

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 17-52-501, 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.

Enacted by Chapter 360, 2008 General Session