

1 **LOCAL AND SPECIAL SERVICE DISTRICT AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: Jerry W. Stevenson

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to local and special service districts.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ clarifies when a member of a board of trustees of a local district may complete
- 14 training;
- 15 ▶ clarifies notice requirements related to the imposition or increase of a fee for
- 16 service;
- 17 ▶ addresses the applicability of other provisions to a public transit district;
- 18 ▶ removes a provision that prohibits a person from riding a transit vehicle without
- 19 paying the applicable fare;
- 20 ▶ authorizes an improvement district created to operate a sewage system to acquire,
- 21 construct, or operate a resource recovery project;
- 22 ▶ establishes powers and duties of an improvement district that owns, acquires,
- 23 constructs, or operates a resource recovery project;
- 24 ▶ establishes the required provisions of an agreement between an improvement
- 25 district and a private person or a public agency for the ownership, acquisition,
- 26 construction, management, or operation of a resource recovery project; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **17B-1-312**, as last amended by Laws of Utah 2008, Chapter 360

35 **17B-2a-403**, as renumbered and amended by Laws of Utah 2007, Chapter 329

36 **17B-1-643**, as last amended by Laws of Utah 2015, Chapters 349 and 436

37 **17B-2a-803**, as last amended by Laws of Utah 2009, Chapter 364

38 **17B-2a-821**, as last amended by Laws of Utah 2014, Chapter 377

39 ENACTS:

40 **19-6-508**, Utah Code Annotated 1953

41 **Utah Code Sections Affected by Coordination Clause:**

42 **17B-2a-803**, as last amended by Laws of Utah 2009, Chapter 364



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

45 Section 1. Section **17B-1-312** is amended to read:

46 **17B-1-312. Training for board members.**

47 (1) (a) Each member of a board of trustees of a local district [~~], elected or appointed on~~
48 ~~or after May 3, 1999, should] shall, within one year after taking office, complete the training~~
49 described in Subsection (2).

50 (b) For the purposes of Subsection (1)(a), a member of a board of trustees of a local
51 district takes office each time the member is elected or appointed to a new term, including an
52 appointment to fill a midterm vacancy in accordance with Subsection **17B-1-303**(5) or (6).

53 (2) In conjunction with the Utah Association of Special Districts, the state auditor
54 shall:

55 (a) develop a training curriculum for the members of local district boards; and

56 (b) with the assistance of other state offices and departments the state auditor considers
57 appropriate and at times and locations established by the state auditor, carry out the training of

58 members of local district boards.

59 (3) (a) A local district board of trustees may compensate each member of the board up
60 to \$100 per day for each day of training described in Subsection (2) that the member completes.

61 (b) The per diem amount authorized under Subsection (3)(a) is in addition to all other
62 amounts of compensation and expense reimbursement authorized under this chapter.

63 (c) A board of trustees may not pay compensation under Subsection (3)(a) to any board
64 member more than once per year.

65 (4) The state auditor shall issue a certificate of completion to each board member that
66 completes the training described in Subsection (2).

67 Section 2. Section **17B-1-643** is amended to read:

68 **17B-1-643. Imposing or increasing a fee for service provided by local district.**

69 (1) (a) Before imposing a new fee or increasing an existing fee for a service provided
70 by a local district, each local district board of trustees shall first hold a public hearing at which:

71 (i) the local district shall demonstrate its need to impose or increase the fee; and

72 (ii) any interested person may speak for or against the proposal to impose a fee or to
73 increase an existing fee.

74 (b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning
75 no earlier than 6 p.m.

76 (c) A public hearing required under this Subsection (1) may be combined with a public
77 hearing on a tentative budget required under Section [17B-1-610](#).

78 (d) Except to the extent that this section imposes more stringent notice requirements,
79 the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act,
80 in holding the public hearing under Subsection (1)(a).

81 (2) (a) Each local district board shall give notice of a hearing under Subsection (1) as
82 provided in Subsections (2)(b) and (c) or Subsection (2)(d).

83 (b) The notice required under Subsection (2)(a) shall be published:

84 (i) on the Utah Public Notice Website established in Section [63F-1-701](#); and

85 (ii) (A) in a newspaper or combination of newspapers of general circulation in the local

86 district, if there is a newspaper or combination of newspapers of general circulation in the local
87 district; or

88 (B) if there is no newspaper or combination of newspapers of general circulation in the
89 local district, the local district board shall post at least one notice per 1,000 population within
90 the local district, at places within the local district that are most likely to provide actual notice
91 to residents within the local district.

92 (c) (i) The notice described in Subsection (2)(b)(ii)(A):

93 (A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
94 point, and surrounded by a 1/4-inch border;

95 (B) may not be placed in that portion of the newspaper where legal notices and
96 classified advertisements appear;

97 (C) whenever possible, shall appear in a newspaper that is published at least one day
98 per week;

99 (D) shall be in a newspaper or combination of newspapers of general interest and
100 readership in the local district, and not of limited subject matter; and

101 (E) shall be run once each week for the two weeks preceding the hearing.

102 (ii) The notice described in Subsection (2)(b) shall state that the local district board
103 intends to impose or increase a fee for a service provided by the local district and will hold a
104 public hearing on a certain day, time, and place fixed in the notice, which shall be not less than
105 seven days after the day the first notice is published, for the purpose of hearing comments
106 regarding the proposed imposition or increase of a fee and to explain the reasons for the
107 proposed imposition or increase.

108 (d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of
109 trustees may give the notice required under Subsection (2)(a) by mailing the notice to those
110 within the district who:

111 (A) will be charged the fee for a district service, if the fee is being imposed for the first
112 time; or

113 (B) are being charged a fee, if the fee is proposed to be increased.

- 114 (ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c)(ii).
 - 115 (iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing
116 fee.
 - 117 (e) If the hearing required under this section is combined with the public hearing
118 required under Section 17B-1-610, the notice required under this Subsection (2):
 - 119 (i) may be combined with the notice required under Section 17B-1-609; and
 - 120 (ii) shall be published, posted, or mailed in accordance with the notice provisions of
121 [~~Subsection (2)(d)~~] this section.
 - 122 (f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie
123 evidence that notice was properly given.
 - 124 (g) If no challenge is made to the notice given of a hearing required by Subsection (1)
125 within 30 days after the date of the hearing, the notice is considered adequate and proper.
 - 126 (3) After holding a public hearing under Subsection (1), a local district board may:
 - 127 (a) impose the new fee or increase the existing fee as proposed;
 - 128 (b) adjust the amount of the proposed new fee or the increase of the existing fee and
129 then impose the new fee or increase the existing fee as adjusted; or
 - 130 (c) decline to impose the new fee or increase the existing fee.
 - 131 (4) This section applies to each new fee imposed and each increase of an existing fee
132 that occurs on or after July 1, 1998.
 - 133 (5) (a) This section does not apply to an impact fee.
 - 134 (b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a,
135 Impact Fees Act.
- 136 Section 3. Section **17B-2a-403** is amended to read:
- 137 **17B-2a-403. Additional improvement district powers.**
- 138 (1) In addition to the powers conferred on an improvement district under Section
139 17B-1-103, an improvement district may:
 - 140 (a) acquire through construction, purchase, gift, or condemnation, or any combination
141 of these methods, and [~~may~~] operate all or any part of a system for:

- 142 (i) ~~[a system for]~~ the supply, treatment, and distribution of water;
- 143 (ii) ~~[a system for]~~ the collection, treatment, and disposition of sewage;
- 144 (iii) ~~[a system for]~~ the collection, retention, and disposition of storm and flood waters;
- 145 (iv) ~~[a system for]~~ the generation, distribution, and sale of electricity, subject to Section
- 146 [17B-2a-406](#); and
- 147 (v) ~~[a system for]~~ the transmission of natural or manufactured gas if ~~[the system is]~~:
- 148 (A) the system is connected to a gas plant, as defined in Section [54-2-1](#), of a gas
- 149 corporation, as defined in Section [54-2-1](#), that is regulated under Section [54-4-1](#); ~~[and]~~
- 150 (B) the system is to be used to facilitate gas utility service within the district ~~[if]~~; and
- 151 (C) the gas utility service ~~[is]~~ was not available within the district ~~[prior to]~~ before the
- 152 acquisition ~~[or construction]~~ of the system;
- 153 (b) issue bonds ~~[as provided]~~ in ~~[and subject to]~~ accordance with Chapter 1, Part 11,
- 154 Local District Bonds, to carry out the purposes of the improvement district;
- 155 (c) appropriate or ~~[otherwise]~~ acquire water ~~[and]~~ or water rights inside or outside ~~[its]~~
- 156 the improvement district's boundaries;
- 157 (d) sell water or other services to consumers residing outside ~~[its]~~ the improvement
- 158 district's boundaries;
- 159 (e) enter into a contract with a gas corporation that is regulated under Section [54-4-1](#)
- 160 to:
- 161 (i) provide for the operation or maintenance of all or part of a system for the
- 162 transmission of natural or manufactured gas; or ~~[to]~~
- 163 (ii) lease or sell all or a portion of ~~[that]~~ a system described in Subsection (1)(e)(i) to a
- 164 gas corporation;
- 165 (f) enter into a contract with a person for:
- 166 (i) the purchase or sale of water or electricity;
- 167 (ii) the use of any facility owned by the person; or
- 168 (iii) the purpose of handling the person's industrial and commercial waste and sewage;
- 169 (g) require pretreatment of industrial and commercial waste and sewage; and

170 (h) impose a penalty or surcharge against a public entity or other person with which the
171 improvement district has entered into a contract for the construction, acquisition, or operation
172 of all or a part of a system for the collection, treatment, and disposal of sewage, if the public
173 entity or other person fails to comply with the provisions of the contract.

174 (2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas
175 corporation regulated under Section 54-4-1 and not by the district.

176 (3) An improvement district may not begin to provide sewer service to an area where
177 sewer service is already provided by an existing sewage collection system operated by a
178 municipality or other political subdivision unless the municipality or other political subdivision
179 gives its written consent.

180 (4) An improvement district authorized to operate all or any part of a system for the
181 collection, treatment, or disposition of sewage may acquire, construct, or operate a resource
182 recovery project in accordance with Section 19-6-508.

183 Section 4. Section 17B-2a-803 is amended to read:

184 **17B-2a-803. Provisions applicable to public transit districts.**

185 (1) (a) Each public transit district is governed by and has the powers stated in:

186 (i) this part; and

187 (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All
188 Local Districts.

189 (b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following
190 provisions do not apply to public transit districts:

191 (A) Chapter 1, Part 3, Board of Trustees; and

192 (B) Section 17B-2a-905.

193 (ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for
194 Local Districts.

195 (2) This part applies only to public transit districts.

196 (3) A public transit district is not subject to the provisions of any other part of this
197 chapter.

198 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
199 Local Districts, and a provision in this part, the provision in this part governs.

200 (5) The provisions of Subsection 53-3-202(3)(b) do not apply to a motor vehicle owned
201 in whole or in part by a public transit district.

202 Section 5. Section **17B-2a-821** is amended to read:

203 **17B-2a-821. Multicounty district may establish and enforce parking ordinance.**

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

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

209 Section 6. Section **19-6-508** is enacted to read:

210 **19-6-508. Resource recovery project operated by an improvement district.**

211 (1) As used in this section, "resource recovery project" means a project that consists of
212 facilities for the handling, treatment and processing through anaerobic digestion, and resource
213 recovery, of solid waste consisting primarily of organic matter.

214 (2) An improvement district authorized to operate all or any part of a system for the
215 collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire,
216 construct, or operate a resource recovery project in accordance with this section.

217 (3) An improvement district described in Subsection (2) may:

218 (a) (i) own, acquire, construct, or operate a resource recovery project independently; or

219 (ii) subject to Subsection (4), enter into a short- or long-term agreement for the

220 ownership, acquisition, construction, management, or operation of a resource recovery project
221 with:

222 (A) a public agency, as defined in Section 11-13-103;

223 (B) a private person; or

224 (C) a combination of persons listed in Subsections (3)(a)(ii)(A) and (B);

225 (b) accept and disburse money from a federal or state grant or any other source for the

226 acquisition, construction, operation, maintenance, or improvement of a resource recovery
227 project;

228 (c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of
229 a resource recovery project;

230 (d) establish one or more policies for the operation of a resource recovery project,
231 including:

232 (i) the hours of operation;

233 (ii) the character and kind of waste accepted by the resource recovery project; and

234 (iii) any policy necessary to ensure the safety of the resource recovery project

235 personnel;

236 (e) sell or contract for the sale of usable material, energy, fuel, or heat separated,
237 extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a
238 resource recovery project;

239 (f) issue a bond in accordance with Title 17B, Chapter 1, Part 11, Local District Bonds;

240 (g) issue an industrial development revenue bond in accordance with Title 11, Chapter
241 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as
242 defined in Section 11-17-2, that consists of a resource recovery project;

243 (h) agree to construct and operate a resource recovery project that manages the solid
244 waste of a public entity or a private person, in accordance with one or more contracts and other
245 arrangements described in a proceeding according to which a bond is issued; and

246 (i) contract for and accept solid waste that consists primarily of organic matter at a
247 resource recovery project regardless of whether the solid waste is generated inside or outside
248 the boundaries of the improvement district.

249 (4) (a) An agreement described in Subsection (3)(a)(ii) shall:

250 (i) contain provisions that the improvement district's board determines are in the best
251 interests of the improvement district, including provisions that address:

252 (A) the purposes of the agreement;

253 (B) the duration of the agreement;

- 254 (C) the method of appointing or employing necessary personnel;
- 255 (D) the method of financing the resource recovery project, including the apportionment
- 256 of costs of construction and operation;
- 257 (E) the ownership interest of each owner in the resource recovery project and other
- 258 property used in connection with the resource recovery project;
- 259 (F) the procedures for the disposition of property when the agreement expires or is
- 260 terminated, or when the resource recovery project ceases operation for any reason;
- 261 (G) any agreement of the parties prohibiting or restricting the alienation or partition of
- 262 the undivided interests of an owner in the resource recovery project;
- 263 (H) the construction and repair of the resource recovery project, including, if the parties
- 264 agree, a determination that one of the parties may construct or repair the resource recovery
- 265 project as agent for all parties to the agreement;
- 266 (I) the administration, operation, and maintenance of the resource recovery project,
- 267 including, if the parties agree, a determination that one of the parties may administer, operate,
- 268 and maintain the resource recovery project as agent for all parties to the agreement;
- 269 (J) the creation of a committee of representatives of the parties to the agreement,
- 270 including the committee's powers;
- 271 (K) if the parties agree, a provision that if any party defaults in the performance or
- 272 discharge of the party's obligations under the agreement, the other parties may perform or
- 273 assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting
- 274 party fails to remedy the default, succeed to or require the disposition of the rights and interests
- 275 of the defaulting party in the resource recovery project;
- 276 (L) provisions for indemnification of construction, operation, and administration agents
- 277 for completing construction, handling emergencies, and allocating output of the resource
- 278 recovery project among the parties to the agreement according to the ownership interests of the
- 279 parties;
- 280 (M) methods for amending and terminating the agreement; and
- 281 (N) any other matter determined by the parties to the agreement to be necessary; and

282 (ii) provide for an equitable method of allocating operation, repair, and maintenance
283 costs of the resource recovery project.

284 (b) A provision under Subsection (4)(a)(i)(G) is not subject to any law restricting
285 covenants against alienation or partition.

286 (c) An improvement district's ownership interest in a resource recovery project may not
287 be less than the proportion of money or the value of property supplied by the improvement
288 district for the acquisition and construction of the resource recovery project.