

**Senator Scott K. Jenkins** proposes the following substitute bill:

**LAW ENFORCEMENT SERVICE IN LOCAL  
DISTRICTS AND INTERLOCAL ENTITIES**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to law enforcement services in local districts and interlocal entities.

**Highlighted Provisions:**

This bill:

- ▶ replaces "extended police protection" with "law enforcement service" in the list of services that a local district may be created to provide;
- ▶ eliminates the requirement to submit the creation of a local district to voters for their approval if the local district is created to provide law enforcement service;
- ▶ modifies who appoints one member of a merit system commission for a county in which a police local district or police interlocal entity is created;
- ▶ expands an exception as to how the board of trustees of a service area is to be constituted to include a service area created to provide law enforcement service;
- ▶ modifies a provision relating to the duties of a sheriff in a first class county that enters into an interlocal agreement for law enforcement services and expands it to apply to all counties;
- ▶ provides that a sheriff is the chief law enforcement officer of a local district or



26 interlocal entity created to provide law enforcement service and is subject to the direction of  
27 the local district board or interlocal entity governing body as provided by agreement;

28 ▶ expands certain local district annexation and withdrawal provisions to apply to  
29 specified local districts that provide law enforcement service; and

30 ▶ repeals a provision relating to a first class county entering an interlocal agreement  
31 for law enforcement service.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **17-22-2**, as last amended by Laws of Utah 2008, Chapter 117

39 **17-30-1**, as last amended by Laws of Utah 1993, Chapters 227 and 234

40 **17-30-3**, as last amended by Laws of Utah 1997, Chapter 177

41 **17B-1-202**, as last amended by Laws of Utah 2008, Chapter 360

42 **17B-1-214**, as renumbered and amended by Laws of Utah 2007, Chapter 329

43 **17B-1-416**, as last amended by Laws of Utah 2008, Chapter 118

44 **17B-1-502**, as renumbered and amended by Laws of Utah 2007, Chapter 329

45 **17B-1-505**, as renumbered and amended by Laws of Utah 2007, Chapter 329

46 **17B-2a-905**, as enacted by Laws of Utah 2007, Chapter 329

47 REPEALS:

48 **17-50-324**, as enacted by Laws of Utah 2008, Chapter 117



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

51 Section 1. Section **17-22-2** is amended to read:

52 **17-22-2. Sheriff -- General duties.**

53 (1) The sheriff shall:

54 (a) preserve the peace;

55 (b) make all lawful arrests;

56 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when

57 required or when the court is held within his county, all courts of record, and court  
58 commissioner and referee sessions held within his county, obey their lawful orders and  
59 directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial  
60 Administration;

61 (d) upon request of the juvenile court, aid the court in maintaining order during  
62 hearings and transport a minor to and from youth corrections facilities, other institutions, or  
63 other designated places;

64 (e) attend county justice courts if the judge finds that the matter before the court  
65 requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his  
66 custody, or for the custody of jurors;

67 (f) command the aid of as many inhabitants of his county as he considers necessary in  
68 the execution of these duties;

69 (g) take charge of and keep the county jail and the jail prisoners;

70 (h) receive and safely keep all persons committed to his custody, file and preserve the  
71 commitments of those persons, and record the name, age, place of birth, and description of  
72 each person committed;

73 (i) release on the record all attachments of real property when the attachment he  
74 receives has been released or discharged;

75 (j) endorse on all process and notices the year, month, day, hour, and minute of  
76 reception, and, upon payment of fees, issue a certificate to the person delivering process or  
77 notice showing the names of the parties, title of paper, and the time of receipt;

78 (k) serve all process and notices as prescribed by law;

79 (l) if he makes service of process or notice, certify on the process or notices the  
80 manner, time, and place of service, or, if he fails to make service, certify the reason upon the  
81 process or notice, and return them without delay;

82 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public  
83 land within his county;

84 (n) perform as required by any contracts between the county and private contractors for  
85 management, maintenance, operation, and construction of county jails entered into under the  
86 authority of Section 17-53-311;

87 (o) for the sheriff of a [first-class] county that enters into an interlocal agreement for

88 law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, ~~[as authorized~~  
89 ~~in Section 17-50-324: (i)]~~ provide law enforcement service as provided in the interlocal  
90 agreement; ~~[or]~~

91 ~~[(ii) provide law enforcement service to an unincorporated area of the county to the~~  
92 ~~extent that the law enforcement service is not provided to the area by a local district or~~  
93 ~~interlocal entity, as defined in Section 11-13-103, established to provide law enforcement~~  
94 ~~service or extended police protection to the area;]~~

95 (p) manage search and rescue services in his county;

96 (q) obtain saliva DNA specimens as required under Section 53-10-404;

97 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
98 detention, or search of any person when the action is solely motivated by considerations of  
99 race, color, ethnicity, age, or gender; and

100 (s) perform any other duties that are required by law.

101 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other  
102 subsection under Subsection (1) is a class A misdemeanor.

103 (3) (a) As used in this Subsection (3):

104 (i) "Police interlocal entity" has the same meaning as defined in Section 17-30-3.

105 (ii) "Police local district" has the same meaning as defined in Section 17-30-3.

106 (b) A sheriff in a county which includes within its boundary a police local district or  
107 police interlocal entity, or both:

108 (i) serves as the chief executive officer of each police local district and police interlocal  
109 entity within the county with respect to the provision of law enforcement service within the  
110 boundary of the police local district or police interlocal entity, respectively; and

111 (ii) is subject to the direction of the police local district board of trustees or police  
112 interlocal entity governing body, as the case may be, as and to the extent provided by  
113 agreement between the police local district or police interlocal entity, respectively, and the  
114 sheriff.

115 Section 2. Section **17-30-1** is amended to read:

116 **17-30-1. Definitions.**

117 (1) "Governing body" means the county legislative body.

118 (2) "Appointing authority" means the sheriff of a county having jurisdiction over any

119 peace officer.

120 (3) "Peace officer" means any paid deputy sheriff, other than a chief deputy designated  
121 by the sheriff, who is in the continuous employ of a county.

122 (4) "Commission" means the ~~[personal]~~ merit system commission consisting of three  
123 persons appointed ~~[by the governing body]~~ as provided in Section 17-30-3 and having the duty,  
124 power, and responsibility for the discharge of the functions of this chapter.

125 (5) "Department of Public Safety" means the department created in Section 53-1-103.  
126 Section 3. Section **17-30-3** is amended to read:

127 **17-30-3. Establishment of merit system commission -- Appointment,**  
128 **qualifications, and compensation of members.**

129 (1) (a) Each county with a population of 20,000 ~~[people]~~ or more shall establish a merit  
130 system commission consisting of three members appointed as provided in Subsection (1)(b).

131 (b) (i) As used in this Subsection (1)(b):

132 (A) "Police interlocal entity" means an interlocal entity, as defined in Section  
133 11-13-103, that is created:

134 (I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a  
135 county is a party; and

136 (II) to provide law enforcement service to an area that includes the unincorporated part  
137 of the county.

138 (B) "Police local district" means a local district, as defined in Section 17B-1-102:

139 (I) whose creation was initiated by the adoption of a resolution under Section  
140 17B-1-203 by the legislative body of a county, alone or with one or more other legislative  
141 bodies; and

142 (II) that is created to provide law enforcement service to an area that includes the  
143 unincorporated part of the county.

144 (ii) For a county in which a police interlocal entity is created, whether or not a police  
145 local district is also created in the county:

146 (A) two members shall be appointed by the legislative body of the county; and

147 (B) one member shall be appointed by the governing body of the interlocal entity.

148 (iii) For a county in which a police local district is created but in which a police  
149 interlocal entity has not been created:

- 150           (A) two members shall be appointed by the legislative body of the county; and  
151           (B) one member shall be appointed by the board of trustees of the police local district.  
152           (iv) For each other county, all three members shall be appointed by the county  
153 legislative body.
- 154           (c) Not more than two members of the commission shall be affiliated with or members  
155 of the same political party.
- 156           (d) Of the original appointees, one member shall be appointed for a term ending  
157 February 1 of the first odd-numbered year after the date of appointment, and one each for terms  
158 ending two and four years thereafter.
- 159           (e) Upon the expiration of any of the terms, a successor shall be appointed for a full  
160 term of six years.
- 161           (f) Appointment to fill a vacancy resulting other than from expiration of term shall be  
162 for the unexpired portion of the term only. ~~[Each legislative body charged by this act with the~~  
163 ~~appointment of a personnel merit system commission shall make such appointments within 90~~  
164 ~~days after the effective date of this act.]~~
- 165           (2) Members of a commission shall be citizens of the state, shall have been residents of  
166 the area embraced by the governmental unit from which appointed not less than five years next  
167 preceding the date of appointment, and shall hold no other office or employment under the  
168 governmental unit for which appointed.
- 169           (3) The county legislative body may compensate a member for service on the  
170 commission and reimburse the member for necessary expenses incurred in the performance of  
171 the member's duties.
- 172           Section 4. Section **17B-1-202** is amended to read:
- 173           **17B-1-202. Local district may be created -- Services that may be provided --**  
174 **Limitations.**
- 175           (1) (a) A local district may be created as provided in this part to provide within its  
176 boundaries service consisting of:
- 177           (i) the operation of an airport;  
178           (ii) the operation of a cemetery;  
179           (iii) fire protection, paramedic, and emergency services;  
180           (iv) garbage collection and disposal;

- 181 (v) health care, including health department or hospital service;
- 182 (vi) the operation of a library;
- 183 (vii) abatement or control of mosquitos and other insects;
- 184 (viii) the operation of parks or recreation facilities or services;
- 185 (ix) the operation of a sewage system;
- 186 (x) street lighting;
- 187 (xi) the construction and maintenance of curb, gutter, and sidewalk;
- 188 (xii) transportation, including public transit and providing streets and roads;
- 189 (xiii) the operation of a system, or one or more components of a system, for the
- 190 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 191 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 192 the system is operated on a wholesale or retail level or both;
- 193 (xiv) ~~[extended police protection]~~ law enforcement service; or
- 194 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line
- 195 or the conversion to underground of an existing electric utility line.

196 (b) Each local district that provides the service of the underground installation of an  
197 electric utility line or the conversion to underground of an existing electric utility line shall, in  
198 installing or converting the line, provide advance notice to and coordinate with the utility that  
199 owns the line.

200 (2) For purposes of this section:

201 (a) "Operation" means all activities involved in providing the indicated service  
202 including acquisition and ownership of property reasonably necessary to provide the indicated  
203 service and acquisition, construction, and maintenance of facilities and equipment reasonably  
204 necessary to provide the indicated service.

205 (b) "System" means the aggregate of interrelated components that combine together to  
206 provide the indicated service including, for a sewage system, collection and treatment.

207 (3) (a) A local district may not be created to provide and may not after its creation  
208 provide more than four of the services listed in Subsection (1).

209 (b) Subsection (3)(a) may not be construed to prohibit a local district from providing  
210 more than four services if, before April 30, 2007, the local district was authorized to provide  
211 those services.

212 (4) (a) Except as provided in Subsection (4)(b), a local district may not be created to  
213 provide and may not after its creation provide to an area the same service already being  
214 provided to that area by another political subdivision, unless the other political subdivision  
215 gives its written consent.

216 (b) For purposes of Subsection (4)(a), a local district does not provide the same service  
217 as another political subdivision if it operates a component of a system that is different from a  
218 component operated by another political subdivision but within the same:

219 (i) sewage system; or

220 (ii) water system.

221 (5) (a) Except for a local district in the creation of which an election is not required  
222 under Subsection 17B-1-214(3)(c), the area of a local district may include all or part of the  
223 unincorporated area of one or more counties and all or part of one or more municipalities.

224 (b) The area of a local district need not be contiguous.

225 (6) For a local district created before May 5, 2008, the authority to provide fire  
226 protection service also includes the authority to provide:

227 (a) paramedic service; and

228 (b) emergency service, including hazardous materials response service.

229 Section 5. Section **17B-1-214** is amended to read:

230 **17B-1-214. Election -- Exceptions.**

231 (1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(2)(a), an  
232 election on the question of whether the local district should be created shall be held by:

233 (i) if the proposed local district is located entirely within a single county, the  
234 responsible clerk; or

235 (ii) except as provided under Subsection (1)(b), if the proposed local district is located  
236 within more than one county, the clerk of each county in which part of the proposed local  
237 district is located, in cooperation with the responsible clerk.

238 (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located  
239 within more than one county and the only area of a county that is included within the proposed  
240 local district is located within a single municipality, the election for that area shall be held by  
241 the municipal clerk or recorder, in cooperation with the responsible clerk.

242 (2) Each election under Subsection (1) shall be held at the next special or regular



243 general election date that is:

244 (a) for an election pursuant to a property owner or registered voter petition, more than  
245 45 days after certification of the petition under Subsection 17B-1-209(3)(b)(i); or

246 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing  
247 required under Section 17B-1-210.

248 (3) The election requirement of Subsection (1) does not apply to:

249 (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the  
250 owners of private real property that:

251 (i) is located within the proposed local district;

252 (ii) covers at least 67% of the total private land area within the proposed local district  
253 as a whole and within each applicable area; and

254 (iii) is equal in value to at least 50% of the value of all private real property within the  
255 proposed local district as a whole and within each applicable area;

256 (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of  
257 registered voters residing within the proposed local district as a whole and within each  
258 applicable area, equal in number to at least 67% of the number of votes cast in the proposed  
259 local district as a whole and in each applicable area, respectively, for the office of governor at  
260 the last general election prior to the filing of the petition;

261 (c) a resolution adopted under Subsection 17B-1-203(1)(c) on or after May 5, 2003 that  
262 proposes the creation of a local district to provide fire protection, paramedic, and emergency  
263 services or law enforcement service, if the proposed local district includes a majority of the  
264 unincorporated area of one or more counties; or

265 (d) a resolution adopted under Subsection 17B-1-203(1)(c) or (d) if the resolution  
266 proposes the creation of a local district that has no registered voters within its boundaries.

267 (4) (a) If the proposed local district is located in more than one county, the responsible  
268 clerk shall coordinate with the clerk of each other county and the clerk or recorder of each  
269 municipality involved in an election under Subsection (1) so that the election is held on the  
270 same date and in a consistent manner in each jurisdiction.

271 (b) The clerk of each county and the clerk or recorder of each municipality involved in  
272 an election under Subsection (1) shall cooperate with the responsible clerk in holding the  
273 election.

274 (c) Except as otherwise provided in this part, each election under Subsection (1) shall  
275 be governed by Title 20A, Election Code.

276 Section 6. Section **17B-1-416** is amended to read:

277 **17B-1-416. Automatic annexation to a district providing fire protection,**  
278 **paramedic, and emergency services.**

279 (1) An area outside the boundaries of a local district that is annexed to a municipality  
280 or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4,  
281 Annexation, is automatically annexed to the local district if:

282 (a) the local district provides:

283 (i) fire protection, paramedic, and emergency services; or

284 (ii) law enforcement service;

285 (b) an election for the creation of the local district was not required because of  
286 Subsection 17B-1-214(3)(c); and

287 (c) before the municipal annexation or boundary adjustment, the entire municipality  
288 that is annexing the area or adding the area by boundary adjustment was included within the  
289 local district.

290 (2) The effective date of an annexation under this section is governed by Subsection  
291 17B-1-414(3)(b)(ii).

292 Section 7. Section **17B-1-502** is amended to read:

293 **17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in**  
294 **certain circumstances -- Definitions.**

295 (1) (a) An area within the boundaries of a local district may be withdrawn from the  
296 local district only as provided in this part.

297 (b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local  
298 district within a municipality because of a municipal incorporation under Title 10, Chapter 2,  
299 Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10,  
300 Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process  
301 of withdrawing that area from the local district.

302 (2) (a) An area within the boundaries of a local district is automatically withdrawn  
303 from the local district by the annexation of the area to a municipality or the adding of the area  
304 to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

305 (i) the local district provides;  
306 (A) fire protection, paramedic, and emergency services; or  
307 (B) law enforcement service;  
308 (ii) an election for the creation of the local district was not required because of  
309 Subsection 17B-1-214(3)(c); and  
310 (iii) before annexation or boundary adjustment, the boundaries of the local district do  
311 not include any of the annexing municipality.

312 (b) The effective date of a withdrawal under this Subsection (2) is governed by  
313 Subsection 17B-1-512(2)(b).

314 (3) (a) An area within the boundaries of a local district located in a county of the first  
315 class is automatically withdrawn from the local district by the incorporation of a municipality  
316 whose boundaries include the area if:

317 (i) the local district provides;  
318 (A) fire protection, paramedic, and emergency services; or  
319 (B) law enforcement service;  
320 (ii) an election for the creation of the local district was not required because of  
321 Subsection 17B-1-214(3)(c); and  
322 (iii) the legislative body of the newly incorporated municipality:  
323 (A) adopts a resolution approving the withdrawal that includes the legal description of  
324 the area to be withdrawn; and  
325 (B) delivers a copy of the resolution to the board of trustees of the local district.  
326 (b) The effective date of a withdrawal under this Subsection (3) is governed by  
327 Subsection 17B-1-512(2)(a).

328 Section 8. Section **17B-1-505** is amended to read:

329 **17B-1-505. Withdrawal of municipality in certain districts providing fire**  
330 **protection, paramedic, and emergency services.**

331 (1) (a) The process to withdraw an area from a local district may be initiated by a  
332 resolution adopted by the legislative body of a municipality that is entirely within the  
333 boundaries of a local district:

334 (i) that provides;  
335 (A) fire protection, paramedic, and emergency services; or

336 (B) law enforcement service; and

337 (ii) in the creation of which an election was not required because of Subsection  
338 17B-1-214(3)(c).

339 (b) Within ten days after adopting a resolution under Subsection (1)(a), the municipal  
340 legislative body shall submit to the board of trustees of the local district written notice of the  
341 adoption of the resolution, accompanied by a copy of the resolution.

342 (2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body  
343 shall hold an election at the next municipal general election that is more than 60 days after  
344 adoption of the resolution on the question of whether the municipality should withdraw from  
345 the local district.

346 (3) If a majority of those voting on the question of withdrawal at an election held under  
347 Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local  
348 district.

349 (4) (a) Within ten days after the canvass of an election at which a withdrawal under this  
350 section is submitted to voters, the municipal legislative body shall send written notice to the  
351 board of the local district from which the municipality is proposed to withdraw.

352 (b) Each notice under Subsection (4)(a) shall:

353 (i) state the results of the withdrawal election; and

354 (ii) if the withdrawal was approved by voters, be accompanied by a map or legal  
355 description of the area to be withdrawn, adequate for purposes of the county assessor and  
356 recorder.

357 (5) The effective date of a withdrawal under this section is governed by Subsection  
358 17B-1-512(2)(a).

359 Section 9. Section **17B-2a-905** is amended to read:

360 **17B-2a-905. Service area board of trustees.**

361 (1) (a) Except as provided in Subsection (2):

362 (i) the initial board of trustees of a service area located entirely within the  
363 unincorporated area of a single county may, as stated in the petition or resolution that initiated  
364 the process of creating the service area:

365 (A) consist of the county legislative body;

366 (B) be appointed, as provided in Section 17B-1-304; or

367 (C) be elected, as provided in Section 17B-1-306;

368 (ii) if the board of trustees of a service area consists of the county legislative body, the  
369 board may adopt a resolution providing for future board members to be appointed, as provided  
370 in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

371 (iii) members of the board of trustees of a service area shall be elected, as provided in  
372 Section 17B-1-306, if:

373 (A) the service area is not entirely within the unincorporated area of a single county;

374 (B) a petition is filed with the board of trustees requesting that board members be  
375 elected, and the petition is signed by registered voters within the service area equal in number  
376 to at least 10% of the number of registered voters within the service area who voted at the last  
377 gubernatorial election; or

378 (C) an election is held to authorize the service area's issuance of bonds.

379 (b) If members of the board of trustees of a service area are required to be elected  
380 under Subsection (1)(a)(iii)(C) because of a bond election:

381 (i) board members shall be elected in conjunction with the bond election;

382 (ii) the board of trustees shall:

383 (A) establish a process to enable potential candidates to file a declaration of candidacy  
384 sufficiently in advance of the election; and

385 (B) provide a ballot for the election of board members separate from the bond ballot;

386 and

387 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided  
388 in Section 17B-1-306.

389 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003 if:

390 (i) the service area was created to provide:

391 (A) fire protection, paramedic, and emergency services; [~~and~~] or

392 (B) law enforcement service; and

393 (ii) in the creation of the service area, an election was not required under Subsection  
394 17B-1-214(3)(c).

395 (b) (i) Each county whose unincorporated area is included within a service area  
396 described in Subsection (2)(a), whether in conjunction with the creation of the service area or  
397 by later annexation, shall appoint three members to the board of trustees.

398           (ii) Each municipality whose area is included within a service area described in  
399 Subsection (2)(a), whether in conjunction with the creation of the service area or by later  
400 annexation, shall appoint one member to the board of trustees.

401           (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or  
402 (ii) shall be an elected official of the appointing county or municipality, respectively.

403           (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of  
404 trustees of a service area described in Subsection (2)(a) shall be the number resulting from  
405 application of Subsection (2)(b).

406           Section 10. **Repealer.**

407           This bill repeals:

408           Section **17-50-324, First class county may contract to provide law enforcement**  
409 **service.**

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**Fiscal Note**

**S.B. 131 1st Sub. (Green) - Law Enforcement Service in Local Districts and  
Interlocal Entities**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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