

Senator Kirk A. Cullimore proposes the following substitute bill:

REQUIREMENTS FOR DISTRICTS PROVIDING SERVICES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies provisions relating to local government districts that provide services.

Highlighted Provisions:

This bill:

- ▶ amends the election procedures for a special district board;
- ▶ modifies a provision relating to dividing a special district into divisions;
- ▶ modifies the process for special district boundary changes;
- ▶ modifies provisions relating to the board of trustees of certain improvement districts;
- ▶ modifies the fee collection and payment process for special districts;
- ▶ modifies a provision related to the amount a special service district may be invoiced to pay for a service that the district receives from the creating entity;
- ▶ provides that an annexed area for a special service district is subject to the user fees imposed and property taxes levied for the benefit of the special service district once the required documents are recorded; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17B-1-306**, as last amended by Laws of Utah 2023, Chapters 15, 435

32 **17B-1-306.5**, as last amended by Laws of Utah 2023, Chapter 15

33 **17B-1-417**, as last amended by Laws of Utah 2023, Chapters 15, 435

34 **17B-1-635**, as last amended by Laws of Utah 2023, Chapter 15

35 **17B-1-643**, as last amended by Laws of Utah 2023, Chapters 15, 435

36 **17B-2a-404**, as last amended by Laws of Utah 2018, Chapter 112

37 **17D-1-103**, as last amended by Laws of Utah 2023, Chapter 15

38 **17D-1-403**, as last amended by Laws of Utah 2009, Chapter 350



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

41 Section 1. Section **17B-1-306** is amended to read:

42 **17B-1-306. Special district board -- Election procedures -- Notice.**

43 (1) Except as provided in Subsection (12), each elected board member shall be selected
44 as provided in this section.

45 (2) (a) Each election of a special district board member shall be held:

46 (i) at the same time as the municipal general election or the regular general election, as
47 applicable; and

48 (ii) at polling places designated by the special district board in consultation with the
49 county clerk for each county in which the special district is located, which polling places shall
50 coincide with municipal general election or regular general election polling places, as
51 applicable, whenever feasible.

52 (b) The special district board, in consultation with the county clerk, may consolidate
53 two or more polling places to enable voters from more than one district to vote at one
54 consolidated polling place.

55 (c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under
56 Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one

57 polling place per division of the district, designated by the district board.

58 (ii) Each polling place designated by an irrigation district board under Subsection
59 (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection
60 (2)(a)(ii).

61 (3) (a) The clerk of each special district with a board member position to be filled at
62 the next municipal general election or regular general election, as applicable, shall provide
63 notice of:

64 [~~(a)~~] (i) each elective position of the special district to be filled at the next municipal
65 general election or regular general election, as applicable;

66 [~~(b)~~] (ii) the constitutional and statutory qualifications for each position; and

67 [~~(c)~~] (iii) the dates and times for filing a declaration of candidacy.

68 (b) If the election is to be held at the same time as the municipal general election, a
69 declaration of candidacy shall be filed on the days specified in Subsection 20A-9-203(3)(a)(i).

70 (c) If the election is to be held at the same time as the regular general election, a
71 declaration of candidacy shall be filed by the deadline stated in Subsection 20A-9-201.5(2).

72 (4) The clerk of the special district shall publish the notice described in Subsection
73 [~~(3)~~] (3)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 10
74 days before the first day for filing a declaration of candidacy.

75 (5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective
76 special district board position, an individual shall file a declaration of candidacy in person with
77 an official designated by the special district within the candidate filing period for the applicable
78 election year in which the election for the special district board is held and:

79 (i) during the special district's standard office hours, if the standard office hours
80 provide at least three consecutive office hours each day during the candidate filing period that
81 is not a holiday or weekend; or

82 (ii) if the standard office hours of a special district do not provide at least three
83 consecutive office hours each day, a three-hour consecutive time period each day designated by
84 the special district during the candidate filing period that is not a holiday or weekend.

85 (b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the
86 filing time shall be extended until the close of normal office hours on the following regular
87 business day.

88 (c) Subject to Subsection (5)(f), an individual may designate an agent to file a
89 declaration of candidacy with the official designated by the special district if:

90 (i) the individual is located outside of the state during the entire filing period;

91 (ii) the designated agent appears in person before the official designated by the special
92 district; and

93 (iii) the individual communicates with the official designated by the special district
94 using an electronic device that allows the individual and official to see and hear each other.

95 (d) (i) Before the filing officer may accept any declaration of candidacy from an
96 individual, the filing officer shall:

97 (A) read to the individual the constitutional and statutory qualification requirements for
98 the office that the individual is seeking; and

99 (B) require the individual to state whether the individual meets those requirements.

100 (ii) If the individual does not meet the qualification requirements for the office, the
101 filing officer may not accept the individual's declaration of candidacy.

102 (iii) If it appears that the individual meets the requirements of candidacy, the filing
103 officer shall accept the individual's declaration of candidacy.

104 (e) The declaration of candidacy shall be in substantially the following form:

105 "I, (print name) _____, being first duly sworn, say that I reside at (Street)
106 _____, City of _____, County of _____, state of Utah, (Zip
107 Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the
108 office of board of trustees member for _____ (state the name of the
109 special district); that I am a candidate for that office to be voted upon at the next election; and
110 that, if filing via a designated agent, I will be out of the state of Utah during the entire
111 candidate filing period, and I hereby request that my name be printed upon the official ballot
112 for that election.

113 (Signed) _____

114 Subscribed and sworn to (or affirmed) before me by _____ on this _____ day
115 of _____, _____.

116 (Signed) _____

117 (Clerk or Notary Public)".

118 (f) An agent designated under Subsection (5)(c) may not sign the form described in

119 Subsection (5)(e).

120 (g) Each individual wishing to become a valid write-in candidate for an elective special
121 district board position is governed by Section 20A-9-601.

122 (h) If at least one individual does not file a declaration of candidacy as required by this
123 section, an individual shall be appointed to fill that board position in accordance with the
124 appointment provisions of Section 20A-1-512.

125 (i) If only one candidate files a declaration of candidacy and there is no write-in
126 candidate who complies with Section 20A-9-601, the board, in accordance with Section
127 20A-1-206, may:

128 (i) consider the candidate to be elected to the position; and

129 (ii) cancel the election.

130 (6) (a) A primary election may be held if:

131 (i) the election is authorized by the special district board; and

132 (ii) the number of candidates for a particular local board position or office exceeds
133 twice the number of persons needed to fill that position or office.

134 (b) The primary election shall be conducted:

135 (i) on the same date as the municipal primary election or the regular primary election,
136 as applicable; and

137 (ii) according to the procedures for primary elections provided under Title 20A,
138 Election Code.

139 (7) (a) Except as provided in Subsection (7)(c), within one business day after the
140 deadline for filing a declaration of candidacy, the special district clerk shall certify the
141 candidate names to the clerk of each county in which the special district is located.

142 (b) (i) Except as provided in Subsection (7)(c) and in accordance with Section
143 20A-6-305, the clerk of each county in which the special district is located and the special
144 district clerk shall coordinate the placement of the name of each candidate for special district
145 office in the nonpartisan section of the ballot with the appropriate election officer.

146 (ii) If consolidation of the special district election ballot with the municipal general
147 election ballot or the regular general election ballot, as applicable, is not feasible, the special
148 district board of trustees, in consultation with the county clerk, shall provide for a separate
149 special district election ballot to be administered by poll workers at polling places designated

150 under Subsection (2).

151 (c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board
152 of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

153 (ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall
154 prescribe the form of the ballot for each board member election.

155 (B) Each ballot for an election of an irrigation district board member shall be in a
156 nonpartisan format.

157 (C) The name of each candidate shall be placed on the ballot in the order specified
158 under Section [20A-6-305](#).

159 (8) (a) Each voter at an election for a board of trustees member of a special district
160 shall:

161 (i) be a registered voter within the district, except for an election of:

162 (A) an irrigation district board of trustees member; or

163 (B) a basic special district board of trustees member who is elected by property owners;

164 and

165 (ii) meet the requirements to vote established by the district.

166 (b) Each voter may vote for as many candidates as there are offices to be filled.

167 (c) The candidates who receive the highest number of votes are elected.

168 (9) Except as otherwise provided by this section, the election of special district board
169 members is governed by Title 20A, Election Code.

170 (10) (a) Except as provided in Subsection [17B-1-303](#)(8), a person elected to serve on a
171 special district board shall serve a four-year term, beginning at noon on the January 1 after the
172 person's election.

173 (b) A person elected shall be sworn in as soon as practical after January 1.

174 (11) (a) Except as provided in Subsection (11)(b), each special district shall reimburse
175 the county or municipality holding an election under this section for the costs of the election
176 attributable to that special district.

177 (b) Each irrigation district shall bear the district's own costs of each election the district
178 holds under this section.

179 (12) This section does not apply to an improvement district that provides electric or gas
180 service.

181 (13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A,
182 Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

183 (14) (a) As used in this Subsection (14), "board" means:

184 (i) a special district board; or

185 (ii) the administrative control board of a special service district that has elected
186 members on the board.

187 (b) A board may hold elections for membership on the board at a regular general
188 election instead of a municipal general election if the board submits an application to the
189 lieutenant governor that:

190 (i) requests permission to hold elections for membership on the board at a regular
191 general election instead of a municipal general election; and

192 (ii) indicates that holding elections at the time of the regular general election is
193 beneficial, based on potential cost savings, a potential increase in voter turnout, or another
194 material reason.

195 (c) Upon receipt of an application described in Subsection (14)(b), the lieutenant
196 governor may approve the application if the lieutenant governor concludes that holding the
197 elections at the regular general election is beneficial based on the criteria described in
198 Subsection (14)(b)(ii).

199 (d) If the lieutenant governor approves a board's application described in this section:

200 (i) all future elections for membership on the board shall be held at the time of the
201 regular general election; and

202 (ii) the board may not hold elections at the time of a municipal general election unless
203 the board receives permission from the lieutenant governor to hold all future elections for
204 membership on the board at a municipal general election instead of a regular general election,
205 under the same procedure, and by applying the same criteria, described in this Subsection (14).

206 (15) (a) This Subsection (15) applies to a special district if:

207 (i) the special district's board members are elected by the owners of real property, as
208 provided in Subsection 17B-1-1402(1)(b); and

209 (ii) the special district was created before January 1, 2020.

210 (b) The board of a special district described in Subsection (15)(a) may conduct an
211 election:

212 (i) to fill a board member position that expires at the end of the term for that board
213 member's position; and

214 (ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired
215 term of a board member.

216 (c) An election under Subsection (15)(b) may be conducted as determined by the
217 special district board, subject to Subsection (15)(d).

218 (d) (i) The special district board shall provide to property owners eligible to vote at the
219 special district election:

220 (A) notice of the election; and

221 (B) a form to nominate an eligible individual to be elected as a board member.

222 (ii) (A) The special district board may establish a deadline for a property owner to
223 submit a nomination form.

224 (B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after
225 the board provides the notice and nomination form under Subsection (15)(d)(i).

226 (iii) (A) After the deadline for submitting nomination forms, the special district board
227 shall provide a ballot to all property owners eligible to vote at the special district election.

228 (B) A special district board shall allow at least five days for ballots to be returned.

229 (iv) A special district board shall certify the results of an election under this Subsection
230 (15) during an open meeting of the board.

231 Section 2. Section 17B-1-306.5 is amended to read:

232 **17B-1-306.5. Dividing a special district into divisions.**

233 (1) Subject to Subsection (3), the board of trustees of a special district that has elected
234 board members may, upon a vote of two-thirds of the members of the board, divide the special
235 district, or the portion of the special district represented by elected board of trustees members,
236 into divisions so that some or all of the elected members of the board of trustees may be elected
237 by division rather than at large.

238 (2) (a) As used in this Subsection (2):

239 (i) "Appointed board division" means the dividing of a special district with appointed
240 board members, or the dividing of the portion of the special district represented by appointed
241 board members, into divisions so that some or all of the appointed members of the board of
242 trustees may be appointed by division rather than at large.

243 (ii) "Appointing body" means an appointing authority that is a body.

244 (iii) "Appointing individual" means an appointing authority that is an individual.

245 (b) Subject to Subsection (3), an appointing body may, by a vote of two-thirds of the
246 members of the appointing body, approve an appointed board division.

247 (c) (i) Subject to Subsection (3), the board of trustees of a special district with
248 appointed members may recommend an appointed board division to the appointing individual.

249 (ii) [Subject to Subsection (3), the appointing authority of a special district that has
250 appointed board members may, upon a vote of two-thirds of the members of the appointing
251 authority, divide the special district, or the portion of the special district represented by
252 appointed board members, into divisions so that some or all of the appointed members of the
253 board of trustees may be appointed by division rather than at large.] After receiving a
254 recommendation under Subsection (2)(c)(i), an appointing individual may approve an
255 appointed board division.

256 (3) Before [~~dividing a special district into divisions~~] approving or recommending an
257 appointed board division or before changing the boundaries of divisions already established,
258 the board of trustees, under Subsection (1) or (2)(c)(i), or the appointing authority, under
259 Subsection [~~(2)~~] (2)(b), shall:

260 (a) prepare a proposal that describes the boundaries of the proposed divisions; and

261 (b) hold a public hearing at which any interested person may appear and speak for or
262 against the proposal.

263 (4) (a) The board of trustees under Subsection (1) or (2)(c)(i) or the appointing
264 authority under Subsection (2)(b) shall review the division boundaries at least every 10 years.

265 (b) Except for changes in the divisions necessitated by annexations to or withdrawals
266 from the special district, the boundaries of divisions established under Subsection (1) or (2)
267 may not be changed more often than every five years.

268 (c) Changes to the boundaries of divisions already established under Subsection (1) or
269 (2) are not subject to the two-thirds vote requirement of Subsection (1) or [~~(2)~~] (2)(b).

270 Section 3. Section **17B-1-417** is amended to read:

271 **17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution**
272 **adjusting boundaries -- Filing of notice and plat with the lieutenant governor --**
273 **Recording requirements -- Effective date.**

274 (1) As used in this section, "affected area" means the area located within the
275 boundaries of one special district that will be removed from that special district and included
276 within the boundaries of another special district because of a boundary adjustment under this
277 section.

278 (2) The boards of trustees of two or more special districts having a common boundary
279 and providing the same service on the same wholesale or retail basis may adjust their common
280 boundary as provided in this section.

281 (3) (a) The board of trustees of each special district intending to adjust a boundary that
282 is common with another special district shall:

283 (i) adopt a resolution indicating the board's intent to adjust a common boundary;

284 (ii) hold a public hearing on the proposed boundary adjustment no less than 60 days
285 after the adoption of the resolution under Subsection (3)(a)(i); and

286 (iii) provide notice for the affected area, as a class B notice under Section [63G-30-102](#),
287 for at least two weeks before the day of the public hearing.

288 (b) The notice required under Subsection (3)(a)(iii) shall:

289 (i) state that the board of trustees of the special district has adopted a resolution
290 indicating the board's intent to adjust a boundary that the special district has in common with
291 another special district that provides the same service as the special district;

292 (ii) describe the affected area;

293 (iii) state the date, time, and location of the public hearing required under Subsection
294 (3)(a)(ii);

295 (iv) provide a special district telephone number where additional information about the
296 proposed boundary adjustment may be obtained;

297 (v) explain the financial and service impacts of the boundary adjustment on property
298 owners or residents within the affected area; and

299 (vi) state in conspicuous and plain terms that the board of trustees may approve the
300 adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii),
301 written protests to the adjustment are filed with the board by:

302 (A) the owners of private real property that:

303 (I) is located within the affected area;

304 (II) covers at least 50% of the total private land area within the affected area; and

305 (III) is equal in assessed value to at least 50% of the assessed value of all private real
306 property within the affected area; or

307 (B) registered voters residing within the affected area equal in number to at least 50%
308 of the votes cast in the affected area for the office of governor at the last regular general
309 election before the filing of the protests.

310 (c) The boards of trustees of the special districts whose boundaries are being adjusted
311 may jointly:

312 (i) provide the notice required under Subsection (3)(a)(iii); and

313 (ii) hold the public hearing required under Subsection (3)(a)(ii).

314 (d) Subsections (3)(a)(ii) and (iii), (3)(b), and (3)(c) do not apply if signed, written
315 consents to the boundary adjustment have been filed with the board from:

316 (i) the owners of 100% of the private real property located within the affected area; and

317 (ii) registered voters residing within the affected area equal in number to at least the
318 number of votes cast in the affected area for the office of governor at the last regular general
319 election.

320 (4) After the public hearing required under Subsection (3)(a)(ii) or if a hearing is not
321 required under Subsection (3)(d), the board of trustees may adopt a resolution approving the
322 adjustment of the common boundary unless, at or before the public hearing, written protests to
323 the boundary adjustment have been filed with the board by:

324 (a) the owners of private real property that:

325 (i) is located within the affected area;

326 (ii) covers at least 50% of the total private land area within the affected area; and

327 (iii) is equal in assessed value to at least 50% of the assessed value of all private real
328 property within the affected area; or

329 (b) registered voters residing within the affected area equal in number to at least 50%
330 of the votes cast in the affected area for the office of governor at the last regular general
331 election before the filing of the protests.

332 (5) A resolution adopted under Subsection (4) does not take effect until the board of
333 each special district whose boundaries are being adjusted has adopted a resolution under
334 Subsection (4).

335 (6) The board of the special district whose boundaries are being adjusted to include the

336 affected area shall:

337 (a) within 30 days after the resolutions take effect under Subsection (5), file with the
338 lieutenant governor:

339 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
340 that meets the requirements of Subsection 67-1a-6.5(3); and

341 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

342 (b) upon the lieutenant governor's issuance of a certificate of boundary adjustment
343 under Section 67-1a-6.5:

344 (i) if the affected area is located within the boundary of a single county, submit to the
345 recorder of that county:

346 (A) the original:

347 (I) notice of an impending boundary action;

348 (II) certificate of boundary adjustment; and

349 (III) approved final local entity plat; and

350 (B) a certified copy of each resolution adopted under Subsection (4); or

351 (ii) if the affected area is located within the boundaries of more than a single county:

352 (A) submit to the recorder of one of those counties:

353 (I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

354 (II) a certified copy of each resolution adopted under Subsection (4); and

355 (B) submit to the recorder of each other county:

356 (I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III);

357 and

358 (II) a certified copy of each resolution adopted under Subsection (4).

359 (7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment
360 under Section 67-1a-6.5, the affected area is annexed to the special district whose boundaries
361 are being adjusted to include the affected area, and the affected area is withdrawn from the
362 special district whose boundaries are being adjusted to exclude the affected area.

363 (b) (i) The effective date of a boundary adjustment under this section for purposes of
364 assessing property within the affected area is governed by Section 59-2-305.5.

365 (ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the
366 recorder of the county in which the property is located, a special district in whose boundary an

367 affected area is included because of a boundary adjustment under this section may not:

- 368 (A) levy or collect a property tax on property within the affected area;
369 (B) levy or collect an assessment on property within the affected area; or
370 (C) charge or collect a fee for service provided to property within the affected area.

371 (iii) Subsection (7)(b)(ii)(C):

372 (A) may not be construed to limit a special district's ability before a boundary
373 adjustment to charge and collect a fee for service provided to property that is outside the
374 special district's boundary; and

375 (B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the
376 special district's boundary adjustment, with respect to a fee that the special district was
377 charging for service provided to property within the area affected by the boundary adjustment
378 immediately before the boundary adjustment.

379 Section 4. Section **17B-1-635** is amended to read:

380 **17B-1-635. Duties with respect to issuance of checks.**

381 (1) The district clerk or other designated person not performing treasurer duties shall
382 prepare the necessary checks or make the necessary arrangements for direct deposit, wire
383 transfer, or other electronic payment mechanism after having determined that:

384 (a) the claim was authorized by:

385 (i) the board of trustees; or

386 (ii) the special district financial officer, if the financial officer is not the clerk, in
387 accordance with Section [17B-1-642](#);

388 (b) the claim does not overexpend the appropriate departmental budget established by
389 the board of trustees; and

390 (c) the expenditure was approved in advance by the board of trustees or its designee.

391 (2) (a) (i) The treasurer or any other person appointed by the board of trustees shall
392 sign all checks or review and authorize all direct deposits, wire transfers, or other electronic
393 payments.

394 (ii) The person maintaining the financial records may not sign any single signature
395 check or unilaterally authorize any direct deposit, wire transfer, or other electronic payment.

396 (b) In a special district with an expenditure budget of less than \$50,000 per year, a
397 member of the board of trustees shall also sign all checks and review and authorize all direct

398 deposits, wire transfers, or other electronic payments.

399 (c) Before affixing a signature or other authorization, the treasurer or other designated
400 person shall determine that a sufficient amount is on deposit in the appropriate bank account of
401 the district to honor the check.

402 Section 5. Section **17B-1-643** is amended to read:

403 **17B-1-643. Imposing or increasing a fee for service provided by special district.**

404 (1) (a) Before imposing a new fee or increasing an existing fee for a service provided
405 by a special district, each special district board of trustees shall first hold a public hearing at
406 which:

407 (i) the special district shall demonstrate its need to impose or increase the fee; and

408 (ii) any interested person may speak for or against the proposal to impose a fee or to
409 increase an existing fee.

410 (b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning
411 no earlier than 6 p.m.

412 (c) A public hearing required under this Subsection (1) may be combined with a public
413 hearing on a tentative budget required under Section **17B-1-610**.

414 (d) Except to the extent that this section imposes more stringent notice requirements,
415 the special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act,
416 in holding the public hearing under Subsection (1)(a).

417 (2) (a) Each special district board shall give notice of a hearing under Subsection (1) as
418 provided in Subsections (2)(b) and (c) or Subsection (2)(d).

419 (b) The special district board shall publish the notice described in Subsection (2)(a) for
420 the special district, as a class A notice under Section **63G-30-102**, for at least 30 days.

421 (c) The notice described in Subsection (2)(b) shall state that the special district board
422 intends to impose or increase a fee for a service provided by the special district and will hold a
423 public hearing on a certain day, time, and place fixed in the notice, which shall be not less than
424 seven days after the day the ~~[first]~~ notice is ~~[published;]~~ first posted as provided in Subsection
425 (2)(b) for the purpose of hearing comments regarding the proposed imposition or increase of a
426 fee and to explain the reasons for the proposed imposition or increase.

427 (d) (i) In lieu of providing notice under Subsection (2)(b), the special district board of
428 trustees may give the notice required under Subsection (2)(a) by mailing the notice to those

429 within the district who:

430 (A) will be charged the fee for a district service, if the fee is being imposed for the first
431 time; or

432 (B) are being charged a fee, if the fee is proposed to be increased.

433 (ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

434 (iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing
435 fee.

436 (e) If the hearing required under this section is combined with the public hearing
437 required under Section 17B-1-610, the notice required under this Subsection (2):

438 (i) may be combined with the notice required under Section 17B-1-609; and

439 (ii) shall be posted or mailed in accordance with the notice provisions of this section.

440 (f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie
441 evidence that notice was properly given.

442 (g) If no challenge is made to the notice given of a hearing required by Subsection (1)
443 within 30 days after the date of the hearing, the notice is considered adequate and proper.

444 (h) After holding a public hearing under Subsection (1), a special district board may:

445 (i) impose the new fee or increase the existing fee as proposed;

446 (ii) adjust the amount of the proposed new fee or the increase of the existing fee and
447 then impose the new fee or increase the existing fee as adjusted; or

448 (iii) decline to impose the new fee or increase the existing fee.

449 (i) This section applies to each new fee imposed and each increase of an existing fee
450 that occurs on or after July 1, 1998.

451 (j) (i) This section does not apply to an impact fee.

452 (ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a,
453 Impact Fees Act.

454 Section 6. Section 17B-2a-404 is amended to read:

455 **17B-2a-404. Improvement district board of trustees.**

456 (1) As used in this section:

457 (a) "County district" means an improvement district that does not include within its
458 boundaries any territory of a municipality.

459 (b) "County member" means a member of a board of trustees of a county district.

460 (c) "Electric district" means an improvement district that was created for the purpose of
461 providing electric service.

462 (d) "Included municipality" means a municipality whose boundaries are entirely
463 contained within but do not coincide with the boundaries of an improvement district.

464 (e) "Municipal district" means an improvement district whose boundaries coincide
465 with the boundaries of a single municipality.

466 (f) "Populous regular district" means a regular district with a population exceeding
467 250,000.

468 (g) "Qualified municipality" means a municipality:

469 (i) whose boundary includes an area that is within a populous regular district and an
470 area that is outside the populous regular district;

471 (ii) a portion of which receives one or more services from a populous regular district;
472 and

473 (iii) whose population receiving service from the populous regular district is greater
474 than the population of an included municipality within the populous regular district.

475 [(f)] (h) "Regular district" means an improvement district that is not a county district,
476 electric district, or municipal district.

477 [(g)] (i) "Remaining area" means the area of a regular district that:

478 (i) is outside the boundaries of an included municipality or a qualified municipality;
479 and

480 (ii) includes the area of an included municipality or qualified municipality whose
481 legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of
482 trustees of the regular district.

483 [(h)] (j) "Remaining area member" means a member of a board of trustees of a regular
484 district who is appointed, or, if applicable, elected to represent the remaining area of the
485 district.

486 (2) The legislative body of the municipality included within a municipal district may:

487 (a) elect, at the time of the creation of the district, to be the board of trustees of the
488 district; and

489 (b) adopt at any time a resolution providing for:

490 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

491 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

492 (3) (a) The legislative body of a county whose unincorporated area is partly or
493 completely within a county district may:

494 (i) elect, at the time of the creation of the district, to be the board of trustees of the
495 district, even though a member of the legislative body of the county may not meet the
496 requirements of Subsection 17B-1-302(1);

497 (ii) adopt at any time a resolution providing for:

498 (A) the election of board of trustees members, as provided in Section 17B-1-306; or

499 (B) except as provided in Subsection (4), the appointment of board of trustees
500 members, as provided in Section 17B-1-304; and

501 (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative
502 body of the county to the board of trustees, except that the legislative body of the county may
503 not appoint more than three members of the legislative body of the county to the board of
504 trustees.

505 (b) A legislative body of a county whose unincorporated area is partly or completely
506 within a county district may take an action under Subsection (3)(a)(iii) if:

507 (i) more than 35% of the residences within a county district that receive service from
508 the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);

509 (ii) the board of trustees are appointed by the legislative body of the county; and

510 (iii) there are at least two appointed board members who meet the requirements of
511 Subsections 17B-1-302(1), (2), and (3), except that a member of the legislative body of the
512 county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).

513 (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a
514 resolution providing for the appointment of board of trustees members as provided in
515 Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of
516 trustees unless:

517 (a) the elected board has ceased to function;

518 (b) the terms of all of the elected board members have expired without the board
519 having called an election; or

520 (c) the elected board of trustees unanimously adopts a resolution approving the change
521 from an elected to an appointed board.

522 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each
523 included municipality and, if applicable, the legislative body of each qualified municipality
524 shall each appoint one member to the board of trustees of a regular district.

525 (ii) The legislative body of an included municipality and the legislative body of a
526 qualified municipality may elect not to appoint a member to the board under Subsection
527 (5)(a)(i).

528 (b) Except as provided in Subsection (6), the legislative body of each county whose
529 boundaries include a remaining area shall appoint all other members to the board of trustees of
530 a regular district.

531 (6) Notwithstanding Subsection (3), each remaining area member of a regular district
532 and each county member of a county district shall be elected, as provided in Section
533 [17B-1-306](#), if:

534 (a) the petition or resolution initiating the creation of the district provides for remaining
535 area or county members to be elected;

536 (b) the district holds an election to approve the district's issuance of bonds;

537 (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii),
538 not to appoint a member to the board of trustees; or

539 (d) (i) at least 90 days before the municipal general election or regular general election,
540 as applicable, a petition is filed with the district's board of trustees requesting remaining area
541 members or county members, as the case may be, to be elected; and

542 (ii) the petition is signed by registered voters within the remaining area or county
543 district, as the case may be, equal in number to at least 10% of the number of registered voters
544 within the remaining area or county district, respectively, who voted in the last gubernatorial
545 election.

546 (7) Subject to Section [17B-1-302](#), the number of members of a board of trustees of a
547 regular district shall be:

548 (a) the number of included municipalities within the district plus the number of
549 qualified municipalities partially within the district, if:

550 (i) the number of included municipalities and qualified municipalities is greater than
551 nine or is an odd number that is not greater than nine; and

552 (ii) the district does not include a remaining area;

553 (b) the number of included municipalities and qualified municipalities plus one, if the
554 number of included municipalities within the district plus the number of qualified
555 municipalities partially within the district is an even number that is less than nine; and

556 (c) the number of included municipalities and qualified municipalities plus two, if:

557 (i) the number of included municipalities and qualified municipalities is an odd number
558 that is less than nine; and

559 (ii) the district includes a remaining area.

560 (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the
561 board of trustees of a regular district shall reside within the remaining area.

562 (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining
563 area member shall be chosen from the district at large if:

564 (i) the population of the remaining area is less than 5% of the total district population;

565 or

566 (ii) (A) the population of the remaining area is less than 50% of the total district
567 population; and

568 (B) the majority of the members of the board of trustees are remaining area members.

569 (c) Application of Subsection (8)(b) may not prematurely shorten the term of any
570 remaining area member serving the remaining area member's elected or appointed term on May
571 11, 2010.

572 (9) If the election of remaining area or county members of the board of trustees is
573 required because of a bond election, as provided in Subsection (6)(b):

574 (a) a person may file a declaration of candidacy if:

575 (i) the person resides within:

576 (A) the remaining area, for a regular district; or

577 (B) the county district, for a county district; and

578 (ii) otherwise qualifies as a candidate;

579 (b) the board of trustees shall, if required, provide a ballot separate from the bond
580 election ballot, containing the names of candidates and blanks in which a voter may write
581 additional names; and

582 (c) the election shall otherwise be governed by Title 20A, Election Code.

583 (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric

584 district.

585 (ii) Subsections (2) through (9) do not apply to an electric district.

586 (b) The legislative body of the county in which an electric district is located may
587 appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

588 (c) After the initial board of trustees is appointed as provided in Subsection (10)(b),
589 each member of the board of trustees of an electric district shall be elected by persons using
590 electricity from and within the district.

591 (d) Each member of the board of trustees of an electric district shall be a user of
592 electricity from the district and, if applicable, the division of the district from which elected.

593 (e) The board of trustees of an electric district may be elected from geographic
594 divisions within the district.

595 (f) A municipality within an electric district is not entitled to automatic representation
596 on the board of trustees.

597 Section 7. Section 17D-1-103 is amended to read:

598 **17D-1-103. Special service district status, powers, and duties -- Registration as a**
599 **limited purpose entity -- Limitation on districts providing jail service.**

600 (1) A special service district:

601 (a) is:

602 (i) a body corporate and politic with perpetual succession, separate and distinct from
603 the county or municipality that creates it;

604 (ii) a quasi-municipal corporation; and

605 (iii) a political subdivision of the state; and

606 (b) may sue and be sued.

607 (2) A special service district may:

608 (a) exercise the power of eminent domain possessed by the county or municipality that
609 creates the special service district;

610 (b) enter into a contract that the governing authority considers desirable to carry out
611 special service district functions, including a contract:

612 (i) with the United States or an agency of the United States, the state, an institution of
613 higher education, a county, a municipality, a school district, a special district, another special
614 service district, or any other political subdivision of the state; or

615 (ii) that includes provisions concerning the use, operation, and maintenance of special
616 service district facilities and the collection of fees or charges with respect to commodities,
617 services, or facilities that the district provides;

618 (c) acquire or construct facilities;

619 (d) acquire real or personal property, or an interest in real or personal property,
620 including water and water rights, whether by purchase, lease, gift, devise, bequest, or
621 otherwise, and whether the property is located inside or outside the special service district, and
622 own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

623 (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the
624 special service district's property or assets, including water and water rights;

625 (f) mortgage, pledge, or otherwise encumber all or any part of the special service
626 district's property or assets, including water and water rights;

627 (g) enter into a contract with respect to the use, operation, or maintenance of all or any
628 part of the special service district's property or assets, including water and water rights;

629 (h) accept a government grant or loan and comply with the conditions of the grant or
630 loan;

631 (i) use an officer, employee, property, equipment, office, or facility of the county or
632 municipality that created the special service district, subject to reimbursement as provided in
633 Subsection (4);

634 (j) employ one or more officers, employees, or agents, including one or more
635 engineers, accountants, attorneys, or financial consultants, and establish their compensation;

636 (k) designate an assessment area and levy an assessment as provided in Title 11,
637 Chapter 42, Assessment Area Act;

638 (l) contract with a franchised, certificated public utility for the construction and
639 operation of an electrical service distribution system within the special service district;

640 (m) borrow money and incur indebtedness;

641 (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of
642 acquiring, constructing, and equipping any of the facilities required for the services the special
643 service district is authorized to provide, including:

644 (i) bonds payable in whole or in part from taxes levied on the taxable property in the
645 special service district;

646 (ii) bonds payable from revenues derived from the operation of revenue-producing
647 facilities of the special service district;

648 (iii) bonds payable from both taxes and revenues;

649 (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable
650 property in the special service district;

651 (v) tax anticipation notes;

652 (vi) bond anticipation notes;

653 (vii) refunding bonds;

654 (viii) special assessment bonds; and

655 (ix) bonds payable in whole or in part from mineral lease payments as provided in
656 Section 11-14-308;

657 (o) except as provided in Subsection (5), impose fees or charges or both for
658 commodities, services, or facilities that the special service district provides;

659 (p) provide to an area outside the special service district's boundary, whether inside or
660 outside the state, a service that the special service district is authorized to provide within its
661 boundary, if the governing body makes a finding that there is a public benefit to providing the
662 service to the area outside the special service district's boundary;

663 (q) provide other services that the governing body determines will more effectively
664 carry out the purposes of the special service district; and

665 (r) adopt an official seal for the special service district.

666 (3) (a) Each special service district shall register and maintain the special service
667 district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

668 (b) A special service district that fails to comply with Subsection (3)(a) or Section
669 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

670 (4) (a) Each special service district that uses an officer, employee, property, equipment,
671 office, or facility of the county or municipality that created the special service district shall
672 reimburse the county or municipality a reasonable amount for what the special service district
673 uses.

674 (b) The amount invoiced for what the special service district uses under Subsection
675 (4)(a) may not exceed the actual documented cost incurred, without markup, by the county or
676 municipality.

677 (5) (a) A special service district that provides jail service as provided in Subsection
678 17D-1-201(10) may not impose a fee or charge for the service it provides.

679 (b) Subsection (5)(a) may not be construed to limit a special service district that
680 provides jail service from:

681 (i) entering into a contract with the federal government, the state, or a political
682 subdivision of the state to provide jail service for compensation; or

683 (ii) receiving compensation for jail service it provides under a contract described in
684 Subsection (5)(b)(i).

685 Section 8. Section 17D-1-403 is amended to read:

686 **17D-1-403. Notice and plat to lieutenant governor -- Lieutenant governor**
687 **certification -- Recording requirements -- Effective date.**

688 (1) If a county or municipal legislative body adopts a resolution approving the
689 annexation of an area to an existing special service district, the legislative body shall:

690 (a) within 30 days after adopting the resolution, file with the lieutenant governor:

691 (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5,
692 that meets the requirements of Subsection 67-1a-6.5(3); and

693 (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

694 (b) upon the lieutenant governor's issuance of a certificate of annexation under Section
695 67-1a-6.5, submit to the recorder of the county in which the special service district is located:

696 (i) the original notice of an impending boundary action;

697 (ii) the original certificate of annexation;

698 (iii) the original approved final local entity plat; and

699 (iv) a certified copy of the resolution approving the annexation.

700 (2) (a) Upon the lieutenant governor's issuance of the certificate of annexation under
701 Section 67-1a-6.5, the additional area that is the subject of the legislative body's resolution is
702 annexed to the special service district.

703 (b) (i) The effective date of an annexation under this section for purposes of assessing
704 property within the annexed area is governed by Section 59-2-305.5.

705 (ii) Until the documents listed in Subsection (1)(b) are recorded in the office of the
706 recorder of the county in which the property is located:

707 (A) the county, city, or town that created the special service district may not levy or

708 collect a property tax for special service district purposes on property within the annexed area;
709 and

710 (B) the special service district may not:

711 (I) levy or collect an assessment on property within the annexed area; or

712 (II) charge or collect a fee for service provided to property within the annexed area.

713 (iii) Subsection (2)(b)(ii)(B)(II):

714 (A) may not be construed to limit a special service district's ability before annexation to

715 charge and collect a fee for service provided to property that is outside the special service

716 district's boundary; and

717 (B) does not apply until 60 days after the effective date, under Subsection [~~(2)(a)~~]

718 (2)(b), of the special service district's annexation, with respect to a fee that the special service

719 district was charging for service provided to property within the annexed area immediately

720 before the area was annexed to the special service district.

721 (3) After the documents listed in Subsection (1)(b) are recorded in the office of the

722 county recorder in which the property is located, the annexed area is subject to user fees

723 imposed by, and property taxes levied for the benefit of, the special service district.

724 Section 9. **Effective date.**

725 This bill takes effect on May 1, 2024.