

SB0259S01 compared with SB0259

~~deleted text~~ shows text that was in SB0259 but was deleted in SB0259S01.

inserted text shows text that was not in SB0259 but was inserted into SB0259S01.

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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: ~~{}~~ _____

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

SB0259S01 compared with SB0259

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:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) at polling places designated by the special district board in consultation with the county clerk for each county in which the special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as

SB0259S01 compared with SB0259

applicable, whenever feasible.

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

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

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

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

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

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

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

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

(c) If the election is to be held at the same time as the regular general election, a declaration of candidacy shall be filed by the deadline stated in Subsection ~~20A-9-202(1)(b)~~ 20A-9-201.5(2).

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

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

(i) during the special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that

SB0259S01 compared with SB0259

is not a holiday or weekend; or

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0259S01 compared with SB0259

for that election.

(Signed) _____

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

(Signed) _____

(Clerk or Notary Public)".

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

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

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

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

- (i) consider the candidate to be elected to the position; and
- (ii) cancel the election.

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

- (i) the election is authorized by the special district board; and
- (ii) the number of candidates for a particular local board position or office exceeds

twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

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

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

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

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section

SB0259S01 compared with SB0259

20A-6-305, the clerk of each county in which the special district is located and the special district clerk shall coordinate the placement of the name of each candidate for special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the special district board of trustees, in consultation with the county clerk, shall provide for a separate special district election ballot to be administered by poll workers at polling places designated under Subsection (2).

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

SB0259S01 compared with SB0259

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

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

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

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

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

(i) a special district board; or

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

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

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

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

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

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

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

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election,

SB0259S01 compared with SB0259

under the same procedure, and by applying the same criteria, described in this Subsection (14).

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

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

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

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

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

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

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

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

(A) notice of the election; and

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

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

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

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

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

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

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

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

(1) Subject to Subsection (3), the board of trustees of a special district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the special district, or the portion of the special district represented by elected board of trustees members,

SB0259S01 compared with SB0259

into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

(2) ~~↔~~(a) As used in this Subsection (2):

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

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

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

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

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

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

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

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

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

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

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the special district, the boundaries of divisions established under Subsection (1) or (2)

SB0259S01 compared with SB0259

may not be changed more often than every five years.

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

Section ~~{2}~~3. Section **17B-1-417** is amended to read:

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

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

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

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

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

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

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

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

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

(ii) describe the affected area;

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

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

(v) explain the financial and service impacts of the boundary adjustment on property

SB0259S01 compared with SB0259

owners or residents within the affected area; and

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

(A) the owners of private real property that:

(I) is located within the affected area;

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

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

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

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

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

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

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

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

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

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

(a) the owners of private real property that:

(i) is located within the affected area;

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

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

SB0259S01 compared with SB0259

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

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

(6) The board of the special district whose boundaries are being adjusted to include the affected area shall:

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

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

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

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

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

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

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

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

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

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

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

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

and

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

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment

SB0259S01 compared with SB0259

under Section 67-1a-6.5, the affected area is annexed to the special district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the special district whose boundaries are being adjusted to exclude the affected area.

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

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a special district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

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

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

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

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

Section ~~3~~4. Section **17B-1-635** is amended to read:

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

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

(a) the claim was authorized by:

(i) the board of trustees; or

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

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

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

SB0259S01 compared with SB0259

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

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

(b) In a special district with an expenditure budget of less than \$50,000 per year, a member of the board of trustees shall also sign all checks and review and authorize all direct deposits, wire transfers, or other electronic payments.

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

Section ~~4~~5. Section **17B-1-643** is amended to read:

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

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

- (i) the special district shall demonstrate its need to impose or increase the fee; and
- (ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

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

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

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

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

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

(c) The notice described in Subsection (2)(b) shall state that the special district board

SB0259S01 compared with SB0259

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a,

SB0259S01 compared with SB0259

Impact Fees Act.

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

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

(1) As used in this section:

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

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

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

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

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

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

(g) "Qualified municipality" means a municipality:

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

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

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

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

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

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

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

[(h)] (j) "Remaining area member" means a member of a board of trustees of a regular

SB0259S01 compared with SB0259

district who is appointed, or, if applicable, elected to represent the remaining area of the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in

SB0259S01 compared with SB0259

Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

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

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

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

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

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

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

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

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

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

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

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

SB0259S01 compared with SB0259

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

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

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

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

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

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

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

(ii) the district includes a remaining area.

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

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

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

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

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

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

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

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

(i) the person resides within:

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

SB0259S01 compared with SB0259

- (B) the county district, for a county district; and
- (i) otherwise qualifies as a candidate;
- (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
- (c) the election shall otherwise be governed by Title 20A, Election Code.
- (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric district.
- (ii) Subsections (2) through (9) do not apply to an electric district.
- (b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.
- (c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.
- (d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.
- (e) The board of trustees of an electric district may be elected from geographic divisions within the district.
- (f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section ~~5~~7. Section **17D-1-103** is amended to read:

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

- (1) A special service district:
 - (a) is:
 - (i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A special service district may:

SB0259S01 compared with SB0259

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

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

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

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

(c) acquire or construct facilities;

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

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

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

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

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

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

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

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

(l) contract with a franchised, certificated public utility for the construction and

SB0259S01 compared with SB0259

operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

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

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

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

(iii) bonds payable from both taxes and revenues;

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

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

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

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

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

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

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

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

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

SB0259S01 compared with SB0259

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

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

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

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

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

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

Section ~~67~~8. Section **17D-1-403** is amended to read:

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

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

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

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

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

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

(ii) the original certificate of annexation;

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

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

(2) (a) Upon the lieutenant governor's issuance of the certificate of annexation under

SB0259S01 compared with SB0259

Section 67-1a-6.5, the additional area that is the subject of the legislative body's resolution is annexed to the special service district.

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

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

(A) the county, city, or town that created the special service district may not levy or collect a property tax for special service district purposes on property within the annexed area; and

(B) the special service district may not:

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

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

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

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

(B) does not apply until 60 days after the effective date, under Subsection [~~(2)(a)~~] (2)(b), of the special service district's annexation, with respect to a fee that the special service district was charging for service provided to property within the annexed area immediately before the area was annexed to the special service district.

(3) After the documents listed in Subsection (1)(b) are recorded in the office of the county recorder in which the property is located, the annexed area is subject to user fees imposed by, and property taxes levied for the benefit of, the special service district.

Section ~~7~~9. **Effective date.**

This bill takes effect on May 1, 2024.