

Representative Justin L. Fawson proposes the following substitute bill:

DISSOLUTION OF LOCAL DISTRICTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies the procedure to dissolve a local district.

Highlighted Provisions:

This bill:

- ▶ reduces the threshold petitioners must reach to initiate a dissolution;
- ▶ modifies provisions regarding:
 - procedural and public hearing requirements for an administrative body;
 - required notice to the lieutenant governor regarding a dissolution;
 - recording a certification from the lieutenant governor;
 - payment of the costs of dissolution and the dissolved local district's debts and liabilities; and
 - distribution of remaining assets of a dissolved local district; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **17B-1-1303**, as renumbered and amended by Laws of Utah 2007, Chapter 329

28 **17B-1-1306**, as renumbered and amended by Laws of Utah 2007, Chapter 329

29 **17B-1-1308**, as last amended by Laws of Utah 2016, Chapter 176

30 ENACTS:

31 **17B-1-1309**, Utah Code Annotated 1953

32 **17B-1-1310**, Utah Code Annotated 1953

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

35 Section 1. Section **17B-1-1303** is amended to read:

36 **17B-1-1303. Initiation of dissolution process.**

37 The process to dissolve a local district may be initiated by:

38 (1) for an inactive local district:

39 (a) (i) for a local district whose board of trustees is elected by electors based on the
40 acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of
41 25% of the acre-feet of water allotted to the land within the local district; or

42 (ii) for all other districts:

43 (A) a petition signed by the owners of private real property that:

44 (I) is located within the local district proposed to be dissolved;

45 (II) covers at least 25% of the private land area within the local district; and

46 (III) is equal in assessed value to at least 25% of the assessed value of all private real
47 property within the local district; or

48 (B) a petition signed by registered voters residing within the local district proposed to
49 be dissolved equal in number to at least 25% of the number of votes cast in the district for the
50 office of governor at the last regular general election before the filing of the petition; or

51 (b) a resolution adopted by the administrative body; and

52 (2) for an active local district, a petition signed by:

53 (a) for a local district whose board of trustees is elected by electors based on the
54 acre-feet of water allotted to the land owned by the elector, [~~a petition signed by~~] the owners of
55 [~~100%~~] 33% of the acre-feet of water allotted to the land within the local district; [~~or~~]

56 (b) for a local district created to acquire or assess a groundwater right for the

57 development and execution of a groundwater management plan in coordination with the state
 58 engineer in accordance with Section 73-5-15, the owners of groundwater rights that:

59 (i) are diverted within the district; and

60 (ii) cover at least 33% of the total amount of groundwater diverted in accordance with
 61 the groundwater rights within the district as a whole; or

62 ~~[(b)]~~ (c) for all other districts~~[-];~~

63 (i) the owners of ~~[100% of the]~~ private real property that:

64 (A) is located within the local district proposed to be dissolved;

65 (B) covers at least 33% of the private land area within the local district; and

66 (C) is equal in assessed value to at least 25% of the assessed value of all private real
 67 property within the local district; or

68 (ii) ~~[100%]~~ 33% of registered voters residing within the local district proposed to be
 69 dissolved.

70 Section 2. Section **17B-1-1306** is amended to read:

71 **17B-1-1306. Public hearing.**

72 (1) For each petition certified under Section **17B-1-1305** and each resolution ~~[adopted]~~
 73 that an administrative body adopts under Subsection **17B-1-1303(1)(b)**, the administrative body
 74 shall hold a public hearing on the proposed dissolution.

75 (2) ~~[Each]~~ The administrative body shall hold a public hearing under Subsection (1)
 76 [shall be held]:

77 (a) no later than 45 days after certification of the petition under Section **17B-1-1305** or
 78 adoption of a resolution under Subsection **17B-1-1303(1)(b)**, as the case may be;

79 (b) within the local district proposed to be dissolved;

80 (c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.; and

81 (d) for the purpose of allowing:

82 (i) the administrative body to explain the process the administrative body will follow to
 83 study and prepare the proposed dissolution;

84 ~~[(i)]~~ (ii) the public to ask questions and obtain further information about the proposed
 85 dissolution and issues raised by it; and

86 ~~[(ii)]~~ (iii) any interested person to address the administrative body concerning the
 87 proposed dissolution.

88 (3) A quorum of the administrative body shall be present throughout each public
89 hearing under this section.

90 Section 3. Section **17B-1-1308** is amended to read:

91 **17B-1-1308. Second Public Hearing -- Dissolution resolution -- Limitations on**
92 **dissolution.**

93 [~~(1) After the public hearing required under Section [17B-1-1306](#) and subject to~~
94 ~~Subsection (2), the administrative body may adopt a resolution approving dissolution of the~~
95 ~~local district.]~~

96 (1) (a) Within 180 days after the day on which the administrative body holds the public
97 hearing described in Section [17B-1-1306](#), the administrative body shall hold a second public
98 hearing to:

99 (i) publicly explain the result of the study and preparation described in Subsection
100 [17B-1-1306](#)(2)(d)(i);

101 (ii) describe whether the proposed dissolution meets each criterion described in
102 Subsection (2); and

103 (iii) adopt a resolution in accordance with Subsection (1)(b) or (c).

104 (b) Subject to Subsection (2), after a proposed dissolution petition has been certified
105 under Section [17B-1-1305](#), the administrative body shall adopt a resolution:

106 (i) certifying that the proposed dissolution satisfies the criteria described in Subsection
107 (2); and

108 (ii) (A) for an inactive local district, approving the dissolution of the local district; or
109 (B) for an active local district, initiating the dissolution election described in Section
110 [17B-1-1309](#).

111 (c) Subject to Subsection (2), for a proposed dissolution of an inactive district that an
112 administrative body initiates by adopting a resolution under Subsection [17B-1-1303](#)(1)(b), the
113 administrative body may adopt a resolution:

114 (i) certifying that the proposed dissolution satisfies the criteria described in Subsection
115 (2); and

116 (ii) approving the dissolution of the inactive local district.

117 (2) [~~A~~] The administrative body may not adopt a resolution under Subsection (1) [~~may~~
118 not be adopted] unless:

119 (a) any outstanding debt of the local district is:
 120 (i) satisfied and discharged in connection with the dissolution; or
 121 (ii) assumed by another governmental entity with the consent of all the holders of that
 122 debt and all the holders of other debts of the local district;

123 (b) for a local district that has provided service during the preceding three years or
 124 undertaken planning or other activity preparatory to providing service:

125 (i) another entity has committed to:
 126 (A) provide the same service to the area being served or proposed to be served by the
 127 local district; and

128 (B) purchase, at fair market value, the assets of the local district that are required to
 129 provide the service; and

130 (ii) all who are to receive the service have consented to the service being provided by
 131 the other entity; and

132 (c) all outstanding contracts to which the local district is a party are resolved through
 133 mutual termination or the assignment of the local district's rights, duties, privileges, and
 134 responsibilities to another entity with the consent of the other parties to the contract.

135 ~~[(3) (a) (i) Any assets of the local district remaining after paying all debts and other~~
 136 ~~obligations of the local district shall be used to pay costs associated with the dissolution~~
 137 ~~process under this part.]~~

138 ~~[(ii) Any costs of the dissolution process remaining after exhausting the remaining~~
 139 ~~assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.]~~

140 ~~[(b) Any assets of the local district remaining after application of Subsection (3)(a)~~
 141 ~~shall be distributed:]~~

142 ~~[(i) proportionately to the owners of real property within the dissolved local district if~~
 143 ~~there is a readily identifiable connection between a financial burden borne by the real property~~
 144 ~~owners in the district and the remaining assets; or]~~

145 ~~[(ii) except as provided in Subsection (3)(b)(i), to each county, city, town, or metro~~
 146 ~~township in which the dissolved local district was located before dissolution in the same~~
 147 ~~proportion that the land area of the local district located within the unincorporated area of the~~
 148 ~~county or within the city, town, or metro township bears to the total local district land area.]~~

149 ~~[(4) (a) The administrative body shall:]~~

150 ~~[(i) within 30 days after adopting a resolution approving dissolution, file with the~~
151 ~~lieutenant governor a copy of a notice of an impending boundary action, as defined in Section~~
152 ~~67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and]~~

153 ~~[(ii) upon the lieutenant governor's issuance of a certificate of dissolution under~~
154 ~~Section 67-1a-6.5:]~~

155 ~~[(A) if the local district was located within the boundary of a single county, submit to~~
156 ~~the recorder of that county:]~~

157 ~~[(I) the original:]~~

158 ~~[(Aa) notice of an impending boundary action; and]~~

159 ~~[(Bb) certificate of dissolution; and]~~

160 ~~[(H) a certified copy of the resolution adopted under Subsection (1); or]~~

161 ~~[(B) if the local district was located within the boundaries of more than a single~~
162 ~~county:]~~

163 ~~[(I) submit to the recorder of one of those counties:]~~

164 ~~[(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb);~~
165 ~~and]~~

166 ~~[(Bb) a certified copy of the resolution adopted under Subsection (1); and]~~

167 ~~[(H) submit to the recorder of each other county:]~~

168 ~~[(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and~~
169 ~~(Bb); and]~~

170 ~~[(Bb) a certified copy of the resolution adopted under Subsection (1).]~~

171 ~~[(b) Upon the lieutenant governor's issuance of the certificate of dissolution under~~
172 ~~Section 67-1a-6.5, the local district is dissolved.]~~

173 Section 4. Section **17B-1-1309** is enacted to read:

174 **17B-1-1309. Election to dissolve an active local district.**

175 (1) When an administrative body adopts a resolution to initiate a dissolution election
176 under Subsection 17B-1-1308(1)(b)(ii), an election shall be held on the question of whether the
177 local district should be dissolved by:

178 (a) if the local district proposed to be dissolved is located entirely within a single
179 county, the local district clerk, in cooperation with the county clerk; or

180 (b) if the local district proposed to be dissolved is located within more than one county,

181 in cooperation with the local district clerk:

182 (i) the clerk of each county where part of the local district is located in more than one
183 municipality or in an unincorporated area within the same county;

184 (ii) the clerk or recorder of each municipality where part of the local district is not
185 located in another municipality or in an unincorporated area within the same county; and

186 (iii) the clerk of each county where part of the local district is located only in an
187 unincorporated area within the county.

188 (2) Each election under Subsection (1) shall be held at the next special or regular
189 general election that is more than 60 days after the day on which the administrative body
190 adopts a resolution in accordance with Section [17B-1-1308](#).

191 (3) (a) If the local district proposed to be dissolved is located in more than one county,
192 the local district clerk shall coordinate with the officials described in Subsection (1)(b) to
193 ensure that the election is held on the same date and in a consistent manner in each jurisdiction.

194 (b) The clerk of each county and the clerk or recorder of each municipality involved in
195 an election under Subsection (1) shall cooperate with the local district clerk in holding the
196 election.

197 (4) If the local district proposed to be dissolved is an irrigation district under Title 17B,
198 Chapter 2a, Part 5, Irrigation District Act:

199 (a) the electors shall consist of the landowners whose land has allotments of water
200 through the district; and

201 (b) each elector may cast one vote for each acre-foot or fraction of an acre-foot of
202 water allotted to the land the elector owns within the district.

203 (5) If the local district proposed to be dissolved is a district created to acquire or assess
204 a groundwater right for the development and execution of a groundwater management plan in
205 accordance with Section [73-5-15](#):

206 (a) the electors shall consist of the owners of groundwater rights within the district; and

207 (b) each elector may cast one vote for each acre-foot or fraction of an acre- foot of
208 groundwater that is within the district and reflected in the elector's water right.

209 (6) If the local district proposed to be dissolved is a basic local district, except for a
210 district described in Subsection (5), and if the area of the basic local district contains less than
211 one residential unit per 50 acres of land at the time of the filing of a petition described in

212 Subsection 17B-1-1303(2):

213 (a) the electors shall consist of the owners of privately owned real property within a
214 basic local district under Title 17B, Chapter 1, Part 14, Basic Local District; and

215 (b) each elector may cast one vote for each acre or fraction of an acre of land that the
216 elector owns within the district.

217 (7) Except as otherwise provided in this part, Title 20A, Election Code, governs each
218 election under Subsection (1).

219 Section 5. Section **17B-1-1310** is enacted to read:

220 **17B-1-1310. Notice to lieutenant governor -- Recording requirements --**
221 **Distribution of remaining assets.**

222 (1) The administrative body, shall file with the lieutenant governor a copy of a notice
223 of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements
224 of Subsection 67-1a-6.5(3):

225 (a) within 30 days after the day on which the administrative body adopts a resolution
226 approving the dissolution of an inactive local district; or

227 (b) within 30 days after the day on which a majority of the voters within an active local
228 district approve the dissolution of the local district in an election described in Subsection
229 17B-1-1309(2).

230 (2) Upon the lieutenant governor's issuance of a certificate of dissolution under Section
231 67-1a-6.5, the administrative body shall:

232 (a) if the local district was located within the boundary of a single county, submit to the
233 recorder of that county:

234 (i) the original:

235 (A) notice of an impending boundary action; and

236 (B) certificate of dissolution; and

237 (ii) a certified copy of the resolution that the administrative body adopts under

238 Subsection 17B-1-1308(1); or

239 (b) if the local district was located within the boundaries of more than a single county:

240 (i) submit to the recorder of one of those counties:

241 (A) the original of the notice of an impending boundary action and certificate of

242 dissolution; and

243 (B) if applicable, a certified copy of the resolution that the administrative body adopts
244 under Subsection 17B-1-1308(1); and

245 (ii) submit to the recorder of each other county;

246 (A) a certified copy of the notice of an impending boundary action and certificate of
247 dissolution; and

248 (B) if applicable, a certified copy of the resolution that the administrative body adopts
249 under Subsection 17B-1-1308(1).

250 (3) Upon the lieutenant governor's issuance of the certificate of dissolution under
251 Section 67-1a-6.5, the local district is dissolved.

252 (4) (a) After the dissolution of a local district under this part, the administrative body
253 shall use any assets of the local district remaining after paying all debts and other obligations of
254 the local district to pay costs associated with the dissolution process.

255 (b) If the administrative body is not the board of trustees of the dissolved local district,
256 the administrative body shall pay any costs of the dissolution process remaining after
257 exhausting the remaining assets of the local district as described in Subsection (4)(a).

258 (c) If the administrative body is the board of trustees of the dissolved local district,
259 each entity that has committed to provide a service that the dissolved local district previously
260 provided, as described in Subsection 17B-1-1308(2)(b), shall pay, in the same proportion that
261 the services the entity commits to provide bear to all of the services the local district provided,
262 any costs of the dissolution process remaining after exhausting the remaining assets of the
263 dissolved local district described in Subsection (4)(a).

264 (5) (a) The administrative body shall distribute any assets of the local district that
265 remain after the payment of debts, obligations, and costs under Subsection (4) in the following
266 order of priority:

267 (i) if there is a readily identifiable connection between the remaining assets and a
268 financial burden borne by the real property owners in the dissolved local district,
269 proportionately to those real property owners;

270 (ii) if there is a readily identifiable connection between the remaining assets and a
271 financial burden borne by the recipients of a service that the dissolved local district provided,
272 proportionately to those recipients; and

273 (iii) subject to Subsection (6), to each entity that has committed to provide a service

274 that the dissolved local district previously provided, as described in Subsection
275 17B-1-1309(1)(b)(ii), in the same proportion that the services the entity commits to provide
276 bear to all of the services the local district provided.

277 (6) An entity that receives cash reserves of the dissolved local district under Subsection
278 (5)(a)(iii) may not use the cash reserves:

279 (a) in any way other than for the purpose the local district originally intended; or

280 (b) in any area other than within the area that the dissolved local district previously
281 served.