17A-2-1309 has expired, the governing authority shall adopt a resolution either ~~[establishing the]~~ approving the establishment of the special service district or determining that the proposal to establish it should be abandoned.

(b) A resolution ~~[establishing a]~~ approving the establishment of a special service district may contain any changes from the initial resolution or notice of intention the governing authority determines to be appropriate, including reduction of the boundaries of the special service district and elimination of one or more of the types of services proposed.

(c) The boundaries of the special service district may not be increased nor additional types of services added, unless the governing authority gives a new notice of intention and holds a new hearing.

(d) All or a part of the area of an abandoned special service district may be included in a new special service district established in the manner provided in this part.

(2) (a) Within 90 days after adopting a resolution approving the establishment of a special service district under Subsection (1), the governing authority shall file a notice with the lieutenant governor.

(b) Each notice under Subsection (2)(a) shall:

(i) be accompanied by:

(A) a copy of the resolution adopted by the governing authority approving the establishment of the special service district; and

(B) a map showing the boundaries of the special service district, prepared and certified by a licensed surveyor; and

(ii) include a certification by the governing authority that all requirements for the establishment of a special service district have been complied with.

(c) Within ten days after receiving the notice under Subsection (2)(a), the lieutenant governor shall:

(i) issue a certificate of incorporation for the new special service district and send a copy of the certificate to the governing authority, the State Tax Commission, and the state auditor; and

(ii) send a copy of the notice under Subsection (2)(a), including the accompanying map, to the State Tax Commission.

(d) Upon the lieutenant governor's issuance of the certificate of incorporation, the special service district is created and incorporated.

~~[(2)]~~ (3) After a special service district is established, a person may petition the district court for a writ of review of the actions of the governing authority in establishing the district if:

(a) (i) the person filed a written protest; or

(ii) the person filed a written protest, withdrew the protest, and then cancelled the withdrawal; and

(b) (i) the person is a qualified voter residing within the district; or

(ii) the person is a qualified voter whose property has been included within the boundaries of the special service district; and

(c) the petition is filed within 30 days after the date of the resolution establishing the special service district; and

(d) (i) the petition alleges that the person's property will not be ~~[benefited]~~ benefitted by one or more of the services to be provided by the special service district; or

(ii) the petition alleges that the procedures used to establish the special service district violated the law.

~~[(3)]~~ (4) If a petition for a writ of review is not filed within the time limits established by this section, owners of property and qualified voters within the special service district may not object to the establishment of the district.

~~[(4)]~~ (5) The governing authority may consider the voter registration records of the county as conclusive evidence of residency in the special service district.

Section 3. Section **17A-2-1327** is amended to read:

17A-2-1327. Adding additional services -- Annexing additional area -- Notice to lieutenant governor -- Certification by lieutenant governor.

(1) Subject to the provisions of Subsections (2) and (3), after the establishment of a special service district, additional services from that specified in the resolution establishing the district may be added and additional area from that specified in the resolution may be annexed to the district by using the procedure provided for in this part for the establishment of the district with appropriate changes in the wording of the required instruments.

(2) (a) Notwithstanding Subsection (1), additional services may not be added and additional area may not be annexed to the special service district and the governing authority shall abandon the additional services or annexation proceedings if written protests are filed at or before the hearing by:

(i) with respect to proceedings to add services:

(A) the owners of more than 50% of the taxable value of the taxable property within the district; or

(B) more than 50% of the qualified electors of the district; or

(ii) with respect to proceedings to annex new area:

(A) the owners of more than 50% of the taxable value of the taxable property within the area to be annexed; or

(B) more than 50% of the qualified electors of the area to be annexed.

(b) (i) The determination of owners, properties, and taxable value under Subsection (2)(a) shall be according to the assessment rolls last completed before the adoption of the resolution proposing the addition of services or annexation.

(ii) The determination of qualified electors under Subsection (2)(a) shall be from the registration lists last made or revised before the adoption of the resolution proposing the addition of services or annexation.

(3) (a) Notwithstanding Subsection (1), the notice, hearing, and protest requirements of Sections 17A-2-1307, 17A-2-1308, and 17A-2-1309 do not apply if a petition for additional services or annexation of additional area is filed with the governing body of the special service

district containing the signatures of all owners of all taxable real property:

- (i) within the special service district, if the petition is for additional services; or
- (ii) within the area proposed to be annexed, if the petition is for annexation of additional

area.

(b) For purposes of Subsection (3)(a), the owners of taxable property shall be determined according to the assessment roll last completed before the filing of the petition.

(4) (a) If the governing authority adopts a resolution approving the annexation of additional area, the governing authority shall, within 90 days after adopting the resolution, file a notice with the lieutenant governor.

(b) The notice required under Subsection (4)(a) shall:

(i) be accompanied by:

(A) a copy of the resolution adopted by the governing authority approving the annexation of additional area; and

(B) a map showing the additional area to be annexed by the special service district, prepared and certified by a licensed surveyor; and

(ii) include a certification by the governing authority that all requirements for the annexation of the additional area have been complied with.

(c) Within ten days after receiving the notice under Subsection (4)(a), the lieutenant governor shall:

(i) issue a certificate of annexation and send a copy of the certificate to the governing authority, the State Tax Commission, and the state auditor; and

(ii) send a copy of the notice under Subsection (4)(a), including the accompanying map, to the State Tax Commission.

(d) Upon the lieutenant governor's issuance of the certificate of annexation, the additional area that is the subject of the governing authority's resolution is annexed to the special service district.

Section 4. Section **17A-2-1329** is amended to read:

17A-2-1329. Dissolution of district -- Withdrawal of area from district -- Notice to

lieutenant governor -- Certification by lieutenant governor.

(1) A special service district may not be dissolved nor areas withdrawn from the district if any bonds, notes, or other obligations of the district are outstanding and unpaid or if any contractual obligation to provide the services exists.

(2) Subject to the limitation in Subsection (1), the governing authority of the special service district may by resolution:

(a) [~~Dissolve~~] approve the dissolution of the district upon a determination that the district is no longer needed for the purposes for which it was formed; or

(b) [~~Withdraw~~] approve the withdrawal of specifically described areas from the special service district upon a determination that these areas should not or cannot be supplied with the services of the special service district.

(3) (a) Within 90 days after the adoption of a resolution approving a dissolution or withdrawal under Subsection (2), the governing authority shall file a notice with the lieutenant governor.

(b) The notice required under Subsection (3)(a) shall:

(i) be accompanied by:

(A) a copy of the resolution adopted by the governing authority approving the dissolution or withdrawal; and

(B) in the case of a withdrawal, a map showing the area to be withdrawn, prepared and certified by a licensed surveyor; and

(ii) include a certification by the governing authority that all requirements for the dissolution or withdrawal have been complied with.

(c) Within ten days after receiving the notice under Subsection (3)(a), the lieutenant governor shall:

(i) issue a certificate of dissolution or withdrawal, as the case may be, and send a copy of the certificate to the governing authority, the State Tax Commission, and the state auditor; and

(ii) in the case of a withdrawal, send a copy of the notice under Subsection (3)(a), including the accompanying map, to the State Tax Commission.

(d) (i) Upon the lieutenant governor's issuance of the certificate of dissolution, the special service district is dissolved.

(ii) Upon the lieutenant governor's issuance of the certificate of withdrawal, the area to be withdrawn that is the subject of the governing authority's resolution is withdrawn from the special service district.

Section 5. Section **17B-2-512** is amended to read:

17B-2-512. Protests -- Election.

(1) (a) Except as provided in Section 17B-2-513 and except for an annexation under Section 17B-2-515, an owner of private real property located within or a registered voter residing within an area proposed to be annexed may protest an annexation by filing a written protest with the board of trustees of the proposed annexing local district.

(b) A protest of a boundary adjustment is not governed by this section but is governed by Section 17B-2-516.

(2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of the public hearing under Section 17B-2-509.

(3) (a) Except as provided in Subsection (4), the local district shall hold an election on the proposed annexation if timely protests are filed by:

(i) the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(ii) registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed for annexation and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition.

(b) Except as otherwise provided in this part, each election under Subsection (3)(a) shall

be governed by Title 20A, Election Code.

(c) If a majority of registered voters residing within the area proposed to be annexed and voting on the proposal vote:

(i) in favor of annexation, the board of trustees shall, subject to Subsections 17B-2-514(1)(b), (2), and (3), complete the annexation by adopting a resolution [~~annexing~~] approving annexation of the area; or

(ii) against annexation, the annexation process is terminated, the board may not adopt a resolution [~~annexing~~] approving annexation of the area, and the area proposed to be annexed may not for two years be the subject of an effort under this part to annex to the same local district.

(4) If sufficient protests are filed under this section to require an election, a board of trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and terminating the annexation process without holding an election.

Section 6. Section **17B-2-514** is amended to read:

17B-2-514. Resolution approving an annexation -- Notice of annexation -- Certification by lieutenant governor -- When annexation complete.

(1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution [~~annexing~~] approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 30 days after:

(i) expiration of the protest period under Subsection 17B-2-512(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-2-513(1):

(A) a public hearing under Section 17B-2-509 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-2-513(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-2-513(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing.

(b) If the local district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, [~~an~~] a resolution

approving annexation under this part may not ~~[occur]~~ be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2) ~~(a)~~ Within ~~[ten]~~ 90 days after adoption of ~~[an annexation]~~ a resolution under Subsection (1), Subsection 17B-2-512(3)(c)(i), or Section 17B-2-515, or a boundary adjustment resolution under Subsection 17B-2-516(4), the board shall~~[-(a)]~~ file a notice with the lieutenant governor.

(b) The notice required under Subsection (2)(a) shall:

(i) be accompanied by:

(A) a copy of the board resolution approving the annexation; and

(B) an accurate map depicting the boundaries of the area to be annexed or a legal description of the area to be annexed, adequate for purposes of the county assessor and recorder; and

(ii) include a certification by the local district board that all requirements for the annexation have been complied with.

(c) Within ten days after receiving the notice under Subsection (2)(a), the lieutenant governor shall:

(i) issue a certificate of annexation and send a copy of the certificate to the local district board, the State Tax Commission, the state auditor, and the assessor and recorder of each county in which any part of the annexed area is located; and

(ii) send a ~~[written]~~ copy of the notice ~~[of annexation with]~~ under Subsection (2)(a), including the accompanying map or legal description, to the State Tax Commission~~[-the lieutenant governor,]~~ and the assessor and recorder of ~~[the]~~ each county in which any part of the annexed area is located~~[-accompanied by an accurate map or legal description of the boundaries of the area being annexed, adequate for purposes of the county assessor and recorder; and].~~

~~[(b) prepare and execute a certificate acknowledging that the notices required under Subsection (2)(a) have been filed, and maintain the certificate with the district records.]~~

(3) The annexation shall be complete ~~[on the date indicated in the certificate required under Subsection (2)(b) as the date on which the board filed the notices required under~~

Subsection (2)(a)] upon the lieutenant governor's issuance of the certificate of annexation under Subsection (2)(c).

Section 7. Section **17B-2-515** is amended to read:

17B-2-515. Annexation of wholesale district through expansion of retail provider.

(1) (a) A local district that provides a wholesale service may adopt a resolution ~~[annexing]~~ approving the annexation of an area outside the local district's boundaries if:

(i) the area is annexed by or otherwise added to a municipality, an independent special district, or another local district that:

(A) acquires the wholesale service from the local district and provides it as a retail service;

(B) is, before the annexation or other addition, located at least partly within the local district; and

(C) after the annexation or other addition will provide to the annexed or added area the same retail service that the local district provides as a wholesale service to the municipality, independent special district, or other local district; and

(ii) except as provided in Subsection (2), no part of the area is within the boundaries of an independent special district under Title 17A, Chapter 2, Independent Special Districts, or another local district that provides the same wholesale service as the proposed annexing local district.

(b) For purposes of this section:

(i) a local district providing transportation service shall be considered to be providing a wholesale service; and

(ii) a municipality included within the boundaries of the local district providing transportation service shall be considered to be acquiring that wholesale service from the local district and providing it as a retail service and to be providing that retail service after the annexation or other addition to the annexed or added area, even though the municipality does not in fact provide that service.

(2) Notwithstanding Subsection (1)(a)(ii), an area outside the boundaries of a local

district providing a wholesale service and located partly or entirely within the boundaries of an independent special district or another local district that provides the same wholesale service may be annexed to the local district if:

(a) the conditions under Subsection (1)(a)(i) are present; and

(b) the proposed annexing local district and the independent special district or other local district follow the same procedure as is required for a boundary adjustment under Section 17B-2-516, including both district boards adopting a resolution approving the annexation of the area to the proposed annexing local district and the withdrawal of that area from the other district.

(3) Upon the adoption of an annexation resolution under this section, the board of the annexing local district shall comply with the requirements of Subsection 17B-2-514(2), and the lieutenant governor shall issue a certificate of annexation and send a copy of notice as provided in Subsection 17B-2-514(2)(c).

(4) Subsection 17B-2-514(3) applies to an annexation under this section.

Section 8. Section **17B-2-516** is amended to read:

17B-2-516. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Notice of the adjustment -- Certification by lieutenant governor.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and [be] included within the boundaries of another local district because of [the] a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) (A) (I) publish notice once a week for two successive weeks in a newspaper of general circulation within the local district; or

(II) if there is no newspaper of general circulation within the local district, post notice in at least four conspicuous places within the local district; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may [~~adjust~~] approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be within 14 days after the board's adoption of a resolution under Subsection (3)(a)(i).

(d) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

- (i) publish, post, or mail the notice required under Subsection (3)(a)(iii); and
- (ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution [~~adjusting~~] approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

- (i) is located within the affected area;
- (ii) covers at least 50% of the total private land area within the affected area; and
- (iii) is equal in assessed value to at least 50% of the assessed value of all private real

property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) (a) Within [~~ten~~] 90 days after the resolutions take effect under Subsection (5), the board of the local district whose boundaries are being adjusted to include the affected area shall [~~comply with the requirements of Subsection 17B-2-514(2).~~] file a notice with the lieutenant governor.

~~[(7) Subsection 17B-2-514(3) applies to a boundary adjustment under this section to the same extent as if the boundary adjustment were an annexation.]~~

(b) The notice required under Subsection (6)(a) shall:

- (i) be accompanied by:

(A) a copy of each of the board resolutions approving the boundary adjustment; and
(B) an accurate map depicting the affected area or a legal description of the affected area, adequate for purposes of the county assessor and recorder; and

(ii) include a certification by the board of the local district whose boundaries are being adjusted to include the affected area that all requirements for the boundary adjustment have been complied with.

(c) Within ten days after receiving the notice under Subsection (6)(a), the lieutenant governor shall:

(i) issue a certificate of boundary adjustment and send a copy of the certificate to the board of each local district whose boundary is being adjusted, the State Tax Commission, the state auditor, and the assessor and recorder of each county in which any part of the affected area is located; and

(ii) send a copy of the notice under Subsection (6)(a), including the accompanying map or legal description, to the State Tax Commission and the assessor and recorder of each county in which any part of the affected area is located.

(7) Upon the lieutenant governor's issuance of a certificate of boundary adjustment, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

Section 9. Section **17B-2-610** is amended to read:

17B-2-610. Notice of withdrawal -- Certification by lieutenant governor -- Contest period -- Judicial review.

(1) (a) Within [~~ten~~] 90 days after adopting a resolution approving a withdrawal, the board of trustees shall file a written notice with the lieutenant governor.

(b) The notice required under Subsection (1)(a) shall:

(i) be accompanied by:

(A) a copy of the board resolution approving the withdrawal; and

(B) an accurate map depicting the boundaries of the withdrawn area or a legal description

of the withdrawn area, adequate for purposes of the county assessor and recorder; and

(ii) include a certification by the local district board that all requirements for the withdrawal have been complied with.

(c) Within ten days after receiving the notice under Subsection (1)(a), the lieutenant governor shall:

(i) issue a certificate of withdrawal and send a copy of the certificate to the local district board, the State Tax Commission, the state auditor, and the assessor and recorder of each county in which any part of the withdrawn area is located; and

(ii) send a copy of the notice [of the withdrawal with] under Subsection (1)(a), including the accompanying map or legal description, to the State Tax Commission and the assessor and recorder of each county in which any part of the withdrawn area is located[; accompanied by a copy of the resolution approving the withdrawal, an accurate map depicting the boundaries of the withdrawn area or a legal description of the withdrawn area, adequate for purposes of the county assessor and recorder].

~~[(b)]~~ (3) Upon the [filing of the notices required by Subsection (1)(a)] lieutenant governor's issuance of the certificate of withdrawal under Subsection (1)(c)(i), the withdrawal shall be effective, subject to the conditions of the withdrawal resolution.

~~[(2)]~~ (4) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area in a newspaper of general circulation in the area proposed for withdrawal. In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

- (a) the name of the local district;
- (b) a description of the area proposed for withdrawal;
- (c) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(d) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the

publication of the notice.

~~[(3)]~~ (5) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-2-608, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

~~[(4)]~~ (6) Within 60 days after the request under Subsection ~~[(3)]~~ (5) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-2-608 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

~~[(5)]~~ (7) (a) Any person in interest may seek judicial review of:

- (i) the board of trustees' decision to withdraw an area from the local district;
- (ii) the terms and conditions of a withdrawal; or
- (iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection ~~[(5)]~~ (7) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection ~~[(2)]~~ (4), within 60 days after the publication or after the board of trustees' denial of the request under Subsection ~~[(4)]~~ (6);

(ii) if the resolution is not published pursuant to Subsection ~~[(2)]~~ (4), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection ~~[(3)]~~ (5), and the board adopts a resolution under Subsection ~~[(4)]~~ (6), within 60 days after the board adopts a resolution under Subsection ~~[(4)]~~ (6) unless the resolution is published under Subsection ~~[(2)]~~ (4), in which event the action must be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection ~~[(5)]~~ (7) may not overturn, in

whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

- (i) the court finds the board of trustees' decision to be arbitrary or capricious; or
- (ii) the court finds that the board materially failed to follow the procedures set forth in

this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney's fees, to the prevailing party.

~~[(6)]~~ (8) After the applicable contest period under Subsection ~~[(3) or]~~ (5) or (7), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 10. Section **17B-2-708** is amended to read:

17B-2-708. Dissolution resolution -- Limitations on dissolution -- Distribution of remaining assets -- Notice of dissolution -- Certification by lieutenant governor.

(1) After the public hearing required under Section 17B-2-706 and subject to Subsection (2), the administrative body may adopt a resolution ~~[dissolving]~~ approving dissolution of the local district.

(2) A resolution under Subsection (1) may not be adopted unless:

(a) any outstanding debt of the local district is:

(i) satisfied and discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the local district;

(b) for a local district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service:

(i) another entity has committed to provide the same service to the area being served or proposed to be served by the local district; and

(ii) all who are to receive the service have consented to the service being provided by the other entity; and

(c) all outstanding contracts to which the local district is a party are resolved through mutual termination or the assignment of the district's rights, duties, privileges, and responsibilities to another entity with the consent of the other parties to the contract.

(3) (a) (i) Any assets of the local district remaining after paying all debts and other obligations of the local district shall be used to pay costs associated with the dissolution process under this part.

(ii) Any costs of the dissolution process remaining after exhausting the remaining assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

(b) Any assets of the local district remaining after application of Subsection (3)(a) shall be distributed:

(i) proportionately to the owners of real property within the dissolved local district if there is a readily identifiable connection between a financial burden borne by the real property owners in the district and the remaining assets; or

(ii) except as provided in Subsection (3)(b)(i), to each county, city, or town in which the dissolved local district was located before dissolution in the same proportion that the land area of the local district located within the unincorporated area of the county or within the city or town bears to the total local district land area.

(4) (a) Within ~~ten~~ 90 days after adopting a resolution ~~[dissolving]~~ approving dissolution of the local district, the administrative body shall ~~[cause a notice of the]~~ file a notice with the lieutenant governor.

(b) The notice required under Subsection (4)(a) shall:

(i) be accompanied by a copy of the board resolution approving the dissolution; and

(ii) include a certification by the administrative body that all requirements for the dissolution have been complied with.

(c) Within ten days after receiving the notice under Subsection (4)(a), the lieutenant governor shall:

(i) issue a certificate of dissolution and send a copy of the certificate to the administrative body; and

(ii) send a copy of the certificate of dissolution, with a copy of the ~~[dissolution]~~ administrative body's resolution, ~~[to be mailed or delivered]~~ to the State Tax Commission, the state auditor, and the assessor and recorder of each county in which any part of the dissolved

district was located immediately before dissolution.