

1                   **LOCAL AND SPECIAL SERVICE DISTRICT AMENDMENTS**

2   2012 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jerry W. Stevenson**

5                                   House Sponsor: Stephen G. Handy

6 

---

---

  
7 **LONG TITLE**

8 **General Description:**

9           This bill amends provisions related to a local district and a special service district.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ defines terms;
- 13           ▶ amends language related to the appointment of a local district board member;
- 14           ▶ authorizes a local district to provide early voting for an election of a board member;
- 15           ▶ amends language related to a local district tax levy;
- 16           ▶ amends notice requirements for a budget hearing held by the board of trustees;
- 17           ▶ amends provisions related to an improvement district board of trustees;
- 18           ▶ amends language related to a use charge imposed by an irrigation district;
- 19           ▶ amends provisions related to a mosquito abatement district board of trustees;
- 20           ▶ amends language related to an administrative control board membership;
- 21           ▶ amends language related to the qualifications of an administrative control board

22 member; and

- 23           ▶ makes technical corrections.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **17B-1-202**, as last amended by Laws of Utah 2011, Chapters 68, 106, 126, and 340
- 31 **17B-1-214**, as last amended by Laws of Utah 2011, Chapter 68
- 32 **17B-1-304**, as last amended by Laws of Utah 2011, Chapter 297
- 33 **17B-1-306**, as last amended by Laws of Utah 2011, Chapters 40, 292, and 327
- 34 **17B-1-511**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 35 **17B-1-609**, as last amended by Laws of Utah 2010, Chapter 90
- 36 **17B-2a-404**, as last amended by Laws of Utah 2010, Chapter 121
- 37 **17B-2a-506**, as enacted by Laws of Utah 2007, Chapter 329
- 38 **17B-2a-704**, as last amended by Laws of Utah 2011, Chapter 106
- 39 **17D-1-106**, as last amended by Laws of Utah 2011, Chapters 40, 106, 205, and 209
- 40 **17D-1-302**, as enacted by Laws of Utah 2008, Chapter 360
- 41 **17D-1-304**, as enacted by Laws of Utah 2008, Chapter 360
- 42 **20A-1-206**, as enacted by Laws of Utah 2011, Chapter 40
- 43 **20A-3-605**, as last amended by Laws of Utah 2010, Chapter 337
- 44 **73-5-15**, as last amended by Laws of Utah 2011, Chapters 68 and 126



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

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

48 **17B-1-202. Local district may be created -- Services that may be provided --**

49 **Limitations.**

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

- 52 (i) the operation of an airport;
- 53 (ii) the operation of a cemetery;
- 54 (iii) fire protection, paramedic, and emergency services, including consolidated 911  
55 and emergency dispatch services;
- 56 (iv) garbage collection and disposal;
- 57 (v) health care, including health department or hospital service;
- 58 (vi) the operation of a library;

- 59 (vii) abatement or control of mosquitos and other insects;
- 60 (viii) the operation of parks or recreation facilities or services;
- 61 (ix) the operation of a sewage system;
- 62 [~~(x)~~ street lighting;]
- 63 [~~(xi)~~ (x) the construction and maintenance of a right-of-way, including:
- 64 (A) a curb;
- 65 (B) a gutter;
- 66 (C) a sidewalk;
- 67 (D) a street;
- 68 (E) a road;
- 69 (F) a water line;
- 70 (G) a sewage line;
- 71 (H) a storm drain;
- 72 (I) an electricity line;
- 73 (J) a communications line; [~~or~~]
- 74 (K) a natural gas line; or
- 75 (L) street lighting;
- 76 [~~(xii)~~ (xi) transportation, including public transit and providing streets and roads;
- 77 [~~(xiii)~~ (xii) the operation of a system, or one or more components of a system, for the
- 78 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 79 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 80 the system is operated on a wholesale or retail level or both;
- 81 [~~(xiv)~~ (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 82 groundwater right for the development and execution of a groundwater management plan in
- 83 cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 84 [~~(xv)~~ (xiv) law enforcement service;
- 85 [~~(xvi)~~ (xv) subject to Subsection (1)(b), the underground installation of an electric
- 86 utility line or the conversion to underground of an existing electric utility line;
- 87 [~~(xvii)~~ (xvi) the control or abatement of earth movement or a landslide; or
- 88 [~~(xviii)~~ (xvii) the operation of animal control services and facilities.
- 89 (b) Each local district that provides the service of the underground installation of an

90 electric utility line or the conversion to underground of an existing electric utility line shall, in  
91 installing or converting the line, provide advance notice to and coordinate with the utility that  
92 owns the line.

93 (c) A groundwater management plan described in Subsection (1)(a)[~~(xiv)~~](xiii) may  
94 include the banking of groundwater rights by a local district in a critical management area as  
95 defined in Section 73-5-15 following the adoption of a groundwater management plan by the  
96 state engineer under Section 73-5-15.

97 (i) A local district may manage the groundwater rights it acquires under Subsection  
98 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan  
99 described in this Subsection (1)(c).

100 (ii) A groundwater right held by a local district to satisfy the provisions of a  
101 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

102 (iii) (A) A local district may divest itself of a groundwater right subject to a  
103 determination that the groundwater right is not required to facilitate the groundwater  
104 management plan described in this Subsection (1)(c).

105 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section  
106 73-1-4 beginning on the date of divestiture.

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

110 (v) A local district created in accordance with Subsection (1)(a)[~~(xiv)~~](xiii) to develop  
111 and execute a groundwater management plan may hold or acquire a right to surface waters that  
112 are naturally tributary to the groundwater basin subject to the groundwater management plan if  
113 the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used  
114 in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

115 (2) For purposes of this section:

116 (a) "Operation" means all activities involved in providing the indicated service  
117 including acquisition and ownership of property reasonably necessary to provide the indicated  
118 service and acquisition, construction, and maintenance of facilities and equipment reasonably  
119 necessary to provide the indicated service.

120 (b) "System" means the aggregate of interrelated components that combine together to

121 provide the indicated service including, for a sewage system, collection and treatment.

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

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

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

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

134 (i) sewage system; or

135 (ii) water system.

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

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

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

142 (a) paramedic service; and

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

144 (7) A local district created before May 11, 2010, authorized to provide the construction  
145 and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection  
146 (1)(a)[~~(xi)~~](x) on or after May 11, 2010.

147 (8) A local district created before May 10, 2011, authorized to provide culinary,  
148 irrigation, sewage, or storm water services may provide a service described in Subsection  
149 (1)(a)[~~(xiii)~~](xii) on or after May 10, 2011.

150 Section 2. Section **17B-1-214** is amended to read:

151 **17B-1-214. Election -- Exceptions.**

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

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

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

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

163 (2) Each election under Subsection (1) shall be held at the next special or regular  
164 general election date that is:

165 (a) for an election pursuant to a property owner or registered voter petition, more than  
166 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

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

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

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

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

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

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

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

182 (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the

183 petition contains the signatures of the owners of groundwater rights that:

184 (i) are diverted within the proposed local district; and

185 (ii) cover at least 67% of the total amount of groundwater diverted in accordance with  
186 groundwater rights within the proposed local district as a whole and within each applicable  
187 area;

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

192 (e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution  
193 proposes the creation of a local district that has no registered voters within its boundaries; or

194 (f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010,  
195 that proposes the creation of a local district described in Subsection  
196 17B-1-202(1)(a)[~~(xiv)~~](xiii).

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

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

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

206 Section 3. Section **17B-1-304** is amended to read:

207 **17B-1-304. Appointment procedures for appointed members.**

208 (1) The appointing authority may, by resolution, appoint persons to serve as members  
209 of a local district board by following the procedures established by this section.

210 (2) (a) In any calendar year when appointment of a new local district board member is  
211 required, the appointing authority shall prepare a notice of vacancy that contains:

212 (i) the positions that are vacant that shall be filled by appointment;

213 (ii) the qualifications required to be appointed to those positions;

214 (iii) the procedures for appointment that the governing body will follow in making  
215 those appointments; and

216 (iv) the person to be contacted and any deadlines that a person shall meet who wishes  
217 to be considered for appointment to those positions.

218 (b) The appointing authority shall:

219 (i) post the notice of vacancy in four public places within the local district at least one  
220 month before the deadline for accepting nominees for appointment; and

221 (ii) (A) publish the notice of vacancy:

222 (I) in a daily newspaper of general circulation within the local district for five  
223 consecutive days before the deadline for accepting nominees for appointment; or

224 (II) in a local weekly newspaper circulated within the local district in the week before  
225 the deadline for accepting nominees for appointment; and

226 (B) in accordance with Section 45-1-101 for five days before the deadline for accepting  
227 nominees for appointment.

228 (c) The appointing authority may bill the local district for the cost of preparing,  
229 printing, and publishing the notice.

230 (3) (a) Not sooner than two months after the appointing authority is notified of the  
231 vacancy, the appointing authority shall select a person to fill the vacancy from the applicants  
232 who meet the qualifications established by law.

233 (b) The appointing authority shall:

234 (i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the  
235 appointment;

236 (ii) allow any interested persons to be heard; and

237 (iii) adopt a resolution appointing a person to the local district board.

238 (c) If no candidate for appointment to fill the vacancy receives a majority vote of the  
239 appointing authority, the appointing authority shall select the appointee from the two top  
240 candidates by lot.

241 (4) Persons appointed to serve as members of the local district board serve four-year  
242 terms, but may be removed for cause at any time after a hearing by two-thirds vote of the  
243 appointing body.

244 (5) At the end of each board member's term, the position is considered vacant and the



245 appointing authority may either reappoint the old board member or appoint a new member after  
246 following the appointment procedures established in this section.

247 (6) Notwithstanding any other provision of this section, if the appointing authority  
248 appoints one of its own members, it need not comply with ~~[the provisions of this section]~~  
249 Subsection (2) or (3).

250 Section 4. Section **17B-1-306** is amended to read:

251 **17B-1-306. Local district board -- Election procedures.**

252 (1) Except as provided in Subsection (11), each elected board member shall be selected  
253 as provided in this section.

254 (2) (a) Each election of a local district board member shall be held:

255 (i) at the same time as the municipal general election; and

256 (ii) at polling places designated by the county clerk in consultation with the local  
257 district for each county in which the local district is located, which polling places shall coincide  
258 with municipal general election polling places whenever feasible.

259 (b) (i) Subject to Subsections (4)(f) and (g), the number of polling places under  
260 Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one  
261 polling place per division of the district, designated by the district board.

262 (ii) Each polling place designated by an irrigation district board under Subsection  
263 (2)(b)(i) shall coincide with a polling place designated by the county clerk under Subsection  
264 (2)(a)(ii).

265 (3) (a) The clerk of each local district with a board member position to be filled at the  
266 next municipal general election shall provide notice of:

267 (i) each elective position of the local district to be filled at the next municipal general  
268 election;

269 (ii) the constitutional and statutory qualifications for each position; and

270 (iii) the dates and times for filing a declaration of candidacy.

271 (b) The notice required under Subsection (3)(a) shall be:

272 (i) posted in at least five public places within the local district at least 10 days before  
273 the first day for filing a declaration of candidacy; or

274 (ii) (A) published in a newspaper of general circulation within the local district at least  
275 three but no more than 10 days before the first day for filing a declaration of candidacy; and

276 (B) published, in accordance with Section 45-1-101, for 10 days before the first day for  
277 filing a declaration of candidacy.

278 (4) (a) To become a candidate for an elective local district board position, the  
279 prospective candidate shall file a declaration of candidacy in person with the local district,  
280 during office hours and not later than the close of normal office hours between June 1 and June  
281 15 of any odd-numbered year.

282 (b) When June 15 is a Saturday, Sunday, or holiday, the filing time shall be extended  
283 until the close of normal office hours on the following regular business day.

284 (c) (i) Before the filing officer may accept any declaration of candidacy, the filing  
285 officer shall:

286 (A) read to the prospective candidate the constitutional and statutory qualification  
287 requirements for the office that the candidate is seeking; and

288 (B) require the candidate to state whether or not the candidate meets those  
289 requirements.

290 (ii) If the prospective candidate does not meet the qualification requirements for the  
291 office, the filing officer may not accept the declaration of candidacy.

292 (iii) If it appears that the prospective candidate meets the requirements of candidacy,  
293 the filing officer shall accept the declaration of candidacy.

294 (d) The declaration of candidacy shall substantially comply with the following form:

295 "I, (print name) \_\_\_\_\_, being first duly sworn, say that I reside at (Street)  
296 \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, State of Utah,  
297 (Zip Code) \_\_\_\_\_, (Telephone Number, if any) \_\_\_\_\_; that I meet the qualifications  
298 for the office of board of trustees member for \_\_\_\_\_ (state the name of  
299 the local district); that I am a candidate for that office to be voted upon at the next election, and  
300 I hereby request that my name be printed upon the official ballot for that election.

301 (Signed) \_\_\_\_\_

302 Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this \_\_\_\_\_ day  
303 of \_\_\_\_\_, \_\_\_\_\_.

304 (Signed) \_\_\_\_\_

305 (Clerk or Notary Public)"

306 (e) Each person wishing to become a valid write-in candidate for an elective local

307 district board position is governed by Section 20A-9-601.

308 (f) If at least one person does not file a declaration of candidacy as required by this  
309 section, a person shall be appointed to fill that board position by following the procedures and  
310 requirements for appointment established in Section 20A-1-512.

311 (g) If only one candidate files a declaration of candidacy and there is no write-in  
312 candidate who complies with Section 20A-9-601, the board, in accordance with Section  
313 20A-1-206, may:

314 (i) consider the candidate to be elected to the position; and

315 (ii) cancel the election.

316 (5) (a) A primary election may be held if:

317 (i) the election is authorized by the local district board; and

318 (ii) the number of candidates for a particular local board position or office exceeds  
319 twice the number of persons needed to fill that position or office.

320 (b) The primary election shall be conducted:

321 (i) on the same date as the municipal primary election, as provided for in Section  
322 20A-1-201.5; and

323 (ii) according to the procedures for municipal primary elections provided under Title  
324 20A, Election Code.

325 (6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the  
326 candidate names to the clerk of each county in which the local district is located no later than  
327 July 20 of the municipal election year.

328 (b) (i) Except as provided in Subsection (6)(c) and in accordance with Section  
329 20A-6-305, the clerk of each county in which the local district is located shall coordinate the  
330 placement of the name of each candidate for local district office in the nonpartisan section of  
331 the municipal general election ballot with the municipal election clerk.

332 (ii) If consolidation of the local district election ballot with the municipal general  
333 election ballot is not feasible, the county clerk shall provide for a separate local district election  
334 ballot to be administered by poll workers at polling locations designated under Subsection (2).

335 (c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board  
336 of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

337 (ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall

338 prescribe the form of the ballot for each board member election.

339 (B) Each ballot for an election of an irrigation district board member shall be in a  
340 nonpartisan format.

341 (C) The name of each candidate shall be placed on the ballot in the order specified  
342 under Section 20A-6-305.

343 (7) (a) Each voter at an election for a board of trustees member of a local district shall:

344 (i) be a registered voter within the district, except for an election of:

345 (A) an irrigation district board of trustees member; or

346 (B) a basic local district board of trustees member who is elected by property owners;

347 and

348 (ii) meet the requirements to vote established by the district.

349 (b) Each voter may vote for as many candidates as there are offices to be filled.

350 (c) The candidates who receive the highest number of votes are elected.

351 (8) Except as otherwise provided by this section, the election of local district board  
352 members is governed by Title 20A, Election Code.

353 (9) (a) A person elected to serve on a local district board shall serve a four-year term,  
354 beginning at noon on the January 1 after the person's election.

355 (b) A person elected shall be sworn in as soon as practical after January 1.

356 (10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse  
357 the county or municipality holding an election under this section for the costs of the election  
358 attributable to that local district.

359 (b) Each irrigation district shall bear its own costs of each election it holds under this  
360 section.

361 (11) This section does not apply to an improvement district that provides electric or gas  
362 service.

363 (12) ~~[The]~~ Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title  
364 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

365 Section 5. Section **17B-1-511** is amended to read:

366 **17B-1-511. Continuation of tax levy after withdrawal to pay for proportionate**  
367 **share of district bonds.**

368 (1) Other than as provided in Subsection (2), and unless an escrow trust fund is

369 established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn  
 370 area shall continue after withdrawal to be [~~subject to a tax~~] taxable by the local district:

371 (a) for the purpose of paying the withdrawn area's just proportion of the local district's  
 372 general obligation bonds, other than those bonds treated as revenue bonds under Subsection  
 373 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and

374 (b) to the extent and for the years necessary to generate sufficient revenue that, when  
 375 combined with the revenues from the district remaining after withdrawal, is sufficient to  
 376 provide for the payment of principal and interest on the district's general obligation bonds that  
 377 are treated as revenue bonds under Subsection 17B-1-510(5)(i).

378 (2) For a local district funded predominately by revenues other than property taxes,  
 379 service charges, or assessments based upon an allotment of acre-feet of water, [~~taxes~~] property  
 380 within the withdrawn area shall continue to be [~~collected~~] taxable by the local district for  
 381 purposes of paying the withdrawn area's proportionate share of bonded indebtedness or  
 382 judgments against the local district incurred prior to the date the petition was filed.

383 (3) Except as provided in Subsections (1) and (2), upon withdrawal, the withdrawing  
 384 area is relieved of all other taxes, assessments, and charges levied by the district, including  
 385 taxes and charges for the payment of revenue bonds and maintenance and operation cost of the  
 386 local district.

387 Section 6. Section **17B-1-609** is amended to read:

388 **17B-1-609. Hearing to consider adoption.**

389 (1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

390 (a) establish the time and place of a public hearing to consider its adoption; and

391 (b) order that notice of the hearing:

392 (i) (A) be published at least seven days before the hearing in at least one issue of a  
 393 newspaper of general circulation published in the county or counties in which the district is  
 394 located; or

395 (B) if no newspaper is published, be posted in three public places within the district;  
 396 and

397 (ii) be published at least seven days before the hearing on the Utah Public Notice  
 398 Website created in Section 63F-1-701.

399 (2) If the budget hearing is held in conjunction with a tax increase hearing, the notice

400 required in Subsection (1)(b):

401 (a) may be combined with the notice required under Section 59-2-919; and

402 (b) shall be published in accordance with the advertisement provisions of Section  
403 59-2-919.

404 (3) Proof that notice was given in accordance with Subsection (1)(b) or (2) is prima  
405 face evidence that notice was properly given.

406 (4) If a notice required under Subsection (1)(b) or (2) is not challenged within 30 days  
407 after the day on which the hearing is held, the notice is adequate and proper.

408 Section 7. Section **17B-2a-404** is amended to read:

409 **17B-2a-404. Improvement district board of trustees.**

410 (1) As used in this section:

411 (a) "County district" means an improvement district that does not include within its  
412 boundaries any territory of a municipality.

413 (b) "County member" means a member of a board of trustees of a county district.

414 (c) "Electric district" means an improvement district that was created for the purpose of  
415 providing electric service.

416 (d) "Included municipality" means a municipality whose boundaries are entirely  
417 contained within but do not coincide with the boundaries of an improvement district.

418 (e) "Municipal district" means an improvement district whose boundaries coincide  
419 with the boundaries of a single municipality.

420 (f) "Regular district" means an improvement district that is not a county district,  
421 electric district, or municipal district.

422 (g) "Remaining area" means the area of a regular district that:

423 (i) is outside the boundaries of an included municipality; and

424 (ii) includes the area of an included municipality whose legislative body elects, under  
425 Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

426 (h) "Remaining area member" means a member of a board of trustees of a regular  
427 district who is appointed, or, if applicable, elected to represent the remaining area of the  
428 district.

429 (2) The legislative body of the municipality included within a municipal district may:

430 (a) elect, at the time of the creation of the district, to be the board of trustees of the

431 district; and

432 (b) adopt at any time a resolution providing for:

433 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

434 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

435 (3) The legislative body of a county whose unincorporated area is partly or completely  
436 within a county district may:

437 (a) elect, at the time of the creation of the district, to be the board of trustees of the  
438 district; and

439 (b) adopt at any time a resolution providing for:

440 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

441 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

442 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each  
443 included municipality shall each appoint one member to the board of trustees of a regular  
444 district.

445 (ii) The legislative body of an included municipality may elect not to appoint a member  
446 to the board under Subsection (4)(a)(i).

447 (b) Except as provided in Subsection (5), the legislative body of each county whose  
448 boundaries include a remaining area shall appoint all other members to the board of trustees of  
449 a regular district.

450 (5) ~~Each~~ Notwithstanding Subsection (3), each remaining area member of a regular  
451 district and each county member of a county district shall be elected, as provided in Section  
452 17B-1-306, if:

453 (a) the petition or resolution initiating the creation of the district provides for remaining  
454 area or county members to be elected;

455 (b) the district holds an election to approve the district's issuance of bonds;

456 (c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii),  
457 not to appoint a member to the board of trustees; or

458 (d) (i) at least 90 days before the municipal general election, a petition is filed with the  
459 district's board of trustees requesting remaining area members or county members, as the case  
460 may be, to be elected; and

461 (ii) the petition is signed by registered voters within the remaining area or county

462 district, as the case may be, equal in number to at least 10% of the number of registered voters  
463 within the remaining area or county district, respectively, who voted in the last gubernatorial  
464 election.

465 (6) Subject to Section 17B-1-302, the number of members of a board of trustees of a  
466 regular district shall be:

467 (a) the number of included municipalities within the district, if:

468 (i) the number is an odd number; and

469 (ii) the district does not include a remaining area;

470 (b) the number of included municipalities plus one, if the number of included  
471 municipalities within the district is even; and

472 (c) the number of included municipalities plus two, if:

473 (i) the number of included municipalities is odd; and

474 (ii) the district includes a remaining area.

475 (7) (a) Except as provided in Subsection (7)(b), each remaining area member of the  
476 board of trustees of a regular district shall reside within the remaining area.

477 (b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining  
478 area member shall be chosen from the district at large if:

479 (i) the population of the remaining area is less than 5% of the total district population;

480 or

481 (ii) (A) the population of the remaining area is less than 50% of the total district  
482 population; and

483 (B) the majority of the members of the board of trustees are remaining area members.

484 (c) Application of Subsection (7)(b) may not prematurely shorten the term of any  
485 remaining area member serving the remaining area member's elected or appointed term on May  
486 11, 2010.

487 (8) If the election of remaining area or county members of the board of trustees is  
488 required because of a bond election, as provided in Subsection (5)(b):

489 (a) a person may file a declaration of candidacy if:

490 (i) the person resides within:

491 (A) the remaining area, for a regular district; or

492 (B) the county district, for a county district; and



493 (ii) otherwise qualifies as a candidate;

494 (b) the board of trustees shall, if required, provide a ballot separate from the bond  
495 election ballot, containing the names of candidates and blanks in which a voter may write  
496 additional names; and

497 (c) the election shall otherwise be governed by Title 20A, Election Code.

498 (9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric  
499 district.

500 (ii) Subsections (2) through (8) do not apply to an electric district.

501 (b) The legislative body of the county in which an electric district is located may  
502 appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

503 (c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each  
504 member of the board of trustees of an electric district shall be elected by persons using  
505 electricity from and within the district.

506 (d) Each member of the board of trustees of an electric district shall be a user of  
507 electricity from the district and, if applicable, the division of the district from which elected.

508 (e) The board of trustees of an electric district may be elected from geographic  
509 divisions within the district.

510 (f) A municipality within an electric district is not entitled to automatic representation  
511 on the board of trustees.

512 Section 8. Section **17B-2a-506** is amended to read:

513 **17B-2a-506. Different use charges for different units -- Use charges based on the**  
514 **size of the land served -- Use charge may not be based on property value.**

515 (1) An irrigation district may:

516 (a) divide the district into units and apply different use charges to the different units;  
517 and

518 (b) base use charges upon the amount of water or electricity the district provides, the  
519 area of the land served, or any other reasonable basis, as determined by the board of trustees.

520 (2) If an irrigation district imposes a use charge based on the size of the land served[:]  
521 or the amount of water allotted to the land:

522 (a) the assessor of the county in which the land is located shall assist the irrigation  
523 district in ascertaining the identity of a parcel served by the district;

524 [~~(a)~~] (b) the district shall notify the treasurer of the county in which the land is located  
525 of the charge to be imposed for each parcel of land served by the district; and

526 [~~(b)~~] (c) the treasurer of the county in which the land is located:

527 (i) shall:

528 (A) provide each landowner a notice of use charges as part of the annual tax notice as  
529 an additional charge separate from ad valorem taxes;

530 (B) collect, receive, and provide an accounting for all money belonging to the district  
531 from use charges; and

532 (C) remit to the irrigation district, by the tenth day of each month, the funds previously  
533 collected by the county as use charges on the district's behalf; and

534 (ii) may receive and account for use charges separately from taxes upon real estate for  
535 county purposes.

536 (3) (a) A use charge described in Subsection (2)(b) shall become a lien on the land  
537 served as provided in Section 17B-1-902 except that the certification described in Subsection  
538 17B-1-902(1)(a) is not required.

539 (b) A lien described in Subsection (3)(a) shall remain in force until the use charge is  
540 paid.

541 (c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt  
542 of full payment of the use charge.

543 [~~(3)~~] (4) A use charge may not be calculated on the basis of property value and does  
544 not constitute an ad valorem property tax or other tax.

545 Section 9. Section **17B-2a-704** is amended to read:

546 **17B-2a-704. Mosquito abatement district board of trustees.**

547 (1) (a) Notwithstanding Subsection 17B-1-302(2) [~~and~~]:

548 (i) the board of trustees of a mosquito abatement district shall consist of no less than  
549 five members appointed in accordance with this section; and

550 (ii) subject to Subsection (1)(b), the legislative body of each municipality that is  
551 entirely or partly included within a mosquito abatement district shall appoint one member to  
552 the board of trustees.

553 (b) If 75% or more of the area of a mosquito abatement district is within the boundaries  
554 of a single municipality:

555 (i) the board of trustees shall consist of five members; and  
556 (ii) the legislative body of that municipality shall appoint all five members of the  
557 board.

558 (2) The legislative body of each county in which a mosquito abatement district is  
559 located shall appoint at least one member but no more than three members to the district's  
560 board of trustees as follows:

561 (a) one member may be appointed if:

562 (i) some or all of the county's unincorporated area is included within the boundaries of  
563 the mosquito abatement district and Subsection (2)(b) does not apply; or  
564 (ii) (A) the number of municipalities that are entirely or partly included within the  
565 district is an even number less than nine; and  
566 (B) Subsection (1)(b) does not apply; or  
567 (b) subject to Subsection (3), up to and including three members may be appointed if:  
568 (i) more than 25% of the population of the mosquito abatement district resides outside  
569 the boundaries of all municipalities that may appoint members to the board of trustees; and  
570 (ii) at least four members of the board of trustees are appointed by a municipality.

571 (3) A member appointed in accordance with Subsection (2)(b) may not reside within a  
572 municipality that may appoint a member to the board of trustees.

573 (4) If the number of board members appointed by application of Subsections (1) and  
574 (2)(a) is an even number less than nine, the legislative body of the county in which the district  
575 is located shall appoint an additional member.

576 (5) Notwithstanding Subsection (2):

577 (a) if the mosquito abatement district is located entirely within one county and, in  
578 accordance with this section, only one municipality may appoint a member of the board of  
579 trustees, the county legislative body shall appoint at least four members to the district's board  
580 of trustees; and

581 (b) if the mosquito abatement district is located entirely within one county and no  
582 municipality may appoint a member of the board of trustees, all of the members of the board  
583 shall be appointed by the county legislative body.

584 [~~5~~] (6) Each board of trustees member shall be appointed as provided in Section  
585 17B-1-304.

586 [6] (7) Each vacancy on a mosquito abatement district board of trustees shall be filled  
587 by the applicable appointing authority as provided in Section 17B-1-304, or if the vacancy is a  
588 midterm vacancy, as provided in Section 20A-1-512.

589 Section 10. Section **17D-1-106** is amended to read:

590 **17D-1-106. Special service districts subject to other provisions.**

591 (1) A special service district is, to the same extent as if it were a local district, subject  
592 to and governed by:

593 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,  
594 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, [and] 17B-1-121[; ~~(b)~~  
595 ~~Subsections 17B-1-301(3) and (4), Sections], 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307,~~  
596 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314;

597 (b) Subsections:

598 (i) 17B-1-301(3) and (4); and

599 (ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), and (7);

600 (c) Section 20A-1-512;

601 (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

602 (e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

603 (f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

604 (g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

605 (2) For purposes of applying the provisions listed in Subsection (1) to a special service  
606 district, each reference in those provisions to the local district board of trustees means the  
607 governing body.

608 Section 11. Section **17D-1-302** is amended to read:

609 **17D-1-302. Number of members of an administrative control board.**

610 (1) [Each] An administrative control board shall consist of at least three members in  
611 addition to a member appointed in accordance with Subsections 17D-1-303(2)(b)(i) and (ii).

612 (2) The number of administrative control board members for a special service district  
613 established by a county of the first class to provide jail service as provided in Subsection  
614 17D-1-201(10) is nine.

615 Section 12. Section **17D-1-304** is amended to read:

616 **17D-1-304. Qualifications of administrative control board members -- Term of**

617 office.

618 (1) (a) Except as provided in Subsection (1)(b), each member of an administrative  
619 control board shall be:

620 (i) a registered voter within the special service district; or

621 (ii) an officer or employee of the county or municipality that created the special service  
622 district.

623 (b) Subsection (1)(a) does not apply if:

624 (i) at least 90% of the owners of real property within the special service district are not  
625 registered voters within the special service district; or

626 (ii) the member is appointed under Subsection 17D-1-303(2)(b)(i) or (ii)[:]; or

627 (iii) over 50% of the residences within a special service district are seasonally occupied  
628 homes, as defined in Section 17B-1-302, in which case one or more members of the  
629 administrative control board may be an owner of land, or an agent or officer of an owner of  
630 land, that:

631 (A) receives service from the special service district; and

632 (B) is located within the special service district.

633 (2) (a) Except as provided in Subsection (2)(b), the term of each member of an  
634 administrative control board is four years.

635 (b) The term of as close as possible to half of the initial members of an administrative  
636 control board, chosen by lot, is two years.

637 Section 13. Section **20A-1-206** is amended to read:

638 **20A-1-206. Cancellation of local election -- Municipalities -- Local districts --**

639 **Notice.**

640 (1) A municipal legislative body may cancel a local election if:

641 (a) (i) (A) all municipal officers are elected in an at-large election under Subsection  
642 10-3-205.5(1); and

643 (B) the number of municipal officer candidates, including any eligible write-in  
644 candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the  
645 number of open at-large municipal offices for which the candidates have filed; or

646 (ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

647 (B) the number of municipal officer candidates, including any eligible write-in

648 candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed  
649 the number of open at-large municipal offices for which the candidates have filed; and

650 (C) each municipal officer candidate, including any eligible write-in candidates under  
651 Section 20A-9-601, in each district is unopposed;

652 (b) there are no other municipal ballot propositions; and

653 (c) the municipal legislative body passes, no later than 20 days before the day of the  
654 scheduled election, a resolution that cancels the election and certifies that:

655 (i) each municipal officer candidate is:

656 (A) unopposed; or

657 (B) a candidate for an at-large municipal office for which the number of candidates  
658 does not exceed the number of open at-large municipal offices; and

659 (ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

660 (2) A municipal legislative body that cancels a local election in accordance with  
661 Subsection (1) shall give notice that the election is cancelled by posting notice:

662 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as  
663 described in Section 20A-7-801 for 15 consecutive days before the day of the scheduled  
664 election;

665 (b) if the municipality has a public website, on the municipality's public website for 15  
666 days before the day of the scheduled election;

667 (c) if the municipality publishes a newsletter or other periodical, in the next scheduled  
668 newsletter or other periodical published before the day of the scheduled election; and

669 (d) (i) at least twice in a newspaper of general circulation within the municipality  
670 before the day of the scheduled election; or

671 (ii) if there is no newspaper of general circulation within the municipality, in at least  
672 three conspicuous places within the boundaries of the municipality at least 10 days before the  
673 day of the scheduled election.

674 (3) A local district board may cancel an election as described in Section 17B-1-306 if:

675 (a) (i) (A) any local district officers are elected in an at-large election; and

676 (B) the number of local district officer candidates for the at-large local district offices,  
677 including any eligible write-in candidates under Section 20A-9-601, does not exceed the  
678 number of open at-large local district offices for which the candidates have filed; or

679 (ii) (A) the local district has divided the local district into divisions under Section  
680 17B-1-306.5;

681 (B) the number of local district officer candidates, including any eligible write-in  
682 candidates under Section 20A-9-601, for the at-large local district offices within the local  
683 district, if any, does not exceed the number of open at-large local district offices for which the  
684 candidates have filed; and

685 (C) each local district officer candidate, including any eligible write-in candidates  
686 under Section 20A-9-601, in each division of the local district is unopposed;

687 (b) there are no other local district ballot propositions; and

688 (c) the local district [~~board of trustees~~] governing body, no later than 20 days before the  
689 day of the scheduled election, adopts a resolution that cancels the election and certifies that:

690 (i) each local district officer candidate is:

691 (A) unopposed; or

692 (B) a candidate for an at-large local district office for which the number of candidates  
693 does not exceed the number of open at-large local district offices; and

694 (ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

695 (4) A local district that cancels a local election in accordance with Subsection (3) shall  
696 give notice that the election is cancelled by posting notice:

697 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as  
698 described in Section 20A-7-801 for 15 consecutive days before the day of the scheduled  
699 election;

700 (b) if the local district has a public website, on the local district's public website for 15  
701 days before the day of the scheduled election;

702 (c) if the local district publishes a newsletter or other periodical, in the next scheduled  
703 newsletter or other periodical published before the day of the scheduled election; and

704 (d) (i) at least twice in a newspaper of general circulation within the local district  
705 before the day of the scheduled election; or

706 (ii) if there is no newspaper of general circulation within the local district, in at least  
707 three conspicuous places within the boundaries of the local district at least 10 days before the  
708 day of the scheduled election.

709 (5) A municipal legislative body that posts a notice in accordance with Subsection

710 (2)(a) or a local district that posts a notice in accordance with Subsection (4)(a) is not liable for  
711 a notice that fails to post due to technical or other error by the publisher of the Statewide  
712 Electronic Voter Information Website.

713 Section 14. Section **20A-3-605** is amended to read:

714 **20A-3-605. Exemption from early voting for a local district election -- Optional**  
715 **early voting for fifth class municipality or town.**

716 (1) (a) This part does not apply to an election of a board member of a local district.

717 (b) Notwithstanding Subsection (1)(a), a local district may, at its discretion, provide  
718 early voting in accordance with this part for an election of a board member.

719 (2) Notwithstanding the requirements of Section 20A-3-601, a municipality of the fifth  
720 class or a town as described in Section 10-2-301 may provide early voting as provided under  
721 this part for:

722 (a) a municipal primary election; or

723 (b) a municipal general election.

724 Section 15. Section **73-5-15** is amended to read:

725 **73-5-15. Groundwater management plan.**

726 (1) As used in this section:

727 (a) "Critical management area" means a groundwater basin in which the groundwater  
728 withdrawals consistently exceed the safe yield.

729 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a  
730 groundwater basin over a period of time without exceeding the long-term recharge of the basin  
731 or unreasonably affecting the basin's physical and chemical integrity.

732 (2) (a) The state engineer may regulate groundwater withdrawals within a specific  
733 groundwater basin by adopting a groundwater management plan in accordance with this section  
734 for any groundwater basin or aquifer or combination of hydrologically connected groundwater  
735 basins or aquifers.

736 (b) The objectives of a groundwater management plan are to:

737 (i) limit groundwater withdrawals to safe yield;

738 (ii) protect the physical integrity of the aquifer; and

739 (iii) protect water quality.

740 (c) The state engineer shall adopt a groundwater management plan for a groundwater



741 basin if more than one-third of the water right owners in the groundwater basin request that the  
742 state engineer adopt a groundwater management plan.

743 (3) (a) In developing a groundwater management plan, the state engineer may consider:

744 (i) the hydrology of the groundwater basin;

745 (ii) the physical characteristics of the groundwater basin;

746 (iii) the relationship between surface water and groundwater, including whether the  
747 groundwater should be managed in conjunction with hydrologically connected surface waters;

748 (iv) the conjunctive management of water rights to facilitate and coordinate the lease,  
749 purchase, or voluntary use of water rights subject to the groundwater management plan;

750 (v) the geographic spacing and location of groundwater withdrawals;

751 (vi) water quality;

752 (vii) local well interference; and

753 (viii) other relevant factors.

754 (b) The state engineer shall base the provisions of a groundwater management plan on  
755 the principles of prior appropriation.

756 (c) (i) The state engineer shall use the best available scientific method to determine  
757 safe yield.

758 (ii) As hydrologic conditions change or additional information becomes available, safe  
759 yield determinations made by the state engineer may be revised by following the procedures  
760 listed in Subsection (5).

761 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a  
762 groundwater basin shall be limited to the basin's safe yield.

763 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer  
764 shall:

765 (A) determine the groundwater basin's safe yield; and

766 (B) adopt a groundwater management plan for the groundwater basin.

767 (iii) If the state engineer determines that groundwater withdrawals in a groundwater  
768 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that  
769 groundwater basin based on the priority date of the water rights under the groundwater  
770 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a  
771 different distribution.

772 (iv) A groundwater management plan shall include a list of each groundwater right in  
773 the proposed groundwater management area known to the state engineer identifying the water  
774 right holder, the land to which the groundwater right is appurtenant, and any identification  
775 number the state engineer uses in the administration of water rights.

776 (b) When adopting a groundwater management plan for a critical management area, the  
777 state engineer shall, based on economic and other impacts to an individual water user or a local  
778 community caused by the implementation of safe yield limits on withdrawals, allow gradual  
779 implementation of the groundwater management plan.

780 (c) (i) In consultation with the state engineer, water users in a groundwater basin may  
781 agree to participate in a voluntary arrangement for managing withdrawals at any time, either  
782 before or after a determination that groundwater withdrawals exceed the groundwater basin's  
783 safe yield.

784 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other  
785 law.

786 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than  
787 all of the water users in a groundwater basin does not affect the rights of water users who do  
788 not agree to the voluntary arrangement.

789 (5) To adopt a groundwater management plan, the state engineer shall:

790 (a) give notice as specified in Subsection (7) at least 30 days before the first public  
791 meeting held in accordance with Subsection (5)(b):

792 (i) that the state engineer proposes to adopt a groundwater management plan;

793 (ii) describing generally the land area proposed to be included in the groundwater  
794 management plan; and

795 (iii) stating the location, date, and time of each public meeting to be held in accordance  
796 with Subsection (5)(b);

797 (b) hold one or more public meetings in the geographic area proposed to be included  
798 within the groundwater management plan to:

799 (i) address the need for a groundwater management plan;

800 (ii) present any data, studies, or reports that the state engineer intends to consider in  
801 preparing the groundwater management plan;

802 (iii) address safe yield and any other subject that may be included in the groundwater

803 management plan;

804 (iv) outline the estimated administrative costs, if any, that groundwater users are likely  
805 to incur if the plan is adopted; and

806 (v) receive any public comments and other information presented at the public  
807 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

808 (c) receive and consider written comments concerning the proposed groundwater  
809 management plan from any person for a period determined by the state engineer of not less  
810 than 60 days after the day on which the notice required by Subsection (5)(a) is given;

811 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,  
812 publish notice:

813 (A) that a draft of the groundwater management plan has been proposed; and  
814 (B) specifying where a copy of the draft plan may be reviewed; and

815 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of  
816 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

817 (e) provide notice of the adoption of the groundwater management plan.

818 (6) A groundwater management plan shall become effective on the date notice of  
819 adoption is completed under Subsection (7), or on a later date if specified in the plan.

820 (7) (a) A notice required by this section shall be:

821 (i) published:

822 (A) once a week for two successive weeks in a newspaper of general circulation in  
823 each county that encompasses a portion of the land area proposed to be included within the  
824 groundwater management plan; and

825 (B) in accordance with Section 45-1-101 for two weeks;

826 (ii) published conspicuously on the state engineer's website; and

827 (iii) mailed to each of the following that has within its boundaries a portion of the land  
828 area to be included within the proposed groundwater management plan:

829 (A) county;

830 (B) incorporated city or town;

831 (C) a local district created to acquire or assess a groundwater right under Title 17B,  
832 Chapter 1, Provisions Applicable to All Local Districts;

833 (D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District

834 Act;

835 (E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

836 (F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

837 (G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

838 (H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan

839 Water District Act;

840 (I) special service district providing water, sewer, drainage, or flood control services,

841 under Title 17D, Chapter 1, Special Service District Act;

842 (J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water

843 Conservancy District Act; and

844 (K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

845 (b) A notice required by this section is effective upon substantial compliance with

846 Subsections (7)(a)(i) through (iii).

847 (8) A groundwater management plan may be amended in the same manner as a

848 groundwater management plan may be adopted under this section.

849 (9) The existence of a groundwater management plan does not preclude any otherwise

850 eligible person from filing any application or challenging any decision made by the state

851 engineer within the affected groundwater basin.

852 (10) (a) A person aggrieved by a groundwater management plan may challenge any

853 aspect of the groundwater management plan by filing a complaint within 60 days after the

854 adoption of the groundwater management plan in the district court for any county in which the

855 groundwater basin is found.

856 (b) Notwithstanding Subsection (9), a person may challenge the components of a

857 groundwater management plan only in the manner provided by Subsection (10)(a).

858 (c) An action brought under this Subsection (10) is reviewed de novo by the district

859 court.

860 (d) A person challenging a groundwater management plan under this Subsection (10)

861 shall join the state engineer as a defendant in the action challenging the groundwater

862 management plan.

863 (e) (i) Within 30 days after the day on which a person files an action challenging any

864 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action

865 shall publish notice of the action:

866 (A) in a newspaper of general circulation in the county in which the district court is  
867 located; and

868 (B) in accordance with Section 45-1-101 for two weeks.

869 (ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for  
870 two consecutive weeks.

871 (iii) The notice required by Subsection (10)(e)(i) shall:

872 (A) identify the groundwater management plan the person is challenging;

873 (B) identify the case number assigned by the district court;

874 (C) state that a person affected by the groundwater management plan may petition the  
875 district court to intervene in the action challenging the groundwater management plan; and

876 (D) list the address for the clerk of the district court in which the action is filed.

877 (iv) (A) Any person affected by the groundwater management plan may petition to  
878 intervene in the action within 60 days after the day on which notice is last published under  
879 Subsections (10)(e)(i) and (ii).

880 (B) The district court's treatment of a petition to intervene under this Subsection  
881 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

882 (v) A district court in which an action is brought under Subsection (10)(a) shall  
883 consolidate all actions brought under that subsection and include in the consolidated action any  
884 person whose petition to intervene is granted.

885 (11) A groundwater management plan adopted or amended in accordance with this  
886 section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative  
887 Rulemaking Act.

888 (12) (a) Recharge and recovery projects permitted under Chapter 3b, Groundwater  
889 Recharge and Recovery Act, are exempted from this section.

890 (b) In a critical management area, the artificial recharge of a groundwater basin that  
891 uses surface water naturally tributary to the groundwater basin by a local district created under  
892 Subsection 17B-1-202(1)(a)~~(xiv)~~(xiii), in accordance with ~~[Title 73,]~~ Chapter 3b,  
893 Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under  
894 Section 73-1-3 if:

895 (i) the recharge is done during the time the area is designated as a critical management

896 area;

897 (ii) the recharge is done with a valid recharge permit;

898 (iii) the recharged water is not recovered under a recovery permit; and

899 (iv) the recharged water is used to replenish the groundwater basin.

900 (13) Nothing in this section may be interpreted to require the development,  
901 implementation, or consideration of a groundwater management plan as a prerequisite or  
902 condition to the exercise of the state engineer's enforcement powers under other law, including  
903 powers granted under Section 73-2-25.

904 (14) A groundwater management plan adopted in accordance with this section may not  
905 apply to the dewatering of a mine.

906 (15) (a) A groundwater management plan adopted by the state engineer before May 1,  
907 2006, remains in force and has the same legal effect as it had on the day on which it was  
908 adopted by the state engineer.

909 (b) If a groundwater management plan that existed before May 1, 2006, is amended on  
910 or after May 1, 2006, the amendment is subject to this section's provisions.

---

---

**Legislative Review Note**  
**as of 1-26-12 8:12 AM**

**Office of Legislative Research and General Counsel**