

SB0142S01 compared with SB0142

~~text~~ shows text that was in SB0142 but was deleted in SB0142S01.

text shows text that was not in SB0142 but was inserted into SB0142S01.

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Senator Todd Weiler proposes the following substitute bill:

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

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- ▶ 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

~~{ ——— **19-6-502**, as last amended by Laws of Utah 2014, Chapter 183~~

~~}~~ ENACTS:

19-6-508, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) issue bonds ~~[as provided]~~ in ~~[and subject to]~~ accordance with Chapter 1, Part 11,

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Local District Bonds, to carry out the purposes of the improvement district;

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

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

(e) enter into a contract with a gas corporation that is regulated under Section 54-4-1 to;

(i) provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas; or [~~to~~]

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

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

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

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

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

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

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

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

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

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

Section 2. Section ~~{19-6-502}~~19-6-508 is ~~{amended}~~enacted to read:

~~{19-6-502}~~19-6-508.~~{Definitions:~~

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~~As used in this part:~~

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

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

~~(a) a municipality;~~

~~(b) a special service district;~~

~~(c) a municipal-type service district;~~

~~(d) a service area; or~~

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

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

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

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

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

~~(i) a public entity; or~~

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

~~(5) "Public entity" means:~~

~~(a) a county;~~

~~(b) a municipality;~~

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

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

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

~~Municipal-Type Services to Unincorporated Areas.~~

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

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

~~(8) "Resource} Resource recovery{" means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and [the] its~~

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~~disposition [of it]:~~

~~— (9) "Resource" project operated by an improvement district.~~

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

~~{(9)} (10) "Short-term agreement" means a contract or agreement having a term of five years or less.~~

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

~~— (i) garbage;~~

~~— (ii) refuse;~~

~~— (iii) industrial and commercial waste;~~

~~— (iv) sludge from an air or water control facility;~~

~~— (v) rubbish;~~

~~— (vi) ash;~~

~~— (vii) contained gaseous material;~~

~~— (viii) incinerator residue;~~

~~— (ix) demolition and construction debris;~~

~~— (x) a discarded automobile; and~~

~~— (xi) offal.~~

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

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

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

~~— (a) a transfer station;~~

~~— (b) a transport system;~~

~~— (c) a baling facility;~~

~~— (d) a landfill; and~~

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- ~~— (e) a processing system, including:~~
 - ~~— (i) a resource recovery facility;~~
 - ~~— (ii) a facility for reducing solid waste volume;~~
 - ~~— (iii) a plant or facility for compacting, composting, or pyrolyzation of solid waste;~~
 - ~~— (iv) an incinerator;~~
 - ~~— (v) a solid waste disposal, reduction, or conversion facility;~~
 - ~~— (vi) a facility for resource recovery of energy consisting of:~~
 - ~~— (A) a facility for the production, transmission, distribution, and sale of heat and steam;~~
 - ~~— (B) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and~~
 - ~~— (C) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and~~
 - ~~— (vii) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection [(12)] (13)(c)(vi), that:~~
 - ~~— (A) is fueled by natural gas, landfill gas, or both;~~
 - ~~— (B) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and~~
 - ~~— (C) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection [(12)] (13)(c)(vi)(B), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.~~
- ~~— Section 3. Section 19-6-508 is enacted to read:~~
- ~~— **19-6-508. Resource recovery project operated by an improvement district.**~~
- ~~— (1)(2) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire, construct, or operate a resource recovery project in accordance with this section.~~
- ~~— (2)(3) An improvement district described in Subsection (1)(2) may:~~
- ~~— (a) (i) own, acquire, construct, or operate a resource recovery project independently; or~~
 - ~~— (ii) subject to Subsection (3)(4), enter into a short- or long-term agreement for the ownership, acquisition, construction, management, or operation of a resource recovery project~~

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with:

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

(B) a private person; or

(C) a combination of persons listed in Subsections ~~(f2)3~~(a)(ii)(A) and (B);

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

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

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

including:

(i) the hours of operation;

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

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

personnel;

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

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

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

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

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

~~(f3)4~~ (a) An agreement described in Subsection ~~(f2)3~~(a)(ii) shall:

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

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(A) the purposes of the agreement;

(B) the duration of the agreement;

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

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

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

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

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

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

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

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

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

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

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

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

(ii) provide for an equitable method of allocating operation, repair, and maintenance

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costs of the resource recovery project.

(b) A provision under Subsection (~~(3)~~4)(a)(i)(G) is not subject to any law restricting covenants against alienation or partition.

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

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~