

SPECIAL SERVICE AND LOCAL DISTRICT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that certain members of a local district board of trustees do not need to reside within the local district;
- ▶ amends reporting requirements related to the withdrawal of a municipality from a local district; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-302, as last amended by Laws of Utah 2011, Chapter 68

17B-1-505, as last amended by Laws of Utah 2011, Chapter 68

17B-1-512, as last amended by Laws of Utah 2014, Chapter 189

17B-1-513, as renumbered and amended by Laws of Utah 2007, Chapter 329



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

29 Section 1. Section **17B-1-302** is amended to read:

30 **17B-1-302. Board member qualifications -- Number of board members.**

31 (1) (a) Each member of a local district board of trustees shall be:

32 (i) a registered voter at the location of the member's residence; and

33 (ii) except as provided in [~~Subsections~~] Subsection (1)(b) [~~and~~], (c), or (d), a resident
34 within:

35 (A) the boundaries of the local district; and

36 (B) if applicable, the boundaries of the division of the local district from which the
37 member is elected.

38 (b) (i) As used in this Subsection (1)(b):

39 (A) "Proportional number" means the number of members of a board of trustees that
40 bears, as close as mathematically possible, the same proportion to all members of the board that
41 the number of seasonally occupied homes bears to all residences within the district that receive
42 service from the district.

43 (B) "Seasonally occupied home" means a single-family residence:

44 (I) that is located within the local district;

45 (II) that receives service from the local district; and

46 (III) whose owner:

47 (Aa) does not reside permanently at the residence; and

48 (Bb) may occupy the residence on a temporary or seasonal basis.

49 (ii) If over 50% of the residences within a local district that receive service from the
50 local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is
51 replaced, for a proportional number of members of the board of trustees, with the requirement
52 that the member be an owner of land, or an agent or officer of the owner of land, that:

53 (A) receives service from the district; and

54 (B) is located within:

55 (I) the local district; and

56 (II) if applicable, the division from which the member is elected.

57 (c) For a board of trustees member in a basic local district that has within its
58 boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under

59 Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land
60 within the local district that receives service from the district, or an agent or officer of the
61 owner.

62 (d) A member of the board of trustees of a service area described in Subsection
63 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county or municipality appointing
64 the individual, is not subject to the requirements of Subsection (1)(a)(ii).

65 (2) Except as otherwise provided by statute, the number of members of each board of
66 trustees of a local district shall be an odd number that is no less than three.

67 (3) For a newly created local district, the number of members of the initial board of
68 trustees shall be the number specified:

69 (a) for a local district whose creation was initiated by a petition under Subsection
70 17B-1-203(1)(a), (b), or (c), in the petition; or

71 (b) for a local district whose creation was initiated by a resolution under Subsection
72 17B-1-203(1)(d) or (e), in the resolution.

73 (4) (a) For an existing local district, the number of members of the board of trustees
74 may be changed by a two-thirds vote of the board of trustees.

75 (b) No change in the number of members of a board of trustees under Subsection (4)(a)
76 may:

77 (i) violate Subsection (2); or

78 (ii) serve to shorten the term of any member of the board.

79 Section 2. Section 17B-1-505 is amended to read:

80 **17B-1-505. Withdrawal of municipality in certain districts providing fire**
81 **protection, paramedic services, and emergency services or law enforcement service.**

82 (1) (a) The process to withdraw an area from a local district may be initiated by a
83 resolution adopted by the legislative body of a municipality that is entirely within the
84 boundaries of a local district:

85 (i) that provides:

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

87 (B) law enforcement service; and

88 (ii) in the creation of which an election was not required because of Subsection
89 17B-1-214(3)(d).

90 (b) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal
91 legislative body shall submit to the board of trustees of the local district written notice of the
92 adoption of the resolution, accompanied by a copy of the resolution.

93 (2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body
94 shall hold an election at the next municipal general election that is more than 60 days after
95 adoption of the resolution on the question of whether the municipality should withdraw from
96 the local district.

97 (3) If a majority of those voting on the question of withdrawal at an election held under
98 Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local
99 district.

100 (4) (a) Within 10 days after the canvass of an election at which a withdrawal under this
101 section is submitted to voters, the municipal legislative body shall send written notice to the
102 board of the local district from which the municipality is proposed to withdraw.

103 (b) Each notice under Subsection (4)(a) shall:

104 (i) state the results of the withdrawal election; and

105 (ii) if the withdrawal was approved by voters, be accompanied by a ~~[map or legal~~
106 ~~description of the area to be withdrawn, adequate for purposes of the county assessor and~~
107 ~~recorder]~~ copy of an approved final local entity plat as defined in Section 67-1a-6.5.

108 (5) The effective date of a withdrawal under this section is governed by Subsection
109 17B-1-512(2)(a).

110 Section 3. Section 17B-1-512 is amended to read:

111 **17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period**
112 **-- Judicial review.**

113 (1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file
114 with the lieutenant governor:

115 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
116 that meets the requirements of Subsection 67-1a-6.5(3); and

117 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

118 (b) The board of trustees shall file the documents listed in Subsection (1)(a):

119 (i) within 10 days after adopting a resolution approving a withdrawal under Section
120 17B-1-510; ~~[and]~~

121 ~~[(ii) as soon as practicable]~~

122 (ii) on or before January 31 of the year following the board of trustees' receipt of a
 123 notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or
 124 copy between July 1 and December 31; or

125 (iii) on or before the July 31 following the board of trustees' receipt of a notice or copy
 126 described in Subsection (1)(c), if the board of trustees receives the notice or copy between
 127 January 1 and June 30.

128 (c) The board of trustees shall comply with the requirements of Subsection (1)(b)(ii) or
 129 (iii) after receiving:

130 (i) a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection
 131 17B-1-502(2)[, after receiving];

132 (ii) a copy of the municipal legislative body's resolution approving an automatic
 133 withdrawal under Subsection 17B-1-502(3)(a)[, or after receiving]; or

134 (iii) notice of a withdrawal of a municipality from a local district under Section
 135 17B-1-502.

136 ~~[(c)]~~ (d) Upon the lieutenant governor's issuance of a certificate of withdrawal under
 137 Section 67-1a-6.5, the board shall:

138 (i) if the withdrawn area is located within the boundary of a single county, submit to
 139 the recorder of that county:

140 (A) the original:

141 (I) notice of an impending boundary action;

142 (II) certificate of withdrawal; and

143 (III) approved final local entity plat; and

144 (B) if applicable, a certified copy of the resolution or notice referred to in Subsection
 145 (1)(b); or

146 (ii) if the withdrawn area is located within the boundaries of more than a single county,
 147 submit:

148 (A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
 149 and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to
 150 one of those counties; and

151 (B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)

152 and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other
153 county.

154 (2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under
155 Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal
156 under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district
157 under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the
158 withdrawal resolution, if applicable.

159 (b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon
160 the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

161 (3) (a) The local district may provide for the publication of any resolution approving or
162 denying the withdrawal of an area:

163 (i) in a newspaper of general circulation in the area proposed for withdrawal; and

164 (ii) as required in Section 45-1-101.

165 (b) In lieu of publishing the entire resolution, the local district may publish a notice of
166 withdrawal or denial of withdrawal, containing:

167 (i) the name of the local district;

168 (ii) a description of the area proposed for withdrawal;

169 (iii) a brief explanation of the grounds on which the board of trustees determined to
170 approve or deny the withdrawal; and

171 (iv) the times and place where a copy of the resolution may be examined, which shall
172 be at the place of business of the local district, identified in the notice, during regular business
173 hours of the local district as described in the notice and for a period of at least 30 days after the
174 publication of the notice.

175 (4) Any sponsor of the petition or receiving entity may contest the board's decision to
176 deny a withdrawal of an area from the local district by submitting a request, within 60 days
177 after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting
178 terms or conditions to mitigate or eliminate the conditions upon which the board of trustees
179 based its decision to deny the withdrawal.

180 (5) Within 60 days after the request under Subsection (4) is submitted to the board of
181 trustees, the board may consider the suggestions for mitigation and adopt a resolution
182 approving or denying the request in the same manner as provided in Section 17B-1-510 with

183 respect to the original resolution denying the withdrawal and file a notice of the action as
184 provided in Subsection (1).

185 (6) (a) Any person in interest may seek judicial review of:

186 (i) the board of trustees' decision to withdraw an area from the local district;

187 (ii) the terms and conditions of a withdrawal; or

188 (iii) the board's decision to deny a withdrawal.

189 (b) Judicial review under this Subsection (6) shall be initiated by filing an action in the
190 district court in the county in which a majority of the area proposed to be withdrawn is located:

191 (i) if the resolution approving or denying the withdrawal is published under Subsection
192 (3), within 60 days after the publication or after the board of trustees' denial of the request
193 under Subsection (5);

194 (ii) if the resolution is not published pursuant to Subsection (3), within 60 days after
195 the resolution approving or denying the withdrawal is adopted; or

196 (iii) if a request is submitted to the board of trustees of a local district under Subsection
197 (4), and the board adopts a resolution under Subsection (5), within 60 days after the board
198 adopts a resolution under Subsection (5) unless the resolution is published under Subsection
199 (3), in which event the action shall be filed within 60 days after the publication.

200 (c) A court in which an action is filed under this Subsection (6) may not overturn, in
201 whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

202 (i) the court finds the board of trustees' decision to be arbitrary or capricious; or

203 (ii) the court finds that the board materially failed to follow the procedures set forth in
204 this part.

205 (d) A court may award costs and expenses of an action under this section, including
206 reasonable attorney fees, to the prevailing party.

207 (7) After the applicable contest period under Subsection (4) or (6), no person may
208 contest the board of trustees' approval or denial of withdrawal for any cause.

209 Section 4. Section **17B-1-513** is amended to read:

210 **17B-1-513. Termination of terms of trustees representing withdrawn areas.**

211 (1) [On] Except as provided in Subsection (4), on the effective date of withdrawal of
212 an area from a local district, any trustee residing in the withdrawn area shall cease to be a
213 member of the board of trustees of the local district.

214 (2) [H] Except as provided in Subsection (4), if the local district has been divided into
215 divisions for the purpose of electing or appointing trustees and the area withdrawn from a
216 district constitutes all or substantially all of the area in a division of the local district that is
217 represented by a member of the board of trustees, on the effective date of the withdrawal, the
218 trustee representing the division shall cease to be a member of the board of trustees of the local
219 district.

220 (3) In the event of a vacancy on the board of trustees as a result of an area being
221 withdrawn from the local district:

222 (a) the board of trustees shall reduce the number of trustees of the local district as
223 provided by law; or

224 (b) the trustee vacancy shall be filled as provided by law.

225 (4) Subsection (1) or (2) does not apply to a trustee who is not required by law to be a
226 resident of the local district or a particular division within the local district.

Legislative Review Note
as of 2-25-15 3:06 PM

Office of Legislative Research and General Counsel