

SB0150S01 compared with SB0150

~~deleted text~~ shows text that was in SB0150 but was deleted in SB0150S01.

inserted text shows text that was not in SB0150 but was inserted into SB0150S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

LOCAL AND SPECIAL SERVICE DISTRICT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: ~~_____~~ Stephen G. Handy

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies language related to a board of trustees member's term:
- ▶ amends language related to the appointment of a local district board member;
- ▶ authorizes a local district to provide early voting for an election of a board member;
- ▶ amends language related to a local district tax levy;
- ▶ amends notice requirements for a budget hearing held by the board of trustees;
- ▶ amends provisions related to an improvement district board of trustees;
- ▶ prohibits a service area located in a fourth class county from charging certain fees:

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- ▶ amends language related to a use charge imposed by an irrigation district;
- ▶ amends provisions related to a mosquito abatement district board of trustees;
- ▶ amends language related to an administrative control board membership;
- ▶ amends language related to the qualifications of an administrative control board member; 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-1-214, as last amended by Laws of Utah 2011, Chapter 68

17B-1-303, as last amended by Laws of Utah 2008, Chapter 360

17B-1-304, as last amended by Laws of Utah 2011, Chapter 297

17B-1-306, as last amended by Laws of Utah 2011, Chapters 40, 292, and 327

17B-1-511, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-609, as last amended by Laws of Utah 2010, Chapter 90

17B-2a-404, as last amended by Laws of Utah 2010, Chapter 121

17B-2a-506, as enacted by Laws of Utah 2007, Chapter 329

17B-2a-704, as last amended by Laws of Utah 2011, Chapter 106

17B-2a-902, as last amended by Laws of Utah 2011, Chapter 100

17D-1-106, as last amended by Laws of Utah 2011, Chapters 40, 106, 205, and 209

17D-1-302, as enacted by Laws of Utah 2008, Chapter 360

17D-1-304, as enacted by Laws of Utah 2008, Chapter 360

20A-1-206, as enacted by Laws of Utah 2011, Chapter 40

20A-3-605, as last amended by Laws of Utah 2010, Chapter 337

73-5-15, as last amended by Laws of Utah 2011, Chapters 68 and 126

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

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

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

Limitations.

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

- (i) the operation of an airport;
- (ii) the operation of a cemetery;
- (iii) fire protection, paramedic, and emergency services, including consolidated 911

and emergency dispatch services;

- (iv) garbage collection and disposal;
- (v) health care, including health department or hospital service;
- (vi) the operation of a library;
- (vii) abatement or control of mosquitos and other insects;
- (viii) the operation of parks or recreation facilities or services;
- (ix) the operation of a sewage system;

~~[(x) street lighting;]~~

~~[(xi)]~~ (x) the construction and maintenance of a right-of-way, including:

- (A) a curb;
- (B) a gutter;
- (C) a sidewalk;
- (D) a street;
- (E) a road;
- (F) a water line;
- (G) a sewage line;
- (H) a storm drain;
- (I) an electricity line;
- (J) a communications line; ~~[or]~~
- (K) a natural gas line; or

(L) street lighting;

~~[(xii)]~~ (xi) transportation, including public transit and providing streets and roads;

~~[(xiii)]~~ (xii) the operation of a system, or one or more components of a system, for the

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collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

~~[(xiv)]~~ (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

~~[(xv)]~~ (xiv) law enforcement service;

~~[(xvi)]~~ (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

~~[(xvii)]~~ (xvi) the control or abatement of earth movement or a landslide; or

~~[(xviii)]~~ (xvii) the operation of animal control services and facilities.

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

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

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

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

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

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

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

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subject to Section 73-1-4.

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

(2) For purposes of this section:

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

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

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

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

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

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

- (i) sewage system; or
- (ii) water system.

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

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

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

- (a) paramedic service; and
- (b) emergency service, including hazardous materials response service.

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

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

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

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

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

- (i) if the proposed local district is located entirely within a single county, the responsible clerk; or
- (ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

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

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

- (a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or
- (b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

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

- (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the

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owners of private real property that:

(i) is located within the proposed local district;

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

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

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

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

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

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

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

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

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

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

(b) The clerk of each county and the clerk or recorder of each municipality involved in

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an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

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

Section 3. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond.

(1) (a) Except as provided in Subsection (1)(b), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(2) (a) (i) Subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on ~~the first Monday of~~ January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on ~~the first Monday of~~ January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1):

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(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and
(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the

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board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

Section ~~3~~4. Section **17B-1-304** is amended to read:

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

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

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

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

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

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

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

(b) The appointing authority shall:

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

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

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

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

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

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

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

(b) The appointing authority shall:

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

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appointment;

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

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

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

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

(5) At the end of each board member's term, the position is considered vacant and the appointing authority may either reappoint the old board member or appoint a new member after following the appointment procedures established in this section.

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

Section ~~(4)~~5. Section **17B-1-306** is amended to read:

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

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

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

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

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

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

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

(3) (a) The clerk of each local district with a board member position to be filled at the

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next municipal general election shall provide notice of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, State of Utah,

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(Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, _____.

(Signed) _____

(Clerk or Notary Public)"

(e) Each person wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

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

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

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

(ii) cancel the election.

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

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

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

(b) The primary election shall be conducted:

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

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

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

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

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

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

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

Section ~~5~~6. Section **17B-1-511** is amended to read:

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

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be [~~subject to a tax~~] taxable by the local district:

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

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

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

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

Section ~~6~~7. Section **17B-1-609** is amended to read:

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

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

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

(b) order that notice of the hearing:

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

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

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

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

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

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

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

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

Section ~~7~~8. Section **17B-2a-404** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

(f) "Regular district" means an improvement district that is not a county district,

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electric district, or municipal district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) ~~[Each]~~ Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section

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17B-1-306, if:

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

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

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

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

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

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

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

(i) the number is an odd number; and

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

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

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

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

(ii) the district includes a remaining area.

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

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

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

or

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

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

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

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

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

(i) the person resides within:

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

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

(ii) otherwise qualifies as a candidate;

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

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

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

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

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

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

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

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

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

Section ~~17B-2a-506~~9. Section **17B-2a-506** is amended to read:

17B-2a-506. Different use charges for different units -- Use charges based on the

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size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

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

and

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

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

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

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

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

(i) shall:

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

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

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

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

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

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

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

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

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Section ~~9~~10. Section **17B-2a-704** is amended to read:

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

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

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

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

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

(i) the board of trustees shall consist of five members; and

(ii) the legislative body of that municipality shall appoint all five members of the board.

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

(a) one member may be appointed if:

(i) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district and Subsection (2)(b) does not apply; or

(ii) (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and

(B) Subsection (1)(b) does not apply; or

(b) subject to Subsection (3), up to and including three members may be appointed if:

(i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and

(ii) at least four members of the board of trustees are appointed by a municipality.

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

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

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(5) Notwithstanding Subsection (2):

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

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

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

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

Section 11. Section 17B-2a-902 is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

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- (i) a fee charged or collected on an individual basis rather than a general basis;
- (ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;
- (iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36-102; or
- (iv) a service area that includes within the boundary of the service area a county of the ~~fourth~~ fifth ~~or~~ sixth class.

Section ~~110~~ 12. Section **17D-1-106** is amended to read:

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

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

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

(b) Subsections:

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

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

(c) Section 20A-1-512;

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

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

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

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

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

Section ~~111~~ 13. Section **17D-1-302** is amended to read:

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

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

(2) The number of administrative control board members for a special service district

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established by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10) is nine.

Section ~~{12}~~14. Section 17D-1-304 is amended to read:

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

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

(i) a registered voter within the special service district; ~~[or]~~
(ii) an officer or employee of the county or municipality that created the special service district~~[-]; or~~

(iii) if over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, an owner of land, or an agent or officer of an owner of land, that receives services from the special service district and is located within the special service district, provided that the number of members appointed under this Subsection (1)(a)(iii) comprises less than a quorum of the board.

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

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

(ii) the member is appointed under Subsection 17D-1-303(2)(b)(i) or (ii)~~{}~~. ~~{}~~ ~~or~~
~~(iii) over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, in which case one or more members of the administrative control board may be an owner of land, or an agent or officer of an owner of land, that~~

~~(A) receives service from the special service district, and~~

~~(B) is located within the special service district.}~~

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

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

Section ~~{13}~~15. Section 20A-1-206 is amended to read:

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

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Notice.

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

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

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

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

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

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

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

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

(i) each municipal officer candidate is:

(A) unopposed; or

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

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

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

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

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

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

(d) (i) at least twice in a newspaper of general circulation within the municipality

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before the day of the scheduled election; or

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

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

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

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

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

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

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

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

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

(i) each local district officer candidate is:

(A) unopposed; or

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

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

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

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

(b) if the local district has a public website, on the local district's public website for 15

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days before the day of the scheduled election;

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

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

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

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

Section ~~{14}~~16. Section **20A-3-605** is amended to read:

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

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

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

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

(a) a municipal primary election; or

(b) a municipal general election.

Section ~~{15}~~17. Section **73-5-15** is amended to read:

73-5-15. Groundwater management plan.

(1) As used in this section:

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

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

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

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

- (i) limit groundwater withdrawals to safe yield;
- (ii) protect the physical integrity of the aquifer; and
- (iii) protect water quality.

(c) The state engineer shall adopt a groundwater management plan for a groundwater basin if more than one-third of the water right owners in the groundwater basin request that the state engineer adopt a groundwater management plan.

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

- (i) the hydrology of the groundwater basin;
- (ii) the physical characteristics of the groundwater basin;
- (iii) the relationship between surface water and groundwater, including whether the groundwater should be managed in conjunction with hydrologically connected surface waters;
- (iv) the conjunctive management of water rights to facilitate and coordinate the lease, purchase, or voluntary use of water rights subject to the groundwater management plan;
- (v) the geographic spacing and location of groundwater withdrawals;
- (vi) water quality;
- (vii) local well interference; and
- (viii) other relevant factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) describing generally the land area proposed to be included in the groundwater

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management plan; and

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

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

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

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

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

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

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

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

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

(A) that a draft of the groundwater management plan has been proposed; and

(B) specifying where a copy of the draft plan may be reviewed; and

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

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

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

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

(i) published:

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

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(B) in accordance with Section 45-1-101 for two weeks;
(ii) published conspicuously on the state engineer's website; and
(iii) mailed to each of the following that has within its boundaries a portion of the land area to be included within the proposed groundwater management plan:

(A) county;
(B) incorporated city or town;
(C) a local district created to acquire or assess a groundwater right under Title 17B, Chapter 1, Provisions Applicable to All Local Districts;

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

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

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

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

(H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(I) special service district providing water, sewer, drainage, or flood control services, under Title 17D, Chapter 1, Special Service District Act;

(J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

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

(b) A notice required by this section is effective upon substantial compliance with Subsections (7)(a)(i) through (iii).

(8) A groundwater management plan may be amended in the same manner as a groundwater management plan may be adopted under this section.

(9) The existence of a groundwater management plan does not preclude any otherwise eligible person from filing any application or challenging any decision made by the state engineer within the affected groundwater basin.

(10) (a) A person aggrieved by a groundwater management plan may challenge any aspect of the groundwater management plan by filing a complaint within 60 days after the adoption of the groundwater management plan in the district court for any county in which the groundwater basin is found.

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(b) Notwithstanding Subsection (9), a person may challenge the components of a groundwater management plan only in the manner provided by Subsection (10)(a).

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

(d) A person challenging a groundwater management plan under this Subsection (10) shall join the state engineer as a defendant in the action challenging the groundwater management plan.

(e) (i) Within 30 days after the day on which a person files an action challenging any aspect of a groundwater management plan under Subsection (10)(a), the person filing the action shall publish notice of the action:

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

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

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

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

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

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

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

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

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

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

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

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

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Rulemaking Act.

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

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

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

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

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

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

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

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

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

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

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Legislative Review Note

~~as of 1-26-12 8:12 AM~~

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~~Office of Legislative Research and General Counsel~~