

AMENDMENTS RELATING TO LOCAL DISTRICTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill modifies provisions relating to local districts that provide fire protection, paramedic, and emergency services or law enforcement service.

Highlighted Provisions:

This bill:

- ▶ eliminates the requirement to obtain the approval of the municipality's voters for a municipality's withdrawal from a local district providing fire protection, paramedic, and emergency services or law enforcement service if the municipality's inclusion in the local district did not require voter approval;
- ▶ eliminates the requirement for voter approval of the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service if the municipality previously received that service from another local district and withdrew from that local district without the necessity of an election;
- and
- ▶ modifies a provision relating to certifying a withdrawal from a local district.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-214, as last amended by Laws of Utah 2014, Chapter 405

17B-1-505, as last amended by Laws of Utah 2016, Chapter 140

17B-1-512, as last amended by Laws of Utah 2016, Chapter 140

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

Section 1. Section **17B-1-214** is amended to read:

17B-1-214. Election -- Exceptions.

(1) (a) Except as provided in Subsection (3) and in Subsection **17B-1-213**(3)(a), an election on the question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection **17B-1-209**(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section **17B-1-210**.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection **17B-1-203**(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed local district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district:

(i) includes the unincorporated area, whether in whole or in part, of one or more counties; or

(ii) consists of an area that:

(A) has a boundary that is the same as the boundary of the municipality whose legislative body adopts the resolution proposing the creation of the local district;

(B) previously received fire protection, paramedic, and emergency services or law enforcement service from another local district; and

(C) was withdrawn from the other local district under Section 17B-1-505 without an election because of Subsection 17B-1-505(2)(b);

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a local district that has no registered voters within its boundaries;

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii); or

(g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district.

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

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

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 2. Section **17B-1-505** is amended to read:

17B-1-505. Withdrawal of municipality in certain districts providing fire protection, paramedic, and emergency services or law enforcement service.

(1) (a) The process to withdraw an area from a local district may be initiated by a resolution adopted by the legislative body of a municipality, subject to Subsection (1)(b), that is entirely within the boundaries of a local district:

(i) that provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section **17B-2a-1102**; and

(ii) in the creation of which an election was not required because of Subsection **17B-1-214**(3)(d) or (g).

(b) A municipal legislative body of a municipality that is within a municipal services district established under Chapter 2a, Part 11, Municipal Services District Act, may not adopt a resolution under Subsection (1)(a) to withdraw from the municipal services district unless the municipality has conducted a feasibility study in accordance with Section **17B-2a-1110**.

(c) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal legislative body shall submit to the board of trustees of the local district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(2) (a) If a resolution is adopted under Subsection (1)(a), the municipal legislative body shall, except as provided in Subsection (2)(b), hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether

the municipality should withdraw from the local district.

(b) The election requirement under Subsection (2)(a) does not apply if:

(i) the municipality is withdrawing from a local district that provides fire protection, paramedic, and emergency services or law enforcement service; and

(ii) the municipality's inclusion in the local district did not require the approval of the municipality's voters.

(3) If a majority of those voting on the question of withdrawal at an election held under Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local district.

(4) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the board of the local district from which the municipality is proposed to withdraw.

(b) Each notice under Subsection (4)(a) shall:

(i) state the results of the withdrawal election; and

(ii) if the withdrawal was approved by voters, be accompanied by a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(5) The effective date of a withdrawal under this section is governed by Subsection 17B-1-512(2)(a).

Section 3. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall 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.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510;

(ii) on or before January 31 of the year following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or

copy between July 1 and December 31; or

(iii) on or before the July 31 following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between January 1 and June 30.

(c) The board of trustees shall comply with the requirements described in Subsection (1)(b)(ii) or (iii) after receiving:

(i) a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2);

(ii) a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a); ~~or~~

(iii) notice of a withdrawal of a municipality from a local district under Section 17B-1-502[-]; or

(iv) the notice required under Subsection 17B-1-505(1)(c) for a municipality's withdrawal under Section 17B-1-505 for which an election was not required because of Subsection 17B-1-505(2)(b).

(d) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn 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 withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

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

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)

and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal ~~[shall be]~~ is effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) ~~[shall be]~~ is effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the local district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with

214 respect to the original resolution denying the withdrawal and file a notice of the action as
215 provided in Subsection (1).

216 (6) (a) Any person in interest may seek judicial review of:

217 (i) the board of trustees' decision to withdraw an area from the local district;

218 (ii) the terms and conditions of a withdrawal; or

219 (iii) the board's decision to deny a withdrawal.

220 (b) Judicial review under this Subsection (6) shall be initiated by filing an action in the
221 district court in the county in which a majority of the area proposed to be withdrawn is located:

222 (i) if the resolution approving or denying the withdrawal is published under Subsection
223 (3), within 60 days after the publication or after the board of trustees' denial of the request
224 under Subsection (5);

225 (ii) if the resolution is not published pursuant to Subsection (3), within 60 days after
226 the resolution approving or denying the withdrawal is adopted; or

227 (iii) if a request is submitted to the board of trustees of a local district under Subsection
228 (4), and the board adopts a resolution under Subsection (5), within 60 days after the board
229 adopts a resolution under Subsection (5) unless the resolution is published under Subsection
230 (3), in which event the action shall be filed within 60 days after the publication.

231 (c) A court in which an action is filed under this Subsection (6) may not overturn, in
232 whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

233 (i) the court finds the board of trustees' decision to be arbitrary or capricious; or

234 (ii) the court finds that the board materially failed to follow the procedures set forth in
235 this part.

236 (d) A court may award costs and expenses of an action under this section, including
237 reasonable attorney fees, to the prevailing party.

238 (7) After the applicable contest period under Subsection (4) or (6), no person may
239 contest the board of trustees' approval or denial of withdrawal for any cause.

Legislative Review Note
Office of Legislative Research and General Counsel