

1 **LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brad L. Dee**

6 Senate Sponsor: Jerry W. Stevenson

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to a special service district.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ addresses appointment of an improvement district board of trustees;
- 14 ▶ enacts language clarifying that a special service district is a political subdivision of
- 15 the state similar to a local district; and
- 16 ▶ makes technical corrections.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **17B-2a-404**, as last amended by Laws of Utah 2012, Chapter 97

24 **17D-1-103**, as enacted by Laws of Utah 2008, Chapter 360

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

27 Section 1. Section **17B-2a-404** is amended to read:

28 **17B-2a-404. Improvement district board of trustees.**

29 (1) As used in this section:

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

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

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

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

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

39 (f) "Regular district" means an improvement district that is not a county district,
40 electric district, or municipal district.

41 (g) "Remaining area" means the area of a regular district that:

42 (i) is outside the boundaries of an included municipality; and

43 (ii) includes the area of an included municipality whose legislative body elects, under
44 Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

45 (h) "Remaining area member" means a member of a board of trustees of a regular
46 district who is appointed, or, if applicable, elected to represent the remaining area of the
47 district.

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

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

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

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

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

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

56 [~~(a)~~] (i) elect, at the time of the creation of the district, to be the board of trustees of the
57 district, even though a member of the legislative body of the county may not meet the

58 requirements of Subsection [17B-1-302\(1\)\(a\)](#); [~~and~~]
59 [~~(b)~~] (ii) adopt at any time a resolution providing for:
60 [~~(i)~~] (A) the election of board of trustees members, as provided in Section [17B-1-306](#);
61 or
62 [~~(i)~~] (B) the appointment of board of trustees members, as provided in Section
63 [17B-1-304](#)[~~;~~]; and
64 (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative
65 body of the county to the board of trustees, except that the legislative body of the county may
66 not appoint more than three members of the legislative body of the county to the board of
67 trustees.
68 (b) A legislative body of a county whose unincorporated area is partly or completely
69 within a county district may take an action under Subsection (3)(a)(iii) if:
70 (i) more than 35% of the residences within a county district that receive service from
71 the district are seasonally occupied homes, as defined in Subsection [17B-1-302\(1\)\(b\)\(i\)\(B\)](#);
72 (ii) the board of trustees are appointed by the legislative body of the county; and
73 (iii) there are at least two appointed board members who meet the requirements of
74 Subsection [17B-1-302\(1\)](#), except that a member of the legislative body of the county need not
75 satisfy the requirements of Subsection [17B-1-302\(1\)](#).
76 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each
77 included municipality shall each appoint one member to the board of trustees of a regular
78 district.
79 (ii) The legislative body of an included municipality may elect not to appoint a member
80 to the board under Subsection (4)(a)(i).
81 (b) Except as provided in Subsection (5), the legislative body of each county whose
82 boundaries include a remaining area shall appoint all other members to the board of trustees of
83 a regular district.
84 (5) Notwithstanding Subsection (3), each remaining area member of a regular district
85 and each county member of a county district shall be elected, as provided in Section

86 17B-1-306, if:

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

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

90 (c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii),
91 not to appoint a member to the board of trustees; or

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

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

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

101 (a) the number of included municipalities within the district, if:

102 (i) the number is an odd number; and

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

104 (b) the number of included municipalities plus one, if the number of included
105 municipalities within the district is even; and

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

107 (i) the number of included municipalities is odd; and

108 (ii) the district includes a remaining area.

109 (7) (a) Except as provided in Subsection (7)(b), each remaining area member of the
110 board of trustees of a regular district shall reside within the remaining area.

111 (b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining
112 area member shall be chosen from the district at large if:

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

114 or

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

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

118 (c) Application of Subsection (7)(b) may not prematurely shorten the term of any
119 remaining area member serving the remaining area member's elected or appointed term on May
120 11, 2010.

121 (8) If the election of remaining area or county members of the board of trustees is
122 required because of a bond election, as provided in Subsection (5)(b):

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

124 (i) the person resides within:

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

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

127 (ii) otherwise qualifies as a candidate;

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

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

132 (9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric
133 district.

134 (ii) Subsections (2) through (8) do not apply to an electric district.

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

137 (c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each
138 member of the board of trustees of an electric district shall be elected by persons using
139 electricity from and within the district.

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

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

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

146 Section 2. Section **17D-1-103** is amended to read:

147 **17D-1-103. Special service district status, powers, and duties -- Limitation on**
148 **districts providing jail service.**

149 (1) A special service district:

150 (a) is:

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

153 [~~(b) is-~~] (ii) a quasi-municipal corporation; and

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

155 [~~(c)~~] (b) may sue and be sued.

156 (2) A special service district may:

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

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

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

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

167 (c) acquire or construct facilities;

168 (d) acquire real or personal property, or an interest in real or personal property,
169 including water and water rights, whether by purchase, lease, gift, devise, bequest, or

170 otherwise, and whether the property is located inside or outside the special service district, and
171 own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

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

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

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

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

180 (i) use an officer, employee, property, equipment, office, or facility of the county or
181 municipality that created the special service district, subject to reimbursement as provided in
182 Subsection (3);

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

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

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

189 (m) borrow money and incur indebtedness;

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

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

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

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

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

200 (v) tax anticipation notes;

201 (vi) bond anticipation notes;

202 (vii) refunding bonds;

203 (viii) special assessment bonds; and

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

206 (o) except as provided in Subsection (4), impose fees or charges or both for
207 commodities, services, or facilities that the special service district provides;

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

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

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

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

219 (4) (a) A special service district that provides jail service as provided in Subsection
220 17D-1-201(10) may not impose a fee or charge for the service it provides.

221 (b) Subsection (4)(a) may not be construed to limit a special service district that
222 provides jail service from:

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

225 (ii) receiving compensation for jail service it provides under a contract described in

226 Subsection (4)(b)(i).