

SERVICE AREA BOARD OF TRUSTEES

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Jim Nielson

LONG TITLE

General Description:

This bill enacts language related to the creation of and membership of the board of trustees of certain types of local districts.

Highlighted Provisions:

This bill:

- ▶ amends language related to a resolution proposing the creation of a local district;
- ▶ amends language related to the creation of certain types of local districts exempt from an election requirement;
- ▶ enacts language related to the board of trustees for certain service areas created on or after May 14, 2013; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-203, as last amended by Laws of Utah 2011, Chapter 68

17B-1-214, as last amended by Laws of Utah 2012, Chapter 97

17B-2a-905, as last amended by Laws of Utah 2011, Chapter 68



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

Section 1. Section **17B-1-203** is amended to read:

17B-1-203. Process to initiate the creation of a local district -- Petition or resolution.

(1) The process to create a local district may be initiated by:

(a) unless the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 33% of the total private land area within the proposed local district as a whole and within each applicable area;

(iii) is equal in value to at least 25% of the value of all private real property within the proposed local district as a whole and within each applicable area; and

(iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(b) subject to Section 17B-1-204, a petition that:

(i) is signed by registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 33% 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 regular general election prior to the filing of the petition; and

(ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(c) if the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:

(i) are diverted within the proposed local district;

(ii) cover at least 33% 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; and

(iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

59 (d) a resolution proposing the creation of a local district, adopted by the legislative
60 body of each county whose unincorporated area, whether in whole or in part, includes and each
61 municipality whose boundaries include any of the proposed local district; or

62 (e) a resolution proposing the creation of a local district, adopted by the board of
63 trustees of an existing local district whose boundaries completely encompass the proposed
64 local district, if:

65 (i) the proposed local district is being created to provide one or more components of
66 the same service that the initiating local district is authorized to provide; and

67 (ii) the initiating local district is not providing to the area of the proposed local district
68 any of the components that the proposed local district is being created to provide.

69 (2) (a) Each resolution under Subsection (1)(d) or (e) shall:

70 (i) describe the area proposed to be included in the proposed local district;

71 (ii) be accompanied by a map that shows the boundaries of the proposed local district;

72 (iii) describe the service proposed to be provided by the proposed local district;

73 (iv) if the resolution proposes the creation of a specialized local district, specify the
74 type of specialized local district proposed to be created;

75 (v) explain the anticipated method of paying the costs of providing the proposed
76 service;

77 (vi) state the estimated average financial impact on a household within the proposed
78 local district;

79 (vii) state the number of members that the board of trustees of the proposed local
80 district will have, consistent with the requirements of Subsection 17B-1-302(2);

81 (viii) for a proposed basic local district:

82 (A) state whether the members of the board of trustees will be elected or appointed or
83 whether some members will be elected and some appointed, as provided in Section
84 17B-1-1402;

85 (B) if one or more members will be elected, state the basis upon which each elected
86 member will be elected; and

87 (C) if applicable, explain how the election or appointment of board members will
88 transition from one method to another based on stated milestones or events, as provided in
89 Section 17B-1-1402;

90 (ix) for a proposed improvement district whose remaining area members or county
91 members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those
92 members will be elected; and

93 (x) for a proposed service area that is entirely within the unincorporated area of a single
94 county, state whether the initial board of trustees will be:

95 (A) the county legislative body;

96 (B) appointed as provided in Section 17B-1-304; or

97 (C) elected as provided in Section 17B-1-306.

98 (b) Each county or municipal legislative body adopting a resolution under Subsection
99 (1)(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a
100 copy of the resolution to the responsible body if the county or municipal legislative body's
101 resolution is one of multiple resolutions adopted by multiple county or municipal legislative
102 bodies proposing the creation of the same local district.

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

104 **17B-1-214. Election -- Exceptions.**

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

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

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

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

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

118 (a) for an election pursuant to a property owner or registered voter petition, more than
119 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

120 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing

121 required under Section 17B-1-210.

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

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

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

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

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

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

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

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

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

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

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

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

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

152 same date and in a consistent manner in each jurisdiction.

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

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

158 Section 3. Section **17B-2a-905** is amended to read:

159 **17B-2a-905. Service area board of trustees.**

160 (1) (a) Except as provided in Subsection (2) or (3):

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

164 (A) consist of the county legislative body;

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

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

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

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

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

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

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

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

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

181 (ii) the board of trustees shall:

182 (A) establish a process to enable potential candidates to file a declaration of candidacy

183 sufficiently in advance of the election; and

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

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

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

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

190 (A) fire protection, paramedic, and emergency services; or

191 (B) law enforcement service; [~~and~~]

192 (ii) in the creation of the service area, an election was not required under Subsection
193 17B-1-214(3)(d)~~[-]; and~~

194 (iii) the service area is not a service area described in Subsection (3).

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

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

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

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

206 (3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013,
207 if:

208 (i) the service area was created to provide fire protection, paramedic, and emergency
209 services;

210 (ii) in the creation of the service area, an election was not required under Subsection
211 17B-1-213(3)(d); and

212 (iii) each municipality whose area is included within the service area or county whose
213 unincorporated area, whether in whole or in part, is included within a service area is a party to

214 an agreement:

215 (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act
216 with all the other municipalities or counties whose area is included in the service area;

217 (B) to provide the services described in Subsection (3)(a)(i); and

218 (C) at the time a resolution proposing the creation of the service area is adopted by
219 each applicable municipal or county legislative body in accordance with Subsection
220 17B-1-203(1)(d).

221 (b) (i) Each county whose unincorporated area, whether in whole or in part, is included
222 within a service area described in Subsection (3)(a), whether in conjunction with the creation of
223 the service area or by later annexation, shall appoint one member to the board of trustees.

224 (ii) Each municipality whose area is included within a service area described in
225 Subsection (3)(a), whether in conjunction with the creation of the service area or by later
226 annexation, shall appoint one member to the board of trustees.

227 (iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or
228 (ii) shall be an elected official of the appointing county or municipality, respectively.

229 (iv) A vote by a member of the board of trustees may be weighted or proportional ~~§~~ → [if the
230 same voting distribution was agreed to in the agreement described in Subsection (3)(a)(iii)] ← ~~§~~ .

231 (c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of
232 trustees of a service area described in Subsection (3)(a) shall be the number resulting from the
233 application of Subsection (3)(b).

Legislative Review Note
as of 1-23-13 1:39 PM

Office of Legislative Research and General Counsel