

SERVICE DISTRICT MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to local districts.

Highlighted Provisions:

This bill:

- ▶ provides that a board of trustees shall hold a public hearing on a proposed withdrawal with certain exceptions;
- ▶ clarifies language related to the time in which a board of trustees adopts a withdrawal resolution;
- ▶ authorizes combining a notice on a budget hearing with notice to increase or impose a new fee;
- ▶ amends provisions related to the preparation of a tentative budget; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-508, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-510, as last amended by Laws of Utah 2011, Chapter 297



28 **17B-1-607**, as last amended by Laws of Utah 2011, Chapter 297
 29 **17B-1-609**, as last amended by Laws of Utah 2014, Chapter 377
 30 **53-13-103**, as last amended by Laws of Utah 2014, Chapters 290 and 300



31
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **17B-1-508. Public hearing -- Quorum of board required to be present.**

35 (1) A public hearing on the proposed withdrawal shall be held by the board of trustees
36 of a local district that:

37 (a) certifies a petition under Subsection **17B-1-507(1)(b)(i)** unless the petition was
38 signed by all of the owners of private land within the area proposed to be withdrawn or all of
39 the registered voters residing within the area proposed to be withdrawn; or

40 (b) adopts a resolution under Subsection **17B-1-504(1)(a)(iii)** unless another local
41 district provides to the area proposed to be withdrawn the same retail or wholesale service as
42 provided by the local district that adopted the resolution.

43 (2) The public hearing required by Subsection (1) for a petition certified by the board
44 of trustees of a local district under Subsection **17B-1-507(1)(b)(i)**, other than a petition filed in
45 accordance with Subsection **17B-1-504(1)(a)(iv)**, may be held as an agenda item of a meeting
46 of the board of trustees of the local district without complying with the requirements of
47 Subsection (3)(b), (3)(c), or Section **17B-1-509**.

48 (3) Except as provided in Subsection (2), the public hearing required by Subsection (1)
49 shall be held:

50 (a) no later than 90 days after:

51 (i) certification of the petition under Subsection **17B-1-507(1)(b)(i)**; or

52 (ii) adoption of a resolution under Subsection **17B-1-504(1)(a)(iii)**;

53 (b) (i) for a local district located entirely within a single county:

54 (A) within or as close as practicable to the area proposed to be withdrawn; or

55 (B) at the local district office; or

56 (ii) for a local district located in more than one county:

57 (A) (I) within the county in which the area proposed to be withdrawn is located; and

58 (II) within or as close as practicable to the area proposed to be withdrawn; or

59 (B) if the local district office is reasonably accessible to all residents within the area
60 proposed to be annexed, at the local district office;

61 (c) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.; and

62 (d) for the purpose of allowing:

63 (i) the public to ask questions and obtain further information about the proposed
64 withdrawal and issues raised by it; and

65 (ii) any interested person to address the board of trustees concerning the proposed
66 withdrawal.

67 (4) A quorum of the board of trustees of the local district shall be present throughout
68 the public hearing provided for under this section.

69 (5) A public hearing under this section may be postponed or continued to a new time,
70 date, and place without further notice by a resolution of the board of trustees adopted at the
71 public hearing held at the time, date, and place specified in the published notice; provided,
72 however, that the public hearing may not be postponed or continued to a date later than 15 days
73 after the 90-day period under Subsection (3).

74 Section 2. Section **17B-1-510** is amended to read:

75 **17B-1-510. Resolution approving or rejecting withdrawal -- Criteria for approval**
76 **or rejection -- Terms and conditions.**

77 (1) (a) [~~On or before the date of the board meeting next following the public hearing~~
78 ~~under Section [17B-1-508](#), but in no case] No later than 90 days after the public hearing under
79 Section [17B-1-508](#), or, if no hearing is held, within 90 days after the filing of a petition under
80 Section [17B-1-504](#), the board of trustees of the local district in which the area proposed to be
81 withdrawn is located shall adopt a resolution:~~

82 (i) approving the withdrawal of some or all of the area from the local district; or

83 (ii) rejecting the withdrawal.

84 (b) Each resolution approving a withdrawal shall:

85 (i) include a legal description of the area proposed to be withdrawn;

86 (ii) state the effective date of the withdrawal; and

87 (iii) set forth the terms and conditions under Subsection (5), if any, of the withdrawal.

88 (c) Each resolution rejecting a withdrawal shall include a detailed explanation of the
89 board of trustees' reasons for the rejection.

90 (2) Unless denial of the petition is required under Subsection (3), the board of trustees
91 shall adopt a resolution approving the withdrawal of some or all of the area from the local
92 district if the board of trustees determines that:

93 (a) the area to be withdrawn does not and will not require the service that the local
94 district provides;

95 (b) the local district will not be able to provide service to the area to be withdrawn for
96 the reasonably foreseeable future; or

97 (c) the area to be withdrawn has obtained the same service that is provided by the local
98 district or a commitment to provide the same service that is provided by the local district from
99 another source.

100 (3) The board of trustees shall adopt a resolution denying the withdrawal if it
101 determines that the proposed withdrawal would:

102 (a) result in a breach or default by the local district under:

103 (i) any of its notes, bonds, or other debt or revenue obligations;

104 (ii) any of its agreements with entities which have insured, guaranteed, or otherwise
105 credit-enhanced any debt or revenue obligations of the local district; or

106 (iii) any of its agreements with the United States or any agency of the United States;
107 provided, however, that, if the local district has entered into an agreement with the United
108 States that requires the consent of the United States for a withdrawal of territory from the
109 district, a withdrawal under this part may occur if the written consent of the United States is
110 obtained and filed with the board of trustees;

111 (b) adversely affect the ability of the local district to make any payments or perform
112 any other material obligations under:

113 (i) any of its agreements with the United States or any agency of the United States;

114 (ii) any of its notes, bonds, or other debt or revenue obligations; or

115 (iii) any of its agreements with entities which have insured, guaranteed, or otherwise
116 credit-enhanced any debt or revenue obligations of the local district;

117 (c) result in the reduction or withdrawal of any rating on an outstanding note, bond, or
118 other debt or revenue obligation of the local district;

119 (d) create an island or peninsula of nondistrict territory within the local district or of
120 district territory within nondistrict territory that has a material adverse affect on the local

121 district's ability to provide service or materially increases the cost of providing service to the
122 remainder of the local district;

123 (e) materially impair the operations of the remaining local district; or

124 (f) require the local district to materially increase the fees it charges or property taxes
125 or other taxes it levies in order to provide to the remainder of the district the same level and
126 quality of service that was provided before the withdrawal.

127 (4) In determining whether the withdrawal would have any of the results described in
128 Subsection (3), the board of trustees may consider the cumulative impact that multiple
129 withdrawals over a specified period of time would have on the local district.

130 (5) (a) Despite the presence of one or more of the conditions listed in Subsection (3),
131 the board of trustees may approve a resolution withdrawing an area from the local district
132 imposing terms or conditions that mitigate or eliminate the conditions listed in Subsection (3),
133 including:

134 (i) a requirement that the owners of property located within the area proposed to be
135 withdrawn or residents within that area pay their proportionate share of any outstanding district
136 bond or other obligation as determined pursuant to Subsection (5)(b);

137 (ii) a requirement that the owners of property located within the area proposed to be
138 withdrawn or residents within that area make one or more payments in lieu of taxes, fees, or
139 assessments;

140 (iii) a requirement that the board of trustees and the receiving entity agree to reasonable
141 payment and other terms in accordance with Subsections (5)(f) through (g) regarding the
142 transfer to the receiving entity of district assets that the district used before withdrawal to
143 provide service to the withdrawn area but no longer needs because of the withdrawal; provided
144 that, if those district assets are allocated in accordance with Subsections (5)(f) through (g), the
145 district shall immediately transfer to the receiving entity on the effective date of the
146 withdrawal, all title to and possession of district assets allocated to the receiving entity; or

147 (iv) any other reasonable requirement considered to be necessary by the board of
148 trustees.

149 (b) Other than as provided for in Subsection [17B-1-511\(2\)](#), and except as provided in
150 Subsection (5)(e), in determining the proportionate share of outstanding bonded indebtedness
151 or other obligations under Subsection (5)(a)(i) and for purposes of determining the allocation

152 and transfer of district assets under Subsection (5)(a)(iii), the board of trustees and the
153 receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the
154 petition shall:

155 (i) engage engineering and accounting consultants chosen by the procedure provided in
156 Subsection (5)(d); provided however, that if the withdrawn area is not receiving service, an
157 engineering consultant need not be engaged; and

158 (ii) require the engineering and accounting consultants engaged under Subsection
159 (5)(b)(i) to communicate in writing to the board of trustees and the receiving entity, or in cases
160 where there is no receiving entity, the board and the sponsors of the petition the information
161 required by Subsections (5)(f) through (h).

162 (c) For purposes of this Subsection (5):

163 (i) "accounting consultant" means a certified public accountant or a firm of certified
164 public accountants with the expertise necessary to make the determinations required under
165 Subsection (5)(h); and

166 (ii) "engineering consultant" means a person or firm that has the expertise in the
167 engineering aspects of the type of system by which the withdrawn area is receiving service that
168 is necessary to make the determination required under Subsections (5)(f) and (g).

169 (d) (i) Unless the board of trustees and the receiving entity, or in cases where there is
170 no receiving entity, the board and the sponsors of the petition agree on an engineering
171 consultant and an accounting consultant, each consultant shall be chosen from a list of
172 consultants provided by the Consulting Engineers Council of Utah and the Utah Association of
173 Certified Public Accountants, respectively, as provided in this Subsection (5)(d).

174 (ii) A list under Subsection (5)(d)(i) may not include a consultant who has had a
175 contract for services with the district or the receiving entity during the two-year period
176 immediately before the list is provided to the local district.

177 (iii) Within 20 days of receiving the lists described in Subsection (5)(d)(i), the board of
178 trustees shall eliminate the name of one engineering consultant from the list of engineering
179 consultants and the name of one accounting consultant from the list of accounting consultants
180 and shall notify the receiving entity, or in cases where there is no receiving entity, the sponsors
181 of the petition in writing of the eliminations.

182 (iv) Within three days of receiving notification under Subsection (5)(d), the receiving

183 entity, or in cases where there is no receiving entity, the sponsors of the petition shall eliminate
184 another name of an engineering consultant from the list of engineering consultants and another
185 name of an accounting consultant from the list of accounting consultants and shall notify the
186 board of trustees in writing of the eliminations.

187 (v) The board of trustees and the receiving entity, or in cases where there is no
188 receiving entity, the board and the sponsors of the petition shall continue to alternate between
189 them, each eliminating the name of one engineering consultant from the list of engineering
190 consultants and the name of one accounting consultant from the list of accounting consultants
191 and providing written notification of the eliminations within three days of receiving
192 notification of the previous notification, until the name of only one engineering consultant
193 remains on the list of engineering consultants and the name of only one accounting consultant
194 remains on the list of accounting consultants.

195 (e) The requirement under Subsection (5)(b) to engage engineering and accounting
196 consultants does not apply if the board of trustees and the receiving entity, or in cases where
197 there is no receiving entity, the board and the sponsors of the petition agree on the allocations
198 that are the engineering consultant's responsibility under Subsection (5)(f) or the
199 determinations that are the accounting consultant's responsibility under Subsection (5)(h);
200 provided however, that if engineering and accounting consultants are engaged, the district and
201 the receiving entity, or in cases where there is no receiving entity, the district and the sponsors
202 of the petition shall equally share the cost of the engineering and accounting consultants.

203 (f) (i) The engineering consultant shall allocate the district assets between the district
204 and the receiving entity as provided in this Subsection (5)(f).

205 (ii) The engineering consultant shall allocate:

206 (A) to the district those assets reasonably needed by the district to provide to the area
207 of the district remaining after withdrawal the kind, level, and quality of service that was
208 provided before withdrawal; and

209 (B) to the receiving entity those assets reasonably needed by the receiving entity to
210 provide to the withdrawn area the kind and quality of service that was provided before
211 withdrawal.

212 (iii) If the engineering consultant determines that both the local district and the
213 receiving entity reasonably need a district asset to provide to their respective areas the kind and

214 quality of service provided before withdrawal, the engineering consultant shall:

215 (A) allocate the asset between the local district and the receiving entity according to
216 their relative needs, if the asset is reasonably susceptible of division; or

217 (B) allocate the asset to the local district, if the asset is not reasonably susceptible of
218 division.

219 (g) All district assets remaining after application of Subsection (5)(f) shall be allocated
220 to the local district.

221 (h) (i) The accounting consultant shall determine the withdrawn area's proportionate
222 share of any redemption premium and the principal of and interest on:

223 (A) the local district's revenue bonds that were outstanding at the time the petition was
224 filed;

225 (B) the local district's general obligation bonds that were outstanding at the time the
226 petition was filed; and

227 (C) the local district's general obligation bonds that:

228 (I) were outstanding at the time the petition was filed; and

229 (II) are treated as revenue bonds under Subsection (5)(i); and

230 (D) the district's bonds that were issued prior to the date the petition was filed to refund
231 the district's revenue bonds, general obligation bonds, or general obligation bonds treated as
232 revenue bonds.

233 (ii) For purposes of Subsection (5)(h)(i), the withdrawn area's proportionate share of
234 redemption premium, principal, and interest shall be the amount that bears the same
235 relationship to the total redemption premium, principal, and interest for the entire district that
236 the average annual gross revenues from the withdrawn area during the three most recent
237 complete fiscal years before the filing of the petition bears to the average annual gross revenues
238 from the entire district for the same period.

239 (i) For purposes of Subsection (5)(h)(i), a district general obligation bond shall be
240 treated as a revenue bond if:

241 (i) the bond is outstanding on the date the petition was filed; and

242 (ii) the principal of and interest on the bond, as of the date the petition was filed, had
243 been paid entirely from local district revenues and not from a levy of ad valorem tax.

244 (j) (i) Before the board of trustees of the local district files a resolution approving a

245 withdrawal, the receiving entity, or in cases where there is no receiving entity, the sponsors of
246 the petition shall irrevocably deposit government obligations, as defined in Subsection
247 11-27-2(6), into an escrow trust fund the principal of and interest on which are sufficient to
248 provide for the timely payment of the amount determined by the accounting consultant under
249 Subsection (5)(h) or in an amount mutually agreeable to the board of trustees of the local
250 district and the receiving entity, or in cases where there is no receiving entity, the board and the
251 sponsors of the petition. Notwithstanding Subsection 17B-1-512(1), the board of trustees may
252 not be required to file a resolution approving a withdrawal until the requirements for
253 establishing and funding an escrow trust fund in this Subsection (5)(j)(i) have been met;
254 provided that, if the escrow trust fund has not been established and funded within 180 days
255 after the board of trustees passes a resolution approving a withdrawal, the resolution approving
256 the withdrawal shall be void.

257 (ii) Concurrently with the creation of the escrow, the receiving entity, or in cases where
258 there is no receiving entity, the sponsors of the petition shall provide to the board of trustees of
259 the local district:

260 (A) a written opinion of an attorney experienced in the tax-exempt status of municipal
261 bonds stating that the establishment and use of the escrow to pay the proportionate share of the
262 district's outstanding revenue bonds and general obligation bonds that are treated as revenue
263 bonds will not adversely affect the tax-exempt status of the bonds; and

264 (B) a written opinion of an independent certified public accountant verifying that the
265 principal of and interest on the deposited government obligations are sufficient to provide for
266 the payment of the withdrawn area's proportionate share of the bonds as provided in Subsection
267 (5)(h).

268 (iii) The receiving entity, or in cases where there is no receiving entity, the sponsors of
269 the petition shall bear all expenses of the escrow and the redemption of the bonds.

270 (iv) The receiving entity may issue bonds under Title 11, Chapter 14, Local
271 Government Bonding Act, and Title 11, Chapter 27, Utah Refunding Bond Act, to fund the
272 escrow.

273 (6) A requirement imposed by the board of trustees as a condition to withdrawal under
274 Subsection (5) shall, in addition to being expressed in the resolution, be reduced to a duly
275 authorized and executed written agreement between the parties to the withdrawal.

276 (7) An area that is the subject of a withdrawal petition under Section 17B-1-504 that
277 results in a board of trustees resolution denying the proposed withdrawal may not be the
278 subject of another withdrawal petition under Section 17B-1-504 for two years after the date of
279 the board of trustees resolution denying the withdrawal.

280 Section 3. Section 17B-1-607 is amended to read:

281 **17B-1-607. Tentative budget to be prepared -- Review by governing body.**

282 (1) On or before the first regularly scheduled meeting of the board of trustees in
283 November for a calendar year entity and May for a fiscal year entity, the budget officer of each
284 local district shall prepare for the ensuing year[~~on forms provided by the state auditor,~~] and
285 file with the board of trustees a tentative budget for each fund for which a budget is required.

286 (2) (a) Each tentative budget under Subsection (1) shall provide in tabular form:

- 287 (i) actual revenues and expenditures for the last completed fiscal year;
- 288 (ii) estimated total revenues and expenditures for the current fiscal year; and
- 289 (iii) the budget officer's estimates of revenues and expenditures for the budget year.

290 (b) The budget officer shall estimate the amount of revenue available to serve the needs
291 of each fund, estimate the portion to be derived from all sources other than general property
292 taxes, and estimate the portion that shall be derived from general property taxes.

293 (3) The tentative budget, when filed by the budget officer with the board of trustees,
294 shall contain the estimates of expenditures together with specific work programs and any other
295 supporting data required by this part or requested by the board.

296 (4) The board of trustees shall review, consider, and tentatively adopt the tentative
297 budget in any regular meeting or special meeting called for that purpose and may amend or
298 revise the tentative budget in any manner that the board considers advisable prior to public
299 hearings, but no appropriation required for debt retirement and interest or reduction of any
300 existing deficits under Section 17B-1-613, or otherwise required by law, may be reduced below
301 the minimums so required.

302 (5) When a new district is created, the board of trustees shall:

303 (a) prepare a budget covering the period from the date of incorporation to the end of
304 the fiscal year;

305 (b) substantially comply with all other provisions of this part with respect to notices
306 and hearings; and

307 (c) pass the budget as soon after incorporation as feasible.

308 Section 4. Section **17B-1-609** is amended to read:

309 **17B-1-609. Hearing to consider adoption -- Notice.**

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

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

312 (b) except as provided in Subsection [~~5~~] (6), order that notice of the hearing:

313 (i) (A) be published at least seven days before the hearing in at least one issue of a

314 newspaper of general circulation [~~published~~] in the county or counties in which the district is

315 located; or

316 (B) if no newspaper is [~~published~~] circulated generally in the county or counties, be

317 posted in three public places within the district; and

318 (ii) be published at least seven days before the hearing on the Utah Public Notice

319 Website created in Section [63F-1-701](#).

320 (2) If the budget hearing is held in conjunction with a tax increase hearing, the notice

321 required in Subsection (1)(b):

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

323 (b) shall be published in accordance with the advertisement provisions of Section

324 [59-2-919](#).

325 (3) If the budget hearing is to be held in conjunction with a fee increase hearing, the

326 notice required in Subsection (1)(b):

327 (a) may be combined with the notice required under Section [17B-1-643](#); and

328 (b) shall be published or mailed in accordance with the notice provisions of Section

329 [17B-1-643](#).

330 [~~3~~] (4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or

331 [~~5~~] (6) is prima face evidence that notice was properly given.

332 [~~4~~] (5) If a notice required under Subsection (1)(b), (2), (3), or [~~5~~] (6) is not

333 challenged within 30 days after the day on which the hearing is held, the notice is adequate and

334 proper.

335 [~~5~~] (6) A board of trustees of a local district with an annual operating budget of less

336 than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

337 (a) mailing a written notice, postage prepaid, to each voter in the local district [~~or~~

338 ~~special service district~~]; and

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

340 Section 5. Section **53-13-103** is amended to read:

341 **53-13-103. Law enforcement officer.**

342 (1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an
343 employee of a law enforcement agency that is part of or administered by the state or any of its
344 political subdivisions, and whose primary and principal duties consist of the prevention and
345 detection of crime and the enforcement of criminal statutes or ordinances of this state or any of
346 its political subdivisions.

347 (b) "Law enforcement officer" [~~specifically~~] includes the following:

348 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any
349 county, city, or town;

350 (ii) the commissioner of public safety and any member of the Department of Public
351 Safety certified as a peace officer;

352 (iii) all persons specified in Sections [23-20-1.5](#) and [79-4-501](#);

353 (iv) any police officer employed by any college or university;

354 (v) investigators for the Motor Vehicle Enforcement Division;

355 (vi) investigators for the Department of Insurance, Fraud Division;

356 (vii) special agents or investigators employed by the attorney general, district attorneys,
357 and county attorneys;

358 (viii) employees of the Department of Natural Resources designated as peace officers
359 by law;

360 (ix) school district police officers as designated by the board of education for the
361 school district;

362 (x) the executive director of the Department of Corrections and any correctional
363 enforcement or investigative officer designated by the executive director and approved by the
364 commissioner of public safety and certified by the division;

365 (xi) correctional enforcement, investigative, or adult probation and parole officers
366 employed by the Department of Corrections serving on or before July 1, 1993;

367 (xii) members of a law enforcement agency established by a private college or
368 university provided that the college or university has been certified by the commissioner of

369 public safety according to rules of the Department of Public Safety;

370 (xiii) airport police officers of any airport owned or operated by the state or any of its
371 political subdivisions; and

372 (xiv) transit police officers designated under Section [~~17B-2a-823~~] [17B-2a-822](#).

373 (2) Law enforcement officers may serve criminal process and arrest violators of any
374 law of this state and have the right to require aid in executing their lawful duties.

375 (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority,
376 but the authority extends to other counties, cities, or towns only when the officer is acting
377 under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is
378 employed by the state.

379 (b) (i) A local law enforcement agency may limit the jurisdiction in which its law
380 enforcement officers may exercise their peace officer authority to a certain geographic area.

381 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise
382 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act
383 on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the
384 limited geographic area.

385 (c) The authority of law enforcement officers employed by the Department of
386 Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

387 (4) A law enforcement officer shall, prior to exercising peace officer authority:

388 (a) (i) have satisfactorily completed the requirements of Section [53-6-205](#); or

389 (ii) have met the waiver requirements in Section [53-6-206](#); and

390 (b) have satisfactorily completed annual certified training of at least 40 hours per year
391 as directed by the director of the division, with the advice and consent of the council.

Legislative Review Note

as of 1-29-15 9:39 AM

Office of Legislative Research and General Counsel