

**FEES AND ASSESSMENT LEVIES IN LOCAL  
AND SPECIAL SERVICE DISTRICTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John G. Mathis**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill provides that, in certain circumstances, a county or a municipal legislative body is required to approve a fee or an assessment levy before a local district or a special service district may collect the fee or levy the assessment.

**Highlighted Provisions:**

This bill:

- ▶ provides that, in certain circumstances, a county or a municipal legislative body is required to approve a fee or an assessment levy before a local district or a special service district may collect the fee or levy the assessment; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17B-1-103**, as last amended by Laws of Utah 2008, Chapters 3 and 360

**17B-1-111**, as renumbered and amended by Laws of Utah 2007, Chapter 329

**17D-1-103**, as enacted by Laws of Utah 2008, Chapter 360



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

Section 1. Section **17B-1-103** is amended to read:

**17B-1-103. Local district status and powers.**

(1) A local district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A local district may:

(a) acquire, by any lawful means, or lease any real or personal property necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real or personal property necessary or convenient to the full exercise of the district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to Part 11, Local District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and

(ii) as provided in and subject to Part 10, Local District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

- 59 (j) (i) subject to Subsection (6)(a), impose fees or other charges for commodities,  
60 services, or facilities provided by the district, to pay some or all of the district's costs of  
61 providing the commodities, services, and facilities, including the costs of:
- 62 (A) maintaining and operating the district;
  - 63 (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
  - 64 (C) issuing bonds and paying debt service on district bonds; and
  - 65 (D) providing a reserve established by the board of trustees; and
- 66 (ii) take action the board of trustees considers appropriate and adopt regulations to  
67 assure the collection of all fees and charges that the district imposes;
- 68 (k) if applicable and subject to Subsection (6)(a), charge and collect a fee to pay for the  
69 cost of connecting a customer's property to district facilities in order for the district to provide  
70 service to the property;
- 71 (l) enter into a contract that the local district board of trustees considers necessary,  
72 convenient, or desirable to carry out the district's purposes, including a contract:
- 73 (i) with the United States or any department or agency of the United States;
  - 74 (ii) to indemnify and save harmless; or
  - 75 (iii) to do any act to exercise district powers;
  - 76 (m) purchase supplies, equipment, and materials;
  - 77 (n) encumber district property upon terms and conditions that the board of trustees  
78 considers appropriate;
  - 79 (o) exercise other powers and perform other functions that are provided by law;
  - 80 (p) construct and maintain works and establish and maintain facilities, including works  
81 or facilities:
- 82 (i) across or along any public street or highway, subject to Subsection (3) and if the  
83 district:
    - 84 (A) promptly restores the street or highway, as much as practicable, to its former state  
85 of usefulness; and
    - 86 (B) does not use the street or highway in a manner that completely or unnecessarily  
87 impairs the usefulness of it;
  - 88 (ii) in, upon, or over any vacant public lands that are or become the property of the  
89 state, including school and institutional trust lands, as defined in Section 53C-1-103, if the

90 director of the School and Institutional Trust Lands Administration, acting under Sections  
91 53C-1-102 and 53C-1-303, consents; or

92 (iii) across any stream of water or watercourse, subject to Section 73-3-29;

93 (q) perform any act or exercise any power reasonably necessary for the efficient  
94 operation of the local district in carrying out its purposes;

95 (r) subject to Subsection (6)(b), designate an assessment area and levy an assessment  
96 on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act;

97 (s) contract with another political subdivision of the state to allow the other political  
98 subdivision to use the district's surplus water or capacity or have an ownership interest in the  
99 district's works or facilities, upon the terms and for the consideration, whether monetary or  
100 nonmonetary consideration or no consideration, that the district's board of trustees considers to  
101 be in the best interests of the district and the public; and

102 (t) upon the terms and for the consideration, whether monetary or nonmonetary  
103 consideration or no consideration, that the district's board of trustees considers to be in the best  
104 interests of the district and the public, agree:

105 (i) with:

106 (A) another political subdivision of the state; or

107 (B) a public or private owner of property:

108 (I) on which the district has a right-of-way; or

109 (II) adjacent to which the district owns fee title to property; and

110 (ii) to allow the use of property:

111 (A) owned by the district; or

112 (B) on which the district has a right-of-way.

113 (3) With respect to a local district's use of a street or highway, as provided in

114 Subsection (2)(p)(i):

115 (a) the district shall comply with the reasonable rules and regulations of the  
116 governmental entity, whether state, county, or municipal, with jurisdiction over the street or  
117 highway, concerning:

118 (i) an excavation and the refilling of an excavation;

119 (ii) the relaying of pavement; and

120 (iii) the protection of the public during a construction period; and

121 (b) the governmental entity, whether state, county, or municipal, with jurisdiction over  
122 the street or highway:

123 (i) may not require the district to pay a license or permit fee or file a bond; and

124 (ii) may require the district to pay a reasonable inspection fee.

125 (4) (a) A local district may:

126 (i) acquire, lease, or construct and operate electrical generation, transmission, and  
127 distribution facilities, if:

128 (A) the purpose of the facilities is to harness energy that results inherently from the  
129 district's:

130 (I) operation of a project or facilities that the district is authorized to operate; or

131 (II) providing a service that the district is authorized to provide;

132 (B) the generation of electricity from the facilities is incidental to the primary  
133 operations of the district; and

134 (C) operation of the facilities will not hinder or interfere with the primary operations of  
135 the district;

136 (ii) (A) use electricity generated by the facilities; or

137 (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric  
138 utility or municipality with an existing system for distributing electricity.

139 (b) A district may not act as a retail distributor or seller of electricity.

140 (c) Revenue that a district receives from the sale of electricity from electrical  
141 generation facilities it owns or operates under this section may be used for any lawful district  
142 purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or  
143 constructing the facilities.

144 (5) A local district may adopt and, after adoption, alter a corporate seal.

145 (6) (a) Except as provided in Subsection (6)(c), a local district may not collect a fee  
146 described in Subsection (2)(j) or (k) unless the legislative body of each municipality and each  
147 county included within the boundaries of the local district passes a resolution or ordinance  
148 approving the fee.

149 (b) Except as provided in Subsection (6)(c), a local district may not levy an assessment  
150 under Subsection (2)(r) unless the legislative body of each municipality and each county  
151 included within the boundaries of the local district passes a resolution or ordinance approving

152 the levy.

153 (c) Subsections (6)(a) and (b) do not apply if all the members of the local district board  
154 of trustees are elected to the board of trustees.

155 Section 2. Section **17B-1-111** is amended to read:

156 **17B-1-111. Impact fee resolution -- Notice and hearing requirements.**

157 (1) (a) If a local district wishes to impose impact fees, the board of trustees of the local  
158 district shall, subject to Subsection (1)(c):

159 (i) prepare a proposed impact fee resolution that meets the requirements of Title 11,  
160 Chapter 36, Impact Fees Act;

161 (ii) make a copy of the impact fee resolution available to the public at least 14 days  
162 before the date of the public hearing and hold a public hearing on the proposed impact fee  
163 resolution; and

164 (iii) provide reasonable notice of the public hearing at least 14 days before the date of  
165 the hearing.

166 (b) After the public hearing, the board of trustees may:

167 (i) adopt the impact fee resolution as proposed;

168 (ii) amend the impact fee resolution and adopt or reject it as amended; or

169 (iii) reject the resolution.

170 (c) (i) Except as provided in Subsection (1)(c)(ii), a local district may not collect an  
171 impact fee under this Subsection (1) unless the legislative body of each municipality and each  
172 county included within the boundaries of the local district pass a resolution or ordinance  
173 approving the impact fee.

174 (ii) Subsection (1)(c)(i) does not apply if all the members of the local district board of  
175 trustees are elected to the board of trustees.

176 (2) A local district meets the requirements of reasonable notice required by this section  
177 if it:

178 (a) posts notice of the hearing or meeting in at least three public places within the  
179 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general  
180 circulation in the jurisdiction, if one is available; or

181 (b) gives actual notice of the hearing or meeting.

182 (3) The local district's board of trustees may enact a resolution establishing stricter

183 notice requirements than those required by this section.

184 (4) (a) Proof that one of the two forms of notice required by this section was given is  
185 prima facie evidence that notice was properly given.

186 (b) If notice given under authority of this section is not challenged within 30 days from  
187 the date of the meeting for which the notice was given, the notice is considered adequate and  
188 proper.

189 Section 3. Section **17D-1-103** is amended to read:

190 **17D-1-103. Special service district status, powers, and duties -- Limitation on**  
191 **districts providing jail service.**

192 (1) A special service district:

193 (a) is a body corporate and politic with perpetual succession, separate and distinct from  
194 the county or municipality that creates it;

195 (b) is a quasi-municipal corporation; and

196 (c) may sue and be sued.

197 (2) A special service district may:

198 (a) exercise the power of eminent domain possessed by the county or municipality that  
199 creates the special service district;

200 (b) enter into a contract that the governing authority considers desirable to carry out  
201 special service district functions, including a contract:

202 (i) with the United States or an agency of the United States, the state, an institution of  
203 higher education, a county, a municipality, a school district, a local district, another special  
204 service district, or any other political subdivision of the state; or

205 (ii) that includes provisions concerning the use, operation, and maintenance of special  
206 service district facilities and the collection of fees or charges with respect to commodities,  
207 services, or facilities that the district provides;

208 (c) acquire or construct facilities;

209 (d) acquire real or personal property, or an interest in real or personal property,  
210 including water and water rights, whether by purchase, lease, gift, devise, bequest, or  
211 otherwise, and whether the property is located inside or outside the special service district, and  
212 own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

213 (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the

- 214 special service district's property or assets, including water and water rights;
- 215 (f) mortgage, pledge, or otherwise encumber all or any part of the special service  
216 district's property or assets, including water and water rights;
- 217 (g) enter into a contract with respect to the use, operation, or maintenance of all or any  
218 part of the special service district's property or assets, including water and water rights;
- 219 (h) accept a government grant or loan and comply with the conditions of the grant or  
220 loan;
- 221 (i) use an officer, employee, property, equipment, office, or facility of the county or  
222 municipality that created the special service district, subject to reimbursement as provided in  
223 Subsection (3);
- 224 (j) employ one or more officers, employees, or agents, including one or more  
225 engineers, accountants, attorneys, or financial consultants, and establish their compensation;
- 226 (k) subject to Subsection (5)(a), designate an assessment area and levy an assessment  
227 as provided in Title 11, Chapter 42, Assessment Area Act;
- 228 (l) contract with a franchised, certificated public utility for the construction and  
229 operation of an electrical service distribution system within the special service district;
- 230 (m) borrow money and incur indebtedness;
- 231 (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of  
232 acquiring, constructing, and equipping any of the facilities required for the services the special  
233 service district is authorized to provide, including:
- 234 (i) bonds payable in whole or in part from taxes levied on the taxable property in the  
235 special service district;
- 236 (ii) bonds payable from revenues derived from the operation of revenue-producing  
237 facilities of the special service district;
- 238 (iii) bonds payable from both taxes and revenues;
- 239 (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable  
240 property in the special service district;
- 241 (v) tax anticipation notes;
- 242 (vi) bond anticipation notes;
- 243 (vii) refunding bonds;
- 244 (viii) special assessment bonds; and



245 (ix) bonds payable in whole or in part from mineral lease payments as provided in  
246 Section 11-14-308;

247 (o) except as provided in Subsection (4) and subject to Subsection (5)(b), impose fees  
248 or charges or both for commodities, services, or facilities that the special service district  
249 provides;

250 (p) provide to an area outside the special service district's boundary, whether inside or  
251 outside the state, a service that the special service district is authorized to provide within its  
252 boundary, if the governing body makes a finding that there is a public benefit to providing the  
253 service to the area outside the special service district's boundary;

254 (q) provide other services that the governing body determines will more effectively  
255 carry out the purposes of the special service district; and

256 (r) adopt an official seal for the special service district.

257 (3) Each special service district that uses an officer, employee, property, equipment,  
258 office, or facility of the county or municipality that created the special service district shall  
259 reimburse the county or municipality a reasonable amount for what the special service district  
260 uses.

261 (4) (a) A special service district that provides jail service as provided in Subsection  
262 17D-1-201(10) may not impose a fee or charge for the service it provides.

263 (b) Subsection (4)(a) may not be construed to limit a special service district that  
264 provides jail service from:

265 (i) entering into a contract with the federal government, the state, or a political  
266 subdivision of the state to provide jail service for compensation; or

267 (ii) receiving compensation for jail service it provides under a contract described in  
268 Subsection (4)(b)(i).

269 (5) (a) Except as provided in Subsection (5)(c), a special service district may not levy  
270 an assessment under Subsection (2)(k) unless the legislative body of the county and each  
271 municipality included within the boundaries of the local district pass a resolution or ordinance  
272 approving the levy.

273 (b) Except as provided in Subsection (5)(c), a special service district may not collect a  
274 fee described in Subsection (2)(o) unless the legislative body of the county and each  
275 municipality included within the boundaries of the special service district pass a resolution or

276 ordinance approving the fee.

277 (c) Subsections (5)(a) and (b) do not apply if all the members of the special service

278 district administrative control board are elected to the administrative control board.

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**Legislative Review Note**

**as of 2-1-10 7:30 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 283 - Fees and Assessment Levies in Local and Special Service Districts**

**Fiscal Note**

2010 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 or businesses. Local governments could experienced reduced revenues from fees.

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