

SPECIAL DISTRICT AMENDMENTS

2016 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 2015, Chapter 352

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 otherwise provided in [~~Subsections~~] this Subsection (1)(~~(b)~~ and (~~c~~)), a
34 resident 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~~ ~~←~~
63a appointing
64 the individual, is not subject to the requirements described in Subsection (1)(a)(ii) ~~or~~ if the elected
64a official was elected at large by the voters of the county ~~←~~ .

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, 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, subject to Subsection (1)(b), that is
84 entirely within the boundaries of a local district:

85 (i) that provides:

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

87 (B) law enforcement service; or

88 (C) municipal services, as defined in Section 17B-2a-1102; and

89 (ii) in the creation of which an election was not required because of Subsection

90 17B-1-214(3)(d) or (g).

91 (b) A municipal legislative body of a municipality that is within a municipal services
92 district established under Chapter 2a, Part 11, Municipal Services District Act, may not adopt a
93 resolution under Subsection (1)(a) to withdraw from the municipal services district unless the
94 municipality has conducted a feasibility study in accordance with Section 17B-2a-1110.

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

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

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103 Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local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

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

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

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

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

113 (5) The effective date of a withdrawal under this section is governed by Subsection
114 17B-1-512(2)(a).

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

116 **17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period**
117 **-- Judicial review.**

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

120 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,

- 121 that meets the requirements of Subsection [67-1a-6.5](#)(3); and
- 122 (ii) a copy of an approved final local entity plat, as defined in Section [67-1a-6.5](#).
- 123 (b) The board of trustees shall file the documents listed in Subsection (1)(a):
- 124 (i) within 10 days after adopting a resolution approving a withdrawal under Section
- 125 [17B-1-510](#); ~~and~~
- 126 ~~[(ii) as soon as practicable]~~
- 127 (ii) on or before January 31 of the year following the board of trustees' receipt of a
- 128 notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or
- 129 copy between July 1 and December 31; or
- 130 (iii) on or before the July 31 following the board of trustees' receipt of a notice or copy
- 131 described in Subsection (1)(c), if the board of trustees receives the notice or copy between
- 132 January 1 and June 30.
- 133 (c) The board of trustees shall comply with the requirements described in Subsection
- 134 (1)(b)(ii) or (iii) after receiving:
- 135 (i) a notice under Subsection [10-2-425](#)(2) of an automatic withdrawal under Subsection
- 136 [17B-1-502](#)(2)~~[-after receiving];~~
- 137 (ii) a copy of the municipal legislative body's resolution approving an automatic
- 138 withdrawal under Subsection [17B-1-502](#)(3)(a)~~[-or after receiving]; or~~
- 139 (iii) notice of a withdrawal of a municipality from a local district under Section
- 140 [17B-1-502](#).
- 141 ~~[(e)]~~ (d) Upon the lieutenant governor's issuance of a certificate of withdrawal under
- 142 Section [67-1a-6.5](#), the board shall:
- 143 (i) if the withdrawn area is located within the boundary of a single county, submit to
- 144 the recorder of that county:
- 145 (A) the original:
- 146 (I) notice of an impending boundary action;
- 147 (II) certificate of withdrawal; and
- 148 (III) approved final local entity plat; and
- 149 (B) if applicable, a certified copy of the resolution or notice referred to in Subsection
- 150 (1)(b); or
- 151 (ii) if the withdrawn area is located within the boundaries of more than a single county,

152 submit:

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

156 (B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
157 and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other
158 county.

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

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

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

168 (i) in a newspaper of general circulation in the area proposed for withdrawal; and
169 (ii) as required in Section 45-1-101.

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

172 (i) the name of the local district;

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

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

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

180 (4) Any sponsor of the petition or receiving entity may contest the board's decision to
181 deny a withdrawal of an area from the local district by submitting a request, within 60 days
182 after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting

183 terms or conditions to mitigate or eliminate the conditions upon which the board of trustees
184 based its decision to deny the withdrawal.

185 (5) Within 60 days after the request under Subsection (4) is submitted to the board of
186 trustees, the board may consider the suggestions for mitigation and adopt a resolution
187 approving or denying the request in the same manner as provided in Section 17B-1-510 with
188 respect to the original resolution denying the withdrawal and file a notice of the action as
189 provided in Subsection (1).

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

- 191 (i) the board of trustees' decision to withdraw an area from the local district;
- 192 (ii) the terms and conditions of a withdrawal; or
- 193 (iii) the board's decision to deny a withdrawal.

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

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

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

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

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

- 207 (i) the court finds the board of trustees' decision to be arbitrary or capricious; or
- 208 (ii) the court finds that the board materially failed to follow the procedures set forth in
209 this part.

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

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

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

215 **17B-1-513. Termination of terms of trustees representing withdrawn areas.**

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

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

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

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

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

230 (4) Subsections (1) and (2) apply only to a trustee who is required by law to be a
231 resident of the local district or of a particular division within the local district.

Legislative Review Note
Office of Legislative Research and General Counsel