

CHANGES TO LOCAL GOVERNMENT

PROVISIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: L. Alma Mansell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to counties, municipalities, and special districts.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "affected entity";
- ▶ expands requirements imposed on counties and municipalities with respect to notice and information to be provided to applicants submitting a land use application;
- ▶ allows an applicant to waive a county's or municipality's failure to comply with certain requirements;
- ▶ requires counties and municipalities to process and render a decision on land use applications with reasonable diligence;
- ▶ modifies budgeting requirements for counties, municipalities, and special districts with respect to impact fees; and
- ▶ imposes requirements and limitations on counties and municipalities in calculating an impact fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-6-109**, as last amended by Chapter 300, Laws of Utah 199931 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter

32 254, Laws of Utah 2005

33 **10-9a-202**, as enacted by Chapter 254, Laws of Utah 200534 **10-9a-509**, as enacted by Chapter 254, Laws of Utah 200535 **11-36-202**, as last amended by Chapter 254, Laws of Utah 200536 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter

37 254, Laws of Utah 2005

38 **17-27a-202**, as enacted by Chapter 254, Laws of Utah 200539 **17-27a-508**, as enacted by Chapter 254, Laws of Utah 200540 **17-36-8**, as last amended by Chapter 300, Laws of Utah 199941 **17A-1-408**, as renumbered and amended by Chapter 186, Laws of Utah 1990

42

43 *Be it enacted by the Legislature of the state of Utah:*44 Section 1. Section **10-6-109** is amended to read:45 **10-6-109. Budget required for certain funds -- Capital projects fund budget.**46 (1) The budget officer shall prepare for each budget period a budget for each of the
47 following funds:

48 (a) the general fund, including the class "C" and collector road funds;

49 (b) special revenue funds;

50 (c) debt service funds; [~~and~~]51 (d) impact fee funds; and52 [~~(d)~~] (e) capital improvement funds.53 (2) Major capital improvements financed by general obligation bonds, capital grants, or
54 interfund transfers, shall use a capital projects fund budget. The term of the budget shall
55 coincide with the term of the individual project or projects. To the extent appropriate, the
56 requirements for preparation, adoption, and execution of the budgets of the funds enumerated
57 in Subsection (1) above, as set forth in this chapter, shall apply to budgets of capital projects
58 funds.

59 (3) Impact fee funds shall be identified by the year in which they were received, the
60 project from which the funds were collected, the capital projects for which the funds are
61 budgeted, and the projected schedule for expenditure.

62 Section 2. Section **10-9a-103** is amended to read:

63 **10-9a-103. Definitions.**

64 As used in this chapter:

65 (1) "Affected entity" means a county, municipality, independent special district under
66 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
67 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
68 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners
69 association, or the Utah Department of Transportation, if:

70 (a) the entity's services or facilities are likely to require expansion or significant
71 modification because of an intended use of land;

72 (b) the entity has filed with the municipality a copy of the entity's general or long-range
73 plan; or

74 (c) the [~~entity's boundaries or facilities are within one mile of land which is the subject~~
75 ~~of a general plan amendment or land use ordinance change~~] entity has filed with the
76 municipality a request for notice during the same calendar year and before the municipality
77 provides notice to an affected entity in compliance with a requirement imposed under this
78 chapter.

79 (2) "Appeal authority" means the person, board, commission, agency, or other body
80 designated by ordinance to decide an appeal of a decision of a land use application or a
81 variance.

82 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
83 residential property if the sign is designed or intended to direct attention to a business, product,
84 or service that is not sold, offered, or existing on the property where the sign is located.

85 (4) "Charter school" includes:

86 (a) an operating charter school;

87 (b) a charter school applicant that has its application approved by a chartering entity in
88 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

89 (c) an entity who is working on behalf of a charter school or approved charter applicant

90 to develop or construct a charter school building.

91 (5) "Chief executive officer" means the:

92 (a) mayor in municipalities operating under all forms of municipal government except
93 the council-manager form; or

94 (b) city manager in municipalities operating under the council-manager form of
95 municipal government.

96 (6) "Conditional use" means a land use that, because of its unique characteristics or
97 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
98 compatible in some areas or may be compatible only if certain conditions are required that
99 mitigate or eliminate the detrimental impacts.

100 (7) "Constitutional taking" means a governmental action that results in a taking of
101 private property so that compensation to the owner of the property is required by the:

102 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

103 (b) Utah Constitution Article I, Section 22.

104 (8) "Culinary water authority" means the department, agency, or public entity with
105 responsibility to review and approve the feasibility of the culinary water system and sources for
106 the subject property.

107 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
108 or more of a person's major life activities, including a person having a record of such an
109 impairment or being regarded as having such an impairment.

110 (b) "Disability" does not include current illegal use of, or addiction to, any federally
111 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
112 802.

113 (10) "Elderly person" means a person who is 60 years old or older, who desires or
114 needs to live with other elderly persons in a group setting, but who is capable of living
115 independently.

116 (11) "General plan" means a document that a municipality adopts that sets forth general
117 guidelines for proposed future development of the land within the municipality.

118 (12) "Identical plans" means building plans submitted to a municipality that are
119 substantially identical to building plans that were previously submitted to and reviewed and
120 approved by the municipality and describe a building that is:

121 (a) located on land zoned the same as the land on which the building described in the
122 previously approved plans is located; and

123 (b) subject to the same geological and meteorological conditions and the same law as
124 the building described in the previously approved plans.

125 (13) "Land use application" means an application required by a municipality's land use
126 ordinance.

127 (14) "Land use authority" means a person, board, commission, agency, or other body
128 designated by the local legislative body to act upon a land use application.

129 (15) "Land use ordinance" means a planning, zoning, development, or subdivision
130 ordinance of the municipality, but does not include the general plan.

131 (16) "Legislative body" means the municipal council.

132 (17) "Lot line adjustment" means the relocation of the property boundary line in a
133 subdivision between two adjoining lots with the consent of the owners of record.

134 (18) "Moderate income housing" means housing occupied or reserved for occupancy
135 by households with a gross household income equal to or less than 80% of the median gross
136 income for households of the same size in the county in which the city is located.

137 (19) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
138 spent and expenses incurred in:

139 (a) verifying that building plans are identical plans; and

140 (b) reviewing and approving those minor aspects of identical plans that differ from the
141 previously reviewed and approved building plans.

142 (20) "Noncomplying structure" means a structure that:

143 (a) legally existed before its current land use designation; and

144 (b) because of one or more subsequent land use ordinance changes, does not conform
145 to the setback, height restrictions, or other regulations, excluding those regulations, which
146 govern the use of land.

147 (21) "Nonconforming use" means a use of land that:

148 (a) legally existed before its current land use designation;

149 (b) has been maintained continuously since the time the land use ordinance governing
150 the land changed; and

151 (c) because of one or more subsequent land use ordinance changes, does not conform

152 to the regulations that now govern the use of the land.

153 (22) "Official map" means a map drawn by municipal authorities and recorded in a
154 county recorder's office that:

155 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
156 highways and other transportation facilities;

157 (b) provides a basis for restricting development in designated rights-of-way or between
158 designated setbacks to allow the government authorities time to purchase or otherwise reserve
159 the land; and

160 (c) has been adopted as an element of the municipality's general plan.

161 (23) "Person" means an individual, corporation, partnership, organization, association,
162 trust, governmental agency, or any other legal entity.

163 (24) "Plan for moderate income housing" means a written document adopted by a city
164 legislative body that includes:

165 (a) an estimate of the existing supply of moderate income housing located within the
166 city;

167 (b) an estimate of the need for moderate income housing in the city for the next five
168 years as revised biennially;

169 (c) a survey of total residential land use;

170 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
171 income housing; and

172 (e) a description of the city's program to encourage an adequate supply of moderate
173 income housing.

174 (25) "Plat" means a map or other graphical representation of lands being laid out and
175 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

176 (26) "Public hearing" means a hearing at which members of the public are provided a
177 reasonable opportunity to comment on the subject of the hearing.

178 (27) "Public meeting" means a meeting that is required to be open to the public under
179 Title 52, Chapter 4, Open and Public Meetings.

180 (28) "Record of survey map" means a map of a survey of land prepared in accordance
181 with Section 17-23-17.

182 (29) "Residential facility for elderly persons" means a single-family or multiple-family

183 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
184 care facility as defined by Section 26-21-2.

185 (30) "Residential facility for persons with a disability" means a residence:

186 (a) in which more than one person with a disability resides; and

187 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
188 Chapter 2, Licensure of Programs and Facilities; or

189 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
190 Health Care Facility Licensing and Inspection Act.

191 (31) "Sanitary sewer authority" means the department, agency, or public entity with
192 responsibility to review and approve the feasibility of sanitary sewer services or onsite
193 wastewater systems.

194 (32) "Special district" means an entity established under the authority of Title 17A,
195 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
196 municipality, school district, or unit of the state.

197 (33) "Specified public utility" means an electrical corporation, gas corporation, or
198 telephone corporation, as those terms are defined in Section 54-2-1.

199 (34) "Street" means a public right-of-way, including a highway, avenue, boulevard,
200 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
201 way.

202 (35) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
203 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
204 purpose, whether immediate or future, for offer, sale, lease, or development either on the
205 installment plan or upon any and all other plans, terms, and conditions.

206 (b) "Subdivision" includes:

207 (i) the division or development of land whether by deed, metes and bounds description,
208 devise and testacy, map, plat, or other recorded instrument; and

209 (ii) except as provided in Subsection (35)(c), divisions of land for residential and
210 nonresidential uses, including land used or to be used for commercial, agricultural, and
211 industrial purposes.

212 (c) "Subdivision" does not include:

213 (i) a bona fide division or partition of agricultural land for the purpose of joining one of

214 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
215 neither the resulting combined parcel nor the parcel remaining from the division or partition
216 violates an applicable land use ordinance;

217 (ii) a recorded agreement between owners of adjoining unsubdivided properties
218 adjusting their mutual boundary if:

219 (A) no new lot is created; and

220 (B) the adjustment does not violate applicable land use ordinances; or

221 (iii) a recorded document, executed by the owner of record:

222 (A) revising the legal description of more than one contiguous unsubdivided parcel of
223 property into one legal description encompassing all such parcels of property; or

224 (B) joining a subdivided parcel of property to another parcel of property that has not
225 been subdivided, if the joinder does not violate applicable land use ordinances.

226 (d) The joining of a subdivided parcel of property to another parcel of property that has
227 not been subdivided does not constitute a subdivision under this Subsection (35) as to the
228 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
229 subdivision ordinance.

230 (36) "Unincorporated" means the area outside of the incorporated area of a city or
231 town.

232 (37) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
233 land use zones, overlays, or districts.

234 Section 3. Section **10-9a-202** is amended to read:

235 **10-9a-202. Applicant notice -- Waiver of requirements.**

236 (1) For each land use application, the municipality shall:

237 (a) notify the applicant of the date, time, and place of each public hearing and public
238 meeting to consider the application [~~and~~];

239 (b) provide to each applicant a copy of each staff report regarding the applicant or the
240 pending application at least three business days before the public hearing or public meeting;
241 and

242 (c) notify the applicant of any final action on a pending application.

243 (2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b)
244 or both, an applicant may waive the failure so that the application may stay on the public

245 hearing or public meeting agenda and be considered as if the requirements had been met.

246 Section 4. Section **10-9a-509** is amended to read:

247 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**
248 **Municipality required to comply with land use ordinances.**

249 (1) (a) An applicant is entitled to approval of a land use application if the application
250 conforms to the requirements of an applicable land use ordinance in effect when a complete
251 application is submitted and all fees have been paid, unless:

252 (i) the land use authority, on the record, finds that a compelling, countervailing public
253 interest would be jeopardized by approving the application; or

254 (ii) in the manner provided by local ordinance and before the application is submitted,
255 the municipality has formally initiated proceedings to amend its ordinances in a manner that
256 would prohibit approval of the application as submitted.

257 (b) The municipality shall process an application without regard to proceedings
258 initiated to amend the municipality's ordinances if:

259 (i) 180 days have passed since the proceedings were initiated; and

260 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
261 application as submitted.

262 (c) An application for a land use approval is considered submitted and complete when
263 the application is provided in a form that complies with the requirements of applicable
264 ordinances and all applicable fees have been paid.

265 (d) The continuing validity of an approval of a land use application is conditioned upon
266 the applicant proceeding after approval to implement the approval with reasonable diligence.

267 (2) A municipality is bound by the terms and standards of applicable land use
268 ordinances and shall comply with mandatory provisions of those ordinances.

269 (3) Each municipality shall process and render a decision on each land use application
270 with reasonable diligence.

271 Section 5. Section **11-36-202** is amended to read:

272 **11-36-202. Impact fees -- Enactment -- Required provisions.**

273 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an
274 impact fee enactment.

275 (b) The impact fee imposed by that enactment may not exceed the highest fee justified

276 by the impact fee analysis performed pursuant to Section 11-36-201.

277 (c) In calculating the impact fee, each local political subdivision may include:

278 (i) the construction contract price;

279 (ii) the cost of acquiring land, improvements, materials, and fixtures;

280 (iii) the cost for planning, surveying, and engineering fees for services provided for and
281 directly related to the construction of the system improvements; and

282 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
283 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
284 the costs of the system improvements.

285 (d) In calculating an impact fee, a local political subdivision may not include an
286 expense for overhead unless the expense is calculated pursuant to a methodology that is
287 consistent with:

288 (i) generally accepted cost accounting practices; and

289 (ii) the methodological standards set forth by the federal Office of Management and
290 Budget for federal grant reimbursement.

291 (e) In calculating an impact fee, each local political subdivision shall base amounts
292 calculated under Subsection (1)(c) on realistic estimates, and the assumptions underlying those
293 estimates shall be disclosed in the impact fee analysis.

294 ~~(f)~~ (f) In enacting an impact fee enactment:

295 (i) municipalities shall:

296 (A) make a copy of the impact fee enactment available to the public at least 14 days
297 before the date of the public hearing; and

298 (B) comply with the notice and hearing requirements of, and, except as provided in
299 Subsection 11-36-401(4)(f), receive the protections of Sections 10-9a-207 and 10-9a-801;

300 (ii) counties shall:

301 (A) make a copy of the impact fee enactment available to the public at least 14 days
302 before the date of the public hearing; and

303 (B) comply with the notice and hearing requirements of, and, except as provided in
304 Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-207 and 17-27a-801;
305 and

306 (iii) special districts shall:

307 (A) make a copy of the impact fee enactment available to the public at least 14 days
308 before the date of the public hearing; and

309 (B) comply with the notice and hearing requirements of, and receive the protections of,
310 Section 17A-1-203.

311 ~~[(e)]~~ (g) Nothing contained in Subsection (1)~~[(d)]~~~~(f)~~ or in the subsections referenced in
312 Subsections (1)~~[(d)]~~~~(f)~~(i)(B) and (ii)(B) may be construed to require involvement by a planning
313 commission in the impact fee enactment process.

314 (2) The local political subdivision shall ensure that the impact fee enactment contains:

315 (a) a provision establishing one or more service areas within which it shall calculate
316 and impose impact fees for various land use categories;

317 (b) either:

318 (i) a schedule of impact fees for each type of development activity that specifies the
319 amount of the impact fee to be imposed for each type of system improvement; or

320 (ii) the formula that the local political subdivision will use to calculate each impact fee;

321 (c) a provision authorizing the local political subdivision to adjust the standard impact
322 fee at the time the fee is charged to:

323 (i) respond to unusual circumstances in specific cases; and

324 (ii) ensure that the impact fees are imposed fairly; and

325 (d) a provision governing calculation of the amount of the impact fee to be imposed on
326 a particular development that permits adjustment of the amount of the fee based upon studies
327 and data submitted by the developer.

328 (3) The local political subdivision may include a provision in the impact fee enactment
329 that:

330 (a) exempts low income housing and other development activities with broad public
331 purposes from impact fees and establishes one or more sources of funds other than impact fees
332 to pay for that development activity;

333 (b) imposes an impact fee for public facility costs previously incurred by a local
334 political subdivision to the extent that new growth and development will be served by the
335 previously constructed improvement; and

336 (c) allows a credit against impact fees for any dedication of land for, improvement to,
337 or new construction of, any system improvements provided by the developer if the facilities:

338 (i) are identified in the capital facilities plan; and
339 (ii) are required by the local political subdivision as a condition of approving the
340 development activity.

341 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
342 impose an impact fee to cure deficiencies in public facilities serving existing development.

343 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
344 subdivision may impose and assess an impact fee for environmental mitigation when:

345 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
346 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
347 or other state or federal environmental law or regulation;

348 (b) the impact fee bears a reasonable relationship to the environmental mitigation
349 required by the Habitat Conservation Plan; and

350 (c) the legislative body of the local political subdivision adopts an ordinance or
351 resolution:

352 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

353 (ii) establishing periodic sunset dates for the impact fee; and

354 (iii) requiring the legislative body to:

355 (A) review the impact fee on those sunset dates;

356 (B) determine whether or not the impact fee is still required to finance the Habitat
357 Conservation Plan; and

358 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
359 fee must remain in effect.

360 (6) Each political subdivision shall ensure that any existing impact fee for
361 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

362 (7) Notwithstanding any other provision of this chapter, municipalities imposing
363 impact fees to fund fire trucks as of the effective date of this act may impose impact fees for
364 fire trucks until July 1, 1997.

365 (8) Notwithstanding any other provision of this chapter, a local political subdivision
366 may impose and collect impact fees on behalf of a school district if authorized by Section
367 53A-20-100.5.

368 Section 6. Section **17-27a-103** is amended to read:

369 **17-27a-103. Definitions.**

370 As used in this chapter:

371 (1) "Affected entity" means a county, municipality, independent special district under
372 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
373 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
374 13, Interlocal Cooperation Act, specified public utility, property owner, property owners
375 association, or the Utah Department of Transportation, if:

376 (a) the entity's services or facilities are likely to require expansion or significant
377 modification because of an intended use of land;

378 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
379 or

380 (c) the [~~entity's boundaries or facilities are within one mile of land that is the subject of~~
381 ~~a general plan amendment or land use ordinance change~~] entity has filed with the county a
382 request for notice during the same calendar year and before the county provides notice to an
383 affected entity in compliance with a requirement imposed under this chapter.

384 (2) "Appeal authority" means the person, board, commission, agency, or other body
385 designated by ordinance to decide an appeal of a decision of a land use application or a
386 variance.

387 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
388 residential property if the sign is designed or intended to direct attention to a business, product,
389 or service that is not sold, offered, or existing on the property where the sign is located.

390 (4) "Charter school" includes:

391 (a) an operating charter school;

392 (b) a charter school applicant that has its application approved by a chartering entity in
393 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

394 (c) an entity who is working on behalf of a charter school or approved charter applicant
395 to develop or construct a charter school building.

396 (5) "Chief executive officer" means the person or body that exercises the executive
397 powers of the county.

398 (6) "Conditional use" means a land use that, because of its unique characteristics or
399 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be

400 compatible in some areas or may be compatible only if certain conditions are required that
401 mitigate or eliminate the detrimental impacts.

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403 private property so that compensation to the owner of the property is required by the:

- 404 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
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407 responsibility to review and approve the feasibility of the culinary water system and sources for
408 the subject property.

409 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
410 or more of a person's major life activities, including a person having a record of such an
411 impairment or being regarded as having such an impairment.

412 (b) "Disability" does not include current illegal use of, or addiction to, any federally
413 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
414 802.

415 (10) "Elderly person" means a person who is 60 years old or older, who desires or
416 needs to live with other elderly persons in a group setting, but who is capable of living
417 independently.

418 (11) "Gas corporation" has the same meaning as defined in Section 54-2-1.

419 (12) "General plan" means a document that a county adopts that sets forth general
420 guidelines for proposed future development of the unincorporated land within the county.

421 (13) "Identical plans" means building plans submitted to a county that are substantially
422 identical building plans that were previously submitted to and reviewed and approved by the
423 county and describe a building that is:

424 (a) located on land zoned the same as the land on which the building described in the
425 previously approved plans is located; and

426 (b) subject to the same geological and meteorological conditions and the same law as
427 the building described in the previously approved plans.

428 (14) "Interstate pipeline company" means a person or entity engaged in natural gas
429 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
430 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

431 (15) "Intrastate pipeline company" means a person or entity engaged in natural gas
432 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
433 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

434 (16) "Land use application" means an application required by a county's land use
435 ordinance.

436 (17) "Land use authority" means a person, board, commission, agency, or other body
437 designated by the local legislative body to act upon a land use application.

438 (18) "Land use ordinance" means a planning, zoning, development, or subdivision
439 ordinance of the county, but does not include the general plan.

440 (19) "Legislative body" means the county legislative body, or for a county that has
441 adopted an alternative form of government, the body exercising legislative powers.

442 (20) "Lot line adjustment" means the relocation of the property boundary line in a
443 subdivision between two adjoining lots with the consent of the owners of record.

444 (21) "Moderate income housing" means housing occupied or reserved for occupancy
445 by households with a gross household income equal to or less than 80% of the median gross
446 income for households of the same size in the county in which the housing is located.

447 (22) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
448 and expenses incurred in:

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451 previously reviewed and approved building plans.

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455 to the setback, height restrictions, or other regulations, excluding those regulations that govern
456 the use of land.

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459 (b) has been maintained continuously since the time the land use ordinance regulation
460 governing the land changed; and

461 (c) because of one or more subsequent land use ordinance changes, does not conform

462 to the regulations that now govern the use of the land.

463 (25) "Official map" means a map drawn by county authorities and recorded in the
464 county recorder's office that:

465 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
466 highways and other transportation facilities;

467 (b) provides a basis for restricting development in designated rights-of-way or between
468 designated setbacks to allow the government authorities time to purchase or otherwise reserve
469 the land; and

470 (c) has been adopted as an element of the county's general plan.

471 (26) "Person" means an individual, corporation, partnership, organization, association,
472 trust, governmental agency, or any other legal entity.

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474 county legislative body that includes:

475 (a) an estimate of the existing supply of moderate income housing located within the
476 county;

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478 years as revised biennially;

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481 income housing; and

482 (e) a description of the county's program to encourage an adequate supply of moderate
483 income housing.

484 (28) "Plat" means a map or other graphical representation of lands being laid out and
485 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

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487 reasonable opportunity to comment on the subject of the hearing.

488 (30) "Public meeting" means a meeting that is required to be open to the public under
489 Title 52, Chapter 4, Open and Public Meetings.

490 (31) "Record of survey map" means a map of a survey of land prepared in accordance
491 with Section 17-23-17.

492 (32) "Residential facility for elderly persons" means a single-family or multiple-family

493 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
494 care facility as defined by Section 26-21-2.

495 (33) "Residential facility for persons with a disability" means a residence:

496 (a) in which more than one person with a disability resides; and

497 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
498 Chapter 2, Licensure of Programs and Facilities; or

499 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
500 Health Care Facility Licensing and Inspection Act.

501 (34) "Sanitary sewer authority" means the department, agency, or public entity with
502 responsibility to review and approve the feasibility of sanitary sewer services or onsite
503 wastewater systems.

504 (35) "Special district" means any entity established under the authority of Title 17A,
505 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
506 municipality, school district, or unit of the state.

507 (36) "Specified public utility" means an electrical corporation, gas corporation, or
508 telephone corporation, as those terms are defined in Section 54-2-1.

509 (37) "Street" means a public right-of-way, including a highway, avenue, boulevard,
510 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
511 way.

512 (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
513 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
514 purpose, whether immediate or future, for offer, sale, lease, or development either on the
515 installment plan or upon any and all other plans, terms, and conditions.

516 (b) "Subdivision" includes:

517 (i) the division or development of land whether by deed, metes and bounds description,
518 devise and testacy, map, plat, or other recorded instrument; and

519 (ii) except as provided in Subsection (38)(c), divisions of land for residential and
520 nonresidential uses, including land used or to be used for commercial, agricultural, and
521 industrial purposes.

522 (c) "Subdivision" does not include:

523 (i) a bona fide division or partition of agricultural land for agricultural purposes;

524 (ii) a recorded agreement between owners of adjoining properties adjusting their
525 mutual boundary if:

526 (A) no new lot is created; and

527 (B) the adjustment does not violate applicable land use ordinances;

528 (iii) a recorded document, executed by the owner of record:

529 (A) revising the legal description of more than one contiguous unsubdivided parcel of
530 property into one legal description encompassing all such parcels of property; or

531 (B) joining a subdivided parcel of property to another parcel of property that has not
532 been subdivided, if the joinder does not violate applicable land use ordinances; or

533 (iv) a bona fide division or partition of land in a county other than a first class county
534 for the purpose of siting, on one or more of the resulting separate parcels:

535 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
536 corporation, interstate pipeline company, or intrastate pipeline company; or

537 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
538 utility service regeneration, transformation, retransmission, or amplification facility.

539 (d) The joining of a subdivided parcel of property to another parcel of property that has
540 not been subdivided does not constitute a subdivision under this Subsection (38) as to the
541 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
542 ordinance.

543 (39) "Township" means a contiguous, geographically defined portion of the
544 unincorporated area of a county, established under this part or reconstituted or reinstated under
545 Section 17-27a-307, with planning and zoning functions as exercised through the township
546 planning commission, as provided in this chapter, but with no legal or political identity
547 separate from the county and no taxing authority, except that "township" means a former
548 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

549 (40) "Unincorporated" means the area outside of the incorporated area of a
550 municipality.

551 (41) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
552 land use zones, overlays, or districts.

553 Section 7. Section **17-27a-202** is amended to read:

554 **17-27a-202. Applicant notice -- Waiver of requirements.**

- 555 (1) For each land use application, the county shall:
556 (a) notify the applicant of the date, time, and place of each public hearing and public
557 meeting to consider the application [and];
558 (b) provide to each applicant a copy of each staff report regarding the applicant or the
559 pending application at least three business days before the public hearing or public meeting;
560 and
561 (c) notify the applicant of any final action on a pending application.
562 (2) If a county fails to comply with the requirements of Subsection (1)(a) or (b) or both,
563 an applicant may waive the failure so that the application may stay on the public hearing or
564 public meeting agenda and be considered as if the requirements had been met.

565 Section 8. Section **17-27a-508** is amended to read:

566 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**
567 **County required to comply with land use ordinances.**

568 (1) (a) An applicant is entitled to approval of a land use application if the application
569 conforms to the requirements of an applicable land use ordinance in effect when a complete
570 application is submitted and all fees have been paid, unless:

571 (i) the land use authority, on the record, finds that a compelling, countervailing public
572 interest would be jeopardized by approving the application; or

573 (ii) in the manner provided by local ordinance and before the application is submitted,
574 the county has formally initiated proceedings to amend its ordinances in a manner that would
575 prohibit approval of the application as submitted.

576 (b) The county shall process an application without regard to proceedings initiated to
577 amend the county's ordinances if:

578 (i) 180 days have passed since the proceedings were initiated; and

579 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
580 application as submitted.

581 (c) An application for a land use approval is considered submitted and complete when
582 the application is provided in a form that complies with the requirements of applicable
583 ordinances and all applicable fees have been paid.

584 (d) The continuing validity of an approval of a land use application is conditioned upon
585 the applicant proceeding after approval to implement the approval with reasonable diligence.

586 (2) A county is bound by the terms and standards of applicable land use ordinances and
587 shall comply with mandatory provisions of those ordinances.

588 (3) Each county shall process and render a decision on each land use application with
589 reasonable diligence.

590 Section 9. Section **17-36-8** is amended to read:

591 **17-36-8. Preparation of budgets.**

592 (1) The budget officer of each county shall prepare each budget period, on forms
593 provided pursuant to Section 17-36-4, a budget for each of the following funds which are
594 included in its system of accounts:

595 [~~1~~] (a) general fund;

596 [~~2~~] (b) special revenue funds;

597 [~~3~~] (c) debt service funds;

598 [~~4~~] (d) capital project funds; [and]

599 (e) impact fee funds; and

600 [~~5~~] (f) any other fund or funds for which a budget is required by the uniform system
601 of budgeting, accounting, and reporting.

602 (2) Impact fee funds shall be identified by the year in which they were received, the
603 project from which the funds were collected, the capital projects for which the funds are
604 budgeted, and the projected schedule for expenditure.

605 Section 10. Section **17A-1-408** is amended to read:

606 **17A-1-408. Budget required for certain funds -- Capital projects fund.**

607 (1) The budget officer shall prepare for each budget year a budget for each of the
608 following funds:

609 (a) the general fund;

610 (b) special revenue funds;

611 (c) debt service funds;

612 (d) capital projects funds;

613 (e) impact fee funds;

614 [~~e~~] (f) proprietary funds, in accordance with Section 17A-1-432; and

615 [~~f~~] (g) any other fund or funds for which a budget is required by the uniform system
616 of budgeting, accounting, and reporting.

617 (2) Major capital improvements financed by general obligation bonds, capital grants, or
618 interfund transfers shall use a capital projects fund budget unless the improvements financed
619 are to be used for proprietary type activities. The district shall prepare a separate budget for the
620 term of the projects as well as the annual budget required under Subsection (1).

621 (3) Impact fee funds shall be identified by the year in which they were received, the
622 project from which the funds were collected, the capital projects for which the funds are
623 budgeted, and the projected schedule for expenditure.

Legislative Review Note

as of 2-3-06 11:18 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0267

Changes to Local Government Provisions

09-Feb-06

8:57 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst