

Title 17D. Limited Purpose Local Government Entities - Other Entities

Chapter 1 Special Service District Act

Part 1 General Provisions

PLEASE REFER
TO PART 3, PAGE
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17D-1-101 Title.

- (1) This title is known as "Limited Purpose Local Government Entities - Other Entities."
- (2) This chapter is known as the "Special Service District Act."

Enacted by Chapter 360, 2008 General Session

17D-1-102 Definitions.

As used in this chapter:

- (1) "Adequate protests" means written protests timely filed by:
 - (a) the owners of private real property that:
 - (i) is located within the applicable area;
 - (ii) covers at least 25% of the total private land area within the applicable area; and
 - (iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or
 - (b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.
- (2) "Applicable area" means:
 - (a) for a proposal to create a special service district, the area included within the proposed special service district;
 - (b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;
 - (c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and
 - (d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.
- (3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.
- (4) "General obligation bond":
 - (a) means a bond that is directly payable from and secured by ad valorem property taxes that are:
 - (i) levied:
 - (A) by the county or municipality that created the special service district that issues the bond;
 - and
 - (B) on taxable property within the special service district; and
 - (ii) in excess of the ad valorem property taxes for the current fiscal year; and
 - (b) does not include:

- (i) a short-term bond;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.
- (5) "Governing body" means:
- (a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board created under Section 17D-1-301; or
 - (b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board created under Section 17D-1-301.
- (6) "Guaranteed bonds" means bonds:
- (a) issued by a special service district; and
 - (b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.
- (7) "Revenue bond":
- (a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and
 - (b) does not include:
 - (i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.
- (8) "Seasonally occupied home" means a single-family residence:
- (a) that is located within the special service district;
 - (b) that receives service from the special service district; and
 - (c) whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.
- (9) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.
- (10) "Special assessment bond" means a bond payable from special assessments.
- (11) "Special district" has the same meaning as that term is defined in Section 17B-1-102.
- (12) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:
- (a) is created under authority of the Utah Constitution Article XI, Section 7; and
 - (b) operates under, is subject to, and has the powers set forth in this chapter.
- (13) "Tax and revenue anticipation bond" means a bond:
- (a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and
 - (b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Amended by Chapter 15, 2023 General Session
Amended by Chapter 100, 2023 General Session

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:
- (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 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.
- (4) 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.
- (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).

Amended by Chapter 15, 2023 General Session

17D-1-104 Property owner provisions -- Determination of registered voters.

- (1) For purposes of this chapter:
- (a) the owner of real property is:
 - (i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the records of the county recorder on the date of the filing of the petition or protest; or
 - (ii) for a proposed annexation or addition of a new service under Part 4, Annexing a New Area and Adding a New Service, the lessee of military land, as defined in Section 63H-1-102, if the area proposed to be annexed or within which a new service is proposed to be added includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and
 - (b) the value of private real property is determined according to the last assessment before the filing of the petition or protest, as determined by:

- (i)
 - (A) the county under Title 59, Chapter 2, Part 3, County Assessment, for property subject to assessment by the county; or
 - (B) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of Property, for property subject to assessment by the State Tax Commission; and
 - (ii) the county, for all other property.
- (2) For purposes of each provision of this chapter that requires the owners of private real property covering a percentage of the total private land area within the applicable area to sign a petition or protest:
- (a) a parcel of real property may not be included in the calculation of the required percentage unless the petition or protest is signed by:
 - (i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that parcel; or
 - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
 - (b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:
 - (i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
 - (ii) the person provides documentation accompanying the petition or protest that reasonably substantiates the person's representative capacity; and
 - (c) subject to Subsection (2)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.
- (3) For purposes of this chapter, registered voters shall be determined according to the official register.

Amended by Chapter 92, 2009 General Session

17D-1-105 Authority of county or municipality to levy property tax on property within a special service district.

- (1) Subject to Subsections (2) and (3), a county or municipality that has created a special service district may levy a tax on the taxable property in the special service district.
- (2) Each levy under Subsection (1) is subject to the prior approval of a majority of the registered voters of the special service district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act, in the same manner as for an election for the issuance of bonds.
- (3) A tax levied under this section for a special service district that provides jail service as provided in Subsection 17D-1-201(10) is considered to be levied by the county for purposes of the county's tax limitation under Section 59-2-908.

Enacted by Chapter 360, 2008 General Session

17D-1-106 Special service districts subject to other provisions.

- (1) A special service district is, to the same extent as if it were a special district, subject to and governed by:
 - (a)

- (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and
 - (ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.
- (b) Subsections:
- (i) 17B-1-301(3) and (4); and
 - (ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), (7), and (9);
- (c) Section 20A-1-512;
- (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;
- (e) Title 17B, Chapter 1, Part 7, Special District Budgets and Audit Reports;
- (f) Title 17B, Chapter 1, Part 8, Special District Personnel Management; and
- (g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.
- (2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the special district board of trustees means the governing body.

Amended by Chapter 15, 2023 General Session

17D-1-107 Contracts subject to building improvement and public works provisions.

- (1) For each special service district created by a county, the legislative body of that county shall by ordinance designate the classes of special service district contracts that are subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects.
- (2) For each special service district created by a municipality, the legislative body of that municipality shall by ordinance designate the classes of special service district contracts that are subject to the requirements of Title 11, Chapter 39, Building Improvements and Public Works Projects.

Enacted by Chapter 360, 2008 General Session

17D-1-108 Conflict.

If a provision of this chapter conflicts with any other statutory provision, the provision of this chapter controls.

Enacted by Chapter 360, 2008 General Session

17D-1-109 Validation of previously created special service districts.

Each special service district created before May 5, 2008 is validated, ratified, and confirmed and declared to be validly existing.

Enacted by Chapter 360, 2008 General Session

Part 2
Creating a Special Service District

17D-1-201 Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

- (1) water;
- (2) sewerage;
- (3) drainage;
- (4) flood control;
- (5) garbage collection and disposal;
- (6) health care;
- (7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;
- (8) recreation;
- (9) fire protection, including:
 - (a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;
 - (b) Firewise Communities programs and the development of community wildfire protection plans; and
 - (c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);
- (10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
- (11) street lighting;
- (12) consolidated 911 and emergency dispatch;
- (13) animal shelter and control;
- (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to be used in accordance with state and federal law;
- (15) in a county of the first class, extended police protection;
- (16) control or abatement of earth movement or a landslide;
- (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or
- (18) cemetery.

Amended by Chapter 339, 2021 General Session

17D-1-202 Limitations on the creation of a special service district.

- (1) Subject to Subsection (2), the boundary of a proposed special service district may include all or part of the area within the boundary of the county or municipality that creates the special service district.
- (2)
 - (a) The boundary of a proposed special service district may not include an area included within the boundary of an existing special service district that provides the same service that the proposed special service district is proposed to provide.
 - (b) The boundary of a proposed special service district may not include an area included within the boundary of an existing special district that provides the same service that the proposed special service district is proposed to provide, unless the special district consents.

- (c) A proposed special service district may not include land that will not be benefitted by the service that the special service district is proposed to provide, unless the owner of the nonbenefitted land consents to the inclusion.
 - (d) A county may not create a special service district that includes some or all of the area within a municipality unless the legislative body of that municipality adopts a resolution or ordinance consenting to the inclusion.
- (3) All areas included within a special service district need not be contiguous.

Amended by Chapter 15, 2023 General Session

17D-1-203 Initiating the process to create a special service district.

- (1) The process to create a special service district is initiated by:
- (a) the legislative body of a county or municipality that proposes to create a special service district adopting a resolution that:
 - (i) declares that the public health, convenience, and necessity require the creation of a special service district;
 - (ii) indicates the legislative body's intent to create a special service district; and
 - (iii) complies with the requirements of Subsection (3); or
 - (b) the filing of a petition that:
 - (i) proposes the creation of a special service district;
 - (ii) complies with the requirements of Subsections (2) and (3); and
 - (iii) is filed with the legislative body of the county or municipality in whose boundary the proposed special service district is located.
- (2) Each petition under Subsection (1)(b) shall:
- (a) be signed by:
 - (i) the owners of at least 10% of the taxable value of taxable property within the proposed special service district; or
 - (ii) at least 10% of the registered voters residing within the proposed special service district; and
 - (b) indicate:
 - (i) the residence address of each person who signs the petition; and
 - (ii) if the person signs the petition as a property owner, the address or other description of the person's property sufficient to identify the property.
- (3) Each resolution under Subsection (1)(a) and petition under Subsection (1)(b) shall:
- (a) describe the boundaries of the proposed special service district;
 - (b) specify each service that the special service district is proposed to provide; and
 - (c) designate a name for the proposed special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-204 Prerequisites for adopting a resolution or ordinance approving the creation of a special service district.

Before the legislative body of a county or municipality may adopt a resolution or ordinance under Section 17D-1-208 approving the creation of a special service district:

- (1) the clerk or recorder, as the case may be, of the county or municipality shall give written notice as provided in Section 17D-1-205;
- (2) the legislative body shall hold a public hearing, as provided in Section 17D-1-207; and

- (3) the period for filing protests under Section 17D-1-206 shall have passed without adequate protests having been filed.

Amended by Chapter 350, 2009 General Session

17D-1-205 Notice.

- (1) Each notice required under Subsection 17D-1-204(1) shall:
 - (a) state that:
 - (i) the legislative body has adopted a resolution stating its intent to create a special service district; or
 - (ii) a petition has been filed proposing the creation of a special service district;
 - (b) describe the boundary of the proposed special service district;
 - (c) generally describe each service that the special service district is proposed to provide;
 - (d) state that taxes may be levied annually upon all taxable property within the proposed special service district;
 - (e) state that fees or charges may be imposed to pay for some or all of the services that the special service district is proposed to provide;
 - (f) explain the process, requirements, and timetable for filing a protest against the creation of the special service district or against a service that the special service district is proposed to provide;
 - (g) designate a date, time, and place for a public hearing on the proposed creation of the special service district; and
 - (h) except as provided in Subsection (2), be published:
 - (i)
 - (A) once a week for four consecutive weeks;
 - (B) not fewer than five days and no more than 20 days before the date of the public hearing required under Subsection 17D-1-204(2); and
 - (C) in a newspaper of general circulation in the county or municipality by which the special service district is proposed to be created; and
 - (ii) in accordance with Section 45-1-101 for 35 days before the date of the public hearing required under Subsection 17D-1-204(2).
- (2) Notwithstanding Subsection (1)(h)(i), if the proposed special service district is located entirely within a city of the third, fourth, or fifth class or a town that has no newspaper of general circulation in the city or town, the legislative body of the city or town may provide that the notice required under Subsection 17D-1-204(1) be given by posting the notice in at least five public places in the city or town at least 21 days before the public hearing required under Subsection 17D-1-204(2).
- (3) The legislative body of the county or municipality by which the special service district is proposed to be created may include in a notice under this section any other information that the legislative body considers necessary or appropriate.

Amended by Chapter 265, 2013 General Session

17D-1-206 Protests.

- (1) An interested person may protest:
 - (a) the creation of a special service district; or
 - (b) a service that the special service district is proposed to provide.
- (2) Each protest under Subsection (1) shall:

- (a) be in writing;
 - (b) be submitted:
 - (i) to the legislative body of the county or municipality by which the special service district is proposed to be created; and
 - (ii) no later than 60 days after the public hearing required under Subsection 17D-1-204(2); and
 - (c) explain why the person is protesting.
- (3) A person who submitted a written protest against the creation of a special service district may withdraw the protest or, having withdrawn a protest, cancel the withdrawal, no later than 60 days after the public hearing required under Subsection 17D-1-204(2).
- (4) The legislative body of a county or municipality may not adopt a resolution or ordinance creating a special service district if adequate protests are filed with respect to the creation of the special service district.
- (5) The legislative body of a county or municipality may not adopt a resolution or ordinance authorizing a special service district to provide a service if adequate protests are filed with respect to that service.

Amended by Chapter 265, 2013 General Session

17D-1-207 Public hearing.

- (1) On the date and at the time and place specified in the notice under Section 17D-1-205, the legislative body of the county or municipality by which the special service district is proposed to be created shall hold a public hearing.
- (2) At each public hearing under this section, the legislative body shall:
- (a) give full consideration to each written protest that has been filed; and
 - (b) hear and consider each interested person desiring to be heard.
- (3) The legislative body may continue the hearing to another date and time.

Enacted by Chapter 360, 2008 General Session

17D-1-208 Adoption of a resolution or ordinance approving the creation of a special service district.

- (1) Subject to the provisions of and as provided in this part, the legislative body of a county or municipality may adopt a resolution or ordinance approving the creation of a special service district.
- (2)
- (a) Subject to Subsection (2)(b), a resolution or ordinance adopted by a legislative body under Subsection (1) may contain changes from the proposal as set forth in a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), including changes in:
 - (i) the boundary of the special service district; and
 - (ii) the services to be provided by the special service district.
 - (b) The legislative body of a county or municipality may not adopt a resolution or ordinance under Subsection (1) that approves the creation of a special service district with a boundary that includes more area than is included in, or that authorizes the special service district to provide a service not proposed in, a resolution under Subsection 17D-1-203(1)(a) or a petition under Subsection 17D-1-203(1)(b), unless the requirements of Sections 17D-1-205, 17D-1-206, and 17D-1-207 are met with respect to the additional area or service, as the case may be.

Amended by Chapter 350, 2009 General Session

17D-1-209 Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

- (1) The legislative body adopting a resolution or ordinance approving the creation of a special service district shall:
 - (a) within 30 days after adopting the resolution or ordinance, 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 incorporation 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 incorporation;
 - (iii) the original approved final local entity plat; and
 - (iv) a certified copy of the resolution or ordinance approving the creation of the special service district.
- (2)
 - (a) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the special service district is created and incorporated.
 - (b)
 - (i) The effective date of a special service district's incorporation for purposes of assessing property within the special service district 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 special service district; and
 - (B) the special service district may not:
 - (I) levy or collect an assessment on property within the special service district; or
 - (II) charge or collect a fee for service provided to property within the special service district.

Amended by Chapter 350, 2009 General Session

17D-1-210 Services that special service district is authorized to provide.

- (1) After its creation, a special service district may provide the service or services:
 - (a) specified in the resolution or ordinance creating the special service district; or
 - (b) added under Part 4, Annexing a New Area and Adding a New Service.
- (2) Notwithstanding Subsection (1), a special service district created before May 5, 2008 may continue on and after that date to provide a service that the special service district was authorized before May 5, 2008 to provide.

Enacted by Chapter 360, 2008 General Session

17D-1-211 Municipality's ability to provide temporary jail facilities not affected by the creation of a special service district to provide jail services.

The creation of a special service district to provide jail services as provided in Subsection 17D-1-201(10) does not affect the ability of a municipality under Section 10-8-58 to provide,

operate, and maintain facilities for the temporary incarceration, not to exceed 72 hours, of persons charged with the violation of a municipal ordinance.

Enacted by Chapter 360, 2008 General Session

17D-1-212 Action to challenge the creation of a special service district or a service to be provided.

- (1) A person may file an action in district court challenging the creation of a special service district or a service that a special service district is proposed to provide if:
 - (a) the person filed a written protest under Section 17D-1-206;
 - (b) the person:
 - (i)
 - (A) is a registered voter within the special service district; and
 - (B) alleges in the action that the procedures used to create the special service district violated applicable law; or
 - (ii)
 - (A) is an owner of property included within the boundary of the special service district; and
 - (B) alleges in the action that:
 - (I) the person's property will not be benefitted by a service that the special service district is proposed to provide; or
 - (II) the procedures used to create the special service district violated applicable law; and
 - (c) the action is filed within 30 days after the date that the legislative body adopts a resolution or ordinance creating the special service district.
 - (2) If an action is not filed within the time specified under Subsection (1), a registered voter or an owner of property located within the special service district may not contest the creation of the special service district or a service that the special service district is proposed to provide.

Enacted by Chapter 360, 2008 General Session

Part 3

Administrative Control Board

17D-1-301 Governance of a special service district -- Authority to create and delegate authority to an administrative control board -- Limitations on authority to delegate.

- (1) Each special service district shall be governed by the legislative body of the county or municipality that creates the special service district, subject to any delegation under this section of a right, power, or authority to an administrative control board.
- (2) At the time a special service district is created or at any time thereafter, the legislative body of a county or municipality that creates a special service district may, by resolution or ordinance:
 - (a) create an administrative control board for the special service district;
 - (b) subject to Subsection (3), delegate to the administrative control board the exercise of any right, power, or authority that the legislative body possesses with respect to the governance of the special service district; and
 - (c) specify the members of the initial administrative control board by name or other designation that clearly identifies each member of the initial administrative control board.

- (3) A county or municipal legislative body may not delegate to an administrative control board of a special service district the power to:
- (a) annex an area to an existing special service district or add a service within the area of an existing special service district under Part 4, Annexing a New Area and Adding a New Service;
 - (b) designate, under Section 17D-1-107, the classes of special service district contracts that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;
 - (c) levy a tax on the taxable property within the special service district;
 - (d) issue special service district bonds payable from taxes;
 - (e) call or hold an election for the authorization of a property tax or the issuance of bonds;
 - (f) levy an assessment;
 - (g) issue interim warrants or bonds payable from an assessment; or
 - (h) appoint a board of equalization under Section 11-42-403.
- (4)
- (a) A county or municipal legislative body that has delegated a right, power, or authority under this section to an administrative control board may at any time modify, limit, or revoke any right, power, or authority delegated to the administrative control board.
 - (b) A modification, limitation, or revocation under Subsection (4)(a) does not affect the validity of an action taken by an administrative control board before the modification, limitation, or revocation.

Amended by Chapter 437, 2015 General Session

17D-1-302 Number of members of an administrative control board.

- (1) An administrative control board shall consist of at least three members in addition to a member appointed in accordance with Subsections 17D-1-303(3) and (4).
- (2) The number of administrative control board members for a special service district established by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10) is nine.

Amended by Chapter 377, 2014 General Session

17D-1-303 Election or appointment of administrative control board members.

- (1) Except as provided in Subsection (5), a county or municipal legislative body that creates an administrative control board may provide for board members to be elected or appointed, or for some members to be elected and some appointed.
- (2) Except as provided in Subsection (3), each member of an administrative control board shall be elected or appointed as provided for the election or appointment, respectively, of a member of a board of trustees of a special district under Title 17B, Chapter 1, Part 3, Board of Trustees.
- (3) A municipality or improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act, may appoint one member to represent it on an administrative control board created for a special service district if:
 - (a) the special service district was created by a county;
 - (b) the municipality or improvement district:
 - (i) provides the same service as the special service district; or
 - (ii) provided the same service as the special service district:
 - (A) prior to the creation of the special service district, if all or part of the municipality or improvement district was then included in the special service district; or

- (B) prior to all or part of the municipality or improvement district being annexed into the special service district; and
- (c) the special service district includes some or all of the area included within the municipality or improvement district.
- (4) An institution of higher education for which a special service district provides commodities, services, or facilities may appoint the number of members of an administrative control board of that special service district that are equal in number to at least 1/3 of the total number of board members.
- (5) With respect to an administrative control board created for a special service district created by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10), the county legislative body shall appoint:
 - (a) three members from a list of at least six recommendations from the county sheriff;
 - (b) three members from a list of at least six recommendations from municipalities within the county; and
 - (c) three members from a list of at least six recommendations from the county executive.

Amended by Chapter 15, 2023 General Session

17D-1-304 Qualifications of administrative control board members -- Term of office.

- (1)
 - (a) Except as provided in Subsection (1)(b), each member of an administrative control board shall be:
 - (i) a registered voter within the special service district;
 - (ii) an officer or employee of the county or municipality that created the special service district; or
 - (iii) an owner of land, or an agent or officer of the owner of land, located within the special service district that receives, or intends to receive, service from the special service district, if:
 - (A) at least 60% of the residences within the special service district are seasonally occupied homes; or
 - (B) more than 50%, but less than 60%, of the residences within the special service district are seasonally occupied homes, if the number of members appointed under this Subsection (1)(a)(iii)(B) comprises less than a quorum of the board.
 - (b) Subsection (1)(a) does not apply if:
 - (i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or
 - (ii) the member is appointed under Subsection 17D-1-303(3) or (4).
- (2)
 - (a) Except as provided in Subsection (2)(b), the term of each member of an administrative control board is four years.
 - (b) The term of as close as possible to half of the initial members of an administrative control board, chosen by lot, is two years.

Amended by Chapter 100, 2023 General Session

17D-1-305 Compensation for administrative control board members.

An administrative control board member may receive compensation and reimbursement of expenses as provided in Section 17B-1-307 to the same extent as if the member were a member of a board of trustees of a special district.

Amended by Chapter 15, 2023 General Session

17D-1-306 Administrative control board review of certain charges in special service districts providing jail service.

If the legislative body of a county of the first class creates an administrative control board under this part for a special service district that provides jail service as provided in Subsection 17D-1-201(10), the administrative control board may review and approve any amount charged to the special service district as reimbursement to the county for services provided under Subsection 17D-1-103(2)(i) before the amount is included in the special service district budget.

Enacted by Chapter 360, 2008 General Session

17D-1-307 Meetings of administrative control board.

- (1)
- (a) Each meeting of the administrative control board shall comply with Title 52, Chapter 4, Open and Public Meetings Act.
 - (b) Subject to Subsection (2), an administrative control board shall:
 - (i) adopt rules of order and procedure to govern a public meeting of the administrative control board;
 - (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (1)(b)(i); and
 - (iii) make the rules of order and procedure described in Subsection (1)(b)(i) available to the public:
 - (A) at each meeting of the administrative control board; and
 - (B) if the special service district has a public website, on the website.
- (2) Subsection (1)(b) does not affect the administrative control board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Enacted by Chapter 100, 2023 General Session

Part 4
Annexing a New Area and Adding a New Service

17D-1-401 Annexing an area or adding a service to an existing special service district.

- (1) Except as provided in Subsections (3) and (4), a county or municipal legislative body acting as the governing body of the special service district may, as provided in this part:
- (a) annex an area to an existing special service district to provide to that area a service that the special service district is authorized to provide;
 - (b) add a service under Section 17D-1-201 within the area of an existing special service district that the special service district is not already authorized to provide; or
 - (c) both annex an area under Subsection (1)(a) and add a service under Subsection (1)(b).

- (2) Except for Section 17D-1-209, the provisions of Part 2, Creating a Special Service District, apply to and govern the process of annexing an area to an existing special service district or adding a service that the special service district is not already authorized to provide, to the same extent as if the annexation or addition were the creation of a special service district.
- (3) A county or municipal legislative body may not:
 - (a) annex an area to an existing special service district if a special district provides to that area the same service that the special service district is proposed to provide to the area, unless the special district consents to the annexation; or
 - (b) add a service within the area of an existing special service district if a special district provides to that area the same service that is proposed to be added, unless the special district consents to the addition.
- (4) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the creation of a special service district including that area or providing that service would not be allowed under Part 2, Creating a Special Service District.
- (5) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the area is located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, unless the county or municipal legislative body has first obtained the authority's approval.

Amended by Chapter 15, 2023 General Session

17D-1-402 Inapplicability of some requirements if petition is filed by all owners of taxable real property.

Notwithstanding Section 17D-1-401, the notice, hearing, and protest requirements of Part 2, Creating a Special Service District, do not apply if a petition to annex an area or to add a service to an existing special service district is filed with the legislative body of the county or municipality, as the case may be, containing the signatures of all owners of taxable real property:

- (1) within the area proposed to be annexed, if the petition is for annexation of an area to the special service district; or
- (2) within the special service district, if the petition is for adding a service to be provided by the special service district.

Enacted by Chapter 360, 2008 General Session

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 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), 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.

Amended by Chapter 350, 2009 General Session

Part 5

Special Service District Bonds

17D-1-501 Provisions applicable to a special service district's issuance of bonds.

Except as otherwise provided in this chapter:

- (1) each special service district that issues bonds shall:
 - (a) issue them as provided in, as applicable:
 - (i) Title 11, Chapter 14, Local Government Bonding Act; or
 - (ii) Title 11, Chapter 42, Assessment Area Act; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act; and
- (2) each special service district that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Enacted by Chapter 360, 2008 General Session

17D-1-502 General obligation bonds.

- (1) Except as provided in Subsection (3), if a special service district intends to issue general obligation bonds, the special service district shall first obtain the approval of special service

- district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (2) General obligation bonds shall be secured by a pledge of the full faith and credit of the special service district.
 - (3) A special service district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.
 - (4)
 - (a) A special service district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the special service district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the special service district, as determined under Subsection 11-14-301(3)(b), by .12.
 - (b) Bonds or other obligations of a special service district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).
 - (5) A special service district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution Article XIV, Section 4.
 - (6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a special service district that participates in the agreement creating the administrative or legal entity.

Enacted by Chapter 360, 2008 General Session

17D-1-503 Levy to pay for general obligation bonds.

- (1)
 - (a) If a special service district has issued general obligation bonds, or expects to have debt service payments due on general obligation bonds during the current year, the legislative body of the county or municipality that created the special service district may make an annual levy of ad valorem property taxes in order to:
 - (i) pay the principal of and interest on the general obligation bonds;
 - (ii) establish a sinking fund for defaults and future debt service on the general obligation bonds; and
 - (iii) establish a reserve to secure payment of the general obligation bonds.
 - (b) A levy under Subsection (1)(a) is:
 - (i) without limitation as to rate or amount; and
 - (ii) subject to the prior approval of a majority of registered voters of the special service district voting in an election held for that purpose on a date specified in Section 20A-1-204.
- (2)
 - (a) Each county or municipality that levies a tax under Subsection (1) shall:
 - (i) levy the tax as a separate and special levy for the specific purposes stated in Subsection (1); and
 - (ii) apply the proceeds from the levy solely for the purpose of paying the principal of and interest on the general obligation bonds, even though the proceeds may be used to establish or replenish a sinking fund under Subsection (1)(a)(ii) or a reserve under Subsection (1)(a)(iii).
 - (b) A levy under Subsection (2)(a) is not subject to a priority in favor of a special service district obligation in existence at the time the bonds were issued.

Amended by Chapter 415, 2013 General Session

17D-1-504 Pledge of revenues to pay for bonds.

Bonds may be payable from and secured by the pledge of all or any specified part of:

- (1) the revenues to be derived by the special service district from providing its services and from the operation of its facilities and other properties;
- (2) sales and use taxes, property taxes, and other taxes;
- (3) federal, state, or local grants;
- (4) in the case of special assessment bonds, the special assessments pledged to repay the special assessment bonds; and
- (5) other money legally available to the special service district.

Enacted by Chapter 360, 2008 General Session

17D-1-505 Revenue bonds -- Requirement to impose rates and charges to cover revenue bonds -- Authority to make agreements and covenants to provide for bond repayment.

- (1) Subject to Subsection 17D-1-501(2), a special service district intending to issue revenue bonds may, but is not required to, submit to special service district voters for their approval the issuance of the revenue bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (2) Each special service district that has issued revenue bonds shall impose rates and charges for the services or commodities it provides fully sufficient, along with other sources of special service district revenues, to carry out all undertakings of the special service district with respect to its revenue bonds.
- (3) A special service district that issues revenue bonds may:
 - (a) agree to pay operation and maintenance expenses of the special service district from the proceeds of the ad valorem taxes that this chapter authorizes the county or municipality that created the special service district to levy; and
 - (b) for the benefit of bondholders, enter into covenants that:
 - (i) are permitted by Title 11, Chapter 14, Local Government Bonding Act; and
 - (ii) provide for other pertinent matters that the governing body considers proper to assure the marketability of the bonds.

Enacted by Chapter 360, 2008 General Session

17D-1-506 Governing body required to fix rates to cover district expenses and bonds.

The governing body shall fix the rate or rates for services or commodities provided by the special service district that will, in conjunction with the proceeds of any maintenance and operation tax and other special service district revenues:

- (1) pay the special service district's operating expenses;
- (2) provide for repairs and depreciation of works owned or operated by the special service district;
- (3) pay the interest on any bonds issued by the special service district; and
- (4) provide, as much as practicable, a sinking or other fund to pay the principal of the bonds as they become due.

Enacted by Chapter 360, 2008 General Session

17D-1-507 Guaranteed bonds.

- (1) Before a special service district may issue guaranteed bonds:
 - (a) the special service district shall:

- (i) obtain a report:
 - (A) prepared by:
 - (I) a qualified, registered architect or engineer; or
 - (II) a person qualified by experience appropriate to the project proposed to be funded by the proceeds from the guaranteed bonds;
 - (B) setting forth:
 - (I) a description of the project proposed to be funded by the proceeds from the guaranteed bonds;
 - (II) the estimated or, if available, the actual cost of the project;
 - (III) the principal amount and date and amount of each stated maturity of:
 - (Aa) the guaranteed bonds to be issued; and
 - (Bb) any outstanding guaranteed bonds of the special service district;
 - (IV) the interest rate or rates of any outstanding guaranteed bonds of the special service district;
 - (V) the amount of the annual debt service for each year during the life of all outstanding guaranteed bonds issued by the special service district;
 - (VI) the estimated amount of the annual debt service for each year during the life of all guaranteed bonds that the special service district intends to issue to finance all or any part of the project; and
 - (VII) the date or estimated date that the project will be complete; and
- (ii) submit to the Governor's Office of Economic Opportunity:
 - (A) the report described in Subsection (1)(a)(i);
 - (B) a copy of each proposed guarantee of the guaranteed bonds, certified by the special service district;
 - (C) a legal opinion indicating that each guarantee, when executed, will be the legal and binding obligation of the taxpayer executing the guarantee in accordance with the terms of the guarantee; and
 - (D) evidence satisfactory to the Governor's Office of Economic Opportunity from each taxpayer executing a guarantee of the guaranteed bonds as to the financial ability of the taxpayer to perform under the guarantee;
- (b) the Governor's Office of Economic Opportunity shall, if it approves the issuance of the guaranteed bonds, deliver to the special service district governing body a written statement of its approval; and
- (c) the special service district governing body shall file the written approval statement under Subsection (1)(b) with the recorder of the county in which the special service district is located.
- (2) The issuance of guaranteed bonds is conditioned upon the approval of special service district voters at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.
- (3) Guaranteed bonds that have been issued and remain outstanding shall be included in the determination of the debt limit under Subsection 17D-1-502(4) if the bonds by their terms no longer enjoy the benefit of the guarantee.
- (4) On July 1 of each year, the governing body shall file with the department of community affairs a report certifying:
 - (a) the total amount of bonds issued by the special service district and other debt then outstanding and subject to the debt limit of Subsection 17D-1-502(4);
 - (b) the total amount of guaranteed bonds then outstanding and not subject to the debt limit of Subsection 17D-1-502(4); and

- (c) the total amount of guaranteed bonds that, during the preceding 12 months, discontinued to enjoy the benefit of the guarantee.

Amended by Chapter 282, 2021 General Session

17D-1-508 Special service district obligations are not obligations of any other entity.

A special service district bond, note, or other obligation or indebtedness, whether or not payable from taxes, may not be:

- (1) considered to be a bond, note, or other obligation or indebtedness of or to be enforceable against the state or a county, municipality, school district, or other political subdivision of the state; or
- (2) taken into account in calculating a debt limit applicable to the state or a county, municipality, school district, or other political subdivision of the state.

Enacted by Chapter 360, 2008 General Session

17D-1-509 Ratification of previously issued bonds and previously entered contracts.

All bonds issued or contracts entered into by a special service district before May 5, 2008 are ratified, validated, and confirmed and declared to be valid and legally binding obligations of the special service district in accordance with their terms.

Enacted by Chapter 360, 2008 General Session

Part 6

Withdrawal, Dissolution, Discontinuing Services, and Reorganization

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

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

- (1) approve the withdrawal of an area from the special service district if the legislative body determines that the area should not or cannot be provided the service that the special service district provides;
- (2) approve the dissolution of the special service district if the legislative body determines that the special service district is no longer needed for the purposes for which it was created;
- (3) discontinue a service that the special service district provides; or
- (4) reorganize the special service district as a special district.

Amended by Chapter 15, 2023 General Session

17D-1-602 Limitations on adoption of withdrawal, dissolution, or discontinuance resolution.

- (1)
 - (a) A resolution under Subsection 17D-1-601(1) or (2) to approve the withdrawal of an area from a special service district or the dissolution of a special service district may not be adopted if:
 - (i) any bond, note, or other obligation of the special service district is outstanding and unpaid; or
 - (ii) any contractual obligation to provide service exists.

- (b) Notwithstanding Subsection (1)(a)(i), a resolution approving the withdrawal of an area from a special service district may be adopted if:
 - (i) each holder of or obligee under each outstanding and unpaid bond, note, or other obligation consents to the withdrawal;
 - (ii) the bond, note, or other obligation is payable from and secured by solely:
 - (A) federal mineral lease payments appropriated to the special service district; or
 - (B) other special service district revenue, the amount of which is not subject to reduction as a result of the withdrawal;
 - (iii) adequate provision is made for payment of the bond, note, or other obligation in accordance with the terms of the bond, note, or other obligation, respectively; or
 - (iv)
 - (A) the area proposed to be withdrawn has been annexed by a municipality that receives from another special service district the service provided by the special service district from which the area is proposed to be withdrawn;
 - (B) the other special service district adopts a resolution proposing to annex the area;
 - (C) the municipality adopts a resolution consenting to the area being included within the proposed annexing special service district;
 - (D) the proposed annexing special service district and the special service district from which the area is proposed to be withdrawn make adequate arrangements for the proposed annexing special service district to provide the service to the area; and
 - (E) for a special service district from which the area to be withdrawn has any bond, note, or other obligation outstanding that is secured by revenue derived from taxes, rates, fees, or other charges paid by the owners of property within the area proposed to be withdrawn:
 - (I) the proposed annexing special service district agrees to provide for the payment of a proportional share of the amounts payable with respect to the bond, note, or other obligation, on terms that are mutually agreeable to the proposed annexing special service district and the special service district from which the area is to be withdrawn; and
 - (II) the withdrawal of the area and the payment arrangement under Subsection (1)(b)(iv)(E) (I) do not violate any covenant of any agreement or instrument with respect to the bond, note, or other obligation.
 - (c) Notwithstanding Subsection (1)(a)(ii), a resolution to withdraw an area from a special service district may be adopted if all parties to the contract consent to the withdrawal.
- (2)
- (a) A resolution under Subsection 17D-1-601(3) to discontinue a service may not be adopted if the special service district:
 - (i) has an outstanding bond payable in whole or in part from fees and charges imposed for the service to be discontinued; or
 - (ii) is under contractual obligation to provide the service.
 - (b) Notwithstanding Subsection (2)(a)(i), a resolution to discontinue a service may be adopted if:
 - (i) the bond is paid;
 - (ii) adequate provision is made for payment of the bond; or
 - (iii) the holder of the bond agrees to the discontinuance, if allowed under the bond.
 - (c) Notwithstanding Subsection (2)(a)(ii), a resolution to discontinue a service may be adopted if all parties to the contract consent to the discontinuance.

Amended by Chapter 267, 2010 General Session

17D-1-603 Notice and plat to lieutenant governor -- Recording requirements.

- (1) If a county or municipal legislative body adopts a resolution approving the withdrawal of an area from a special service district, the dissolution of a special service district, or the reorganization of a special service district as a special district, the county or municipal legislative body, as the case may be, 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) in the case of a withdrawal, 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 withdrawal, dissolution, or incorporation, as the case may be, 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 withdrawal or dissolution, as the case may be;
 - (iii) in the case of a withdrawal, the original approved final local entity plat; and
 - (iv) a certified copy of the resolution approving the withdrawal, dissolution, or incorporation.
- (2)
 - (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5, the area to be withdrawn that is the subject of the legislative body's resolution is withdrawn from the special service district.
 - (b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the special service district is dissolved.
- (3)
 - (a) Upon the lieutenant governor's issuance of a certificate of incorporation as provided in Section 67-1a-6.5, the special service district is:
 - (i) reorganized and incorporated as a special district subject to the provisions of Title 17B, Chapter 1, Provisions Applicable to All Special Districts;
 - (ii) subject to Subsection (3)(b), if the special service district is reorganized as a special district described in and subject to Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts, the applicable part of that chapter; and
 - (iii) no longer a special service district.
 - (b) A special service district reorganized as a special district is a basic special district as provided in Title 17B, Chapter 1, Part 14, Basic Special District, unless the resolution adopted in accordance with Subsection 17D-1-604(5):
 - (i) specifies that the reorganized special district is a different type of special district other than a basic special district; and
 - (ii) states the type of that special district, including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

Amended by Chapter 15, 2023 General Session

17D-1-604 Reorganization as a special district.

- (1) The legislative body of a county or municipality that has created a special service district may reorganize the special service district as a special district in accordance with this section.
- (2) The process to reorganize a special service district as a special district is initiated if the legislative body of the county or municipality that originally created the special service district adopts a resolution that:

- (a) indicates the legislative body's intent to reorganize the special service district as a special district; and
 - (b) complies with the requirements of Subsection (3).
- (3) A resolution to initiate reorganization described in Subsection (2) shall:
- (a) state the name of the special service district that is proposed to be reorganized as a special district;
 - (b) generally describe the boundaries of the special service district, whether or not those boundaries coincide with the boundaries of the creating county or municipality; and
 - (c) specify each service that the special service district is authorized to provide.
- (4) After adopting the resolution described in Subsection (3), the legislative body of the county or municipality that created the special service district shall hold a public hearing following the notice requirements of Section 17D-1-205 applicable to the creation of a special service district, with changes as appropriate for the reorganization of the special service district as a special district.
- (5)
- (a) At or following the public hearing, the county or municipal legislative body shall:
 - (i) subject to Subsection (5)(b), adopt a resolution approving the reorganization of the special service district as a special district; or
 - (ii) abandon the reorganization.
 - (b) A resolution approving reorganization shall:
 - (i) state the name of the special service district that is being reorganized as a special district;
 - (ii) state the name of the special district in accordance with Subsection (7);
 - (iii) subject to Subsection (5)(c), describe the boundaries of the special district;
 - (iv) subject to Subsection (8)(a), specify the service or services to be provided by the special district;
 - (v) state:
 - (A) whether the special district is a different type of special district other than a basic special district; and
 - (B) if the reorganized special district is not a basic special district, the type of special district, including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts;
 - (vi) state whether the special district is to be governed by an appointed or an elected board of trustees, or a combination of appointed and elected trustees, in accordance with Title 17B, Chapter 1, Part 3, Board of Trustees;
 - (vii) state whether an administrative control board established for the special service district that is being reorganized as a special district will serve as the first board of trustees of the special district; and
 - (viii) contain additional provisions as necessary.
 - (c) The boundaries of the special district shall reflect the boundaries of the reorganized special service district.
- (6) A county may not reorganize a special service district as a special district to include some or all of the area within a municipality unless the legislative body of the municipality adopts a resolution or ordinance consenting to the reorganization.
- (7) The name of the special district:
- (a) shall comply with Subsection 17-50-103(2)(a); and
 - (b) may not include the phrase "special service district."
- (8) A special district created under this section may not provide:
- (a)

- (i) at the time of reorganization, a service that it could not have provided as the special service district prior to reorganization; or
 - (ii) after reorganization, an additional service listed in Section 17B-1-202, unless the special district adds the service in accordance with the provisions of Title 17B, Chapter 1, Provisions Applicable to All Special Districts; and
 - (b) more than four of the services listed in Section 17B-1-202 at any time.
- (9) After the lieutenant governor issues, in accordance with Section 67-1a-6.5, a certificate of incorporation for a special district created under this section, the special district:
- (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state as provided in Section 17B-1-103; and
 - (b) may, subject to Subsection (8), provide a service that:
 - (i) the special service district was authorized to provide before reorganization; and
 - (ii) the special district is authorized to provide under the resolution adopted in accordance with Subsection (5).
- (10) An action taken, a bond issued, or a contract or other obligation entered into by the reorganized special service district before reorganization is a valid action, bond issuance, contract, or other obligation of the special district.
- (11) A special district created under this section:
- (a) may impose and collect taxes, fees, and other charges for services provided in accordance with applicable law;
 - (b) shall own all property acquired by the special service district before reorganization; and
 - (c) shall have a power, right, or obligation that the reorganized special service district had before the reorganization, unless otherwise provided by law.

Amended by Chapter 15, 2023 General Session

Chapter 2 Local Building Authority Act

Part 1 General Provisions

17D-2-101 Title.

This chapter is known as the "Local Building Authority Act."

Enacted by Chapter 360, 2008 General Session

17D-2-102 Definitions.

As used in this chapter:

- (1) "Authority board" means the board of directors of a local building authority, as described in Section 17D-2-203.
- (2) "Bond" includes a bond, note, or other instrument issued under this chapter evidencing an indebtedness of a local building authority.

- (3) "Creating local entity" means the local entity that creates or created the local building authority.
- (4) "Governing body" means:
 - (a) for a county, city, or town, the legislative body of the county, city, or town;
 - (b) for a school district, the local school board for the school district;
 - (c) for a special district, the special district's board of trustees; and
 - (d) for a special service district, the special service district's governing body, as defined in Section 17D-1-102.
- (5) "Local building authority":
 - (a) means a nonprofit corporation that is:
 - (i) created as provided in Section 17D-2-201;
 - (ii) described in Section 17D-2-103; and
 - (iii) subject to and governed by the provisions of this chapter; and
 - (b) includes a nonprofit corporation created as a municipal building authority before May 5, 2008 under the law then in effect.
- (6) "Local entity" means a county, city, town, school district, special district, or special service district.
- (7) "Mortgage" means any instrument under which property may be encumbered as security for an obligation, including a mortgage, trust deed, indenture, pledge, assignment, security agreement, and financing statement.
- (8) "Project" means an improvement, facility, property, or appurtenance to property that a local entity is permitted under law to own or acquire, whether located inside or outside the local entity's boundary, including:
 - (a) a public building or other structure of any kind; and
 - (b) a joint or partial interest in the improvement, facility, property, or appurtenance to property.
- (9) "Project costs":
 - (a) means all costs incurred in the development of a project; and
 - (b) includes:
 - (i) organizational and incorporation fees, including filing, legal, and financial advisor fees;
 - (ii) the cost of a site for the project;
 - (iii) the cost of equipment and furnishings for the project;
 - (iv) the cost of planning and designing the project, including architectural, planning, engineering, legal, and fiscal advisor fees;
 - (v) contractor fees associated with the project;
 - (vi) the cost of issuing local building authority bonds to finance the project, including printing costs, document preparation costs, filing fees, recording fees, legal and other professional fees, underwriting costs, bond discount costs, any premium on the bonds, and any fees required to be paid to retire outstanding bonds;
 - (vii) interest on local building authority bonds issued to finance the project;
 - (viii) carrying costs;
 - (ix) interest estimated to accrue on local building authority bonds during the period of construction of the project and for 12 months after;
 - (x) any amount the governing body finds necessary to establish one or more reserve funds;
 - (xi) any amount the governing body finds necessary to provide working capital for the project;
 - (xii) all costs of transferring title of the project to the creating local entity;
 - (xiii) all costs of dissolving the local building authority; and
 - (xiv) all other reasonable costs associated with the project.
- (10) "Special district" means the same as that term is defined in Section 17B-1-102.
- (11) "Special service district" means the same as that term is defined in Section 17D-1-102.

Amended by Chapter 15, 2023 General Session

17D-2-103 Status and authority of a local building authority -- Registration as a limited purpose entity.

(1) A local building authority:

- (a) is a public entity and an instrumentality of the state, created by a local entity solely for the purpose of constructing, acquiring, improving, or extending, and financing the costs of, one or more projects on behalf of the local entity;
- (b) shall be known as the "Local Building Authority of (name of the creating local entity)"; and
- (c) may:
 - (i) as provided in this chapter, construct, acquire, improve, or extend, and finance the costs of, one or more projects on behalf of the creating local entity, in order to accomplish the public purposes for which the creating local entity exists; and
 - (ii) as provided in Part 5, Local Building Authority Bonds, issue and sell its bonds for the purpose of paying the costs of constructing, acquiring, improving, or extending a project.

(2)

- (a) Each local building authority shall register and maintain the local building authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.
- (b) A local building authority that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 256, 2018 General Session

17D-2-104 Local building authority property exempt from taxation.

Property owned, held, or acquired by a local building authority, including all rent or other payment due under a lease agreement, is exempt from all taxation in the state.

Enacted by Chapter 360, 2008 General Session

17D-2-105 Action of a local entity's governing body or a local building authority's board of directors.

- (1) The governing body of a local entity or the authority board of a local building authority may take an action or proceeding under this chapter by resolution.
- (2) Except as specifically required under this chapter:
 - (a) an ordinance, resolution, or proceeding with respect to a transaction under this chapter is not necessary; and
 - (b) the publication of a resolution, proceeding, or notice relating to a transaction under this chapter is not necessary.
- (3) The governing body of a local entity or authority board of a local building authority may adopt a proceeding under this chapter on a single reading at a legally convened meeting of the governing body or authority board, as the case may be.
- (4) Except as specifically provided in this chapter, a resolution adopted or proceeding taken under this chapter is not subject to referendum.

Enacted by Chapter 360, 2008 General Session

17D-2-106 Publications in newspapers.

A publication made under this chapter may be made in a newspaper conforming to the terms of this chapter and in which legal notices may be published under the law, without regard to whether the newspaper is designated as the local entity's official journal or newspaper.

Enacted by Chapter 360, 2008 General Session

17D-2-107 Local building authority not subject to any state board, commission, or agency.

Neither a local building authority nor a project is subject to the jurisdiction of any board, commission, or agency of the state, including the Public Service Commission.

Enacted by Chapter 360, 2008 General Session

17D-2-108 Other statutory provisions.

- (1) This chapter is supplemental to existing laws relating to a local entity's acquisition, use, maintenance, management, or operation of a project.
- (2) Except as provided in this chapter, a local entity or local building authority that complies with the provisions of this chapter need not comply with any other statutory provision concerning the acquisition, construction, use, or maintenance of a project, including:
 - (a) a statute relating to public bidding; and
 - (b) Title 63G, Chapter 6a, Utah Procurement Code.
- (3) A local building authority is, to the same extent as if it were a special district, subject to and governed by:
 - (a) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;
 - (b) Title 17B, Chapter 1, Part 8, Special District Personnel Management; and
 - (c) Section 17B-1-108.

Amended by Chapter 15, 2023 General Session

17D-2-109 Construction of this chapter -- Conflicts with other provisions.

- (1) To enable a local building authority to perform its essential governmental functions on behalf of its creating local entity, this chapter shall be liberally construed.
- (2)
 - (a) If a provision of this chapter conflicts with another statutory provision, the provision of this chapter controls.
 - (b) Subsection (2)(a) applies notwithstanding Section 11-14-403.

Enacted by Chapter 360, 2008 General Session

17D-2-110 Validation of previous proceedings.

Each proceeding taken by a local entity before May 5, 2008 in connection with the creation and operation of a local building authority is validated, ratified, approved, and confirmed.

Enacted by Chapter 360, 2008 General Session

Part 2
Local Building Authority Creation, Powers, and Governance

17D-2-201 Creating a local building authority -- Articles of incorporation and bylaws -- Changing a local building authority.

- (1) The governing body of a local entity may create a local building authority by following the procedures in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the incorporation of a nonprofit corporation.
- (2) The creating local entity's governing body shall approve:
 - (a) the local building authority's articles of incorporation before they are filed with the Division of Corporations and Commercial Code; and
 - (b) the local building authority's bylaws.
- (3) The creating local entity's governing body may, in its sole discretion and at any time, change the local building authority's structure, organization, programs, or activities, subject to:
 - (a) this chapter; and
 - (b) the rights of:
 - (i) holders of the local building authority's bonds; and
 - (ii) parties to other obligations of the local building authority.

Enacted by Chapter 360, 2008 General Session

17D-2-202 Staff and personnel of a local building authority -- Legal, accounting, and auditing services.

- (1) A local building authority may:
 - (a) as necessary for the local building authority's performance of its functions and activities:
 - (i) subject to Subsection (2), contract for or employ staff and other personnel, including the personnel of the creating local entity; and
 - (ii) contract with the creating local entity to use the creating local entity's property or facilities; and
 - (b) include the cost of the use of the creating local entity's personnel, property, or facilities under Subsection (1)(a) in the amount the local building authority charges under a lease or agreement with the creating local entity.
- (2)
 - (a) If a creating local entity has an elected attorney, that elected attorney shall be the legal advisor to and provide all legal services for the local building authority created by the creating local entity, subject to Subsection (3).
 - (b) If a creating local entity has an elected auditor, that elected auditor shall provide all accounting and auditing services for the local building authority created by the creating local entity, subject to Subsection (3).
 - (c) The local building authority shall reimburse the creating local entity for legal, accounting, and auditing services provided by the creating local entity's elected attorney or auditor, based on the actual cost of the services, including a reasonable amount that the creating local entity allocates for overhead, employee benefits, and general and administrative costs.
- (3) Subsection (2) may not be construed to prevent a local building authority from obtaining:
 - (a) with the consent of the elected attorney and the governing body, legal services from an outside attorney;
 - (b) with the consent of the elected auditor and the governing body, accounting or auditing services from an outside accountant or auditor; or
 - (c) an opinion of an outside attorney or accountant that is necessary for the issuance of the local building authority's bonds.

- (4) If fees for legal, accounting, or auditing services related to a project are paid by the creating local entity and not reimbursed by the local building authority, the local building authority may not include the cost of those services in the amount the local building authority charges under a lease agreement with the creating local entity with respect to that project.

Enacted by Chapter 360, 2008 General Session

17D-2-203 Local building authority board of directors.

- (1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.
- (2) An authority board may be referred to as a board of trustees.
- (3)
 - (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section 17-52a-201, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:
 - (i) is, as a member of the county commission, placed on paid administrative leave under Section 17-16-10.5;
 - (ii) is unable to serve due to a disability;
 - (iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or
 - (iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.
 - (b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Amended by Chapter 68, 2018 General Session

Part 3
Local Building Authority Projects

17D-2-301 Project plans and specifications.

Each local building authority that proposes to construct, acquire, improve, or extend a project for the use of its creating local entity shall submit to the governing body of the creating local entity:

- (1) plans and specifications for the project; and
- (2) the estimated project costs.

Enacted by Chapter 360, 2008 General Session

17D-2-302 Architect or engineer certificate -- Approval of plans and specifications.

- (1) The plans and specifications submitted under Subsection 17D-2-301(1) shall include a certificate of the architect or engineer responsible for planning and designing the project, stating the estimated useful life of the project.

- (2) The creating local entity's governing body shall approve the plans, specifications, and estimated project costs before:
 - (a) execution of a lease agreement with respect to the project; and
 - (b) the local building authority begins to construct, acquire, improve, or extend the project.

Enacted by Chapter 360, 2008 General Session

Part 4

Local Building Authority Lease Agreements

17D-2-401 Project lease agreements.

- (1) A local building authority and its creating local entity may enter into a lease agreement with respect to a project that the local building authority:
 - (a) has constructed, acquired, improved, or extended on behalf of the creating local entity; or
 - (b) will construct, acquire, improve, or extend on behalf of the creating local entity.
- (2)
 - (a) A local building authority and its creating local entity may enter into a lease agreement before the local building authority's acquisition of a site or construction of the project.
 - (b) Each lease agreement described in Subsection (2)(a) shall:
 - (i) provide that the creating local entity is not required to make a lease payment until acquisition or construction of the project is completed; and
 - (ii) require the local building authority to furnish or cause the construction contractor to furnish a bond satisfactory to the creating local entity, conditioned upon:
 - (A) final completion of the project as expeditiously as reasonably possible from the date of the execution of the lease agreement; and
 - (B) delivery of possession of the project to the creating local entity free and clear of all liens and encumbrances, except:
 - (I) taxes, liens, and encumbrances on the local building authority's interest in the leased property; and
 - (II) easements and restrictions that the creating local entity accepts.

Enacted by Chapter 360, 2008 General Session

17D-2-402 Requirements for lease agreements.

- (1) Each lease agreement between a local building authority and its creating local entity shall:
 - (a) provide for the payment of lease payments sufficient:
 - (i) to pay:
 - (A) the principal of and interest on local building authority bonds the proceeds of which were used to construct, acquire, improve, or extend the project;
 - (B) all fees and expenses of trustees and paying agents for bonds described in Subsection (1)(a)(i)(A); and
 - (C) all costs of maintaining and operating the project; and
 - (ii) to accumulate any reasonable reserve that the local building authority considers necessary;
 - (b) provide that the creating local entity, if not in default under the lease agreement, may:
 - (i) subject to Subsection (2), renew the lease for a fixed term beyond the initial term by giving specified notice before the expiration of the initial term; and

- (ii) subject to Subsection (3) and the terms of the lease agreement, purchase the leased property on a date fixed in the agreement;
- (c) provide that a creating local entity under the lease agreement is not under any obligation:
 - (i) to purchase the leased property; or
 - (ii) to a creditor, shareholder, or security holder of the local building authority; and
- (d) require that:
 - (i) title to the project vest in the creating local entity upon payment in full of all outstanding local building authority bonds issued to construct, acquire, improve, or extend a project; and
 - (ii) any remaining assets and net earnings of the local building authority be paid to the creating local entity upon dissolution of the local building authority, as provided in Section 17D-2-702.
- (2) The term of a lease agreement under this part, including any renewal of the lease agreement, may not exceed the lesser of:
 - (a) the estimated useful life of the project, as certified under Subsection 17D-2-302(1); and
 - (b) 40 years.
- (3) The purchase price of leased property under Subsection (1)(b)(ii) may not exceed the project costs that the local building authority actually invested in the project.

Enacted by Chapter 360, 2008 General Session

17D-2-403 Provisions that a lease agreement may contain.

- (1) A lease agreement between a local building authority and its creating local entity may:
 - (a) provide that the creating local entity, as part of the lease payments for the leased property:
 - (i) pay all taxes and assessments levied against or on account of the leased property or rentals from it;
 - (ii) maintain insurance on the leased property for the benefit of the local building authority and the holders of the local building authority's bonds; and
 - (iii) assume all responsibility for any repair, replacement, alteration, or improvement to the leased property during the term of the lease agreement; and
 - (b) authorize the local entity to sublease all or specified portions of a project to:
 - (i) the state;
 - (ii) another local entity; or
 - (iii) a private party, including a nonprofit corporation, if the local building authority or local entity:
 - (A) intends to own the project throughout the useful life of the project; and
 - (B) determines that the local building authority or local entity's ownership of the project furthers a legitimate public purpose.
- (2) A local entity that subleases some or all of a project under Subsection (1)(b) continues to be responsible for lease payments due under the lease agreement with the local building authority.

Enacted by Chapter 360, 2008 General Session

17D-2-404 Lease of local entity's site to local building authority.

- (1) A local entity desiring to have a local building authority construct a project for the use of the local entity upon a site that the local entity owns may lease the site to the local building authority for a nominal rental.
- (2) Each lease under Subsection (1) shall grant the local building authority an option to renew the lease on the same terms and conditions if, by the time of the expiration of the lease, the local building authority has not been fully repaid the project costs it actually invested in the project.

- (3) A lease under this section, including any renewal of the lease under Subsection (2), may not exceed the period specified in Subsection 17D-2-402(2).
- (4)
- (a) As used in this Subsection (4):
- (i) "Project lease agreement" means a lease agreement between a local building authority and its creating local entity under which the local building authority leases to the creating local entity a project constructed on a site owned by the creating local entity.
 - (ii) "Site lease" means a creating local entity's lease of a site to a local building authority.
- (b) A local entity that has entered into a site lease with a local building authority may grant the local building authority an option to purchase the site within six months after the termination of the creating local entity's lease payment obligation under the project lease agreement, to be exercised if the creating local entity under the project lease agreement:
- (i) defaults under the terms of the project lease agreement; and
 - (ii) does not exercise its option to purchase the project under the terms of the project lease agreement.

Enacted by Chapter 360, 2008 General Session

17D-2-405 Default under a lease agreement.

If a local entity fails to pay a lease payment due to a local building authority under a lease agreement:

- (1) the local entity shall immediately quit and vacate the project;
- (2) the local entity's lease payment obligation under the lease agreement terminates; and
- (3) the local building authority may immediately lease the project according to the provisions of:
 - (a) the proceeding under which bonds to fund the project were authorized; and
 - (b) any mortgage given to secure the bonds.

Enacted by Chapter 360, 2008 General Session

Part 5
Local Building Authority Bonds

17D-2-501 Provisions applicable to issuance of local building authority bonds.

Except as otherwise provided in this chapter:

- (1) each local building authority that issues bonds shall:
 - (a) issue them as provided in Title 11, Chapter 14, Local Government Bonding Act, except Section 11-14-306; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act;
- (2) bonds issued by a local building authority are governed by and subject to Title 11, Chapter 14, Local Government Bonding Act, except Sections 11-14-306 and 11-14-403; and
- (3) each local building authority that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Enacted by Chapter 360, 2008 General Session

17D-2-502 Required process for issuance of local building authority bonds -- Certification of petition signatures -- Removal of signature.

- (1) A local building authority may not issue bonds unless the creating local entity's governing body approves the issuance and terms of the bonds.
- (2)
 - (a) Before issuing bonds, the authority board of a local building authority shall give public notice of the authority board's intent to issue bonds.
 - (b)
 - (i) A local building authority may not issue bonds without the approval of the creating local entity's voters if, within 30 days after the notice under Subsection (2)(a) is given, a written petition requesting an election is filed with the local building authority, signed by at least 20% of the active voters, as defined in Section 20A-1-102, within the creating local entity.
 - (ii) Each election under Subsection (2)(b)(i) shall be held as provided in Title 11, Chapter 14, Local Government Bonding Act, in the same manner as an election for general obligation bonds issued by the creating local entity.
- (3)
 - (a) Within three business days after the day on which a local building authority receives a petition under Subsection (2)(b)(i), the local building authority shall provide the petition to the county clerk of the county in which the creating local entity is located.
 - (b) Within 14 days after the day on which a county clerk receives a petition from the local building authority under Subsection (3)(a), the county clerk shall:
 - (i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (2)(b)(i);
 - (ii) certify on the petition whether each name is that of an active voter within the creating local entity; and
 - (iii) deliver the certified petition to the local building authority.
- (4)
 - (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the local building authority provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.
 - (b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).
 - (c) The county clerk shall use the procedures described in Section 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Amended by Chapter 116, 2023 General Session

17D-2-503 Proceedings for the issuance of local building authority bonds.

The proceeding under which a local building authority is authorized to issue bonds under this part may:

- (1) contain any agreement or provision customarily contained in an instrument securing bonds, including a provision regarding:
 - (a) the fixing and collection of lease payments for a project covered by the bond proceeding;
 - (b) the terms to be incorporated in the lease agreement with respect to the project;
 - (c) the operation, maintenance, and insurance of the project;

- (d) the creation and maintenance of a reserve fund from the proceeds of the sale of bonds or from lease payment revenue; and
 - (e) any rights and remedies available to the holders of the bonds or to the trustee, in the event of a default, that the authority board of the local building authority determines in accordance with this part;
- (2) provide for the appointment of a trust company or bank, located inside or outside the state, as trustee; and
 - (3) provide that upon default in the payment of the principal of or interest on the bonds or in the performance of any covenant or agreement contained in the proceedings, the payment or performance may be enforced by the appointment of a receiver for the project, with power:
 - (a) to rent or lease some or all of the property;
 - (b) to charge and collect rent; and
 - (c) to apply revenue from the project in accordance with the bond proceeding.

Enacted by Chapter 360, 2008 General Session

17D-2-504 Local building authority bonds payable solely from lease payments.

- (1) Except to the extent that they are secured as provided in Section 17D-2-505, bonds issued by a local building authority and interest on the bonds are payable solely from payments received under a lease agreement with the creating local entity with respect to the project that was financed with the bond proceeds.
- (2) Each bond issued by a local building authority shall recite on its face that the bond is payable as provided in Subsection (1).

Enacted by Chapter 360, 2008 General Session

17D-2-505 Security for local building authority bonds.

- (1) The principal of and interest on bonds that a local building authority issues under this part:
 - (a) shall be secured by a pledge and assignment of the revenue that the local building authority receives under its lease agreement with respect to the project that was financed with the bond proceeds;
 - (b) may be secured by:
 - (i) a mortgage covering some or all of the project;
 - (ii) a pledge and assignment of the lease agreement for that project;
 - (iii) money held in a reserve fund; and
 - (iv) any other security device with respect to the project that the local building authority considers most advantageous.
- (2) A proceeding under which a mortgage is given to secure the bonds of a local building authority may contain any agreement or provision listed in Section 17D-2-503 that could be contained in a proceeding under which a local building authority is authorized to issue bonds under this part.
- (3) A mortgage to secure bonds issued by a local building authority under this part may provide that:
 - (a) upon default in its payment or the violation of any covenant or agreement contained in the mortgage, the mortgage may be foreclosed in the manner permitted by law; and
 - (b) the trustee or holder of any bond secured by the mortgage may become the purchaser at a foreclosure sale, if the trustee or holder is the highest bidder.

Enacted by Chapter 360, 2008 General Session

17D-2-506 Other entities not responsible for local building authority bonds or breach of mortgage and other obligations.

- (1) Nothing in this part may be construed to require:
 - (a) the state or any political subdivision of the state to pay a bond issued under this part;
 - (b) the state or, except the creating local entity, any political subdivision of the state to pay any rent or lease payment due to a local building authority under the terms of a lease agreement;
or
 - (c) the creating local entity to appropriate money to pay:
 - (i) principal of or interest on bonds issued by a local building authority; or
 - (ii) the lease payments under a lease agreement with the local building authority.
- (2) A breach of a mortgage or a covenant or agreement in a mortgage may not impose a general obligation or liability upon or a charge against:
 - (a) the creating local entity; or
 - (b) the general credit or taxing power of the state or any political subdivision of the state.

Amended by Chapter 356, 2009 General Session

17D-2-507 Required provision in device securing payment of bonds.

Each mortgage, trust deed, security agreement, trust indenture, or other security device securing payment of bonds issued under this part shall provide that no deficiency judgment upon foreclosure may be entered against:

- (1) the local building authority;
- (2) the state; or
- (3) any political subdivision of the state.

Enacted by Chapter 360, 2008 General Session

Part 6
Contesting a Resolution or Proceeding

17D-2-601 Publishing notice of local entity or local building authority resolution or other proceeding.

- (1) The governing body of a local entity or the authority board of a local building authority may provide for the publication of a resolution or other proceeding adopted under this chapter by the governing body or authority board, respectively:
 - (a) in a newspaper of general circulation in the local entity; and
 - (b) as required in Section 45-1-101.
- (2)
 - (a) If the resolution or other proceeding provides for the local building authority's issuance of bonds, the authority board may, in lieu of publishing the entire resolution or other proceeding, publish a notice of the bonds to be issued.
 - (b) Each notice under Subsection (2)(a) shall comply with the requirements of Subsection 11-14-316(2).
 - (c) The authority board of a local building authority publishing a notice under Subsection (2)(a) shall make a copy of the resolution or other proceeding authorizing the issuance of the local

building authority bonds available for public inspection during regular business hours at the office of the local building authority for a period of at least 30 days after publication of the notice.

Amended by Chapter 388, 2009 General Session

17D-2-602 Contesting the legality of a resolution or other proceeding -- No cause of action after contest period.

- (1) For a period of 30 days after publication of a resolution or other proceeding under Subsection 17D-2-601(1) or a notice under Subsection 17D-2-601(2), any person in interest may file an action in district court contesting the regularity, formality, or legality of:
 - (a) a resolution or other proceeding;
 - (b) any bonds or a lease agreement authorized by a resolution or other proceeding; or
 - (c) any provision made for the security or payment of local building authority bonds or lease agreement.
- (2) After the period referred to in Subsection (1), no one may have a cause of action to contest for any reason the regularity, formality, or legality of any of the matters listed in Subsection (1).

Amended by Chapter 369, 2012 General Session

Part 7
Dissolution of Local Building Authority

17D-2-701 Local entity governing body may dissolve local building authority -- Limitation.

- (1) Subject to Subsection (2), the governing body of the creating local entity may at any time dissolve a local building authority created by the creating local entity, by following the procedures in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the dissolution of a nonprofit corporation.
- (2) A creating local entity's governing body may not dissolve a local building authority unless:
 - (a)
 - (i) the principal, interest, and any redemption premium on all outstanding bonds of the local building authority are paid in full; and
 - (ii) all other obligations of the local building authority are paid in full; or
 - (b) the local building authority has made provision for the payment, when due, of all bond and other obligations described in Subsection (2)(a).

Enacted by Chapter 360, 2008 General Session

17D-2-702 Effect of dissolution.

Upon the dissolution of a local building authority:

- (1) title to all of the local building authority's projects vest in the creating local entity; and
- (2) all assets and net earnings of the local building authority remaining after the payment or providing for the payment of all local building authority bonds and other obligations shall be transferred to the creating local entity.

Enacted by Chapter 360, 2008 General Session

Chapter 3 Conservation District Act

Part 1 General Provisions

17D-3-101 Title.

This chapter is known as the "Conservation District Act."

Enacted by Chapter 360, 2008 General Session

17D-3-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Conservation Commission, created in Section 4-18-104.
- (2) "Commissioner" means the commissioner of the department.
- (3) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.
- (4) "Department" means the Department of Agriculture and Food, created in Section 4-2-102.

Amended by Chapter 311, 2020 General Session

17D-3-103 Conservation district status, authority, and duties.

- (1) A conservation district created under this chapter:
 - (a) is a body corporate and politic;
 - (b) is a political subdivision of the state; and
 - (c) may sue and be sued.
- (2)
 - (a) A conservation district may:
 - (i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;
 - (ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;
 - (iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;
 - (iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;
 - (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;
 - (vi) enter into a contract in the name of the conservation district;
 - (vii) receive money from:
 - (A) a federal or state agency;

- (B) a county, municipality, or other political subdivision of the state; or
- (C) a private source;
- (viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:
 - (A) the observance of particular methods of cultivation;
 - (B) the use of specific crop programs and tillage practices;
 - (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;
 - (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and
 - (E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;
- (ix) plan watershed and flood control projects in cooperation with local, state, and federal authorities, and coordinate flood control projects in the state;
- (x) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;
- (xi) employ clerical and other staff personnel, including legal staff, subject to available money; and
- (xii) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.
- (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:
 - (i) the land occupier or owner; and
 - (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.
- (c)
 - (i) A recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.
 - (ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.
- (3)
 - (a) A conservation district shall annually submit to the commission, no later than the date that the commission prescribes:
 - (i) a copy of the minutes of each conservation district meeting;
 - (ii) a copy of the conservation district's annual work plan; and
 - (iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).
 - (b) The accounting required under Subsection (3)(a)(iii) shall:
 - (i) be prepared by a disinterested person; and
 - (ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.
- (4)

- (a) A conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.
- (b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 311, 2020 General Session

17D-3-104 District court jurisdiction.

The district court in which a conservation district is located has jurisdiction to decide all cases and controversies involving the construction, application, or enforcement of land use ordinances within the conservation district.

Enacted by Chapter 360, 2008 General Session

17D-3-105 Conservation districts subject to other provisions.

- (1) Subject to Subsection (3), a conservation district is, to the same extent as if it were a special district, subject to and governed by:
 - (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;
 - (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts;
 - (c) Title 17B, Chapter 1, Part 7, Special District Budgets and Audit Reports;
 - (d) Title 17B, Chapter 1, Part 8, Special District Personnel Management; and
 - (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.
- (2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the special district board of trustees means the board of supervisors described in Section 17D-3-301.
- (3) A conservation district may not exercise taxing authority.

Amended by Chapter 15, 2023 General Session

17D-3-106 Fiscal year.

The fiscal year of a conservation district shall be, as determined by the commission:

- (1) the calendar year; or
- (2) a period beginning on July 1 and ending on the following June 30.

Enacted by Chapter 103, 2012 General Session

17D-3-107 Annual budget and financial reports requirements.

- (1) Upon agreement with the commission, the state auditor may modify:
 - (a) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or
 - (b) for filing a financial report, a requirement in Section 17B-1-639.
- (2) Beginning on July 1, 2019, a conservation district is a participating local entity, as that term is defined in Section 67-3-12, and is subject to Section 67-3-12.

Amended by Chapter 84, 2021 General Session

Part 2

Creation, Consolidation, Division, and Dissolution of Conservation Districts

17D-3-201 Commission authority to approve the creation, consolidation, division, and dissolution of conservation districts -- Notice and hearing requirements.

- (1) As provided in this part, the commission may:
 - (a) pursuant to a petition under Section 17D-3-202, approve the creation of a conservation district; or
 - (b) pursuant to a petition under Section 17D-3-202 or on its own motion, approve:
 - (i) the consolidation of two or more existing conservation districts;
 - (ii) the division of an existing conservation district into two or more conservation districts; or
 - (iii) the dissolution of an existing conservation district.
- (2) Before taking an action authorized under Subsection (1), the commission shall:
 - (a) cause notice of a hearing on the proposed creation, consolidation, division, or dissolution to be published:
 - (i) no more than 30 days after, as the case may be:
 - (A) the filing of a petition under Section 17D-3-202, for a proposed creation, consolidation, division, or dissolution; or
 - (B) adoption of the commission's own motion, for a proposed consolidation, division, or dissolution; and
 - (ii) within:
 - (A) for a proposed creation, the area of the proposed conservation district;
 - (B) for a proposed consolidation, the area of each conservation district proposed to be consolidated; and
 - (C) for a proposed division or dissolution, within the area of the conservation district proposed to be divided or dissolved; and
 - (b) hold a public hearing on the desirability and necessity of the creation, consolidation, division, or dissolution.

Enacted by Chapter 360, 2008 General Session

17D-3-202 Petition to create conservation district -- Petition or commission motion to consolidate, divide, or dissolve conservation districts -- Petition requirements.

- (1) A petition to create a conservation district, to consolidate two or more existing conservation districts, or to divide or dissolve an existing conservation district may be filed by 25 or more land occupiers residing within:
 - (a) for the proposed creation of a conservation district, the area included within the proposed conservation district;
 - (b) for the proposed consolidation of existing conservation districts, the area included within the conservation districts proposed to be consolidated; or
 - (c) for the proposed division or dissolution of an existing conservation district, the area included within the conservation district proposed to be divided or dissolved.
- (2) Each petition under Subsection (1) shall be:
 - (a) in the form that the commission prescribes; and
 - (b) filed with the commission.

Enacted by Chapter 360, 2008 General Session

17D-3-203 Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and plat to lieutenant governor -- Recording requirements -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.

- (1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:
 - (a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;
 - (b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;
 - (c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;
 - (d) the relationship of the area of the proposed or existing conservation district or districts to existing watersheds and agricultural regions; and
 - (e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.
- (2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:
 - (a)
 - (i) disapprove the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or
 - (ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and
 - (b) set forth in writing the reasons for the commission's action.
- (3)
 - (a) If the commission approves the creation, consolidation, division, or dissolution, the commission shall:
 - (i) deliver to the lieutenant governor:
 - (A) 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
 - (B) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (ii) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:
 - (A) if the conservation district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:
 - (I) the original:
 - (Aa) notice of an impending boundary action;
 - (Bb) certificate of boundary action; and
 - (Cc) except in the case of dissolution, approved final local entity plat; and
 - (II) a certified copy of the document that the commission adopted approving the boundary action; or

- (B) if the conservation district is or, in the case of a dissolution, was located within the boundaries of more than a single county:
 - (I) submit to the recorder of one of those counties:
 - (Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
 - (Bb) a certified copy of the document that the commission adopted approving the boundary action; and
 - (II) submit to the recorder of each other county:
 - (Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
 - (Bb) a certified copy of the document that the commission adopted approving the boundary action.
- (b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.
- (4) If the commission disapproves a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the conservation districts, as the case may be.

Amended by Chapter 311, 2020 General Session

17D-3-204 Commission action if conservation districts are consolidated, divided, or dissolved.

- (1) If two or more conservation districts are consolidated, the commission shall merge the assets and liabilities of the conservation districts that have been consolidated into the conservation district resulting from the consolidation.
- (2) If a conservation district is divided, the commission shall equitably divide the assets and liabilities of the divided conservation district between the conservation districts resulting from the division.
- (3) If a conservation district is dissolved, the commission shall wind up the affairs of the dissolved conservation district.

Enacted by Chapter 360, 2008 General Session

Part 3
Conservation District Board of Supervisors

17D-3-301 Board of supervisors -- Number -- Term -- Chair and officers -- Quorum -- Compensation.

- (1) A board of supervisors shall govern a conservation district.
- (2) The board of supervisors of a conservation district consists of five members appointed as provided in this part, at least three of whom shall be private agricultural land operators.
- (3)
 - (a) Subject to Subsection (3)(c), the term of office of a member of a board of supervisors is four years.

- (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:
 - (i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and
 - (ii)
 - (A) the commissioner shall appoint a new board of supervisors, as provided in this part, for the consolidated conservation district or divided conservation districts, as the case may be; and
 - (B) subject to Subsection (3)(c), the term of office of a member of the board of supervisors appointed is four years.
- (c) Notwithstanding the other provisions of this Subsection (3), the commissioner may, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (4) The board of supervisors shall elect a chair from among their number for a term of one year, and may elect other officers from among their number that the board considers necessary.
- (5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.
- (6) For performing official duties, a member of the board of supervisors of a conservation district shall receive:
 - (a) per diem and travel expenses in accordance with Section 11-55-103; and
 - (b) actual and necessary expenses as determined by the department.

Amended by Chapter 311, 2020 General Session

17D-3-302 Board of supervisors members to be appointed -- Candidates nominated by nominating committee -- Candidate qualifications -- Nomination committee.

- (1) As provided in this part, the commissioner shall appoint a member of a board of supervisors of a conservation district from candidates nominated by a nominating committee consisting of:
 - (a) the chair of the commission or council of the county in which the conservation district is located;
 - (b) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;
 - (c)
 - (i) the chair of the board of supervisors of the conservation district; or
 - (ii) the chair's designee, if the chair wishes to be a candidate for reappointment; and
 - (d) the agricultural extension service designated representative of the county in which the conservation district is located.
- (2) The commissioner may remove an individual from the nominating committee upon the request of the group the individual represents.
- (3) A candidate for appointment to the board of supervisors of a conservation district shall be:
 - (a) at least 18 years of age; and
 - (b) a resident within the conservation district.

Amended by Chapter 311, 2020 General Session

17D-3-303 Nominating committee nomination of candidates for appointment to the board of supervisors.

The nominating committee under Subsection 17D-3-302(1) shall:

- (1) nominate for a conservation district a slate of candidates for appointment to the board of supervisors of the conservation district equal or greater in number to the number of board of supervisors members to be appointed; and
- (2) submit the names of candidates to the commissioner no later than the date set by the commission as the close of nominations.

Amended by Chapter 311, 2020 General Session

17D-3-304 Petition to nominate candidates for appointment to the board of supervisors.

- (1) In addition to the procedure in Section 17D-3-302, a person may be nominated to be a candidate for appointment as a member of a board of supervisors of a conservation district by a petition filed with the department no later than the date set by the commission as the close of nominations.
- (2) A petition under Subsection (1) shall:
 - (a) state:
 - (i) the candidate's name;
 - (ii) that the candidate is at least 18 years old; and
 - (iii) that the candidate for appointment is a resident of the conservation district for which the nomination for candidacy is to be held; and
 - (b) contain the notarized signature of the candidate.
- (3) The department shall forward a petition received under this section to the nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

Amended by Chapter 4, 2020 Special Session 5

17D-3-305 Setting the date of nomination of the board of supervisors -- Notice requirements.

- (1) The commission shall set the date of the nomination of members of the board of supervisors of a conservation district.
- (2) The commission shall publish notice of the nomination day described in Subsection (1):
 - (a) for the conservation district, as a class A notice under Section 63G-30-102, for four weeks before the day of the nomination; and
 - (b) in accordance with Section 45-1-101, for four weeks before the day of the nomination.
- (3) The commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.
- (4) The notice required under Subsection (2) shall state:
 - (a) the nomination date; and
 - (b) the number of open board member positions for the conservation district.

Amended by Chapter 435, 2023 General Session

17D-3-310 Vacancies in the board of supervisors.

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall nominate an individual to the commissioner to appoint to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

Amended by Chapter 311, 2020 General Session

17D-3-311 Training for board members.

- (1) A member of a board of supervisors shall, within one year after appointment, complete the training described in Subsection (2).
- (2) The state auditor shall, with the assistance of the commission and an association that represents conservation districts, develop a training curriculum for a member of the board of supervisors and conduct the training.

Amended by Chapter 311, 2020 General Session

**Chapter 4
Public Infrastructure District Act**

**Part 1
General Provisions**

17D-4-101 Title.

This chapter is known as the "Public Infrastructure District Act."

Renumbered and Amended by Chapter 314, 2021 General Session

17D-4-102 Definitions.

As used in this chapter:

- (1) "Board" means the board of trustees of a public infrastructure district.
- (2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.
- (3) "Development authority" means:
 - (a) the Utah Inland Port Authority created in Section 11-58-201;
 - (b) the Point of the Mountain State Land Authority created in Section 11-59-201; or
 - (c) the military installation development authority created in Section 63H-1-201.
- (4) "District applicant" means the person proposing the creation of a public infrastructure district.
- (5) "Division" means a division of a public infrastructure district:
 - (a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and
 - (b) which a member of the board represents.
- (6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and this chapter.
- (7)
 - (a) "Limited tax bond" means a bond:
 - (i) that is directly payable from and secured by ad valorem property taxes that are levied:

- (A) by a public infrastructure district that issues the bond; and
 - (B) on taxable property within the district;
 - (ii) that is a general obligation of the public infrastructure district; and
 - (iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).
- (b) "Limited tax bond" does not include:
- (i) a short-term bond;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.
- (8) "Public infrastructure and improvements" means:
- (a) the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and
 - (b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Amended by Chapter 15, 2023 General Session

17D-4-103 Provisions applicable to public infrastructure districts.

- (1) Each public infrastructure district is governed by and has the powers stated in:
 - (a) this chapter; and
 - (b) Title 17B, Chapter 1, Provisions Applicable to All Special Districts.
- (2) This chapter applies only to a public infrastructure district.
- (3) Except as modified or exempted by this chapter, a public infrastructure district is, to the same extent as if the public infrastructure district were a special district, subject to the provisions in:
 - (a) Title 17B, Chapter 1, Provisions Applicable to All Special Districts; and
 - (b) Title 20A, Election Code.
- (4) If there is a conflict between a provision in Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and a provision in this chapter, the provision in this chapter supersedes the conflicting provision in Title 17B, Chapter 1, Provisions Applicable to All Special Districts.
- (5) The annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by more than one municipality does not affect the boundaries of a public infrastructure district.

Amended by Chapter 15, 2023 General Session

Part 2
Creation, Governance, and Powers of a Public Infrastructure District

17D-4-201 Creation -- Annexation or withdrawal of property.

- (1)
 - (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a special district in Title 17B, Chapter 1, Provisions Applicable to All Special Districts, a public infrastructure district may not be created unless:

- (i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and
 - (ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.
- (b)
- (i) As used in this Subsection (1)(b):
 - (A) "Military Land" means the same as that term is defined in Section 63H-1-102.
 - (B) "Project area" means the same as that term is defined in Section 63H-1-102.
 - (ii) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Special District, and any other provision of this chapter, a development authority may adopt a resolution creating a public infrastructure district if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.
 - (iii) For purposes of Subsection (1)(b)(ii), if the surface property proposed to be included within the public infrastructure district includes military land that is within a project area, the owner of the military land within the project area is the lessee of the military land.
 - (iv) A public infrastructure district created under Subsection (1)(b)(ii) may be created as a subsidiary of the development authority that adopts the resolution creating the public infrastructure district.
- (2)
- (a) The following do not apply to the creation of a public infrastructure district:
 - (i) Section 17B-1-203;
 - (ii) Section 17B-1-204;
 - (iii) Subsection 17B-1-208(2);
 - (iv) Section 17B-1-212; or
 - (v) Section 17B-1-214.
 - (b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:
 - (i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and
 - (ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.
 - (c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).
 - (d) A petition meeting the requirements of Subsection (1):
 - (i) may be certified under Section 17B-1-209; and
 - (ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).
- (3)
- (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:
 - (i)
 - (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or
 - (B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to

- annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;
- (ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and
 - (iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.
- (b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:
- (i) a copy of a notice of 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.
- (4)
- (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:
 - (i)
 - (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or
 - (B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;
 - (ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and
 - (iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.
 - (b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.
 - (c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.
- (5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.
- (6)
- (a) A public infrastructure district is separate and distinct from the creating entity.
 - (b)
 - (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:
 - (A) is borne solely by the public infrastructure district; and
 - (B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

- (ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:
 - (A) the district applicant to bear the initial costs of the public infrastructure district; and
 - (B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.
- (c) Any liability, judgment, or claim against a public infrastructure district:
 - (i) is the sole responsibility of the public infrastructure district; and
 - (ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.
- (d)
 - (i)
 - (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.
 - (B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).
 - (ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.
- (7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:
 - (a) historical performance of the district applicant;
 - (b) compliance with the creating entity's master plan;
 - (c) credit worthiness of the district applicant;
 - (d) plan of finance of the public infrastructure district; and
 - (e) proposed development within the public infrastructure district.
- (8)
 - (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.
 - (b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Amended by Chapter 12, 2023 General Session
Amended by Chapter 15, 2023 General Session
Amended by Chapter 259, 2023 General Session

17D-4-202 Public infrastructure district board -- Governing document.

- (1) The legislative body or board of the creating entity shall appoint the members of the board of a public infrastructure district, in accordance with the governing document.
- (2)
 - (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.
 - (b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.
 - (c) A board may elect that a majority of the board serve an initial term of six years.
 - (d) After the initial term, the term of each member of the board is four years.
- (3)

- (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:
 - (i) all of the surface property owners consent to the waiver of the residency requirement;
 - (ii) there are no residents within the boundaries of the public infrastructure district;
 - (iii) no qualified candidate timely files to be considered for appointment to the board; or
 - (iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(5).
- (b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.
- (c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:
 - (i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and
 - (ii) a registered voter at the individual's primary residence.
- (4)
 - (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:
 - (i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or
 - (ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.
 - (b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.
- (5)
 - (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.
 - (b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions that, when completed, would increase or decrease the number of eligible voters within the division.
 - (c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).
- (6) A public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.
- (7) A governing document shall:
 - (a) include a boundary description and a map of the public infrastructure district;
 - (b) state the number of board members;
 - (c) describe any divisions of the public infrastructure district;
 - (d) establish any applicable property tax levy rate limit for the public infrastructure district;

- (e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and
 - (f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.
- (8)
- (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.
 - (b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:
 - (i) 100% of surface property owners within the boundaries of the public infrastructure district; and
 - (ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.
- (9) A board member is not in violation of Section 67-16-9 if the board member:
- (a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:
 - (i) before any appointment or election; and
 - (ii) upon any significant change in the business relationship; and
 - (b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.
- (10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Amended by Chapter 64, 2021 General Session

Renumbered and Amended by Chapter 314, 2021 General Session

Amended by Chapter 415, 2021 General Session

17D-4-203 Public infrastructure district powers.

A public infrastructure district:

- (1) has all of the authority conferred upon a special district under Section 17B-1-103; and
- (2) may:
 - (a) issue negotiable bonds to pay:
 - (i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;
 - (ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;
 - (iii) public improvements related to the provision of housing;
 - (iv) capital costs related to public transportation;
 - (v) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements; and
 - (vi) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, the costs associated with a remediation project, as defined in Section 11-58-102;
 - (b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of

the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

- (c) acquire completed or partially completed improvements for fair market value as reasonably determined by:
 - (i) the board;
 - (ii) the creating entity, if required in the governing document; or
 - (iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;
- (d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and
- (e) for a public infrastructure district created by a development authority:
 - (i)
 - (A) operate and maintain public infrastructure and improvements the district acquires or finances; and
 - (B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and
 - (ii) issue bonds under Title 11, Chapter 42, Assessment Area Act; and
- (f) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

Amended by Chapter 15, 2023 General Session

Amended by Chapter 259, 2023 General Session

17D-4-204 Relation to other local entities.

- (1) Notwithstanding the creation of a public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.
- (2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other special district.
- (3)
 - (a) All infrastructure that is connected to another public entity's system:
 - (i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and
 - (ii) shall comply with the design, inspection requirements, and other standards of the public entity.
 - (b) A public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Amended by Chapter 15, 2023 General Session

17D-4-205 Transparency.

A public infrastructure district shall file annual reports with the creating entity regarding the public infrastructure district's actions as provided in the governing document.

Renumbered and Amended by Chapter 314, 2021 General Session

Part 3
Bond Issuance, Fee Collection, and Property Tax
Levy Authority for a Public Infrastructure District

17D-4-301 Public infrastructure district bonds.

- (1)
- (a) Subject to Subsection (1)(b), a public infrastructure district may issue negotiable bonds for the purposes described in Section 17D-4-203, as provided in, as applicable:
 - (i) Title 11, Chapter 14, Local Government Bonding Act;
 - (ii) Title 11, Chapter 27, Utah Refunding Bond Act;
 - (iii) Title 11, Chapter 42, Assessment Area Act; and
 - (iv) this section.
 - (b) A public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, may not issue bonds under this part unless the board first:
 - (i) adopts a parameters resolution for the bonds that sets forth:
 - (A) the maximum:
 - (I) amount of bonds;
 - (II) term; and
 - (III) interest rate; and
 - (B) the expected security for the bonds; and
 - (ii) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.
- (2) A public infrastructure district bond:
- (a) shall mature within 40 years of the date of issuance; and
 - (b) may not be secured by any improvement or facility paid for by the public infrastructure district.
- (3)
- (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:
 - (i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or
 - (ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.
 - (b) A limited tax bond described in Subsection (3)(a):
 - (i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4); and
 - (ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.
 - (c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

- (d)
- (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:
 - (A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or
 - (B) the most recent market value of the property from the assessor of the county in which the property is located.
 - (ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).
 - (iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).
- (e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:
- (i) Section 17D-4-303, except as provided in Subsection (8);
 - (ii) the governing document; or
 - (iii) the documents relating to the issuance of the limited tax bond.
- (4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.
- (5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.
- (6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:
- (a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;
 - (b) approve and execute any document relating to the issuance of a bond; and
 - (c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.
- (7)
- (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:
 - (i) publication of the resolution authorizing the bond; or
 - (ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).
 - (b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.
- (8)
- (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the

repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

- (b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17D-4-303.
 - (c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.
- (9) No later than 60 days after the closing of any bonds by a public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, the public infrastructure district shall report the bond issuance, including the amount of the bonds, terms, interest rate, and security, to:
- (a) the Executive Appropriations Committee; and
 - (b) the State Finance Review Commission created in Section 63C-25-201.

Amended by Chapter 15, 2023 General Session

Amended by Chapter 139, 2023 General Session

17D-4-302 Fees.

A public infrastructure district may charge a fee or other charge for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

- (1) costs of acquiring, improving, or extending improvements, facilities, or property; or
- (2) costs associated with the enforcement of a legal remedy.

Renumbered and Amended by Chapter 314, 2021 General Session

17D-4-303 Limits on public infrastructure district property tax levy -- Notice requirements.

- (1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .015 per dollar of taxable value of taxable property in the district.
- (2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.
- (3)
 - (a) Within 30 days after the day on which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, the board shall record a notice with the recorder of the county in which property within the public infrastructure district is located.
 - (b) The notice described in Subsection (3)(a) shall:
 - (i) contain a description of the boundaries of the public infrastructure district;
 - (ii) state that a copy of the governing document is on file at the office of the creating entity;
 - (iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and
 - (iv) state the maximum rate that the public infrastructure district may levy.

Renumbered and Amended by Chapter 314, 2021 General Session

17D-4-304 Property tax penalty for nonpayment.

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Renumbered and Amended by Chapter 314, 2021 General Session

17D-4-305 Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

- (1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:
 - (a) set aside the proceeding; or
 - (b) enjoin the levy, imposition, or collection of a tax or fee.
- (2) The person bringing an action described in Subsection (1):
 - (a) shall bring the action in the district court with jurisdiction in the county in which the public infrastructure district is located; and
 - (b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:
 - (i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or
 - (ii) tax or fee, if the challenge is to a tax or fee.
- (3) An action under Subsection (1) is the exclusive remedy of a person who:
 - (a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or
 - (b) challenges a bondholder's right to repayment.
- (4) After the expiration of the 30-day period described in Subsection (2)(b):
 - (a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;
 - (b) a person may not bring a suit to:
 - (i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or
 - (ii) attack or question in any way the legality of a bond, tax, or fee; and
 - (c) a court may not inquire into the matters described in Subsection (4)(b).
- (5)
 - (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.
 - (ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Renumbered and Amended by Chapter 314, 2021 General Session

