How do cities interpret their acts to deliver water service outside their municipal boundaries?

**Article XI, Section 6, Constitution.  [Municipalities forbidden to sell waterworks or rights.]**
     No municipal corporation, shall directly or indirectly, lease, sell, alien or dispose of any waterworks, water rights, or sources of water supply now, or hereafter to be owned or controlled by it; but all such waterworks, water rights and sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges: Provided, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water-rights, or sources of water supply, for other water-rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants.

**10-8-14.  Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.**

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| (1) | As used in this section, "public telecommunications service facilities" means the same as that term is defined in Section [10-18-102](https://le.utah.gov/xcode/Title10/Chapter18/10-18-S102.html?v=C10-18-S102_2016051020160510). |

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| (2) | A municipality may:

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| (a) | construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, public transportation systems , or public telecommunications service facilities ; |

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| (b) | authorize the construction, maintenance and operation of the works or systems listed in Subsection [(2)(a)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(2)(a)) by others; |

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| (c) | purchase or lease the works or systems listed in Subsection [(2)(a)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(2)(a)) from any person or corporation; and |

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| (d) | sell and deliver the surplus product or service capacity of any works or system listed in Subsection [(2)(a)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(2)(a)), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

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| (i) | retail electricity beyond the municipal boundary is governed by Subsections [(3)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(3)) through [(8)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(8)); and |

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| (ii) | cable television services or public telecommunications services is governed by Subsection [(12)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(12)). |

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| (3) | If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, public transportation systems , or public telecommunications service facilities is retained or withheld, it shall be retained or withheld and released as provided in Section [13-8-5](https://le.utah.gov/xcode/Title13/Chapter8/13-8-S5.html?v=C13-8-S5_2017050920170509). |

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| (4) |

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| (a) | Except as provided in Subsection [(4)(b)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(b)), [(6)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(6)), or [(10)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(10)), a municipality may not sell or deliver the electricity produced or distributed by its electric works constructed, maintained, or operated in accordance with Subsection [(2)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(2)) to a retail customer located beyond its municipal boundary. |

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| (b) | A municipality that provides retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, may continue to serve that customer if:

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| (i) | on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section [54-2-1](https://le.utah.gov/xcode/Title54/Chapter2/54-2-S1.html?v=C54-2-S1_2016051020160510), that is obligated by its certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection [(4)(c)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(c)) that identifies each customer served by the municipality beyond its municipal boundary; |

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| (ii) | no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and |

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| (iii) | the Public Service Commission approves the written filing agreement in accordance with Section [54-4-40](https://le.utah.gov/xcode/Title54/Chapter4/54-4-S40.html?v=C54-4-S40_2015051220150512). |

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| (c) | The municipality shall include in the written notice required in Subsection [(4)(b)(i)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(b)(i)) for each customer:

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| (i) | the customer's meter number; |

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| (ii) | the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location; |

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| (iii) | the customer's class of service; and |

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| (iv) | a representation that the customer was receiving service from the municipality on or before June 15, 2013. |

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| (5) | The written filing agreement entered into in accordance with Subsection [(4)(b)(ii)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(b)(ii)) shall require the following:

|  |  |
| --- | --- |
| (a) | The municipality shall provide electric service to a customer identified in accordance with Subsection [(4)(b)(i)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(b)(i)) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer. |

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| (b) | If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection [(4)(b)(i)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(4)(b)(i)) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection [(6)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(6)). |

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| (6) |

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| (a) | A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection [(5)(b)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(5)(b)). |

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| (b) | If a municipality submits a request, the electrical corporation shall respond to the request within 60 days. |

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| (c) | If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

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| (i) | the electrical corporation and the municipality shall enter into a written agreement; |

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| (ii) | the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection [(5)(b)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(5)(b)) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and |

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| --- | --- | --- | --- | --- | --- |
| (iii) | the municipality may provide the service if:

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| --- | --- |
| (A) | except as provided in Subsection [(6)(c)(iii)(B)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(6)(c)(iii)(B)), the Public Service Commission approves the agreement in accordance with Section [54-4-40](https://le.utah.gov/xcode/Title54/Chapter4/54-4-S40.html?v=C54-4-S40_2015051220150512); or |

|  |  |
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| (B) | for an electrical cooperative that meets the requirements of Subsection [54-7-12(7)](https://le.utah.gov/xcode/Title54/Chapter7/54-7-S12.html?v=C54-7-S12_1800010118000101#54-7-12(7)), the governing board of the electrical cooperative approves the agreement. |

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| (d) | The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section [54-4-40](https://le.utah.gov/xcode/Title54/Chapter4/54-4-S40.html?v=C54-4-S40_2015051220150512) that is a material change to the agreement. |

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| (7) | If the municipality and electrical corporation make a transfer described in Subsection [(6)(c)(ii)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(6)(c)(ii)):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (a) |

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| --- | --- |
| (i) | the municipality shall transfer the electric service customer to the electrical corporation; and |

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| --- | --- |
| (ii) | the electrical corporation shall provide electric service to the customer; and |

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| (b) | the municipality shall transfer a facility in accordance with and for the value as provided in Section [10-2-421](https://le.utah.gov/xcode/Title10/Chapter2/10-2-S421.html?v=C10-2-S421_1800010118000101). |

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| (8) |

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| (a) | In accordance with Subsection [(8)(b)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(8)(b)), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside its municipal boundary. |

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| (b) | The mechanism shall require:

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| (i) | that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and |

|  |  |
| --- | --- |
| (ii) | if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary. |

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| (9) | The municipality is relieved of any obligation to transfer a customer described in Subsection [(5)(b)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(5)(b)) or facility used to serve the customer in accordance with Subsection [(6)(c)(ii)](https://le.utah.gov/xcode/Title10/Chapter8/10-8-S14.html?v=C10-8-S14_2016051020160510#10-8-14(6)(c)(ii)) if the municipality annexes the property on which the customer is being served. |

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| (10) |

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| (a) | A municipality may provide electric service outside of its municipal boundary to a facility that is solely owned and operated by the municipality for municipal service. |

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| --- | --- |
| (b) | A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area. |

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| (11) | Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality. |

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| (12) | A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of [Chapter 18, Municipal Cable Television and Public Telecommunications Services Act](https://le.utah.gov/xcode/Title10/Chapter18/10-18.html?v=C10-18_1800010118000101). |

**Local District Provisions**

**17B-1-103.  Local district status and powers -- Registration as a limited purpose entity.**

|  |  |  |  |  |  |  |  |  |  |  |  |
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| (1) | A local district:

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| --- | --- | --- | --- | --- | --- | --- | --- |
| (a) | is:

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

|  |  |
| --- | --- |
| (ii) | a quasi-municipal corporation; and |

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

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| (b) | may sue and be sued. |

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| (2) | A local district may:

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| --- | --- |
| (a) | acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers; |

|  |  |
| --- | --- |
| (b) | acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers; |

|  |  |
| --- | --- |
| (c) | transfer an interest in or dispose of any property or interest described in Subsections [(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(2)(a)) and [(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(2)(b)); |

|  |  |
| --- | --- |
| (d) | acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements; |

|  |  |
| --- | --- |
| (e) | borrow money and incur indebtedness for any lawful district purpose; |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (f) | issue bonds, including refunding bonds:

|  |  |
| --- | --- |
| (i) | for any lawful district purpose; and |

|  |  |
| --- | --- |
| (ii) | as provided in and subject to [Part 11, Local District Bonds](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-P11.html?v=C17B-1-P11_1800010118000101); |

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|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (g) | levy and collect property taxes:

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| --- | --- |
| (i) | for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and |

|  |  |
| --- | --- |
| (ii) | as provided in and subject to [Part 10, Local District Property Tax Levy](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-P10.html?v=C17B-1-P10_1800010118000101); |

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|  |  |
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| (h) | as provided in [Title 78B, Chapter 6, Part 5, Eminent Domain](https://le.utah.gov/xcode/Title78B/Chapter6/78B-6-P5.html?v=C78B-6-P5_1800010118000101), acquire by eminent domain property necessary to the exercise of the district's powers; |

|  |  |
| --- | --- |
| (i) | invest money as provided in [Title 51, Chapter 7, State Money Management Act](https://le.utah.gov/xcode/Title51/Chapter7/51-7.html?v=C51-7_1800010118000101); |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (j) |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (i) | impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

|  |  |
| --- | --- |
| (A) | maintaining and operating the district; |

|  |  |
| --- | --- |
| (B) | acquiring, purchasing, constructing, improving, or enlarging district facilities; |

|  |  |
| --- | --- |
| (C) | issuing bonds and paying debt service on district bonds; and |

|  |  |
| --- | --- |
| (D) | providing a reserve established by the board of trustees; and |

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|  |  |
| --- | --- |
| (ii) | take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes; |

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| --- | --- |
| (k) | if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property; |

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| --- | --- | --- | --- | --- | --- | --- | --- |
| (l) | enter into a contract that the local district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

|  |  |
| --- | --- |
| (i) | with the United States or any department or agency of the United States; |

|  |  |
| --- | --- |
| (ii) | to indemnify and save harmless; or |

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| --- | --- |
| (iii) | to do any act to exercise district powers; |

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| (m) | purchase supplies, equipment, and materials; |

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| --- | --- |
| (n) | encumber district property upon terms and conditions that the board of trustees considers appropriate; |

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| --- | --- |
| (o) | exercise other powers and perform other functions that are provided by law; |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (p) | construct and maintain works and establish and maintain facilities, including works or facilities:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (i) | across or along any public street or highway, subject to Subsection [(3)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(3)) and if the district:

|  |  |
| --- | --- |
| (A) | promptly restores the street or highway, as much as practicable, to its former state of usefulness; and |

|  |  |
| --- | --- |
| (B) | does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it; |

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| --- | --- |
| (ii) | in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section [53C-1-103](https://le.utah.gov/xcode/Title53C/Chapter1/53C-1-S103.html?v=C53C-1-S103_1800010118000101), if the director of the School and Institutional Trust Lands Administration, acting under Sections [53C-1-102](https://le.utah.gov/xcode/Title53C/Chapter1/53C-1-S102.html?v=C53C-1-S102_1800010118000101) and [53C-1-303](https://le.utah.gov/xcode/Title53C/Chapter1/53C-1-S303.html?v=C53C-1-S303_1800010118000101), consents; or |

|  |  |
| --- | --- |
| (iii) | across any stream of water or watercourse, subject to Section [73-3-29](https://le.utah.gov/xcode/Title73/Chapter3/73-3-S29.html?v=C73-3-S29_2014040320140513); |

 |

|  |  |
| --- | --- |
| (q) | perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes; |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (r) |

|  |  |
| --- | --- |
| (i) | except for a local district described in Subsection [(2)(r)(ii)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(2)(r)(ii)), designate an assessment area and levy an assessment on land within the assessment area, as provided in [Title 11, Chapter 42, Assessment Area Act](https://le.utah.gov/xcode/Title11/Chapter42/11-42.html?v=C11-42_1800010118000101); or |

|  |  |
| --- | --- |
| (ii) | for a local district created to assess a groundwater right in a critical management area described in Subsection [17B-1-202(1)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)), designate an assessment area and levy an assessment, as provided in [Title 11, Chapter 42, Assessment Area Act](https://le.utah.gov/xcode/Title11/Chapter42/11-42.html?v=C11-42_1800010118000101), on a groundwater right to facilitate a groundwater management plan; |

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|  |  |
| --- | --- |
| (s) | contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public; |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (t) | upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (i) |

|  |  |
| --- | --- |
| (A) | with another political subdivision of the state; or |

|  |  |
| --- | --- |
| (B) | with a public or private owner of property on which the district has a right-of-way or adjacent to which the district owns fee title to property; and |

 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (ii) | to allow the use of property:

|  |  |
| --- | --- |
| (A) | owned by the district; or |

|  |  |
| --- | --- |
| (B) | on which the district has a right-of-way; and |

 |

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| --- | --- | --- | --- | --- | --- | --- | --- |
| (u) | if the local district receives, as determined by the local district board of trustees, adequate monetary or nonmonetary consideration in return:

|  |  |
| --- | --- |
| (i) | provide services or nonmonetary assistance to a nonprofit entity; |

|  |  |
| --- | --- |
| (ii) | waive fees required to be paid by a nonprofit entity; or |

|  |  |
| --- | --- |
| (iii) | provide monetary assistance to a nonprofit entity, whether from the local district's own funds or from funds the local district receives from the state or any other source. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (3) | With respect to a local district's use of a street or highway, as provided in Subsection [(2)(p)(i)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(2)(p)(i)):

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| (a) | the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

|  |  |
| --- | --- |
| (i) | an excavation and the refilling of an excavation; |

|  |  |
| --- | --- |
| (ii) | the relaying of pavement; and |

|  |  |
| --- | --- |
| (iii) | the protection of the public during a construction period; and |

 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (b) | the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

|  |  |
| --- | --- |
| (i) | may not require the district to pay a license or permit fee or file a bond; and |

|  |  |
| --- | --- |
| (ii) | may require the district to pay a reasonable inspection fee. |

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| (4) |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (a) | A local district may:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| (i) | acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

|  |  |
| --- | --- |
| (A) | the purpose of the facilities is to harness energy that results inherently from the district's operation of a project or facilities that the district is authorized to operate or from the district providing a service that the district is authorized to provide; |

|  |  |
| --- | --- |
| (B) | the generation of electricity from the facilities is incidental to the primary operations of the district; and |

|  |  |
| --- | --- |
| (C) | operation of the facilities will not hinder or interfere with the primary operations of the district; |

 |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (ii) |

|  |  |
| --- | --- |
| (A) | use electricity generated by the facilities; or |

|  |  |
| --- | --- |
| (B) | subject to Subsection [(4)(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(4)(b)), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity. |

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| --- | --- |
| (b) | A district may not act as a retail distributor or seller of electricity. |

|  |  |
| --- | --- |
| (c) | Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities. |

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| --- | --- |
| (5) | A local district may adopt and, after adoption, alter a corporate seal. |

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| --- | --- | --- | --- | --- | --- |
| (6) |

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| --- | --- |
| (a) | Each local district shall register and maintain the local district's registration as a limited purpose entity, in accordance with Section [67-1a-15](https://le.utah.gov/xcode/Title67/Chapter1A/67-1a-S15.html?v=C67-1a-S15_2018050820180508). |

|  |  |
| --- | --- |
| (b) | A local district that fails to comply with Subsection [(6)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(6)(a)) or Section [67-1a-15](https://le.utah.gov/xcode/Title67/Chapter1A/67-1a-S15.html?v=C67-1a-S15_2018050820180508) is subject to enforcement by the state auditor, in accordance with Section [67-3-1](https://le.utah.gov/xcode/Title67/Chapter3/67-3-S1.html?v=C67-3-S1_2018050820180508). |

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| --- | --- | --- | --- | --- | --- | --- | --- |
| (7) |

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| --- | --- |
| (a) | As used in this Subsection [(7)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2018050820180508#17B-1-103(7)), "knife" means a cutting instrument that includes a sharpened or pointed blade. |

|  |  |
| --- | --- |
| (b) | The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district. |

|  |  |
| --- | --- |
| (c) | Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife. |

 |

**17B-2a-1004.  Additional water conservancy district powers -- Limitations on water conservancy districts.**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| (1) | In addition to the powers conferred on a water conservancy district under Section [17B-1-103](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513), a water conservancy district may:

|  |  |
| --- | --- |
| (a) | issue bonds as provided in and subject to [Chapter 1, Part 11, Local District Bonds](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-P11.html?v=C17B-1-P11_1800010118000101), to carry out the purposes of the district; |

|  |  |
| --- | --- |
| (b) | acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections [17B-1-103(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513#17B-1-103(2)(a)) and [(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513#17B-1-103(2)(b)), whether inside or outside the district; |

|  |  |
| --- | --- |
| (c) | acquire or construct works, facilities, or improvements, as provided in Subsection [17B-1-103(2)(d)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513#17B-1-103(2)(d)), whether inside or outside the district; |

|  |  |
| --- | --- |
| (d) | acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water; |

|  |  |
| --- | --- |
| (e) | fix rates and terms for the sale, lease, or other disposal of water; |

|  |  |
| --- | --- |
| (f) | acquire rights to the use of water from works constructed or operated by the district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works; |

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| --- | --- | --- | --- | --- | --- |
| (g) | levy assessments against lands within the district to which water is allotted on the basis of:

|  |  |
| --- | --- |
| (i) | a uniform district-wide value per acre foot of irrigation water; or |

|  |  |
| --- | --- |
| (ii) | a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units; |

 |

|  |  |
| --- | --- |
| (h) | fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service; |

|  |  |
| --- | --- |
| (i) | adopt and modify plans and specifications for the works for which the district was organized; |

|  |  |
| --- | --- |
| (j) | investigate and promote water conservation and development; |

|  |  |
| --- | --- |
| (k) | appropriate and otherwise acquire water and water rights inside or outside the state; |

|  |  |
| --- | --- |
| (l) | develop, store, treat, and transport water; |

|  |  |
| --- | --- |
| (m) | acquire stock in canal companies, water companies, and water users associations; |

|  |  |
| --- | --- |
| (n) | acquire, construct, operate, or maintain works for the irrigation of land; |

|  |  |
| --- | --- |
| (o) | subject to Subsection [(2)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied; |

|  |  |
| --- | --- |
| (p) | own property for district purposes within the boundaries of a municipality; and |

|  |  |
| --- | --- |
| (q) | coordinate water resource planning among public entities. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (2) |

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| --- | --- | --- | --- | --- | --- |
| (a) | A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:

|  |  |
| --- | --- |
| (i) | the joint operation or use of works owned by any party to the contract; or |

|  |  |
| --- | --- |
| (ii) | the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services. |

 |

|  |  |
| --- | --- |
| (b) | An agreement under Subsection [(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)(a)) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation. |

|  |  |
| --- | --- |
| (c) | A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection [(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)(a)). |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (d) | An agreement under Subsection [(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)(a)) may include terms that the parties determine, including:

|  |  |
| --- | --- |
| (i) | a term of years specified by the contract; |

|  |  |
| --- | --- |
| (ii) | a requirement that the purchasing party make specified payments, without regard to actual taking or use; |

|  |  |
| --- | --- |
| (iii) | a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of water or services for any reason; |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (iv) | provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and establishing:

|  |  |
| --- | --- |
| (A) | the methods for financing the costs of acquisition, construction, and operation of the joint facilities; |

|  |  |
| --- | --- |
| (B) | the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities; |

|  |  |
| --- | --- |
| (C) | a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and |

|  |  |
| --- | --- |
| (D) | the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and |

 |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (v) | provisions that a purchasing party make payments from:

|  |  |
| --- | --- |
| (A) | general or other funds of the purchasing party; |

|  |  |
| --- | --- |
| (B) | the proceeds of assessments levied under this part; |

|  |  |
| --- | --- |
| (C) | the proceeds of impact fees imposed by any party under [Title 11, Chapter 36a, Impact Fees Act](https://le.utah.gov/xcode/Title11/Chapter36A/11-36a.html?v=C11-36a_1800010118000101); |

|  |  |
| --- | --- |
| (D) | revenues from the operation of the water system of a party receiving water or services under the contract; |

|  |  |
| --- | --- |
| (E) | proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and |

|  |  |
| --- | --- |
| (F) | any combination of the sources of payment listed in Subsections [(2)(d)(v)(A)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)(d)(v)(A)) through [(E)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(2)(d)(v)(E)). |

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| --- | --- | --- | --- | --- | --- |
| (3) |

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| --- | --- |
| (a) | A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility. |

|  |  |
| --- | --- |
| (b) | Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in [Title 73, Chapter 3a, Water Exports](https://le.utah.gov/xcode/Title73/Chapter3A/73-3a.html?v=C73-3a_1800010118000101). |

 |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (4) |

|  |  |
| --- | --- |
| (a) | Except as provided in Subsection [(4)(b)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(4)(b)), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality. |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (b) | Subsection [(4)(a)](https://le.utah.gov/xcode/Title17B/Chapter2A/17B-2a-S1004.html?v=C17B-2a-S1004_1800010118000101#17B-2a-1004(4)(a)) does not apply if:

|  |  |
| --- | --- |
| (i) | the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and |

|  |  |
| --- | --- |
| (ii) | after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation. |

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| --- | --- |
| (5) | A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain. |

|  |  |
| --- | --- |
| (6) | A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property. |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| (7) | A water conservancy district may not acquire by eminent domain title to or beneficial use of vested water rights for transmountain diversion.**17B-1-202.  Local district may be created -- Services that may be provided -- Limitations.**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| (1) |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| (a) | A local district may be created as provided in this part to provide within its boundaries service consisting of:

|  |  |
| --- | --- |
| (i) | the operation of an airport; |

|  |  |
| --- | --- |
| (ii) | the operation of a cemetery; |

|  |  |
| --- | --- |
| (iii) | fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services; |

|  |  |
| --- | --- |
| (iv) | garbage collection and disposal; |

|  |  |
| --- | --- |
| (v) | health care, including health department or hospital service; |

|  |  |
| --- | --- |
| (vi) | the operation of a library; |

|  |  |
| --- | --- |
| (vii) | abatement or control of mosquitos and other insects; |

|  |  |
| --- | --- |
| (viii) | the operation of parks or recreation facilities or services; |

|  |  |
| --- | --- |
| (ix) | the operation of a sewage system; |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (x) | the construction and maintenance of a right-of-way, including:

|  |  |
| --- | --- |
| (A) | a curb; |

|  |  |
| --- | --- |
| (B) | a gutter; |

|  |  |
| --- | --- |
| (C) | a sidewalk; |

|  |  |
| --- | --- |
| (D) | a street; |

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| (E) | a road; |

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| (F) | a water line; |

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| (G) | a sewage line; |

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| (H) | a storm drain; |

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| (I) | an electricity line; |

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| (J) | a communications line; |

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| (K) | a natural gas line; or |

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| (L) | street lighting; |

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| (xi) | transportation, including public transit and providing streets and roads; |

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| (xii) | the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both; |

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| (xiii) | in accordance with Subsection [(1)(c)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(c)), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section [73-5-15](https://le.utah.gov/xcode/Title73/Chapter5/73-5-S15.html?v=C73-5-S15_1800010118000101); |

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| (xiv) | law enforcement service; |

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| (xv) | subject to Subsection [(1)(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(b)), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line; |

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| (xvi) | the control or abatement of earth movement or a landslide; |

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| (xvii) | the operation of animal control services and facilities; or |

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| (xviii) | an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section [11-42-102](https://le.utah.gov/xcode/Title11/Chapter42/11-42-S102.html?v=C11-42-S102_2017032820170328), in accordance with [Title 11, Chapter 42, Assessment Area Act](https://le.utah.gov/xcode/Title11/Chapter42/11-42.html?v=C11-42_1800010118000101). |

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| (b) | Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line. |

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| (c) | A groundwater management plan described in Subsection [(1)(a)(xiii)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(a)(xiii)) may include the banking of groundwater rights by a local district in a critical management area as defined in Section [73-5-15](https://le.utah.gov/xcode/Title73/Chapter5/73-5-S15.html?v=C73-5-S15_1800010118000101) following the adoption of a groundwater management plan by the state engineer under Section [73-5-15](https://le.utah.gov/xcode/Title73/Chapter5/73-5-S15.html?v=C73-5-S15_1800010118000101).

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| (i) | A local district may manage the groundwater rights it acquires under Subsection [17B-1-103(2)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513#17B-1-103(2)(a)) or [(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S103.html?v=C17B-1-S103_2014040320140513#17B-1-103(2)(b)) consistent with the provisions of a groundwater management plan described in this Subsection [(1)(c)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(c)). |

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| (ii) | A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section [73-1-4](https://le.utah.gov/xcode/Title73/Chapter1/73-1-S4.html?v=C73-1-S4_2017050920170509). |

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| (iii) |

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| (A) | A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection [(1)(c)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(c)). |

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| (B) | The groundwater right described in Subsection [(1)(c)(iii)(A)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(c)(iii)(A)) is subject to Section [73-1-4](https://le.utah.gov/xcode/Title73/Chapter1/73-1-S4.html?v=C73-1-S4_2017050920170509) beginning on the date of divestiture. |

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| (iv) | Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section [73-5-15](https://le.utah.gov/xcode/Title73/Chapter5/73-5-S15.html?v=C73-5-S15_1800010118000101), a groundwater right held by the local district is subject to Section [73-1-4](https://le.utah.gov/xcode/Title73/Chapter1/73-1-S4.html?v=C73-1-S4_2017050920170509). |

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| (v) | A local district created in accordance with Subsection [(1)(a)(xiii)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(a)(xiii)) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with [Title 73, Water and Irrigation](https://le.utah.gov/xcode/Title73/73.html?v=C73_1800010118000101), and used in accordance with [Title 73, Chapter 3b, Groundwater Recharge and Recovery Act](https://le.utah.gov/xcode/Title73/Chapter3B/73-3b.html?v=C73-3b_1800010118000101). |

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| (2) | For purposes of this section:

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| (a) | "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service. |

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| (b) | "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment. |

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| (3) |

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| (a) | A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection [(1)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)). |

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| (b) | Subsection [(3)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(3)(a)) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services. |

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| (4) |

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| (a) | Except as provided in Subsection [(4)(b)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(4)(b)), a local district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent. |

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| (b) | For purposes of Subsection [(4)(a)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(4)(a)), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

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| (i) | sewage system; or |

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| (ii) | water system. |

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| (5) |

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| (a) | Except for a local district in the creation of which an election is not required under Subsection [17B-1-214(3)(d)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S214.html?v=C17B-1-S214_2017032520170325#17B-1-214(3)(d)), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities. |

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| (b) | The area of a local district need not be contiguous. |

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| (6) | For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

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| (a) | paramedic service; and |

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| (b) | emergency service, including hazardous materials response service. |

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| (7) | A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection [(1)(a)(x)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(a)(x)) on or after May 11, 2010. |

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| (8) | A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection [(1)(a)(xii)](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S202.html?v=C17B-1-S202_2016051020160510#17B-1-202(1)(a)(xii)) on or after May 10, 2011. |

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| (9) | A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section [17B-1-217](https://le.utah.gov/xcode/Title17B/Chapter1/17B-1-S217.html?v=C17B-1-S217_1800010118000101)if the local district proposed for creation:

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| (a) | provides the same or a substantially similar service as the dissolved local district; and |

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| (b) | is located in substantially the same area as the dissolved local district. |

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