

## **SB0051S01 compared with SB0051**

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inserted text shows text that was not in SB0051 but was inserted into SB0051S01.

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**Senator Jerry W. Stevenson proposes the following substitute bill:**

### **LOCAL GOVERNMENT ENTITIES AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: {}Stephen G. Handy

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#### **LONG TITLE**

#### **General Description:**

This bill amends provisions related to local government entities.

#### **Highlighted Provisions:**

This bill:

- defines terms;
- prohibits, with certain exceptions, a governing body from spending money deposited in an enterprise fund for a purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created;
- authorizes a local district to provide services, nonmonetary assistance, or monetary assistance to a nonprofit entity;
- amends provisions related to the creation of a local district;
- amends provisions governing the term of an appointed water conservancy district

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- board member;
- ▶ clarifies provisions that exempt an appointing authority from certain requirements if it appoints one of its own members to a board of trustees;
  - ▶ authorizes a local district to designate and consolidate polling places and provide a local district election ballot in consultation with a county clerk;
  - ▶ amends provisions related to the division of a local district for the purpose of electing or appointing the members of the board of trustees;
  - ▶ amends provisions related to the authority of a local district to continue to tax an area withdrawn from the local district;
  - ▶ requires a board of trustees to mail notice of a hearing to consider adoption of a budget to an owner of property or a registered voter within the local district;
  - ▶ allows a local district to establish reasonable rules that require customers who sign up for one service to receive multiple commodities, services, or facilities provided by the district in certain circumstances;
  - ▶ prohibits in certain circumstances a county legislative body from adopting a resolution for the appointment of a board of trustees member in a county improvement district;
  - ▶ amends provisions related to a mosquito abatement district's power to establish a reserve fund;
  - ▶ amends certain provisions related to the funding of a public transit district;
  - ▶ allows a member of a public transit district board of trustees who is appointed by a county or municipality to be employed by the county or municipality in certain circumstances;
  - ▶ amends criminal provisions related to riding in a transit vehicle without payment;
  - ▶ amends a public transit district's authority to use certain information obtained through a background check;
  - ▶ requires a board of trustees for a water conservancy district to give written notice of an upcoming vacancy in an appointed trustee's term within a certain period of time;
  - ▶ amends definitions;
  - ▶ amends provisions authorizing a municipality or improvement district to appoint members to an administrative control board;

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- ▶ amends provisions related to the board of canvassers for a local district;
- ▶ authorizes a public transit district to use an automatic license plate reader system to assess parking needs and conduct travel pattern analyses;
- ▶ authorizes the dissemination of a criminal history or warrant of arrest information to a public transit district for certain purposes;
- ▶ amends provisions related to the state auditor's authority to withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit;
- ▶ amends provisions relating to adverse possession to include a local district; and
- ▶ makes technical and conforming amendments.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

10-5-107, as last amended by Laws of Utah 2010, Chapters 116 and 378

10-6-106, as last amended by Laws of Utah 2003, Chapter 292

10-6-135, as last amended by Laws of Utah 2010, Chapter 116

17B-1-103, as last amended by Laws of Utah 2011, Chapters 68 and 272

17B-1-202, as last amended by Laws of Utah 2013, Chapters 246 and 448

17B-1-303, as last amended by Laws of Utah 2013, Chapter 448

17B-1-304, as last amended by Laws of Utah 2013, Chapter 448

17B-1-306, as last amended by Laws of Utah 2013, Chapters 402 and 448

17B-1-306.5, as renumbered and amended by Laws of Utah 2008, Chapter 360

17B-1-511, as last amended by Laws of Utah 2012, Chapter 97

17B-1-609, as last amended by Laws of Utah 2012, Chapter 97

17B-1-641, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-901, as enacted by Laws of Utah 2007, Chapter 329

17B-2a-404, as last amended by Laws of Utah 2012, Chapter 97

17B-2a-703, as enacted by Laws of Utah 2007, Chapter 329

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**17B-2a-804**, as last amended by Laws of Utah 2011, Chapter 223

**17B-2a-807**, as last amended by Laws of Utah 2013, Chapter 191

**17B-2a-821**, as renumbered and amended by Laws of Utah 2007, Chapter 329

**17B-2a-825**, as last amended by Laws of Utah 2010, Chapter 281

**17B-2a-1005**, as last amended by Laws of Utah 2010, Chapter 159

**17D-1-102**, as last amended by Laws of Utah 2013, Chapter 265

**17D-1-302**, as last amended by Laws of Utah 2012, Chapter 97

**17D-1-303**, as enacted by Laws of Utah 2008, Chapter 360

**17D-1-304**, as last amended by Laws of Utah 2012, Chapter 97

**20A-1-512**, as last amended by Laws of Utah 2013, Chapter 448

**20A-4-301**, as last amended by Laws of Utah 2010, Chapter 197

**41-6a-2003**, as enacted by Laws of Utah 2013, Chapter 447

**53-10-108**, as last amended by Laws of Utah 2012, Chapter 239

**67-3-1, as last amended by Laws of Utah 2013, Chapter 384**

**78B-2-216**, as last amended by Laws of Utah 2010, Chapter 30

ENACTS:

**10-5-102.5, Utah Code Annotated 1953**

**17B-1-122**, Utah Code Annotated 1953

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

**Section 1. Section 10-5-102.5 is enacted to read:**

**10-5-102.5. Definitions.**

**(1) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.**

**(2) "Utility" means a utility owned by a town, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.**

**Section 2. Section 10-5-107 is amended to read:**

**10-5-107. Tentative budgets required for public inspection -- Contents --**

**Adoption of tentative budget.**

**(1) (a) On or before the first regularly scheduled town council meeting of May, the**

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mayor shall:

- (i) prepare for the ensuing year, on forms provided by the state auditor, a tentative budget for each fund for which a budget is required;
  - (ii) make the tentative budget available for public inspection; and
  - (iii) submit the tentative budget to the town council.
- (b) The tentative budget of each fund shall set forth in tabular form:
- (i) actual revenues and expenditures in the last completed fiscal year;
  - (ii) estimated total revenues and expenditures for the current fiscal year; and
  - (iii) the mayor's estimates of revenues and expenditures for the budget year.
- (2) (a) The mayor shall:
- (i) estimate the amount of revenue available to serve the needs of each fund;
  - (ii) estimate the portion to be derived from all sources other than general property taxes; and
  - (iii) estimate the portion that shall be derived from general property taxes.
- (b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.

(3) A governing body may not spend money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, unless the governing body:

- (a) transfers the money from the enterprise fund to another fund; and
- (b) complies with the hearing and notice requirements of Subsections (6)(a), (b), and
- (c).

[3] (4) (a) Before the public hearing required under Section 10-5-108, the town council:

- (i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and
  - (ii) may amend or revise the tentative budget.
- (b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.

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I(4) (a) Except as provided in Subsection (4)(d), if]

(5) (a) If a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from a utility an enterprise fund to another fund that are not reasonable allocations of costs between the utility enterprise fund and the other fund, the governing body shall:

- (i) hold a public hearing;
  - (ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection I(4)I(5)(b); and
  - (iii) subject to Subsection I(4)I(5)(c), mail the notice to each utility enterprise fund customer at least seven days before the day of the hearing.
- (b) The purpose portion of the written notice shall identify:
- (i) the utility enterprise fund from which money is being allocated or transferred;
  - (ii) the amount being allocated or transferred; and
  - (iii) the fund to which the money is being allocated or transferred.
- (c) The town council:
- (i) may print the written notice required under Subsection I(4)I(5)(a)(ii) on the utility enterprise fund customer's bill; and
  - (ii) shall include the written notice required under Subsection I(4)I(5)(a)(ii) as separate notification mailed or transmitted with the utility enterprise fund customer's bill.

I(d) The notice and hearing requirements in this Subsection (4) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.]

### Section 3. Section 10-6-106 is amended to read:

#### **10-6-106. Definitions.**

As used in this chapter:

- (1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.
- (2) "Appropriation" means an allocation of money by the governing body for a specific purpose.
- (3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of

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financing them.

(b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(4) "Budgetary fund" means a fund for which a budget is required.

(5) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

(9) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a General Fund.

(10) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

(11) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.

[11](12) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.

[12](13) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.

[13](14) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.

[14](15) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

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[¶15] (16) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

[¶16] (17) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

[¶17] (18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment and does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.

[¶18] (19) "Last completed fiscal period" means the fiscal period next preceding the current period.

[¶19] (20)(a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty. ~~¶~~ [Public funds do]

(b) "Public funds" does not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

[¶20] (21) "Special fund" means any fund other than the General Fund.

(22) "Utility" means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

[¶21] (23) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 4. Section 10-6-135 is amended to read:

### **10-6-135. Operating and capital budgets.**

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and

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the procedures and controls relating to them in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

- (a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and
- (b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

(b) A governing body may not spend money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, unless the governing body:

- (i) transfers the money from the enterprise fund to another fund; and
- (ii) complies with the hearing and notice requirements of Subsections (3)(g)(i), (ii), and (iii).

[t~~b~~] (c) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

- (i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:
  - (A) each enterprise fund; and
  - (B) other required special funds;
- (ii) include with the tentative operating and capital budget described in Subsection (3)[t~~b~~] (d)(i) specific work programs as submitted by each department head; and
- (iii) include any other supporting data required by the governing body.

[t~~c~~] (d) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

[t~~d~~] (e) (i) Subject to Subsection (3)[t~~d~~] (e)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection

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(3)(e)(d).

(ii) After complying with Subsection (3)(e)(f)(g)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

(e) (i) Except as provided in Subsection (3)(e)(iv), if

(f) (i) If the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from a utilityan enterprise fund to another fund that are not reasonable allocations of costs between the utility enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(e)(f)(ii); and

(C) subject to Subsection (3)(e)(f)(iii), mail the written notice to each utility enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice required under Subsection

(3)(e)(f)(i)(B) shall identify:

(A) the utility enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(e)(f)(i) on the utility enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(e)(f)(i) as a separate notification mailed or transmitted with the utility enterprise fund customer's bill.

(iv) The notice and hearing requirements in this Subsection (3)(e) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public

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hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

(i) certified by the budget officer;

(ii) filed by the budget officer in the office of the city auditor or city recorder;

(iii) available to the public during regular business hours; and

(iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section ~~115~~. Section **17B-1-103** is amended to read:

### **17B-1-103. Local district status and powers.**

(1) A local district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A local district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a

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- groundwater right necessary or convenient to the full exercise of the district's powers;
- (b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
  - (c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);
  - (d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;
  - (e) borrow money and incur indebtedness for any lawful district purpose;
  - (f) issue bonds, including refunding bonds:
    - (i) for any lawful district purpose; and
    - (ii) as provided in and subject to Part 11, Local District Bonds;
  - (g) levy and collect property taxes:
    - (i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and
    - (ii) as provided in and subject to Part 10, Local District Property Tax Levy;
  - (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;
    - (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;
    - (j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:
      - (A) maintaining and operating the district;
      - (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
      - (C) issuing bonds and paying debt service on district bonds; and
      - (D) providing a reserve established by the board of trustees; and
    - (ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;
  - (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;
  - (l) enter into a contract that the local district board of trustees considers necessary,

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convenient, or desirable to carry out the district's purposes, including a contract:

- (i) with the United States or any department or agency of the United States;
- (ii) to indemnify and save harmless; or
- (iii) to do any act to exercise district powers;
- (m) purchase supplies, equipment, and materials;
- (n) encumber district property upon terms and conditions that the board of trustees considers appropriate;
- (o) exercise other powers and perform other functions that are provided by law;
- (p) construct and maintain works and establish and maintain facilities, including works or facilities:
  - (i) across or along any public street or highway, subject to Subsection (3) and if the district:
    - (A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and
    - (B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;
  - (ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or
  - (iii) across any stream of water or watercourse, subject to Section 73-3-29;
- (q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;
- (r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or
  - (ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;
- (s) contract with another political subdivision of the state to allow the other political

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subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public; [and]

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) with:

- (A) another political subdivision of the state; or
- (B) a public or private owner of property:
  - (I) on which the district has a right-of-way; or
  - (II) adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

- (A) owned by the district; or
- (B) on which the district has a right-of-way[:]; and

(u) if the local district receives, as determined by the local district board of trustees, adequate monetary or nonmonetary consideration in return:

- (i) provide services or nonmonetary assistance to a nonprofit entity;
- (ii) waive fees required to be paid by a nonprofit entity; or
- (iii) provide monetary assistance to a nonprofit entity, whether from the local district's own funds or from funds the local district receives from the state or any other source.

(3) With respect to a local district's use of a street or highway, as provided in Subsection (2)(p)(i):

- (a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:
  - (i) an excavation and the refilling of an excavation;
  - (ii) the relaying of pavement; and
  - (iii) the protection of the public during a construction period; and
- (b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

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- (i) may not require the district to pay a license or permit fee or file a bond; and
  - (ii) may require the district to pay a reasonable inspection fee.
- (4) (a) A local district may:
- (i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:
    - (A) the purpose of the facilities is to harness energy that results inherently from the district's:
      - (I) operation of a project or facilities that the district is authorized to operate; or
      - (II) providing a service that the district is authorized to provide;
    - (B) the generation of electricity from the facilities is incidental to the primary operations of the district; and
  - (C) operation of the facilities will not hinder or interfere with the primary operations of the district;
- (ii) (A) use electricity generated by the facilities; or
  - (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.
- (b) A district may not act as a retail distributor or seller of electricity.
- (c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.
- (5) A local district may adopt and, after adoption, alter a corporate seal.
- (6) (a) As used in this Subsection (6), "knife" means a cutting instrument that includes a sharpened or pointed blade.
- (b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.
- (c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Section ~~12~~6. Section **17B-1-122** is enacted to read:

**17B-1-122. Required multiple commodities, services, or facilities.**

A local district may establish reasonable rules requiring a customer who signs up for

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one service to receive multiple commodities, services, or facilities provided by the district under conditions or circumstances that are, as determined by the board of trustees, in the general best interest of the district's customers if:

- (1) the local district provides more than one commodity, service, or facility;
- (2) one of the commodities, services, or facilities that the district provides is electric service; and
- (3) the district notifies the customer in writing of:
  - (a) the requirement to receive multiple commodities, services, or facilities;
  - (b) the specific additional commodity, service, or facility the customer will be required to receive; and
  - (c) any fee or levy associated with the additional commodity, service, or facility.

Section ~~17B-1-202~~. 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) the construction and maintenance of a right-of-way, including:
    - (A) a curb;
    - (B) a gutter;
    - (C) a sidewalk;
    - (D) a street;

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- (E) a road;
  - (F) a water line;
  - (G) a sewage line;
  - (H) a storm drain;
  - (I) an electricity line;
  - (J) a communications line;
  - (K) a natural gas line; or
  - (L) street lighting;
  - (xi) transportation, including public transit and providing streets and roads;
  - (xii) the operation of a system, or one or more components of a system, for the 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;
  - (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;
  - (xiv) law enforcement service;
  - (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;
  - (xvi) the control or abatement of earth movement or a landslide;
  - (xvii) the operation of animal control services and facilities; or
  - (xviii) an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.
- (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)(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.

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- (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 subject to Section 73-1-4.
  - (v) A local district created in accordance with Subsection (1)(a)(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

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provide and may not after its creation provide to an area the same service that may already [being] be 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.

(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)(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)(xii) on or after May 10, 2011.

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

- (a) provides the same or a substantially similar service as the dissolved local district; and
- (b) is located in substantially the same area as the dissolved local district.

Section ~~4~~8. 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 Subsections (1)(b) and (c), the term of each member of a

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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.

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

(i) begin on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) end on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(2) (a) 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 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 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.

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

(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.

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- (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 board of trustees.
- (b) The local district shall pay the cost of each bond required under Subsection (7)(a). Section ~~45-9~~. 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.

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- (b) The appointing authority shall:
- (i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the 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) (a) 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.
- (b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is duly elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).
- (6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members[~~, it~~] and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).  
Section ~~17B-1-306~~17B-1-306. 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~~] local district board in consultation with the [~~local district~~] county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election polling places whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two

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or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (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)(c)(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 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 7 of any odd-numbered year.

(b) When June 7 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

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(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, (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

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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 June 12 of the municipal election year.

(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 and the local district clerk 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 local district board of trustees, in consultation with 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

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- (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.
- (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) 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 ~~(7)~~11. Section **17B-1-306.5** is amended to read:
- 17B-1-306.5. Dividing a local district into divisions.**
- (1) Subject to Subsection ~~(2)~~(3), the board of trustees of a local district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the local district, or the portion of the local district represented by elected board of trustees members, into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.
- (2) Subject to Subsection (3), the appointing authority of a local district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the local district, or the portion of the local district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.
- ~~[2]~~(3) Before dividing a local district into divisions [~~under~~ Subsection (1)] or before changing the boundaries of divisions already established, the board of trustees under

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Subsection (1), or the appointing authority, under Subsection (2), shall:

- (a) prepare a proposal that describes the boundaries of the proposed divisions; and
- (b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

[~~(3)~~] (4) (a) The board of trustees or the appointing authority shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the local district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or (2).

Section ~~18~~12. 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 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 or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the local district, 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, property within the withdrawn area shall continue to be 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.

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(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 ~~19~~13. Section **17B-1-609** is amended to read:

### **17B-1-609. Hearing to consider adoption -- Notice.**

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

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

(b) except as provided in Subsection (5), 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), or (5) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b) ~~[or]~~, (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A board of trustees of a local district with an annual operating budget of less than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district or special service district; and

(b) posting the notice in three public places within the district.

Section 14. Section 17B-1-641 is amended to read:

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### **17B-1-641. Local district may expand uniform procedures -- Limitation.**

(1) Subject to Subsection (2), a local district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for Local Districts prepared by the state auditor under Subsection 67-3-1~~(13)~~(14), to better serve the needs of the district.

(2) A local district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for Local Districts.

Section ~~110~~15. Section **17B-1-901** is amended to read:

### **17B-1-901. Providing and billing for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.**

(1) If a local district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(2) [A] Regardless of the number of commodities, services, or facilities furnished by a local district, the local district may suspend furnishing [a] any commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.

Section ~~111~~16. 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, electric district, or municipal district.

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

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- (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) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304.
- (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(b)(ii) at any time after the county district is governed by an elected board of trustees unless:
- (a) the elected board has ceased to function;
  - (b) the terms of all of the elected board members have expired without the board having called an election; or
  - (c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.
- [~~(4)~~] (5) (a) (i) Except as provided in Subsection [~~(4)~~] (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular

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district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection [(4)] (5)(a)(i).

(b) Except as provided in Subsection [(5)] (6), 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] (6) 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 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)] (5)(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] (7) 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.

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[~~7~~] 8 (a) Except as provided in Subsection [~~7~~] 8(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection [~~7~~] 8(a) and subject to Subsection [~~7~~] 8(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

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

(c) Application of Subsection [~~7~~] 8(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~~] 9 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~~] 9(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~~] 10 (a) (i) This Subsection [~~9~~] 10 applies to the board of trustees members of an electric district.

(ii) Subsections (2) through [~~8~~] 9 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~~] 10(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

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- (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 ~~112~~17. Section **17B-2a-703** is amended to read:

### **17B-2a-703. Additional mosquito abatement district powers.**

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

- (1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:
  - (a) within the district; or
  - (b) outside the district, if lands inside the district are benefitted;
- (2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;
- (3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;
- (4) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (5) make a contract to indemnify or compensate an owner of land or other property for injury or damage necessarily caused by the exercise of district powers or arising out of the use, taking, or damage of property for a district purpose; and
- (6) establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget [and] or \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Section ~~113~~18. Section **17B-2a-804** is amended to read:

### **17B-2a-804. Additional public transit district powers.**

- (1) In addition to the powers conferred on a public transit district under Section

## **SB0051S01 compared with SB0051**

17B-1-103, a public transit district may:

- (a) provide a public transit system for the transportation of passengers and their incidental baggage;
- (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:
  - (i) principal and interest of bonded indebtedness of the public transit district; or
  - (ii) a final judgment against the public transit district if:
    - (A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and
    - (B) the district is required by a final court order to levy a tax to pay the judgment;
- (c) insure against:
  - (i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;
  - (ii) public liability;
  - (iii) property damage; or
  - (iv) any other type of event, act, or omission;
- (d) acquire, contract for, lease, construct, own, operate, control, or use:
  - (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or
  - (ii) any structure necessary for access by persons and vehicles;
- (e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and
  - (ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;
- (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
- (g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States~~, to:~~
  - (i) sell or lease property;
  - (ii) assist in or operate transit-oriented or transit-supportive developments;
  - [ (i) (ii) (iii) ] [ - to: ];

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[~~(f)~~] establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(l), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; or]

[~~(ii)~~] [~~(five)~~~~h~~] study and plan transit facilities in accordance with any legislation passed by Congress;

[~~(f)~~~~(i)~~] cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

[~~(f)~~~~(j)~~] issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

[~~(f)~~~~(k)~~] from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

[~~(f)~~~~(l)~~] do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States; ~~and~~

~~(l)~~~~(and)~~

(m) sell or lease property;

(n) assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; and

[~~(f)~~~~(p)~~] subject to the restriction in Subsection (2), assist in a transit-oriented development or a transit-supportive development in connection with [the] economic development [of areas in proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot,] by:

- (i) investing in a project as a limited partner or a member, with limited liabilities; or
- (ii) subordinating an ownership interest in real property owned by the public transit district.

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(2) (a) A public transit district may only assist in the economic development of areas under Subsection (1)I(f)(p):

(i) in the manner described in Subsection (1)I(f)(p)(i) or (ii); and

(ii) on ~~if~~ no more than five 10 transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)I(f)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)I(f)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) A public transit district may be funded from any combination of federal, state, [or] local, or private funds.

(4) A public transit district may not acquire property by eminent domain.

Section ~~14~~19. Section **17B-2a-807** is amended to read:

### **17B-2a-807. Public transit district board of trustees -- Appointment --**

#### **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section

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72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

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(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) If the population in the unincorporated area of a county is at least 140,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population within a county's unincorporated area.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing

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municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which

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member currently serving on the board will step down:

- (A) upon appointment of a new member under Subsection (2)(o)(v); or
- (B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

- (a) one member appointed by the speaker of the House of Representatives;
- (b) one member appointed by the president of the Senate; and
- (c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any member; and

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(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under [Subsection] Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in

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Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

Section ~~15~~<sup>16</sup>20. Section **17B-2a-821** is amended to read:

**17B-2a-821. Failure to pay fare -- Multicounty district may establish and enforce parking ordinance.**

(1) A person may not ride a transit vehicle without payment of the applicable fare established by the public transit district that operates the transit vehicle.

~~[(2) A person who violates Subsection (1) is guilty of an infraction.]~~

~~[(3)] (2)~~ The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.

Section ~~16~~<sup>17</sup>21. Section **17B-2a-825** is amended to read:

**17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

(1) A public transit district may require an individual described in Subsection (2) to:

(a) submit a fingerprint card in a form acceptable to the public transit district; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

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- (2) A person shall comply with the requirements of Subsection (1) if the person:
- (a) is applying for or continuing employment with the public transit district:
    - (i) working in a safety-sensitive position or other position that may affect:
      - (A) the safety or well-being of patrons of the public transit district; or
      - (B) the safety or security of the transit buildings, stations, platforms, railways, bus systems, and transit vehicles;
    - (ii) handling personally identifiable information, financial information, or other sensitive information including personal health information;
    - (iii) working in security-sensitive areas; or
    - (iv) handling security-sensitive information, including information system technologies; or
  - (b) is seeking access to designated security-sensitive areas.
- (3) A public transit district may use the information obtained in accordance with this section only for one or more of the following purposes:
- (a) to determine whether or not an individual is convicted of:
    - (i) a felony under federal or state law within the last 10 years;
    - (ii) a violation within the last 10 years of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;
    - (iii) a crime involving moral turpitude; or
    - (iv) two or more convictions within the last 10 years for a violation of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;
  - (b) to determine whether or not an individual has accurately disclosed the person's criminal history on an application or document filed with the public transit district;
  - (c) to approve or deny an application for employment with the public transit district; or
  - (d) to take disciplinary action against an employee of the public transit district, including possible termination of employment.
- (4) A person is not eligible for employment with a public transit district in a capacity described in Subsection (2) if the person has been convicted of any of the offenses described in Subsection (3).

Section ~~17~~17B-2a-1005. Section **17B-2a-1005** is amended to read:

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### **17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.**

- (1) Members of the board of trustees for a water conservancy district shall be:
  - (a) elected in accordance with:
    - (i) the petition or resolution that initiated the process of creating the water conservancy district; and
    - (ii) Section 17B-1-306;
    - (b) appointed in accordance with Subsection (2); or
    - (c) elected under Subsection (4)(a).
- (2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).
  - (b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.
    - (c) (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).
      - (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.  
(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.
      - (iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.  
(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

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- (iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.
- (v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.
- (d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.
- (3) (a) ~~[At least 90 days before expiration of an appointed trustee's term, the]~~ The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts[-]:
- (i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and
- (ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.
- (b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).
- (ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.
- (iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.
- (iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the consent of the Senate.
- (c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.
- (4) (a) Members of the board of trustees of a water conservancy district shall be

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elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

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(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Section ~~{18}~~23. Section **17D-1-102** is amended to read:

### **17D-1-102. Definitions.**

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

(d) for a proposal to consolidate special service districts, the area included within each

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special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board [appointed] created under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board [appointed] created under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

(7) "Local district" has the same meaning as defined in Section 17B-1-102.

(8) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the ad

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valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

- (i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;
- (ii) a tax and revenue anticipation bond; or
- (iii) a special assessment bond.

(9) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(10) "Special assessment bond" means a bond payable from special assessments.

(11) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

- (a) is created under authority of the Utah Constitution Article XI, Section 7; and
- (b) operates under, is subject to, and has the powers set forth in this chapter.

(12) "Tax and revenue anticipation bond" means a bond:

- (a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and
- (b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Section ~~19~~24. Section **17D-1-302** is amended to read:

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

(1) 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)] (3) and (4)~~.

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

Section ~~20~~25. Section **17D-1-303** is amended to read:

### **17D-1-303. Election or appointment of administrative control board members.**

(1) Except as provided in Subsection ~~[(2)(b)(iii)] (5)~~, a county or municipal legislative body that creates an administrative control board may provide for board members to be elected

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or appointed, or for some members to be elected and some appointed.

(2) [~~(a)~~] Except as provided in Subsection [~~(2)(b)~~] (3), each member of an administrative control board shall be elected or appointed as provided for the election or appointment, respectively, of a member of a board of trustees of a local district under Title 17B, Chapter 1, Part 3, Board of Trustees.

[~~(b)(i)~~] (3) A municipality or improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act, may appoint one member to represent it on an administrative control board created [~~by~~] for a special service district if:

[~~(A)~~] (a) the special service district was created by a county;

[~~(B)~~ ~~the special service district provides the same service as the municipality or improvement district; and~~]

(b) the municipality or improvement district:

(i) provides the same service as the special service district; or

(ii) provided the same service as the special service district:

(A) prior to the creation of the special service district, if all or part of the municipality or improvement district was then included in the special service district; or

(B) prior to all or part of the municipality or improvement district being annexed into the special service district; and

[~~(C)~~] (c) the special service district includes some or all of the area included within the municipality or improvement district.

[~~(iii)~~] (4) An institution of higher education for which a special service district provides commodities, services, or facilities may appoint the number of members of an administrative control board of that special service district that are equal in number to at least 1/3 of the total number of board members.

[~~(iii)~~] (5) With respect to an administrative control board created for a special service district created by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10), the county legislative body shall appoint:

[~~(A)~~] (a) three members from a list of at least six recommendations from the county sheriff;

[~~(B)~~] (b) three members from a list of at least six recommendations from municipalities within the county; and

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[~~(E)~~] (c) three members from a list of at least six recommendations from the county executive.

Section ~~17D-1-304~~26. 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;
- (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)~~] (3) or (4).

(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 ~~17D-1-304~~27. Section **20A-1-512** is amended to read:

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

(1) (a) Whenever a vacancy occurs on any local district board for any reason, a replacement to serve out the unexpired term shall be appointed as provided in this section by:

- (i) the local district board, if the person vacating the position was elected; or
- (ii) the appointing authority, as defined in Section 17B-1-102, if the person vacating the position was appointed.

(b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local

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district board or appointing authority shall:

- (i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy; and
- (ii) identify, in the notice:
  - (A) the date, time, and place of the meeting where the vacancy will be filled; and
  - (B) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.
- (c) An appointing authority is not subject to Subsection (1)(b) if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications.

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

Section ~~23~~28. Section **20A-4-301** is amended to read:

### **20A-4-301. Board of canvassers.**

- (1) (a) Each county legislative body is the board of county canvassers for:
  - (i) the county; and
  - (ii) each local district whose election is conducted by the county[-] if:
    - (A) the election relates to the creation of the local district;
    - (B) the county legislative body serves as the governing body of the local district; or
    - (C) there is no duly constituted governing body of the local district.
- (b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.
- (c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:
  - (i) the county treasurer;
  - (ii) the county assessor; or
  - (iii) the county sheriff.

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(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3) (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

Section ~~41-6a-203~~<sup>41-6a-203</sup>. Section **41-6a-203** is amended to read:

### **41-6a-203. Automatic license plate reader systems -- Restrictions.**

(1) Except as provided in Subsection (2), a person or governmental entity may not use an automatic license plate reader system.

(2) An automatic license plate reader system may be used:

(a) by a law enforcement agency for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

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- (e) for the purpose of collecting an electronic toll; [or]
- (f) for the purpose of enforcing motor carrier laws[-]; or
- (g) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis.

Section ~~425~~30. Section **53-10-108** is amended to read:

**53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.**

- (1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:
  - (a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;
  - (b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;
  - (c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;
  - (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and
    - (ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;
  - (e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;
  - (f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and
    - (ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;
  - (g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; ~~and~~
  - (h) a public transit district for purposes of complying with background check provisions in Subsection 62A-5-103.5(7); and

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~~[(h)] (i); and~~

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and
- (iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

- (i) review the information received as provided under Subsection (8); and
- (ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$20.

(ii) The name check fee under Subsection (1)(g) is \$15.

(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.

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(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under [Subsections] Subsection (4)(b) [and] (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (1)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(7), provide a criminal history record to the state agency or the agency's designee.

(5) If an individual has no prior criminal convictions, criminal history record information contained in the division's computerized criminal history files may not include arrest or disposition data concerning an individual who has been acquitted, the person's charges dismissed, or when no complaint against the person has been filed.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner

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under procedures designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(11) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

### Section 31. Section 67-3-1 is amended to read:

#### **67-3-1. Functions and duties.**

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination

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of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;
- (c) expenditures paid or accrued;
- (d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and
- (e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

- (iii) as the auditor determines is necessary, conduct the audits to determine:
- (A) honesty and integrity in fiscal affairs;
  - (B) accuracy and reliability of financial statements;
  - (C) effectiveness and adequacy of financial controls; and
  - (D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time

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obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

- (i) the honesty and integrity of all its fiscal affairs;
- (ii) whether or not its administrators have faithfully complied with legislative intent;
- (iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;
- (iv) whether or not its programs have been effective in accomplishing the intended objectives; and
- (v) whether or not its management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

- (i) has an elected auditor; and
- (ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

- (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
- (ii) all debtors of the state;

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- (b) collect and pay into the state treasury all fees received by the state auditor;
  - (c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;
  - (d) stop the payment of the salary of any state official or state employee who:
    - (i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;
    - (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or
    - (iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;
  - (e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
  - (f) superintend the contractual auditing of all state accounts;
  - (g) subject to Subsection Subsections (8) and (10), withhold state allocated funds or the disbursement of property taxes from any a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units of the state comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and
  - (h) subject to Subsection Subsections (9) and (10), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.
- (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.
- (b) If, after receiving notice under Subsection (8)(a), a state or local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

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(i) shall provide a recommended timeline for corrective actions; and  
(ii) may prohibit the fee-assessing unit from accessing money held by the state; and  
(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) Notwithstanding Subsection (7)(g),(7)(h), (8)(b), or (8)(d) the state auditor:

(a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the

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disbursement is necessary to:

- (i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or
- (ii) meet debt service obligations; and
- (b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

[+10] (11) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

[+11] (12) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

[+12] (13) (a) The state auditor may not audit work that the state auditor performed

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before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

- (i) designate how that work shall be audited; and
- (ii) provide additional funding for those audits, if necessary.

[¶13](14) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

- (i) prepare a Uniform Accounting Manual for Local Districts that:
  - (A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;
  - (B) conforms with generally accepted accounting principles; and
  - (C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;
- (ii) maintain the manual under Subsection [¶13](14)(a) so that it continues to reflect generally accepted accounting principles;
- (iii) conduct a continuing review and modification of procedures in order to improve them;
- (iv) prepare and supply each district with suitable budget and reporting forms; and
- (v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

[¶14](15) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

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- (i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;
- (ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;
- (iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;
- (iv) records that would disclose an outline or part of any audit survey plans or audit program; and
- (v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections [+4]1(15)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection [+4]1(15) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

[+5]1(16) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Section 2632. Section **78B-2-216** is amended to read:

### **78B-2-216. Adverse possession of certain real property.**

- (1) As used in this section:

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(a) "Government entity" means a town, city, county, [or] metropolitan water district, or local district.

(b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:

(a) held by a government entity; and

(b) designated for any present or future public use, including:

(i) a street;

(ii) a lane;

(iii) an avenue;

(iv) an alley;

(v) a park;

(vi) a public square;

(vii) a water facility; or

(viii) a water conveyance right-of-way or water conveyance corridor.

(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:

(a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and

(b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).

(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

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### **Legislative Review Note**

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— as of 1-29-14 4:14 PM

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Office of Legislative Research and General Counsel,