

1 **IMPROVEMENT DISTRICT AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Rebecca P. Edwards

7 **LONG TITLE**

8 **General Description:**

9 This bill allows certain improvement districts to operate a resource recovery project.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ authorizes an improvement district created to operate a sewage system to acquire,
14 construct, or operate a resource recovery project;
- 15 ▶ establishes powers and duties of an improvement district that owns, acquires,
16 constructs, or operates a resource recovery project;
- 17 ▶ establishes the required provisions of an agreement between an improvement
18 district and a private person or a public agency for the ownership, acquisition,
19 construction, management, or operation of a resource recovery project; and
- 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **17B-2a-403**, as renumbered and amended by Laws of Utah 2007, Chapter 329

28 ENACTS:

29 **19-6-508**, Utah Code Annotated 1953

30

31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **17B-2a-403** is amended to read:33 **17B-2a-403. Additional improvement district powers.**34 (1) In addition to the powers conferred on an improvement district under Section
35 **17B-1-103**, an improvement district may:36 (a) acquire through construction, purchase, gift, or condemnation, or any combination
37 of these methods, and ~~[may]~~ operate all or any part of a system for:38 (i) ~~[a system for]~~ the supply, treatment, and distribution of water;39 (ii) ~~[a system for]~~ the collection, treatment, and disposition of sewage;40 (iii) ~~[a system for]~~ the collection, retention, and disposition of storm and flood waters;41 (iv) ~~[a system for]~~ the generation, distribution, and sale of electricity, subject to Section
42 **17B-2a-406**; and43 (v) ~~[a system for]~~ the transmission of natural or manufactured gas if ~~[the system is]~~:44 (A) the system is connected to a gas plant, as defined in Section **54-2-1**, of a gas
45 corporation, as defined in Section **54-2-1**, that is regulated under Section **54-4-1**; ~~[and]~~46 (B) the system is to be used to facilitate gas utility service within the district ~~[if]~~; and47 (C) the gas utility service ~~[is]~~ was not available within the district ~~[prior to]~~ before the
48 acquisition ~~[or construction]~~ of the system;49 (b) issue bonds ~~[as provided]~~ in ~~[and subject to]~~ accordance with Chapter 1, Part 11,
50 Local District Bonds, to carry out the purposes of the improvement district;51 (c) appropriate or ~~[otherwise]~~ acquire water ~~[and]~~ or water rights inside or outside ~~[its]~~
52 the improvement district's boundaries;53 (d) sell water or other services to consumers residing outside ~~[its]~~ the improvement
54 district's boundaries;55 (e) enter into a contract with a gas corporation that is regulated under Section **54-4-1**

56 to:

57 (i) provide for the operation or maintenance of all or part of a system for the

58 transmission of natural or manufactured gas; or [to]

59 (ii) lease or sell all or a portion of [that] a system described in Subsection (1)(e)(i) to a
 60 gas corporation;

61 (f) enter into a contract with a person for:

62 (i) the purchase or sale of water or electricity;

63 (ii) the use of any facility owned by the person; or

64 (iii) the purpose of handling the person's industrial and commercial waste and sewage;

65 (g) require pretreatment of industrial and commercial waste and sewage; and

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

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

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

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

79 Section 2. Section 19-6-508 is enacted to read:

80 **19-6-508. Resource recovery project operated by an improvement district.**

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

84 (2) An improvement district authorized to operate all or any part of a system for the
 85 collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire,

86 construct, or operate a resource recovery project in accordance with this section.

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

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

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

90 ownership, acquisition, construction, management, or operation of a resource recovery project

91 with:

92 (A) a public agency, as defined in Section [11-13-103](#);

93 (B) a private person; or

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

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

96 acquisition, construction, operation, maintenance, or improvement of a resource recovery

97 project;

98 (c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of

99 a resource recovery project;

100 (d) establish one or more policies for the operation of a resource recovery project,

101 including:

102 (i) the hours of operation;

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

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

105 personnel;

106 (e) sell or contract for the sale of usable material, energy, fuel, or heat separated,

107 extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a

108 resource recovery project;

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

110 (g) issue an industrial development revenue bond in accordance with Title 11, Chapter

111 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as

112 defined in Section [11-17-2](#), that consists of a resource recovery project;

113 (h) agree to construct and operate a resource recovery project that manages the solid

114 waste of a public entity or a private person, in accordance with one or more contracts and other
115 arrangements described in a proceeding according to which a bond is issued; and

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

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

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

122 (A) the purposes of the agreement;

123 (B) the duration of the agreement;

124 (C) the method of appointing or employing necessary personnel;

125 (D) the method of financing the resource recovery project, including the apportionment
126 of costs of construction and operation;

127 (E) the ownership interest of each owner in the resource recovery project and other
128 property used in connection with the resource recovery project;

129 (F) the procedures for the disposition of property when the agreement expires or is
130 terminated, or when the resource recovery project ceases operation for any reason;

131 (G) any agreement of the parties prohibiting or restricting the alienation or partition of
132 the undivided interests of an owner in the resource recovery project;

133 (H) the construction and repair of the resource recovery project, including, if the parties
134 agree, a determination that one of the parties may construct or repair the resource recovery
135 project as agent for all parties to the agreement;

136 (I) the administration, operation, and maintenance of the resource recovery project,
137 including, if the parties agree, a determination that one of the parties may administer, operate,
138 and maintain the resource recovery project as agent for all parties to the agreement;

139 (J) the creation of a committee of representatives of the parties to the agreement,
140 including the committee's powers;

141 (K) if the parties agree, a provision that if any party defaults in the performance or

142 discharge of the party's obligations under the agreement, the other parties may perform or
143 assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting
144 party fails to remedy the default, succeed to or require the disposition of the rights and interests
145 of the defaulting party in the resource recovery project;

146 (L) provisions for indemnification of construction, operation, and administration agents
147 for completing construction, handling emergencies, and allocating output of the resource
148 recovery project among the parties to the agreement according to the ownership interests of the
149 parties;

150 (M) methods for amending and terminating the agreement; and

151 (N) any other matter determined by the parties to the agreement to be necessary; and

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

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

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