

LOCAL DISTRICT DISSOLUTION

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This bill amends provisions related to the dissolution of a local district.

Highlighted Provisions:

This bill:

- ▶ prohibits the creation of certain local districts;
- ▶ amends definitions;
- ▶ amends provisions related to a petition to dissolve a local district;
- ▶ amends provisions related to the certification of a petition to dissolve a local district;
- ▶ prohibits the board of trustees of an inactive local district from taking certain actions; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-202, as last amended by Laws of Utah 2011, Chapters 68, 106, 126, and 340

17B-1-1301, as renumbered and amended by Laws of Utah 2007, Chapter 329



28 **17B-1-1304**, as renumbered and amended by Laws of Utah 2007, Chapter 329

29 **17B-1-1305**, as renumbered and amended by Laws of Utah 2007, Chapter 329

30 ENACTS:

31 **17B-1-1305.5**, Utah Code Annotated 1953



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

34 Section 1. Section **17B-1-202** is amended to read:

35 **17B-1-202. Local district may be created -- Services that may be provided --**

36 **Limitations.**

37 (1) (a) A local district may be created as provided in this part to provide within its
38 boundaries service consisting of:

- 39 (i) the operation of an airport;
- 40 (ii) the operation of a cemetery;
- 41 (iii) fire protection, paramedic, and emergency services, including consolidated 911
42 and emergency dispatch services;
- 43 (iv) garbage collection and disposal;
- 44 (v) health care, including health department or hospital service;
- 45 (vi) the operation of a library;
- 46 (vii) abatement or control of mosquitos and other insects;
- 47 (viii) the operation of parks or recreation facilities or services;
- 48 (ix) the operation of a sewage system;
- 49 (x) street lighting;
- 50 (xi) the construction and maintenance of a right-of-way, including:
51 (A) a curb;
- 52 (B) a gutter;
- 53 (C) a sidewalk;
- 54 (D) a street;
- 55 (E) a road;
- 56 (F) a water line;
- 57 (G) a sewage line;
- 58 (H) a storm drain;

- 59 (I) an electricity line;
- 60 (J) a communications line; or
- 61 (K) a natural gas line;
- 62 (xii) transportation, including public transit and providing streets and roads;
- 63 (xiii) the operation of a system, or one or more components of a system, for the
- 64 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 65 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 66 the system is operated on a wholesale or retail level or both;
- 67 (xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 68 groundwater right for the development and execution of a groundwater management plan in
- 69 cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 70 (xv) law enforcement service;
- 71 (xvi) subject to Subsection (1)(b), the underground installation of an electric utility line
- 72 or the conversion to underground of an existing electric utility line;
- 73 (xvii) the control or abatement of earth movement or a landslide; or
- 74 (xviii) the operation of animal control services and facilities.
- 75 (b) Each local district that provides the service of the underground installation of an
- 76 electric utility line or the conversion to underground of an existing electric utility line shall, in
- 77 installing or converting the line, provide advance notice to and coordinate with the utility that
- 78 owns the line.
- 79 (c) A groundwater management plan described in Subsection (1)(a)(xiv) may include
- 80 the banking of groundwater rights by a local district in a critical management area as defined in
- 81 Section 73-5-15 following the adoption of a groundwater management plan by the state
- 82 engineer under Section 73-5-15.
- 83 (i) A local district may manage the groundwater rights it acquires under Subsection
- 84 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan
- 85 described in this Subsection (1)(c).
- 86 (ii) A groundwater right held by a local district to satisfy the provisions of a
- 87 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
- 88 (iii) (A) A local district may divest itself of a groundwater right subject to a
- 89 determination that the groundwater right is not required to facilitate the groundwater

90 management plan described in this Subsection (1)(c).

91 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section
92 73-1-4 beginning on the date of divestiture.

93 (iv) Upon a determination by the state engineer that an area is no longer a critical
94 management area as defined in Section 73-5-15, a groundwater right held by the local district is
95 subject to Section 73-1-4.

96 (v) A local district created in accordance with Subsection (1)(a)(xiv) to develop and
97 execute a groundwater management plan may hold or acquire a right to surface waters that are
98 naturally tributary to the groundwater basin subject to the groundwater management plan if the
99 surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in
100 accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

101 (2) For purposes of this section:

102 (a) "Operation" means all activities involved in providing the indicated service
103 including acquisition and ownership of property reasonably necessary to provide the indicated
104 service and acquisition, construction, and maintenance of facilities and equipment reasonably
105 necessary to provide the indicated service.

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

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

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

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

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

120 (i) sewage system; or

121 (ii) water system.

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

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

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

128 (a) paramedic service; and

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

130 (7) A local district created before May 11, 2010, authorized to provide the construction
131 and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection
132 (1)(a)(xi) on or after May 11, 2010.

133 (8) A local district created before May 10, 2011, authorized to provide culinary,
134 irrigation, sewage, or storm water services may provide a service described in Subsection
135 (1)(a)(xiii) on or after May 10, 2011.

136 (9) A local district may not be created under this chapter for two years after the date on
137 which a local district is dissolved in accordance with Part 13, Dissolution of a Local District, if
138 the local district proposed for creation:

139 (a) provides the same or substantially similar services as the dissolved local district;
140 and

141 (b) is located in substantially the same area as the dissolved local district.

142 Section 2. Section **17B-1-1301** is amended to read:

143 **17B-1-1301. Definitions.**

144 For purposes of this part:

145 (1) "Active" means, with respect to a local district, that the district is not inactive.

146 (2) "Administrative body" means:

147 (a) if the local district proposed to be dissolved is active and has a duly constituted
148 board of trustees in sufficient numbers to form a quorum, the board of trustees; or

149 (b) except as provided in Subsection (2)(a):

150 (i) for a local district located entirely within a single municipality, the legislative body
151 of that municipality;

152 (ii) for a local district located in multiple municipalities within the same county or at
153 least partly within the unincorporated area of a county, the legislative body of that county; or

154 (iii) for a local district located within multiple counties, the legislative body of the
155 county whose boundaries include more of the local district than is included within the
156 boundaries of any other county.

157 (3) "Clerk" means:

158 (a) the board of trustees if the board is also the administrative body under Subsection
159 (2)(a);

160 (b) the clerk or recorder of the municipality whose legislative body is the
161 administrative body under Subsection (2)(b)(i); or

162 (c) the clerk of the county whose legislative body is the administrative body under
163 Subsection (2)(b)(ii) or (iii).

164 (4) "Inactive" means, with respect to a local district, that during the preceding three
165 years the district has not:

166 (a) provided any service or otherwise operated;

167 (b) received property taxes or user or other fees; and

168 (c) expended any funds.

169 Section 3. Section **17B-1-1304** is amended to read:

170 **17B-1-1304. Petition requirements.**

171 (1) A person who circulates a petition described in Section 17B-1-1303 shall use a
172 petition form:

173 (a) provided by the clerk; and

174 (b) that complies with this section.

175 [~~1~~] (2) Each petition under Subsection 17B-1-1303(1)(a) or (2) shall:

176 (a) indicate the typed or printed name and current residence address of each owner of
177 acre-feet of water, property owner, or registered voter signing the petition;

178 (b) if it is a petition signed by the owners of acre-feet of water or property owners,
179 indicate the address of the property as to which the owner is signing;

180 (c) designate up to three signers of the petition as sponsors, one of whom shall be
181 designated the contact sponsor, with the mailing address and telephone number of each; and

182 (d) be filed with the clerk.

183 ~~[(2)]~~ (3) A signer of a petition to dissolve a local district may withdraw, or, once
184 withdrawn, reinstate the signer's signature at any time until 30 days after the public hearing
185 under Section 17B-1-1306.

186 (4) (a) A person who circulates a petition under Section 17B-1-1303 shall have 90 days
187 after the day on which the person receives a petition form from the clerk under Subsection
188 (1)(a) to:

189 (i) collect the signatures required by Section 17B-1-1303; and

190 (ii) file the petition for certification in accordance with Subsection (2)(b).

191 (b) The clerk may not accept a petition for certification if the 90-day period described
192 in Subsection (4)(a) has expired.

193 Section 4. Section **17B-1-1305** is amended to read:

194 **17B-1-1305. Petition certification.**

195 (1) Within 30 days after the filing of a petition under Subsection 17B-1-1303(1)(a) or
196 (2), the clerk shall:

197 (a) with the assistance of officers of the county in which the local district is located
198 from whom the clerk requests assistance, determine whether the petition meets the
199 requirements of ~~[Section]~~ Sections 17B-1-1303 and ~~[Subsection]~~ 17B-1-1304~~[(1)]~~; and

200 (b) (i) if the clerk determines that the petition complies with the requirements, certify
201 the petition and mail or deliver written notification of the certification to the contact sponsor;
202 or

203 (ii) if the clerk determines that the petition fails to comply with any of the
204 requirements, reject the petition and mail or deliver written notification of the rejection and the
205 reasons for the rejection to the contact sponsor.

206 (2) (a) ~~[Hf]~~ Except as provided in Subsection (2)(c), if the clerk rejects a petition under
207 Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was
208 rejected and then refiled.

209 (b) ~~[A]~~ Except as provided in Subsection (2)(c), a valid signature on a petition that was
210 rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature
211 requirement of the petition as amended under Subsection (2)(a).

212 (c) A petition that is not filed within the 90-day period described in Section
213 17B-1-1304 may not be refiled under this Subsection (2).

214 (3) The clerk shall process an amended petition filed under Subsection (2)(a) in the
215 same manner as an original petition under Subsection (1).

216 Section 5. Section **17B-1-1305.5** is enacted to read:

217 **17B-1-1305.5. Inactive local district dissolution -- Moratorium.**

218 (1) Except as provided in Subsection (2), if an administrative body has adopted a
219 resolution to dissolve an inactive district under Section 17B-1-1303, or a person has received a
220 petition form from the clerk to dissolve the inactive district under Section 17B-1-1304, the
221 board of trustees of an inactive district may not:

222 (a) provide any service or otherwise operate;

223 (b) receive property taxes or user or other fees; or

224 (c) expend any funds.

225 (2) A board of trustees described in Subsection (1) may engage in an activity described
226 in Subsection (1)(a), (b), or (c) if:

227 (a) a petitioner fails to meet the 90-day period requirement described in Section
228 17B-1-1304; or

229 (b) the administrative body fails to adopt a resolution approving the dissolution of the
230 local district under Section 17B-1-1308.

Legislative Review Note
as of 2-28-12 9:13 AM

Office of Legislative Research and General Counsel