

IMPROVEMENT DISTRICT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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



28 [19-6-502](#), as last amended by Laws of Utah 2014, Chapter 183

29 ENACTS:

30 [19-6-508](#), Utah Code Annotated 1953

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

33 Section 1. Section **17B-2a-403** is amended to read:

34 **17B-2a-403. Additional improvement district powers.**

35 (1) In addition to the powers conferred on an improvement district under Section
36 [17B-1-103](#), an improvement district may:

37 (a) acquire through construction, purchase, gift, or condemnation, or any combination
38 of these methods, and ~~may~~ operate all or any part of a system for:

39 (i) ~~a system for~~ the supply, treatment, and distribution of water;

40 (ii) ~~a system for~~ the collection, treatment, and disposition of sewage;

41 (iii) ~~a system for~~ the collection, retention, and disposition of storm and flood waters;

42 (iv) ~~a system for~~ the generation, distribution, and sale of electricity, subject to Section
43 [17B-2a-406](#); and

44 (v) ~~a system for~~ the transmission of natural or manufactured gas if ~~the system is~~:

45 (A) the system is connected to a gas plant, as defined in Section [54-2-1](#), of a gas
46 corporation, as defined in Section [54-2-1](#), that is regulated under Section [54-4-1](#); ~~and~~

47 (B) the system is to be used to facilitate gas utility service within the district ~~if~~; and

48 (C) the gas utility service ~~is~~ was not available within the district ~~prior to~~ before the
49 acquisition ~~or construction~~ of the system;

50 (b) issue bonds ~~as provided~~ in ~~and subject to~~ accordance with Chapter 1, Part 11,
51 Local District Bonds, to carry out the purposes of the improvement district;

52 (c) appropriate or ~~otherwise~~ acquire water ~~and~~ or water rights inside or outside ~~its~~
53 the improvement district's boundaries;

54 (d) sell water or other services to consumers residing outside ~~its~~ the improvement
55 district's boundaries;

56 (e) enter into a contract with a gas corporation that is regulated under Section [54-4-1](#)
57 to:

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

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

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

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

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

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

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

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

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

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

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

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

80 Section 2. Section 19-6-502 is amended to read:

81 **19-6-502. Definitions.**

82 As used in this part:

83 (1) "Governing body" means the governing board, commission, or council of a public
84 entity.

85 (2) "Jurisdiction" means the area within the incorporated limits of:

86 (a) a municipality;

87 (b) a special service district;

88 (c) a municipal-type service district;

89 (d) a service area; or

90 (e) the territorial area of a county not lying within a municipality.

91 (3) "Long-term agreement" means an agreement or contract having a term of more than
92 five years but less than 50 years.

93 (4) "Municipal residential waste" means solid waste that is:

94 (a) discarded or rejected at a residence within the public entity's jurisdiction; and

95 (b) collected at or near the residence by:

96 (i) a public entity; or

97 (ii) a person with whom the public entity has as an agreement to provide solid waste
98 management.

99 (5) "Public entity" means:

100 (a) a county;

101 (b) a municipality;

102 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;

103 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

104 (e) a municipal-type service district created under Title 17, Chapter 34,

105 Municipal-Type Services to Unincorporated Areas.

106 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that
107 imposes a legal duty on a person.

108 (7) "Residence" means an improvement to real property used or occupied as a primary
109 or secondary detached single-family dwelling.

110 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of
111 usable material, energy, fuel, or heat from solid waste and ~~the~~ its disposition ~~of it~~.

112 (9) "Resource recovery project" means a project that consists of facilities for the
113 handling, treatment and processing through anaerobic digestion, and resource recovery of solid
114 waste consisting primarily of organic matter.

115 ~~[(9)]~~ (10) "Short-term agreement" means a contract or agreement having a term of five
116 years or less.

117 ~~[(10)]~~ (11) (a) "Solid waste" means a putrescible or nonputrescible material or
118 substance discarded or rejected as being spent, useless, worthless, or in excess of the owner's
119 needs at the time of discard or rejection, including:

120 (i) garbage;

- 121 (ii) refuse;
- 122 (iii) industrial and commercial waste;
- 123 (iv) sludge from an air or water control facility;
- 124 (v) rubbish;
- 125 (vi) ash;
- 126 (vii) contained gaseous material;
- 127 (viii) incinerator residue;
- 128 (ix) demolition and construction debris;
- 129 (x) a discarded automobile; and
- 130 (xi) offal.

131 (b) "Solid waste" does not include sewage or another highly diluted water carried
132 material or substance and those in gaseous form.

133 ~~[(11)]~~ (12) "Solid waste management" means the purposeful and systematic collection,
134 transportation, storage, processing, recovery, or disposal of solid waste.

135 ~~[(12)]~~ (13) "Solid waste management facility" means a facility employed for solid
136 waste management, including:

- 137 (a) a transfer station;
- 138 (b) a transport system;
- 139 (c) a baling facility;
- 140 (d) a landfill; and
- 141 (e) a processing system, including:
 - 142 (i) a resource recovery facility;
 - 143 (ii) a facility for reducing solid waste volume;
 - 144 (iii) a plant or facility for compacting, composting, or pyrolization of solid waste;
 - 145 (iv) an incinerator;
 - 146 (v) a solid waste disposal, reduction, or conversion facility;
 - 147 (vi) a facility for resource recovery of energy consisting of:
 - 148 (A) a facility for the production, transmission, distribution, and sale of heat and steam;
 - 149 (B) a facility for the generation and sale of electric energy to a public utility,
150 municipality, or other public entity that owns and operates an electric power system on March
151 15, 1982; and

152 (C) a facility for the generation, sale, and transmission of electric energy on an
153 emergency basis only to a military installation of the United States; and

154 (vii) an auxiliary energy facility that is connected to a facility for resource recovery of
155 energy as described in Subsection [~~(12)~~] (13)(e)(vi), that:

156 (A) is fueled by natural gas, landfill gas, or both;

157 (B) consists of a facility for the production, transmission, distribution, and sale of
158 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
159 military installation of the United States; and

160 (C) consists of a facility for the generation, transmission, distribution, and sale of
161 electric energy to a public utility, a municipality described in Subsection [~~(12)~~] (13)(e)(vi)(B),
162 or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

163 Section 3. Section 19-6-508 is enacted to read:

164 **19-6-508. Resource recovery project operated by an improvement district.**

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

168 (2) An improvement district described in Subsection (1) may:

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

170 (ii) subject to Subsection (3), enter into a short- or long-term agreement for the
171 ownership, acquisition, construction, management, or operation of a resource recovery project
172 with:

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

174 (B) a private person; or

175 (C) a combination of persons listed in Subsections (2)(a)(ii)(A) and (B);

176 (b) accept and disburse money from a federal or state grant or any other source for the
177 acquisition, construction, operation, maintenance, or improvement of a resource recovery
178 project;

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

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

- 183 (i) the hours of operation;
184 (ii) the character and kind of waste accepted by the resource recovery project; and
185 (iii) any policy necessary to ensure the safety of the resource recovery project
186 personnel;
187 (e) sell or contract for the sale of usable material, energy, fuel, or heat separated,
188 extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a
189 resource recovery project;
190 (f) issue a bond in accordance with Title 17B, Chapter 1, Part 11, Local District Bonds;
191 (g) issue an industrial development revenue bond in accordance with Title 11, Chapter
192 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as
193 defined in Section 11-17-2, that consists of a resource recovery project;
194 (h) agree to construct and operate a resource recovery project that manages the solid
195 waste of a public entity or a private person, in accordance with one or more contracts and other
196 arrangements described in a proceeding according to which a bond is issued; and
197 (i) contract for and accept solid waste that consists primarily of organic matter at a
198 resource recovery project regardless of whether the solid waste is generated inside or outside
199 the boundaries of the improvement district.
200 (3) (a) An agreement described in Subsection (2)(a)(ii) shall:
201 (i) contain provisions that the improvement district's board determines are in the best
202 interests of the improvement district, including provisions that address:
203 (A) the purposes of the agreement;
204 (B) the duration of the agreement;
205 (C) the method of appointing or employing necessary personnel;
206 (D) the method of financing the resource recovery project, including the apportionment
207 of costs of construction and operation;
208 (E) the ownership interest of each owner in the resource recovery project and other
209 property used in connection with the resource recovery project;
210 (F) the procedures for the disposition of property when the agreement expires or is
211 terminated, or when the resource recovery project ceases operation for any reason;
212 (G) any agreement of the parties prohibiting or restricting the alienation or partition of
213 the undivided interests of an owner in the resource recovery project;

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

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

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

222 (K) if the parties agree, a provision that if any party defaults in the performance or
223 discharge of the party's obligations under the agreement, the other parties may perform or
224 assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting
225 party fails to remedy the default, succeed to or require the disposition of the rights and interests
226 of the defaulting party in the resource recovery project;

227 (L) provisions for indemnification of construction, operation, and administration agents
228 for completing construction, handling emergencies, and allocating output of the resource
229 recovery project among the parties to the agreement according to the ownership interests of the
230 parties;

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

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

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

235 (b) A provision under Subsection (3)(a)(i)(G) is not subject to any law restricting
236 covenants against alienation or partition.

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