

1 **LOCAL AND SPECIAL SERVICE DISTRICTS**

2 **AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Stephen G. Handy

7

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends procurement provisions governing a political subdivision;
- 14 ▶ enacts provisions prohibiting the creation of a local district in certain circumstances;
- 15 ▶ enacts provisions that require the dissolution of a local district in certain
- 16 circumstances;
- 17 ▶ amends provisions that govern the terms of office of a local district board of
- 18 trustees;
- 19 ▶ permits a member of the board of trustees to continue to serve until a successor is
- 20 elected or appointed;
- 21 ▶ amends provisions related to the election of a local district board member;
- 22 ▶ amends provisions related to compensation paid to a member of the board of
- 23 trustees;
- 24 ▶ prohibits a board of trustees from adopting certain bylaws or rules in certain
- 25 circumstances;
- 26 ▶ amends provisions governing employment of a member of the board of trustees by a
- 27 local district;
- 28 ▶ amends provisions related to a local district audit;
- 29 ▶ authorizes a special service district to provide cemetery services;

- 30 ▶ amends provisions related to filling a midterm vacancy on a local district board;
- 31 ▶ enacts language related to background checks of certain public transit district
- 32 employees; and
- 33 ▶ makes technical and conforming amendments.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 **AMENDS:**

- 40 **11-39-107 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapter 347
- 41 **17B-1-202**, as last amended by Laws of Utah 2012, Chapter 97
- 42 **17B-1-217**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 43 **17B-1-303**, as last amended by Laws of Utah 2012, Chapter 97
- 44 **17B-1-304**, as last amended by Laws of Utah 2012, Chapter 97
- 45 **17B-1-306**, as last amended by Laws of Utah 2012, Chapter 97
- 46 **17B-1-307**, as last amended by Laws of Utah 2010, Chapter 286
- 47 **17B-1-310**, as last amended by Laws of Utah 2011, Chapter 107
- 48 **17B-1-311**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 49 **17B-1-639**, as last amended by Laws of Utah 2009, Chapter 323
- 50 **17B-1-640**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 51 **17B-2a-813**, as last amended by Laws of Utah 2008, Chapter 360
- 52 **17D-1-201**, as last amended by Laws of Utah 2011, Chapter 106
- 53 **20A-1-512**, as last amended by Laws of Utah 2011, Chapter 40
- 54 **62A-5-103.5**, as last amended by Laws of Utah 2008, Chapters 3 and 17

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

57 Section 1. Section **11-39-107 (Effective 05/01/13)** is amended to read:

58 **11-39-107 (Effective 05/01/13). Procurement code.**

59 (1) This chapter may not be construed to:

60 (a) prohibit a county or municipal legislative body from adopting the procedures of the
61 procurement code; or

62 (b) limit the application of the procurement code to a local district or special service
63 district.

64 (2) A local entity may adopt procedures for the following construction contracting
65 methods:

66 (a) construction manager/general contractor, as defined in Section 63G-6a-103; or

67 (b) a method that requires that the local entity draft a plan, specifications, and an
68 estimate for the building improvement or public works project.

69 (3) For a public works project only and that costs [~~\$10,000,000~~] \$1,000,000 or more, in
70 consultation with a professional engineer licensed under Title 58, Chapter 22, Professional
71 Engineers and Professional Land Surveyors Licensing Act, who has design-build experience
72 and is employed by or is under contract with the owner, the following may enter into a contract
73 for design-build, as defined in Section 63G-6a-103, and adopt the procedures and follow the
74 provisions of the procurement code for the procurement of and as the procedures and
75 provisions relate to a design-build:

76 (a) a city of the first class;

77 (b) a local district; or

78 (c) a special service district.

79 (4) (a) In seeking bids and awarding a contract for a building improvement or public
80 works project, a county or a municipal legislative body may elect to follow the provisions of
81 the procurement code, as the county or municipal legislative body considers appropriate under
82 the circumstances, for specification preparation, source selection, or contract formation.

83 (b) A county or municipal legislative body's election to adopt the procedures of the
84 procurement code may not excuse the county or municipality, respectively, from complying
85 with the requirements to award a contract for work in excess of the bid limit and to publish

86 notice of the intent to award.

87 (c) An election under Subsection (4)(a) may be made on a case-by-case basis, unless
88 the county or municipality has previously adopted the provisions of Title 63G, Chapter 6a,
89 Utah Procurement Code.

90 (d) The county or municipal legislative body shall:

91 (i) make each election under Subsection (4)(a) in an open meeting; and

92 (ii) specify in its action the portions of the procurement code to be followed.

93 (5) If the estimated cost of the building improvement or public works project proposed
94 by a local district or special service district exceeds the bid limit, the governing body of the
95 local district or special service district may, if it determines to proceed with the building
96 improvement or public works project, use the competitive procurement procedures of the
97 procurement code in place of the comparable provisions of this chapter.

98 Section 2. Section **17B-1-202** is amended to read:

99 **17B-1-202. Local district may be created -- Services that may be provided --**
100 **Limitations.**

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

103 (i) the operation of an airport;

104 (ii) the operation of a cemetery;

105 (iii) fire protection, paramedic, and emergency services, including consolidated 911
106 and emergency dispatch services;

107 (iv) garbage collection and disposal;

108 (v) health care, including health department or hospital service;

109 (vi) the operation of a library;

110 (vii) abatement or control of mosquitos and other insects;

111 (viii) the operation of parks or recreation facilities or services;

112 (ix) the operation of a sewage system;

113 (x) the construction and maintenance of a right-of-way, including:

- 114 (A) a curb;
- 115 (B) a gutter;
- 116 (C) a sidewalk;
- 117 (D) a street;
- 118 (E) a road;
- 119 (F) a water line;
- 120 (G) a sewage line;
- 121 (H) a storm drain;
- 122 (I) an electricity line;
- 123 (J) a communications line;
- 124 (K) a natural gas line; or
- 125 (L) street lighting;
- 126 (xi) transportation, including public transit and providing streets and roads;
- 127 (xii) the operation of a system, or one or more components of a system, for the
- 128 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 129 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 130 the system is operated on a wholesale or retail level or both;
- 131 (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 132 groundwater right for the development and execution of a groundwater management plan in
- 133 cooperation with and approved by the state engineer in accordance with Section 73-5-15;
- 134 (xiv) law enforcement service;
- 135 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line
- 136 or the conversion to underground of an existing electric utility line;
- 137 (xvi) the control or abatement of earth movement or a landslide; or
- 138 (xvii) the operation of animal control services and facilities.
- 139 (b) Each local district that provides the service of the underground installation of an
- 140 electric utility line or the conversion to underground of an existing electric utility line shall, in
- 141 installing or converting the line, provide advance notice to and coordinate with the utility that

142 owns the line.

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

147 (i) A local district may manage the groundwater rights it acquires under Subsection
148 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan
149 described in this Subsection (1)(c).

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

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

155 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section
156 73-1-4 beginning on the date of divestiture.

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

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

165 (2) For purposes of this section:

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

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

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

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

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

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

184 (i) sewage system; or

185 (ii) water system.

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

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

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

192 (a) paramedic service; and

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

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

197 (8) A local district created before May 10, 2011, authorized to provide culinary,

198 irrigation, sewage, or storm water services may provide a service described in Subsection
199 (1)(a)(xii) on or after May 10, 2011.

200 (9) A local district may not be created under this chapter for two years after the date on
201 which a local district is dissolved as provided in Section 17B-1-217 if the local district
202 proposed for creation:

203 (a) provides the same or a substantially similar service as the dissolved local district;
204 and

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

206 Section 3. Section **17B-1-217** is amended to read:

207 **17B-1-217. Activity required -- Dissolution -- Conclusive presumption regarding**
208 **creation and existence.**

209 (1) A local district that is not engaged in one or more of the following activities,
210 services, or duties is subject to dissolution in accordance with Subsections (5) and (6):

211 (a) levying and collecting a tax;

212 (b) providing a commodity or service;

213 (c) collecting a fee or charging an assessment for a commodity, service, facility, or
214 improvement provided by the local district;

215 (d) undertaking planning necessary for the provision of a commodity, service, facility,
216 or improvement as reflected in a written study or report;

217 (e) acquiring or maintaining property or an easement necessary for a service, facility, or
218 improvement to be provided by the local district in accordance with a general or master plan
219 adopted by the district;

220 (f) constructing, installing, maintaining, owning, or operating infrastructure for the
221 provision of a commodity, service, facility, or improvement; or

222 (g) legally incurring debt, contracting, or otherwise being obligated to provide a
223 commodity, service, facility, or improvement within a reasonable period of time.

224 (2) For a local district created after May 14, 2013, the local district shall file with the
225 state auditor a written certification:

226 (a) declaring that the district is engaged in an activity, service, or duty described in
227 Subsection (1);
228 (b) identifying the activity in which the local district is engaged; and
229 (c) no later than five years after the date on which a local district is created as reflected
230 in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5.

231 (3) (a) The state auditor shall send a deficiency notice in accordance with Subsection
232 (3)(c) if:

233 (i) a local district fails to deliver a certification in accordance with Subsection (2); or
234 (ii) the state auditor determines that, subject to Subsection (3)(b), a local district
235 created after January 1, 2005, and before May 15, 2013, is not engaged in an activity, service,
236 or duty required under Subsection (1) within five years after the date on which the local district
237 is created as reflected in the certificate of incorporation issued by the lieutenant governor under
238 Section 67-1a-6.5 or thereafter.

239 (b) The state auditor shall make a determination described in Subsection (3)(a)(ii)
240 based on:

241 (i) the local district's failure to file a required annual financial report with the state
242 auditor in accordance with Section 17B-1-639; or

243 (ii) subject to Subsection (7), other credible information related to Subsection (1).

244 (c) (i) The state auditor shall send the deficiency notice to the local district and the
245 Utah Association of Special Districts.

246 (ii) The deficiency notice shall state that the local district is required to file with the
247 state auditor a written certification:

248 (A) declaring that the district was and continues to be engaged in an activity, service,
249 or duty described in Subsection (1) prior to the date of the deficiency notice; and

250 (B) identifying the activity, service, or duty in which the local district is engaged.

251 (4) If within four months of receiving a deficiency notice, a local district fails to file a
252 written certification with the state auditor in accordance with Subsection (2) or (3)(c)(ii), the
253 state auditor shall, in writing:

254 (a) notify the lieutenant governor that the local district has failed to meet the
255 requirements of this section and specify the reason for the district's failure; and

256 (b) request that the lieutenant governor dissolve the local district in accordance with
257 Subsections (5) and (6).

258 (5) If the lieutenant governor receives a request to dissolve a local district from the
259 state auditor in accordance with Subsection (4), the lieutenant governor shall:

260 (a) issue a certification of dissolution under Section 67-1a-6.5; and

261 (b) send a copy of the certification of dissolution to:

262 (i) the state auditor;

263 (ii) the State Tax Commission;

264 (iii) the recorder of the county in which the local district is located, or, if the local
265 district is located in more than one county, the recorder of each county in which the local
266 district is located;

267 (iv) the last known address of the local district; and

268 (v) the Utah Association of Special Districts.

269 (6) A local district identified in a certification of dissolution is dissolved:

270 (a) upon recordation of the certification by the county recorder; or

271 (b) if the local district is located within more than one county, upon recordation of the
272 certification by the county recorder of the last county to record.

273 (7) Notwithstanding any other provision of law, a local district shall be conclusively
274 presumed to have been lawfully created [~~and~~], existing, and active if for two years following
275 the district's creation under Subsection 17B-1-215(4):

276 [~~(1)~~] (a) the district has:

277 [~~(a)~~] (i) levied and collected a tax; or

278 [~~(b)~~] (ii) collected a fee, charge, or assessment for a commodity, service, facility, or
279 improvement provided by the district; and

280 [~~(2)~~] (b) no challenge has been filed in court to the existence or creation of the district.

281 Section 4. Section **17B-1-303** is amended to read:

282 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond.**

283 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and (c), the term of each
284 member of a board of trustees shall begin at noon on the January 1 following the member's
285 election or appointment.

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

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

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

291 (c) The term of each water conservancy district board member appointed by the
292 governor as provided in Subsection 17B-2a-1005(2)(c) shall begin on the date on which the
293 senate consents to the appointment.

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

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

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

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

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

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

310 (c) If a member of a board of trustees no longer meets the qualifications of Subsection
311 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

312 (i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

313 (ii) the member may continue to serve until a successor is duly elected or appointed
314 and qualified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

344 (b) The local district shall pay the cost of each bond required under Subsection (7)(a).
345 Section 5. Section **17B-1-304** is amended to read:

346 **17B-1-304. Appointment procedures for appointed members.**

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

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

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

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

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

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

357 (b) The appointing authority shall:

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

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

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

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

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

366 nominees for appointment.

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

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

372 (b) The appointing authority shall:

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

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

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

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

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

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

386 (b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a
387 successor is duly elected or appointed and qualified in accordance with Subsection
388 17B-1-303(2)(b).

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

391 Section 6. Section **17B-1-306** is amended to read:

392 **17B-1-306. Local district board -- Election procedures.**

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

394 as provided in this section.

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

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

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

400 (b) The county clerk may consolidate two or more polling places to enable voters from
401 more than one district to vote at one consolidated polling place.

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

405 (ii) Each polling place designated by an irrigation district board under Subsection
406 (2)[~~(b)~~](c)(i) shall coincide with a polling place designated by the county clerk under
407 Subsection (2)(a)(ii).

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

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

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

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

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

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

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

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

421 (4) (a) To become a candidate for an elective local district board position, the

422 prospective candidate shall file a declaration of candidacy in person with the local district,
423 during office hours and not later than the close of normal office hours between June 1 and June
424 15 of any odd-numbered year.

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

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

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

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

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

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

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

438 "I, (print name) _____, being first duly sworn, say that I reside at (Street)
439 _____, City of _____, County of _____, State of Utah,
440 (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications
441 for the office of board of trustees member for _____ (state the name of
442 the local district); that I am a candidate for that office to be voted upon at the next election, and
443 I hereby request that my name be printed upon the official ballot for that election.

444 (Signed) _____

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

447 (Signed) _____

448 (Clerk or Notary Public)"

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

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

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

454 (g) If only one candidate files a declaration of candidacy and there is no write-in
455 candidate who complies with Section 20A-9-601, the board, in accordance with Section
456 20A-1-206, may:

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

458 (ii) cancel the election.

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

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

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

463 (b) The primary election shall be conducted:

464 (i) on the same date as the municipal primary election, as provided for in Section
465 20A-1-201.5; and

466 (ii) according to the procedures for municipal primary elections provided under Title
467 20A, Election Code.

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

471 (b) (i) Except as provided in Subsection (6)(c) and in accordance with Section
472 20A-6-305, the clerk of each county in which the local district is located shall coordinate the
473 placement of the name of each candidate for local district office in the nonpartisan section of
474 the municipal general election ballot with the municipal election clerk.

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

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

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

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

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

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

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

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

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

490 and

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

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

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

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

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

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

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

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

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

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

508 Section 7. Section **17B-1-307** is amended to read:

509 **17B-1-307. Annual compensation -- Per diem compensation -- Participation in**
510 **group insurance plan -- Reimbursement of expenses.**

511 (1) (a) Except as provided in Subsection 17B-1-308(1)(e), a member of a board of
512 trustees may receive compensation for service on the board, as determined by the board of
513 trustees.

514 (b) The amount of compensation under this Subsection (1) may not exceed \$5,000 per
515 year.

516 (c) (i) As determined by the board of trustees, a member of the board of trustees may
517 participate in a group insurance plan provided to employees of the local district on the same
518 basis as employees of the local district.

519 (ii) The amount that the local district pays to provide a member with coverage under a
520 group insurance plan shall be included as part of the member's compensation for purposes of
521 Subsection (1)(b).

522 (d) The amount that a local district pays employer-matching employment taxes, if a
523 member of the board of trustees is treated as an employee for federal tax purposes, does not
524 constitute compensation under Subsection (1).

525 (2) In addition to the compensation provided under Subsection (1), the board of
526 trustees may elect to allow a member to receive per diem and travel expenses for up to 12
527 meetings or activities per year in accordance with:

528 (a) Section 63A-3-106;

529 (b) Section 63A-3-107; and

530 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
531 63A-3-107.

532 Section 8. Section **17B-1-310** is amended to read:

533 **17B-1-310. Quorum of board of trustees -- Meetings of the board.**

534 (1) (a) (i) Except as provided in Subsection (1)(b), a majority of the board of trustees
535 constitutes a quorum for the transaction of board business, and action by a majority of a
536 quorum constitutes action of the board.

537 (ii) Except as otherwise required by law, an otherwise valid action of the board is not
538 made invalid because of the method chosen by the board to take or memorialize the action.

539 (b) (i) Subject to Subsection (1)(b)(ii), a board may adopt bylaws or other rules that
540 require more than a majority to constitute a quorum or that require action by more than a
541 majority of a quorum to constitute action by the board.

542 (ii) ~~Except for board action to dispose of real property owned by the local district,~~
543 ~~board] A board with five or more members may not adopt~~ bylaws or rules ~~[may not] that~~
544 require a vote of more than two-thirds ~~[vote]~~ of the board to constitute board action except for
545 a board action to dispose of real property owned by the local district.

546 (2) The board of trustees shall hold such regular and special meetings as the board
547 determines at a location that the board determines.

548 (3) (a) Each meeting of the board of trustees shall comply with Title 52, Chapter 4,
549 Open and Public Meetings Act.

550 (b) Subject to Subsection (3)(c), a board of trustees shall:

551 (i) adopt rules of order and procedure to govern a public meeting of the board of
552 trustees;

553 (ii) conduct a public meeting in accordance with the rules of order and procedure
554 described in Subsection (3)(b)(i); and

555 (iii) make the rules of order and procedure described in Subsection (3)(b)(i) available
556 to the public:

557 (A) at each meeting of the board of trustees; and

558 (B) on the local district's public website, if available.

559 (c) Subsection (3)(b) does not affect the board of trustees' duty to comply with Title 52,
560 Chapter 4, Open and Public Meetings Act.

561 Section 9. Section **17B-1-311** is amended to read:

562 **17B-1-311. Board member prohibited from district employment -- Exception.**

563 (1) No elected or appointed member of the board of trustees of a local district may,
564 while serving on the board, be employed by the district, whether as an employee or under a
565 contract.

566 (2) No person employed by a local district, whether as an employee or under a contract,
567 may serve on the board of that local district.

568 (3) A local district is not in violation of a prohibition described in Subsection (1) or (2)
569 if the local district:

570 (a) treats a member of a board of trustees as an employee for income tax purposes; and

571 (b) complies with the compensation limits of Section 17B-1-307 for purposes of that
572 member.

573 [~~3~~] (4) This section does not apply to a local district if:

574 (a) fewer than 3,000 people live within 40 miles of the primary place of employment,
575 measured over all weather public roads; and

576 (b) with respect to the employment of a board of trustees member under Subsection
577 (1):

578 (i) the job opening has had reasonable public notice; and

579 (ii) the person employed is the best qualified candidate for the position.

580 Section 10. Section **17B-1-639** is amended to read:

581 **17B-1-639. Annual financial reports -- Audit reports.**

582 (1) Within 180 days after the close of each fiscal year, the district shall prepare an
583 annual financial report in conformity with generally accepted accounting principles as
584 prescribed in the Uniform Accounting Manual for Local Districts.

585 (2) The requirement under Subsection (1) to prepare an annual financial report may be
586 satisfied by presentation of the audit report furnished by the [~~independent~~] auditor.

587 (3) Copies of the annual financial report or the audit report furnished by the
588 [~~independent~~] auditor shall be filed with the state auditor and shall be filed as a public
589 document in the district office.

590 Section 11. Section **17B-1-640** is amended to read:

591 **17B-1-640. Audits required.**

592 (1) [~~Independent audits of all local districts are~~] An audit of each local district is
593 required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from
594 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

595 (2) The board of trustees shall appoint an [~~independent~~] auditor for the purpose of
596 complying with the requirements of this section and with Title 51, Chapter 2a, Accounting
597 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

598 Section 12. Section **17B-2a-813** is amended to read:

599 **17B-2a-813. Rights, benefits, and protective conditions for employees of a public**
600 **transit district -- Strike prohibited -- Employees of an acquired transit system.**

601 (1) The rights, benefits, and other employee protective conditions and remedies of
602 Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as
603 determined by the Secretary of Labor, apply to a public transit district's establishment and
604 operation of a public transit service or system.

605 (2) (a) Employees of a public transit system established and operated by a public transit
606 district have the right to:

- 607 (i) self-organization;
- 608 (ii) form, join, or assist labor organizations; and
- 609 (iii) bargain collectively through representatives of their own choosing.

610 (b) Employees of a public transit district and labor organizations may not join in a
611 strike against the public transit system operated by the public transit district.

612 (c) Each public transit district shall:

613 (i) recognize and bargain exclusively with any labor organization representing a
614 majority of the district's employees in an appropriate unit with respect to wages, salaries, hours,
615 working conditions, and welfare, pension, and retirement provisions; and

616 (ii) upon reaching agreement with the labor organization, enter into and execute a
617 written contract incorporating the agreement.

618 (3) If a public transit district acquires an existing public transit system:
619 (a) all employees of the acquired system who are necessary for the operation of the
620 acquired system, except executive and administrative officers and employees, shall be:
621 (i) transferred to and appointed employees of the acquiring public transit district; and
622 (ii) given sick leave, seniority, vacation, and pension or retirement credits in
623 accordance with the acquired system's records;
624 (b) members and beneficiaries of a pension or retirement plan or other program of
625 benefits that the acquired system has established shall continue to have rights, privileges,
626 benefits, obligations, and status with respect to that established plan or program; and
627 (c) the public transit district may establish, amend, or modify, by agreement with
628 employees or their authorized representatives, the terms, conditions, and provisions of a
629 pension or retirement plan or of an amendment or modification of a pension or retirement plan.
630 (4) A pension administrator for a retirement plan sponsored by a public transit district
631 or a person designated by the administrator shall maintain retirement records in accordance
632 with Subsection 49-11-618(2).

633 Section 13. Section **17D-1-201** is amended to read:

634 **17D-1-201. Services that a special service district may be created to provide.**

635 As provided in this part, a county or municipality may create a special service district to
636 provide any combination of the following services:

- 637 (1) water;
- 638 (2) sewerage;
- 639 (3) drainage;
- 640 (4) flood control;
- 641 (5) garbage collection and disposal;
- 642 (6) health care;
- 643 (7) transportation, including the receipt of federal secure rural school funds under
644 Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public
645 roads;

- 646 (8) recreation;
- 647 (9) fire protection, including:
 - 648 (a) emergency medical services, ambulance services, and search and rescue services, if
 - 649 fire protection service is also provided;
 - 650 (b) Firewise Communities programs and the development of community wildfire
 - 651 protection plans; and
 - 652 (c) the receipt of federal secure rural school funds as provided under Section 51-9-603
 - 653 for the purposes of carrying out Firewise Communities programs, developing community
 - 654 wildfire protection plans, and performing emergency services, including firefighting on federal
 - 655 land and other services authorized under this Subsection (9);
 - 656 (10) providing, operating, and maintaining correctional and rehabilitative facilities and
 - 657 programs for municipal, state, and other detainees and prisoners;
 - 658 (11) street lighting;
 - 659 (12) consolidated 911 and emergency dispatch;
 - 660 (13) animal shelter and control;
 - 661 (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease
 - 662 Funds, and expending those funds to provide construction and maintenance of public facilities,
 - 663 traditional governmental services, and planning, as a means for mitigating impacts from
 - 664 extractive mineral industries;
 - 665 (15) in a county of the first class, extended police protection; [~~or~~]
 - 666 (16) control or abatement of earth movement or a landslide[-]; or
 - 667 (17) cemetery.

668 Section 14. Section **20A-1-512** is amended to read:

669 **20A-1-512. Midterm vacancies on local district boards.**

- 670 (1) (a) Whenever a vacancy occurs on any local district board for any reason, a
- 671 replacement to serve out the unexpired term shall be appointed as provided in this section by:
 - 672 (i) the local district board, if the person vacating the position was elected; or
 - 673 (ii) the appointing authority, as defined in Section 17B-1-102, if the person vacating

674 the position was appointed.

675 (b) ~~[Before]~~ Except as provided in Subsection (1)(c), before acting to fill the vacancy,
676 the local district board or appointing authority shall:

677 (i) give public notice of the vacancy at least two weeks before the local district board
678 or appointing authority meets to fill the vacancy; and

679 (ii) identify, in the notice:

680 (A) the date, time, and place of the meeting where the vacancy will be filled; and

681 (B) the person to whom a person interested in being appointed to fill the vacancy may
682 submit his name for consideration and any deadline for submitting it.

683 (c) An appointing authority is not subject to Subsection (1)(b) if the appointing
684 authority appoints one of its own members.

685 (2) If the local district board fails to appoint a person to complete an elected board
686 member's term within 90 days, the legislative body of the county or municipality that created
687 the local district shall fill the vacancy following the procedure set forth for a local district in
688 Subsection (1)(b).

689 Section 15. Section **62A-5-103.5** is amended to read:

690 **62A-5-103.5. Disbursal of public funds -- Background check of a direct service**
691 **worker.**

692 (1) For purposes of this section:

693 (a) "directly supervised" means that the person being supervised is under the
694 uninterrupted visual and auditory surveillance of the person doing the supervising; and

695 (b) "office" is as defined in Section 62A-2-101.

696 (2) Subject to Subsection (4), public funds may not be disbursed to pay a direct service
697 worker for personal services rendered to a person, unless:

698 (a) subject to ~~[Subsection (5)]~~ Subsections (5) and (7), the direct service worker is
699 approved by the office to have direct access and provide services to children or vulnerable
700 adults pursuant to Section 62A-2-120;

701 (b) except as provided in Subsection (5):

702 (i) during the time that the direct service worker renders the services described in this
703 Subsection (2), the direct service worker who renders the services is directly supervised by a
704 direct service worker who is approved by the office to have direct access and provide services
705 to children or vulnerable adults pursuant to Section 62A-2-120;

706 (ii) the direct service worker who renders the services described in this Subsection (2)
707 has submitted the information required for a background check pursuant to Section 62A-2-120;
708 and

709 (iii) the office has not determined whether to approve the direct service worker
710 described in Subsection (2)(b)(ii) to have direct access and provide services to children or
711 vulnerable adults; or

712 (c) except as provided in Subsection (5), the direct service worker:

713 (i) (A) is a direct ancestor or descendent of the person to whom the services are
714 rendered, but is not the person's parent;

715 (B) is the aunt, uncle, or sibling of the person to whom the services are rendered; or

716 (C) (I) has submitted the information required for a background check pursuant to
717 Section 62A-2-120; and

718 (II) the office has not determined whether to approve the direct service worker to have
719 direct access and provide services to children or vulnerable adults; and

720 (ii) is not listed in:

721 (A) the Licensing Information System of the Division of Child and Family Services
722 created by Section 62A-4a-1006;

723 (B) the statewide database of the Division of Aging and Adult Services created by
724 Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation; or

725 (C) juvenile court records as having a substantiated finding under Section 78A-6-323
726 that the direct service worker committed a severe type of child abuse or neglect.

727 (3) For purposes of Subsection (2), the office shall conduct a background check of a
728 direct service worker:

729 (a) except as provided in Subsection (2)(b) or (c), before public funds are disbursed to

730 pay the direct service worker for the personal services described in Subsection (2); and

731 (b) using the same procedures established for a background check of an applicant for
732 an initial license under Section 62A-2-120.

733 (4) The background check and the approval determination described in this section
734 shall be conducted for a direct service worker on an annual basis.

735 (5) Notwithstanding Subsections (1) through (4), and except as provided in Subsection
736 (6), a child who is in the legal custody of the department or any of the department's divisions
737 may not be placed with a direct service worker unless, before the child is placed with the direct
738 service worker, the direct service worker passes a background check, pursuant to the
739 requirements of Section 62A-2-120, that includes:

740 (a) submitting the direct service worker's fingerprints for an FBI national criminal
741 history records check, through the Criminal Investigations and Technical Services Division;

742 (b) checking the child abuse and neglect registry in each state where the direct service
743 worker resided in the five years immediately preceding the day on which the direct service
744 worker applied to be a direct service worker; and

745 (c) checking the child abuse and neglect registry in each state where each adult living
746 in the home where the child will be placed resided in the five years immediately preceding the
747 day on which the direct service worker applied to be a direct service worker.

748 (6) The requirements under Subsection (5) do not apply to the extent that federal law or
749 rule permits otherwise.

750 (7) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
751 Transit District Act, contracts with the division to provide services:

752 (a) the provisions of Subsections (2) through (5) are not applicable to a direct service
753 worker employed by the public transit district; and

754 (b) the division may not reimburse the public transit district for services provided
755 unless a direct service worker hired or transferred internally after July 1, 2013, by the public
756 transit district to drive a paratransit route:

757 (i) is approved by the office to have direct access to children and vulnerable adults in

758 accordance with Section 62A-2-120; and

759 (ii) is subject to a background check established in a statute or rule governing a public

760 transit district or other public transit district policy.