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~~text~~ shows text that was in HB0195 but was deleted in HB0195S01.

Inserted text shows text that was not in HB0195 but was inserted into HB0195S01.

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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: _____

LONG TITLE

General Description:

This bill modifies ~~provisions related~~ the procedure to ~~the dissolution of~~ dissolve a local ~~districts~~ district.

Highlighted Provisions:

This bill:

- ▶ ~~modifies the procedure to dissolve a~~ 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

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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:

AMENDS:

- ~~{ 17B-1-1301, as renumbered and amended by Laws of Utah 2007, Chapter 329~~
- { 17B-1-1303, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-1306, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-1308, as last amended by Laws of Utah 2016, Chapter 176

ENACTS:

17B-1-1309, Utah Code Annotated 1953

17B-1-1310, Utah Code Annotated 1953

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

Section 1. Section ~~{17B-1-1301}~~ 17B-1-1303 is amended to read:

~~{ 17B-1-1301. Definitions.~~

~~For purposes of this part:~~

- ~~(1) "Active" means, with respect to a local district, that the district is not inactive.~~
- ~~(2) "Administrative body" means:~~
 - ~~(a) if the local district proposed to be dissolved has a duly constituted board of trustees in sufficient numbers to form a quorum, the board of trustees; or~~
 - ~~(b) except as provided in Subsection (2)(a):~~
 - ~~(i) for a local district located entirely within a single municipality, the legislative body of that municipality;~~
 - ~~(ii) for a local district located in multiple municipalities within the same county or at least partly within the unincorporated area of a county, the legislative body of that county; or~~
 - ~~(iii) for a local district located within multiple counties, the legislative body of the~~

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~~county whose boundaries include more of the local district than is included within the boundaries of any other county:~~

~~—— (3) "Clerk" means:~~

~~—— (a) the board of trustees if the board is also the administrative body under Subsection (2)(a);~~

~~—— (b) the clerk or recorder of the municipality whose legislative body is the administrative body under Subsection (2)(b)(i); or~~

~~—— (c) the clerk of the county whose legislative body is the administrative body under Subsection (2)(b)(ii) or (iii).~~

~~—— (4) "Controlling legislative body" means:~~

~~—— (a) for a local district located entirely within a single municipality, the legislative body of that municipality;~~

~~—— (b) for a local district located in multiple municipalities within the same county or at least partly within the unincorporated area of a county, the legislative body of that county; or~~

~~—— (c) for a local district located within multiple counties, the legislative body of the county whose boundaries include more of the local district than is included within the boundaries of any other county.~~

~~—— [(4)] (5) "Inactive" means, with respect to a local district, that during the preceding three years the district has not:~~

~~—— (a) provided any service or otherwise operated;~~

~~—— (b) received property taxes or user or other fees; and~~

~~—— (c) expended any funds.~~

~~—— Section 2. Section **17B-1-1303** is amended to read:~~

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

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

(1) for an inactive local district:

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

(ii) for all other districts:

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

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(I) is located within the local district proposed to be dissolved;
(II) covers at least 25% of the private land area within the local district; and
(III) is equal in assessed value to at least 25% of the assessed value of all private real property within the local district; or

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

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

(2) for an active local district ~~{f}~~, ~~f~~:

~~(a)~~ } a petition signed by:

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

~~(b)~~ (ii) ~~[or]~~

(b) for a local district created to acquire or assess a groundwater right for the development and execution of a groundwater management plan in coordination with the state engineer in accordance with Section 73-5-15, the owners of groundwater rights that:

(i) are diverted within the district; and

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

~~{f}~~ (c) for all other districts ~~[;]~~:

(i) the owners of ~~[100% of the]~~ private real property ~~{located within or 100%}~~ that:

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

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

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

(ii) ~~[100%]~~ 33% of registered voters residing within the local district proposed to be dissolved ~~{f}~~. ~~f}~~ or

~~(b) a resolution adopted by the controlling legislative body. }~~

Section ~~{3}~~ 2. Section **17B-1-1306** is amended to read:

17B-1-1306. Public hearing.

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

~~{(b)2}~~ ~~{For each resolution adopted by a controlling legislative body under Subsection 17B-1-1303(2)(b), the controlling legislative}~~ [Each] The administrative body shall hold a ~~{public hearing on the proposed dissolution.}~~

~~—(2) Each}~~ public hearing under Subsection (1) [shall be held]:

(a) no later than 45 days after certification of the petition under Section 17B-1-1305 or adoption of a resolution under Subsection 17B-1-1303(1)(b) ~~{or (2)(b)}~~, as the case may be;

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

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

(d) for the purpose of allowing:

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

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

[(+)] (iii) any interested person to address the administrative body ~~{or the controlling legislative body}~~ concerning the proposed dissolution.

(3) A quorum of the administrative body ~~{or the controlling legislative body}~~ shall be present throughout each public hearing under this section.

Section ~~{4}3~~. Section **17B-1-1308** is amended to read:

17B-1-1308. Second Public Hearing -- Dissolution resolution -- Limitations on dissolution~~{-- Distribution of remaining assets -- Notice to lieutenant governor -- Recording requirements}~~.

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

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

(i) publicly explain the result of the study and preparation described in Subsection

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17B-1-1306(2)(d)(i):

(ii) describe whether the proposed dissolution meets each criterion described in

Subsection (2); and

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

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

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

(ii) (A) for an inactive local district, approving the dissolution of the local district; or

(B) for an active local district, initiating the dissolution election described in Section

17B-1-1309.

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

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

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

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

(a) any outstanding debt of the local district is:

(i) satisfied and discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the local district;

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

(i) another entity has committed to:

(A) provide the same service to the area being served or proposed to be served by the local district; and

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

(ii) all who are to receive the service have consented to the service being provided by

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the other entity; and

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

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

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

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

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

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

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

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

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

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

~~[(f) the original:]~~

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

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

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

~~[(B) if the local district was located within the boundaries of more than a single~~

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county:]

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

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

and]

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

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

~~[(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and~~

~~(Bb); and]~~

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

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

Section ~~{5}~~4. Section **17B-1-1309** is enacted to read:

17B-1-1309. ~~{~~ **Dissolution resolution by controlling legislative body --**

Election} **Election** to dissolve **an active local district.**

(1) When an administrative body adopts a resolution to initiate a dissolution election under Subsection 17B-1-1308(1)(b)(ii), an election shall be held on the question of whether the local district ~~{-- Notice to lieutenant governor -- Recording requirements.~~

~~——~~ **(1) (a) Subject to}** **should be dissolved by:**

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

(b) if the local district proposed to be dissolved is located within more than one county, in cooperation with the local district clerk:

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

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

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

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

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

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

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

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

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

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

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

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

(6) If the local district proposed to be dissolved is a basic local district, except for a district described in Subsection (5), and if the area of the basic local district contains less than one residential unit per 50 acres of land at the time of the filing of a petition described in Subsection ~~{17B-1-1306(1)(b)}~~, the controlling legislative body may adopt a dissolution resolution that:

—— (i) certifies that the requirements described in Subsection (1)(b) are satisfied; and

—— (ii) initiates the dissolution election described in Subsection (2).

—— (b) The controlling legislative body may not adopt a dissolution resolution described in Subsection (1)(a) unless:

—— (i) any outstanding debt of the local district is:

—— (A) satisfied and discharged in connection with the dissolution; or

—— (B) assumed by another governmental entity with the consent of all the holders of that

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~~debt and all the holders of other debts of the local district;~~

~~— (ii) for a local district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service, another entity has committed to provide the same service to the area being served or proposed to be served by the local district;~~ 17B-1-1303(2):

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

~~(iii) all outstanding contracts to which the local district is a party are resolved through mutual termination or the assignment of the local district's rights, duties, privileges, and responsibilities to another entity;~~

~~— (2) After a controlling legislative body adopts a dissolution resolution described in Subsection (1), the voters within the boundaries of the local district shall, in the next municipal or general election, vote whether to dissolve the local district.~~

~~— Section 6(b) each elector may cast one vote for each acre or fraction of an acre of land that the elector owns within the district.~~

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

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

17B-1-1310. ~~{ Distribution of remaining assets -- Notice}~~ Notice to lieutenant governor -- Recording requirements{:

~~— (1) (a) (i) After dissolution of a local district under this part, any assets of the local district remaining after paying all debts and other obligations of the local district shall be used to pay costs associated with the dissolution process;~~

~~— (ii) Any costs of the dissolution process remaining after exhausting the} --~~
Distribution of remaining assets{ of the local district described in Subsection (1)(a)(i) shall be paid by the administrative body.

~~— (b) Any assets of the local district remaining after application of Subsection (1)(a) shall be distributed:~~

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

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~~(ii) except as provided in Subsection (1)(b)(i), to each county, city, metro township, or town in which the dissolved local district was located before dissolution in the same proportion that the land area of the local district located within the unincorporated area of the county or within the city, town, or metro township bears to the total local district land area:~~

~~(2) For a dissolution under Section 11-13-1308, the administrative body, or for a dissolution under Section 11-13-1309, the controlling legislative}:~~

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

(a) within 30 days after the day on which the administrative body adopts a resolution approving the dissolution ~~under Section 17B-1-1308~~ of an inactive local district; or

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

~~(3)2~~ Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, the administrative ~~body or the controlling legislative }~~ body shall:

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

(i) the original:

(A) notice of an impending boundary action; and

(B) certificate of dissolution; and

(ii) a certified copy of the resolution ~~adopted~~ that the administrative body adopts under Subsection 17B-1-1308(1); or

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

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

(A) the original of the ~~documents listed in Subsections (3)(a)(i)(A)~~ notice of an impending boundary action and ~~(B)~~ certificate of dissolution; and

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

(ii) submit to the recorder of each other county:

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(A) a certified copy of the ~~documents listed in Subsections (3)(a)(i)(A)~~ notice of an impending boundary action and ~~(B)~~ certificate of dissolution; and

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

~~(4)3~~ Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the local district is dissolved.

†

Legislative Review Note

~~Office of Legislative Research and General Counsel~~ (4) (a) After the dissolution of a local district under this part, the administrative body shall use any assets of the local district remaining after paying all debts and other obligations of the local district to pay costs associated with the dissolution process.

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

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

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

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

(ii) if there is a readily identifiable connection between the remaining assets and a

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financial burden borne by the recipients of a service that the dissolved local district provided, proportionately to those recipients; and

(iii) subject to Subsection (6), to each entity that has committed to provide a service that the dissolved local district previously provided, as described in Subsection 17B-1-1309(1)(b)(ii), in the same proportion that the services the entity commits to provide bear to all of the services the local district provided.

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

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

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