

1st Sub. S.B. 72

**AMENDMENTS TO SPECIAL DISTRICTS AND LOCAL DISTRICTS FOR
EXPANDED FIRE PROTECTION SERVICES**

SENATE FLOOR AMENDMENTS

AMENDMENT 2

FEBRUARY 20, 2003 12:16 PM

Senator **David L. Thomas** proposes the following amendments:

1. Page 1, Line 24: After "**technical changes.**" insert "**The act provides a coordination clause.**"

2. Page 12, Line 348: After line 348 insert:

"(iii) Each member appointed by a county under Subsection (11)(b)(i) shall be an elected official of the appointing county, and each member appointed by a municipality under Subsection (11)(b)(ii) shall be an elected official of the appointing municipality."

3. Page 37, Line 1120: After line 1120 insert:

"Section 21. Coordination clause.
(1) If this bill and H.B. 95, Annexation of Unincorporated County Islands Into Cities, both pass, it is the intent of the Legislature that, in preparing the Utah Code database for publication, the Office of Legislative Research and General Counsel change Section 10-2-428, as enacted in H.B. 95, to read:
'10-2-428. Neither annexation nor boundary adjustment has an effect on most district boundaries.
Except as provided in Section 17B-2-515.5 and Subsection 17B-2-601(2), the annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by municipalities does not affect the boundaries of an independent special district under Title 17, Chapter 2, Independent Special Districts, or a local district under Title 17B, Chapter 2, Local Districts.'
(2) If this bill and S.B. 18, Lieutenant Governor Certification of Special District and Local District Annexations, Withdrawals, and Dissolutions, both pass, it is the intent of the Legislature that, in

preparing the Utah Code database for publication, the Office of Legislative Research and General Counsel:

(a) combine the amendments made by this bill and S.B. 18 to Section 17B-2-514 so that Section 17B-2-514 shall read:

'17B-2-514. Resolution approving an annexation -- Notice of annexation -- 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~~] The board shall file a notice with the lieutenant governor:

(i) within 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]; and~~

(ii) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a local district under Section 17B-2-515.5.

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

(i) be accompanied by:

(A) if applicable, 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;

(ii) for an annexation pursuant to a resolution described in Subsection (2)(a)(i), include a certification by the local district board that all requirements for the annexation have been complied with; and

(iii) for an automatic annexation to a local district under Section 17B-2-515.5, state that an area outside the boundaries of the local district is being automatically annexed to the local district under Section 17B-2-515.5 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

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

(A) 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

(B) send a [written] copy of the notice [of annexation with] under Subsection (2)(a)(i), 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.]~~

(ii) The lieutenant governor shall issue a certificate of annexation for an automatic annexation that is the subject of a notice under Subsection (2)(a)(ii) as provided in Subsection 10-2-117(3)(b).

(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).];

(a) for an annexation pursuant to a resolution described in Subsection (2)(a)(i), upon the lieutenant governor's issuance of the certificate of annexation under Subsection (2)(c)(i); and

(b) for an automatic annexation that is the subject of a notice

under Subsection (2)(a)(ii), upon the lieutenant governor's issuance of the certificate of annexation under Subsection 10-2-117(3)(b).'; and

(b) combine the amendments made by this bill and S.B. 18 to Section 17B-2-610 so that Section 17B-2-610 shall read:

'17B-2-610. Notice of withdrawal -- Contest period -- Judicial review.

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

(i) within ten days after adopting a resolution approving a withdrawal under Section 17B-2-608; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-2-601(2) or after receiving notice of a withdrawal of a municipality from a local district under Section 17B-2-603.5.

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

(i) be accompanied by:

(A) for a withdrawal pursuant to a resolution adopted under Section 17B-2-608, 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) for a withdrawal pursuant to a resolution adopted under Section 17B-2-608, 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 of withdrawal under Subsection (1)(a) for a withdrawal under Section 17B-2-608 or for the withdrawal of a municipality from a local district under Section 17B-2-603.5, 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)]~~ (2) (a) 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) for a withdrawal under Section 17B-2-608 or for the withdrawal of a municipality from a local district under Section 17B-2-603.5, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-2-601(2) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Subsection 10-1-117(3)(b).

~~[(2)]~~ (3) 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)]~~ (4) 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)]~~ (5) Within 60 days after the request under Subsection ~~[(3)]~~ (4) 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)]~~ (6) (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)]~~ (6) 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)]~~ (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection ~~[(4)]~~ (5);
- (ii) if the resolution is not published pursuant to Subsection ~~[(2)]~~ (3), 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)]~~ (4), and the board adopts a resolution under Subsection ~~[(4)]~~ (5), within 60 days after the board adopts a resolution under Subsection ~~[(4)]~~ (5) unless the resolution is published under Subsection ~~[(2)]~~ (3), 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)]~~ (6) 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)]~~ (7) After the applicable contest period under Subsection ~~[(3)]~~ or ~~[(5)]~~ (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause."