

LOCAL FIRE OFFICIALS AUTHORITY

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Ure

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to certain local government entities that provide fire protection service.

Highlighted Provisions:

This bill:

- ▶ prohibits interlocal entities and special districts that provide fire protection service from imposing a requirement on residential structures that is not imposed by state statute or applicable local ordinance; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-204, as last amended by Chapter 233, Laws of Utah 2005

17A-2-412, as last amended by Chapter 368, Laws of Utah 1998

17A-2-611, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-2-1314, as last amended by Chapter 259, Laws of Utah 2003



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

Section 1. Section **11-13-204** is amended to read:

11-13-204. Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor.

(1) (a) An interlocal entity:

(i) may:

(A) adopt, amend, and repeal rules, bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity; and

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on

terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(ii) may not levy, assess, or collect ad valorem property taxes.

(b) An interlocal entity that provides fire protection service may not impose a requirement on residential structures that is not imposed by state statute or applicable county or municipal ordinance.

~~[(b)]~~ (c) An assignment, pledge, or other conveyance under Subsection (1)(a)(i)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or

an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) The governing body of each party to the agreement to create an interlocal entity under Section 11-13-203 shall, within 30 days of the date of the agreement, jointly file a written notice of the agreement with the lieutenant governor.

(b) Each written notice required under Subsection (4)(a) shall:

(i) be accompanied by:

(A) a copy of the agreement to create the interlocal entity; and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a plat that delineates a metes and bounds description of the area affected or a map of the area affected; and

(ii) contain a certification by the governing body that all necessary legal requirements relating to the creation have been completed.

(5) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(6) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

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

17A-2-412. Service area considered body corporate -- Powers.

(1) Upon its creation, a county service area is a body corporate and politic and a quasi-municipal public corporation.

(2) (a) A county service area may:

121 ~~[(a)]~~ (i) exercise all powers of eminent domain possessed by counties in Utah in the
122 manner provided by law for the exercise of eminent domain power by counties;

123 ~~[(b)]~~ (ii) sue and be sued;

124 ~~[(c)]~~ (iii) enter into contracts considered desirable by the board of trustees of the
125 service area to carry out the functions of the service area including contracts with municipal
126 corporations, counties or other public corporations, county service areas or districts;

127 ~~[(d)]~~ (iv) impose and collect charges or fees for any commodities, services, or facilities
128 afforded by the service area to its consumers and pledge all or any part of the revenues so
129 derived to the payment of any bonds of the service area, whether the bonds are issued as
130 revenue bonds or as general obligations of the service area;

131 ~~[(e)]~~ (v) sell, lease, mortgage, encumber or otherwise dispose of any properties,
132 including water and water rights, owned by the service area upon such terms and conditions as
133 the board of trustees may determine;

134 ~~[(f)]~~ (vi) own any and all property or interests in property, including water and water
135 rights, that the board of trustees considers necessary or appropriate to carry out the purposes of
136 the service area and acquire property or interests in property by purchase, lease, gift, devise, or
137 bequest;

138 ~~[(g)]~~ (vii) request the county executive to utilize any existing county offices, officers,
139 or employees for purposes of the service area when in the opinion of the board of trustees it is
140 advisable to do so;

141 ~~[(h)]~~ (viii) employ officers, employees, and agents including attorneys, accountants,
142 engineers, and fiscal agents, and fix their compensation;

143 ~~[(i)]~~ (ix) (A) require officers and employees charged with the handling of funds to
144 furnish good and sufficient surety bonds; or

145 (B) purchase a blanket surety bond for all officers and employees;

146 ~~[(j)]~~ (x) fix the times for holding regular meetings;

147 ~~[(k)]~~ (xi) adopt an official seal; and

148 ~~[(l)]~~ (xii) adopt bylaws and regulations for the conduct of its business and affairs.

149 (b) A county service area that provides fire protection service may not impose a
150 requirement on residential structures that is not imposed by state statute or applicable county or
151 municipal ordinance.

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

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

(c) If the county service area furnishes more than one commodity, service, or facility, the board of trustees may bill for the fees and charges for all commodities, services, and facilities in a single bill.

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

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

Section 3. Section **17A-2-611** is amended to read:

17A-2-611. Authority of district.

~~[Such]~~ (1) A fire protection district ~~[shall have full authority to]~~ may:

(a) carry out the objects of ~~[their]~~ its creation ~~[and to that end are authorized to]~~;

(b) acquire, purchase, hold, lease, manage, occupy and sell real and personal property, or any interest therein~~[-to]~~;

(c) enter into and to perform any and all necessary contracts~~[-to]~~;

(d) appoint and employ the necessary officers, agents, and employees~~[-to]~~;

(e) sue and be sued~~[-to]~~;

(f) exercise the right of eminent domain~~[-to]~~;

(g) levy and enforce the collection of taxes in the manner and subject to the limitations ~~[herein]~~ provided in this part against the lands within the district, for district revenues~~[-]~~; and ~~[to]~~

(h) do any and all lawful acts required and expedient to carry out the purpose of this part.

(2) A fire protection district may not impose a requirement on residential structures that is not imposed by state statute or applicable county or municipal ordinance.

Section 4. Section **17A-2-1314** is amended to read:

17A-2-1314. Rights, powers, and authority of special service district.

(1) (a) In addition to all other rights, powers, and authority granted by law or by other provisions of this part, a service district ~~[has the following rights, powers and authority: (a) The right to]~~ may:

(i) sue and be sued~~[-(b) The power to];~~

(ii) exercise all powers of eminent domain possessed by the county or municipality which established the service district~~[-(c) The power to];~~

(iii) enter into contracts that:

(A) are considered desirable by the governing authority of the service district to carry out the functions of the service district, including~~[-without limitation, the power to enter into]~~ contracts with the government of the United States or any of its agencies, the state ~~[of Utah]~~, counties, municipalities, school districts, and other public corporations, districts, or political subdivisions including institutions of higher education~~[-These contracts];~~ and

(B) may include~~[-without limitation,]~~ provisions concerning the use, operation, and maintenance of any facilities of the service district and the collection of fees or charges with respect to commodities, services, or facilities provided by the service district~~[-(d) The power to];~~

(iv) acquire or construct facilities~~[-to];~~

(v) purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use, finance, and otherwise deal in and with real and personal property, or any interest in them, wherever situated, either within or outside of the service district, including water and water rights~~[-and including the power to];~~

(vi) acquire other than by condemnation property or interests in property owned or held by institutions of higher education~~[-(e) The power to];~~

(vii) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of or contract with respect to the use, operation, and maintenance of, all or any part of its property and assets, including water and water rights~~[-(f) The power to];~~

(viii) accept governmental grants, loans, or funds and to comply with the conditions of them~~[-(g) The right to];~~

(ix) utilize any officers, employees, property, equipment, offices, or facilities of the county or municipality which established the service district, ~~[and]~~ for which the governing

authority of the service district shall reimburse the county or municipality from service district funds, a reasonable amount for the services so rendered or for the property, equipment, offices, or facilities so used~~[- (h) The right to];~~

(x) employ officers, employees, and agents for the service district, including engineers, accountants, attorneys, and financial consultants, and to fix their compensation~~[- (i) The right to]; and~~

(xi) adopt an official seal for the service district.

(b) A special service district that provides fire protection service may not impose a requirement on residential structures that is not imposed by state statute or applicable county or municipal ordinance.

(2) The county legislative body shall by ordinance establish those classes of contracts of a service district which shall be subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects, or of any law hereafter enacted for the same purpose.

(3) The governing authority of a municipality shall by ordinance establish those classes of contracts of a service district which shall be subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects, or of any law hereafter enacted for the same purpose.

Legislative Review Note
as of 1-6-06 12:20 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0116

Local Fire Officials Authority

23-Jan-06
4:36 PM

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.

Office of the Legislative Fiscal Analyst