

SPECIAL SERVICE DISTRICT REORGANIZATION

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions authorizing the reorganization of a special service district as a local district.

Highlighted Provisions:

This bill:

- ▶ amends provisions authorizing a county to establish a district;
- ▶ authorizes the legislative body of a county or municipality that created a special service district to adopt a resolution to reorganize the special service district as a local district;
- ▶ enacts provisions related to the reorganization of a special service district upon issuance of a certification of incorporation for the new local district by the lieutenant governor;
- ▶ enacts provisions governing the reorganization of a special service district as a local district; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 17-34-3, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236

30 17D-1-601, as enacted by Laws of Utah 2008, Chapter 360

31 17D-1-603, as last amended by Laws of Utah 2009, Chapter 350

32 67-1a-6.5, as last amended by Laws of Utah 2010, Chapter 218

33 ENACTS:

34 17D-1-604, Utah Code Annotated 1953

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

37 Section 1. Section 17-34-3 is amended to read:

38 **17-34-3. Taxes or service charges.**

39 (1) (a) If a county furnishes the municipal-type services and functions described in
40 Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the
41 entire cost of the services or functions so furnished shall be defrayed from funds that the county
42 has derived from:

43 (i) taxes that the county may lawfully levy or impose outside the limits of incorporated
44 towns or cities;

45 (ii) service charges or fees the county may impose upon the persons benefited in any
46 way by the services or functions; or

47 (iii) a combination of these sources.

48 (b) As the taxes or service charges or fees are levied and collected, they shall be placed
49 in a special revenue fund of the county and shall be disbursed only for the rendering of the
50 services or functions established in Section 17-34-1 within the unincorporated areas of the
51 county or as provided in Subsection 10-2-121(2).

52 (2) (a) For the purpose of levying taxes, service charges, or fees provided in this
53 section, the county legislative body may establish a district or districts in the unincorporated
54 areas of the county.

55 (b) A district established by a county as provided in Subsection (2)(a) may be
56 reorganized as a local district in accordance with the procedures set forth in Sections
57 17D-1-601, 17D-1-603, and 17D-1-604.

58 (3) Nothing contained in this chapter may be construed to authorize counties to impose

59 or levy taxes not otherwise allowed by law.

60 (4) Notwithstanding any other provision of this chapter, a county providing fire,
61 paramedic, and police protection services in a designated recreational area, as provided in
62 Subsection 17-34-1(5), may fund those services from the county general fund with revenues
63 derived from both inside and outside the limits of cities and towns, and the funding of those
64 services is not limited to unincorporated area revenues.

65 Section 2. Section **17D-1-601** is amended to read:

66 **17D-1-601. Adoption of a resolution to approve withdrawal, dissolution,**
67 **discontinuance of a service, or reorganization.**

68 Subject to and as provided in this part, the legislative body of the county or
69 municipality that created a special service district may by resolution:

70 (1) approve the withdrawal of an area from the special service district if the legislative
71 body determines that the area should not or cannot be provided the service that the special
72 service district provides;

73 (2) approve the dissolution of the special service district if the legislative body
74 determines that the special service district is no longer needed for the purposes for which it was
75 created; [~~or~~]

76 (3) discontinue a service that the special service district provides[~~-~~]; or

77 (4) reorganize the special service district as a local district.

78 Section 3. Section **17D-1-603** is amended to read:

79 **17D-1-603. Notice and plat to lieutenant governor -- Recording requirements --**
80 **Effective date.**

81 (1) If a county or municipal legislative body adopts a resolution approving the
82 withdrawal of an area from a special service district [~~or~~], the dissolution of a special service
83 district, or the reorganization of a special service district as a local district, the county or
84 municipal legislative body, as the case may be, shall:

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

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

88 (ii) in the case of a withdrawal, a copy of an approved final local entity plat, as defined
89 in Section 67-1a-6.5; and

90 (b) upon the lieutenant governor's issuance of a certificate of withdrawal [or],
91 dissolution, or incorporation, as the case may be, under Section 67-1a-6.5, submit to the
92 recorder of the county in which the special service district is located:

- 93 (i) the original notice of an impending boundary action;
- 94 (ii) the original certificate of withdrawal or dissolution, as the case may be;
- 95 (iii) in the case of a withdrawal, the original approved final local entity plat; and
- 96 (iv) a certified copy of the resolution approving the withdrawal [or], dissolution, or
97 incorporation.

98 (2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under
99 Section 67-1a-6.5, the area to be withdrawn that is the subject of the legislative body's
100 resolution is withdrawn from the special service district.

101 (b) Upon the lieutenant governor's issuance of the certificate of dissolution under
102 Section 67-1a-6.5, the special service district is dissolved.

103 (3) (a) Upon the lieutenant governor's issuance of a certificate of incorporation as
104 provided in Section 67-1a-6.5, the special service district is:

- 105 (i) reorganized and incorporated as a local district subject to the provisions of Title
106 17B, Chapter 1, Provisions Applicable to All Local Districts;
- 107 (ii) subject to Subsection (3)(b), if the special service district is reorganized as a local
108 district described in and subject to Title 17B, Chapter 2a, Provisions Applicable to Different
109 Types of Local Districts, the applicable part of that chapter; and
- 110 (iii) no longer a special service district.

111 (b) A special service district reorganized as a local district is a basic local district as
112 provided in Title 17B, Chapter 1, Part 14, Basic Local District, unless the resolution adopted in
113 accordance with Subsection 17D-1-604(5):

- 114 (i) specifies that the reorganized local district is a different type of local district other
115 than a basic local district; and
- 116 (ii) states the type of that local district, including the governing part in Title 17B,
117 Chapter 2a, Provisions Applicable to Different Types of Local Districts.

118 Section 4. Section **17D-1-604** is enacted to read:

119 **CHAPTER 6. WITHDRAWAL, DISSOLUTION, DISCONTINUING**
120 **SERVICES, AND REORGANIZATION**

121 **17D-1-604. Reorganization as a local district.**

122 (1) The legislative body of a county or municipality that has created a special service
123 district may reorganize the special service district as a local district in accordance with this
124 section.

125 (2) The process to reorganize a special service district as a local district is initiated if
126 the legislative body of the county or municipality that originally created the special service
127 district adopts a resolution that:

128 (a) indicates the legislative body's intent to reorganize the special service district as a
129 local district; and

130 (b) complies with the requirements of Subsection (3).

131 (3) A resolution to initiate reorganization described in Subsection (2) shall:

132 (a) state the name of the special service district that is proposed to be reorganized as a
133 local district;

134 (b) generally describe the boundaries of the special service district, whether or not
135 those boundaries coincide with the boundaries of the creating county or municipality; and

136 (c) specify each service that the special service district is authorized to provide.

137 (4) After adopting the resolution described in Subsection (3), the legislative body of the
138 county or municipality that created the special service district shall hold a public hearing
139 following the notice requirements of Section 17D-1-205 applicable to the creation of a special
140 service district, with changes as appropriate for the reorganization of the special service district
141 as a local district.

142 (5) (a) At or following the public hearing, the county or municipal legislative body
143 shall:

144 (i) subject to Subsection (5)(b), adopt a resolution approving the reorganization of the
145 special service district as a local district; or

146 (ii) abandon the reorganization.

147 (b) A resolution approving reorganization shall:

148 (i) state the name of the special service district that is being reorganized as a local
149 district;

150 (ii) state the name of the local district in accordance with Subsection (7);

151 (iii) subject to Subsection (5)(c), describe the boundaries of the local district;

152 (iv) subject to Subsection (8)(a), specify the service or services to be provided by the
153 local district;
154 (v) state:
155 (A) whether the local district is a different type of local district other than a basic local
156 district; and
157 (B) if the reorganized local district is not a basic local district, the type of local district,
158 including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types
159 of Local Districts;
160 (vi) state whether the local district is to be governed by an appointed or an elected
161 board of trustees, or a combination of appointed and elected trustees, in accordance with Title
162 17B, Chapter 1, Part 3, Board of Trustees;
163 (vii) state whether an administrative control board established for the special service
164 district that is being reorganized as a local district will serve as the first board of trustees of the
165 local district; and
166 (viii) contain additional provisions as necessary.
167 (c) The boundaries of the local district shall reflect the boundaries of the reorganized
168 special service district.
169 (6) A county may not reorganize a special service district as a local district to include
170 some or all of the area within a municipality unless the legislative body of the municipality
171 adopts a resolution or ordinance consenting to the reorganization.
172 (7) The name of the local district:
173 (a) shall comply with Subsection 17-50-103(2)(a); and
174 (b) may not include the phrase "special service district."
175 (8) A local district created under this section may not provide:
176 (a) (i) at the time of reorganization, a service that it could not have provided as the
177 special service district prior to reorganization; or
178 (ii) after reorganization, an additional service listed in Section 17B-1-202, unless the
179 local district adds the service in accordance with the provisions of Title 17B, Chapter 1,
180 Provisions Applicable to All Local Districts; and
181 (b) more than four of the services listed in Section 17B-1-202 at any time.
182 (9) After the lieutenant governor issues, in accordance with Section 67-1a-6.5, a

183 certificate of incorporation for a local district created under this section, the local district:

184 (a) is:

185 (i) a body corporate and politic with perpetual succession;

186 (ii) a quasi-municipal corporation; and

187 (iii) a political subdivision of the state as provided in Section 17B-1-103; and

188 (b) may, subject to Subsection (8), provide a service that:

189 (i) the special service district was authorized to provide before reorganization; and

190 (ii) the local district is authorized to provide under the resolution adopted in

191 accordance with Subsection (5).

192 (10) An action taken, a bond issued, or a contract or other obligation entered into by
193 the reorganized special service district before reorganization is a valid action, bond issuance,
194 contract, or other obligation of the local district.

195 (11) A local district created under this section:

196 (a) may impose and collect taxes, fees, and other charges for services provided in
197 accordance with applicable law;

198 (b) shall own all property acquired by the special service district before reorganization;
199 and

200 (c) shall have a power, right, or obligation that the reorganized special service district
201 had before the reorganization, unless otherwise provided by law.

202 Section 5. Section **67-1a-6.5** is amended to read:

203 **67-1a-6.5. Certification of local entity boundary actions.**

204 (1) As used in this section:

205 (a) "Applicable certificate" means:

206 (i) for the impending incorporation of a city, town, local district, [~~or~~] conservation
207 district, or incorporation of a local district from a reorganized special service district, a
208 certificate of incorporation;

209 (ii) for the impending creation of a county, school district, special service district,
210 community development and renewal agency, or interlocal entity, a certificate of creation;

211 (iii) for the impending annexation of territory to an existing local entity, a certificate of
212 annexation;

213 (iv) for the impending withdrawal or disconnection of territory from an existing local

214 entity, a certificate of withdrawal or disconnection, respectively;

215 (v) for the impending consolidation of multiple local entities, a certificate of
216 consolidation;

217 (vi) for the impending division of a local entity into multiple local entities, a certificate
218 of division;

219 (vii) for the impending adjustment of a common boundary between local entities, a
220 certificate of boundary adjustment; and

221 (viii) for the impending dissolution of a local entity, a certificate of dissolution.

222 (b) "Approved final local entity plat" means a final local entity plat, as defined in
223 Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by
224 the county surveyor.

225 (c) "Approving authority" has the same meaning as defined in Section 17-23-20.

226 (d) "Boundary action" has the same meaning as defined in Section 17-23-20.

227 (e) "Center" means the Automated Geographic Reference Center created under Section
228 63F-1-506.

229 (f) "Community development and renewal agency" has the same meaning as defined in
230 Section 17C-1-102.

231 (g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

232 (h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

233 (i) "Local district" has the same meaning as defined in Section 17B-1-102.

234 (j) "Local entity" means a county, city, town, school district, local district, community
235 development and renewal agency, special service district, conservation district, or interlocal
236 entity.

237 (k) "Notice of an impending boundary action" means a written notice, as described in
238 Subsection (3), that provides notice of an impending boundary action.

239 (l) "Special service district" has the same meaning as defined in Section 17D-1-102.

240 (2) Within 10 days after receiving a notice of an impending boundary action, the
241 lieutenant governor shall:

242 (a) (i) issue the applicable certificate, if:

243 (A) the lieutenant governor determines that the notice of an impending boundary action
244 meets the requirements of Subsection (3); and

245 (B) except in the case of an impending local entity dissolution, the notice of an
246 impending boundary action is accompanied by an approved final local entity plat;
247 (ii) send the applicable certificate to the local entity's approving authority;
248 (iii) return the original of the approved final local entity plat to the local entity's
249 approving authority;
250 (iv) send a copy of the applicable certificate and approved final local entity plat to:
251 (A) the State Tax Commission;
252 (B) the center; and
253 (C) the county assessor, county surveyor, county auditor, and county attorney of each
254 county in which the property depicted on the approved final local entity plat is located; and
255 (v) send a copy of the applicable certificate to the state auditor, if the boundary action
256 that is the subject of the applicable certificate is:
257 (A) the incorporation or creation of a new local entity;
258 (B) the consolidation of multiple local entities;
259 (C) the division of a local entity into multiple local entities; or
260 (D) the dissolution of a local entity; or
261 (b) (i) send written notification to the approving authority that the lieutenant governor
262 is unable to issue the applicable certificate, if:
263 (A) the lieutenant governor determines that the notice of an impending boundary action
264 does not meet the requirements of Subsection (3); or
265 (B) the notice of an impending boundary action is:
266 (I) not accompanied by an approved final local entity plat; or
267 (II) accompanied by a plat or final local entity plat that has not been approved as a final
268 local entity plat by the county surveyor under Section 17-23-20; and
269 (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is
270 unable to issue the applicable certificate.
271 (3) Each notice of an impending boundary action shall:
272 (a) be directed to the lieutenant governor;
273 (b) contain the name of the local entity or, in the case of an incorporation or creation,
274 future local entity, whose boundary is affected or established by the boundary action;
275 (c) describe the type of boundary action for which an applicable certificate is sought;

276 and

277 (d) (i) contain a statement, signed and verified by the approving authority, certifying
278 that all requirements applicable to the boundary action have been met; or

279 (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy
280 of the court order approving the dissolution of the municipality.

281 (4) The lieutenant governor may require the approving authority to submit a paper or
282 electronic copy of a notice of an impending boundary action and approved final local entity plat
283 in conjunction with the filing of the original of those documents.

284 (5) (a) The lieutenant governor shall:

285 (i) keep, index, maintain, and make available to the public each notice of an impending
286 boundary action, approved final local entity plat, applicable certificate, and other document that
287 the lieutenant governor receives or generates under this section;

288 (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the
289 Internet for 12 months after the lieutenant governor receives or generates the document;

290 (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any
291 person who requests a paper copy; and

292 (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to
293 any person who requests a certified copy.

294 (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified
295 copy of a document that the lieutenant governor provides under this Subsection (5).

Legislative Review Note
as of 2-14-13 9:43 AM

Office of Legislative Research and General Counsel