

SB0115S01 compared with SB0115

~~{deleted text}~~ shows text that was in SB0115 but was deleted in SB0115S01.

inserted text shows text that was not in SB0115 but was inserted into SB0115S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Wayne L. Niederhauser proposes the following substitute bill:

HISTORICAL DISTRICT CREATION REQUIREMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

LONG TITLE

General Description:

This bill ~~{establishes a process for a municipality or a county to designate an historical district}~~ amends provisions related to municipal land use provisions and historic districts or areas.

Highlighted Provisions:

This bill:

▶ ~~{defines terms;~~

▶ ~~describes certain actions that}~~ prohibits a city of the first class in a county of the first class from establishing, in certain circumstances, a local historic district or area before May 14, 2013;

▶ prohibits a municipality ~~{or a county may take to preserve an historical district;~~

▶ ~~requires that two-thirds of the private property owners of property located within a~~

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proposed historical district sign a petition to designate the historical district before the municipality or county may create the historical district;

- describes the petition and petition requirements;
- requires a municipal clerk or recorder or a county clerk to certify or reject the petition;
- requires a municipal or county legislative body to:
 - hold a public hearing no later than 45 days after receiving a certified petition; and
 - vote at the public hearing whether or not to adopt an ordinance that designates the historical district } from reviewing a land use application in certain circumstances; and
 - ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-503, as last amended by Laws of Utah 2011, Chapter 224

{ENACTS:

- ~~10-9a-901~~, Utah Code Annotated 1953
- ~~10-9a-902~~, Utah Code Annotated 1953
- ~~10-9a-903~~, Utah Code Annotated 1953
- ~~10-9a-904~~, Utah Code Annotated 1953
- ~~10-9a-905~~, Utah Code Annotated 1953
- ~~10-9a-906~~, Utah Code Annotated 1953
- ~~17-27a-901~~, Utah Code Annotated 1953
- ~~17-27a-902~~, Utah Code Annotated 1953
- ~~17-27a-903~~, Utah Code Annotated 1953
- ~~17-27a-904~~, Utah Code Annotated 1953
- ~~17-27a-905~~, Utah Code Annotated 1953

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~~17-27a-906~~, Utah Code Annotated 1953

REPEALS:

~~10-8-85.9~~, as enacted by Laws of Utah 2008, Chapter 360

~~17-50-326~~, as enacted by Laws of Utah 2008, Chapter 360

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

Section 1. Section **10-9a-503** is amended to read:

10-9a-503. Land use ordinance or zoning map amendments -- Limited prohibition on designation of historic district or area.

(1) The legislative body may amend:

- (a) the number, shape, boundaries, or area of any zoning district;
- (b) any regulation of or within the zoning district; or
- (c) any other provision of a land use ordinance.

(2) The legislative body may not make any amendment authorized by this section unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.

(3) The legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use ordinance or a zoning map.

~~{ }~~(4) (a) Notwithstanding Subsection (1), on or after May 10, 2011, and before ~~[May 8, 2012]~~ May 14, 2013, within an area designated on the National Register of Historic Places that has on or before March 1, 2011, a land use application pending to designate the area as a local historic district or area, the legislative body of a city of the first class in a county of the first class may not: ~~{ }~~

~~{ }~~(i) establish the local historic district or area; ~~{ }~~

~~{ }~~(ii) adopt or amend a land use ordinance affecting the area except as provided in Subsection (4)(c); and ~~{ }~~

~~{ }~~(iii) authorize a demolition permit for more than 75% of the above grade area of any structure on property located within the area. ~~{ }~~

~~{ }~~(b) A land use application in an area subject to Subsection (4)(a): ~~{ }~~

~~{ }~~(i) shall be stayed from any further proceedings conducted by the municipality before ~~[May 9, 2012]~~ May 15, 2013; and ~~{ }~~

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~~{(ii) is not subject to Section 10-9a-509 or 10-9a-509.5.}~~

~~{(c) The provisions of this Subsection (4) do not apply to an adopted or amended land use ordinance applicable generally throughout a municipality unless the ordinance is enacted to contravene the purpose of this Subsection (4)(a).}~~

~~{Section 2. Section **10-9a-901** is enacted to read:~~

~~Part 9. Historical Districts~~

~~**10-9a-901. Definitions.**~~

~~As used in this part:~~

~~(1) "Historical district" means an area or a group of areas:~~

~~(a) not necessarily having contiguous boundaries located in a municipality; and~~

~~(b) that contains an historic resource or a group of historic resources that are related by history, architecture, archaeology, engineering, or culture.~~

~~(2) "Historic preservation" means the identification, evaluation, establishment, and protection of an historic resource.~~

~~(3) "Historic resource" means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of the United States, Utah, or a community within a municipality.~~

~~Section 3. Section **10-9a-902** is enacted to read:~~

~~**10-9a-902. Historical district may be created.**~~

~~(1) A municipality may not designate an historical district unless, in accordance with this part, a petition is filed and certified and the municipality adopts an ordinance designating the historical district.~~

~~(2) A municipality may:~~

~~(a) expend public funds for historic preservation;~~

~~(b) obtain an easement or right-of-way across public or private property to ensure access or proper development of an historical district;~~

~~(c) adopt a land use ordinance to:~~

~~(i) ensure proper development and utilization of land or an area within or adjacent to an historical district; or~~

~~(ii) protect or preserve an historic resource located in an historical district; and~~

~~(d) enter into an agreement with a person for the right to purchase an historic resource~~

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~~or other property located within an historical district if the person elects to sell or dispose of the historic resource or other property:~~

~~Section 4. Section **10-9a-903** is enacted to read:~~

~~**10-9a-903. Property owner provisions:**~~

~~For purposes of this part, the owner of real property is the fee title owner according to the records of the county recorder on the date of the filing of a petition:~~

~~Section 5. Section **10-9a-904** is enacted to read:~~

~~**10-9a-904. Process to initiate the designation of an historical district -- Petition requirements -- Withdrawal of signature:**~~

~~(1) The process to designate an historical district shall be initiated by a petition signed by the owners of private property that:~~

~~(a) is located within the proposed historical district; and~~

~~(b) covers at least two-thirds of the total private land area within the proposed historical district;~~

~~(2) A petition shall:~~

~~(a) indicate the typed or printed name and current residence address of each property owner signing the petition;~~

~~(b) indicate the address of the property as to which the owner is signing the petition;~~

~~(c) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;~~

~~(d) describe the entire area of the proposed historical district;~~

~~(e) be accompanied by a map, prepared by a licensed surveyor, showing the boundaries of the entire proposed historical district;~~

~~(f) describe in simple terms that the designation of an historical district may:~~

~~(i) require a property owner whose property is located within the historical district to request special permission from or apply for specific permits with the municipality before the owner may:~~

~~(A) build on or alter the property or an existing structure on the property; or~~

~~(B) build a new structure on the property;~~

~~(ii) prohibit the property owner from certain activities on the owner's property in order to preserve certain historical characteristics, aspects, or appearances of the property; and~~

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~~_____ (iii) require the property owner to comply with a land use ordinance that applies only to the historical district; and~~

~~_____ (g) substantially comply with and be circulated in the following form:~~

~~_____ "PETITION FOR DESIGNATION OF AN HISTORICAL DISTRICT~~

~~_____ To the Honorable Municipal Legislative Body of (insert the name of the municipality in which the proposed historical district is located):~~

~~_____ We, the undersigned owners of real property within the area described in this petition, respectfully petition the municipal legislative body to designate the area described in this petition as an historical district. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be designated as an historical district is described as follows: (insert an accurate description of the area proposed to be designated as an historical district)."~~

~~_____ (3) A petition may not include:~~

~~_____ (a) an area within the unincorporated part of a county or another municipality; or~~

~~_____ (b) some or all of an area described in a previously filed petition that:~~

~~_____ (i) proposes the designation of an historical district; and~~

~~_____ (ii) is certified by the municipal clerk or recorder within the past five years.~~

~~_____ (4) A petition signer may withdraw or, once withdrawn, reinstate the signer's signature at any time before the petition is filed by submitting a written withdrawal or reinstatement with the municipal clerk or recorder.~~

~~_____ (5) A person described in Subsection (2)(c) shall file the petition with the municipal clerk or recorder of the municipality in which the proposed historical district is located.~~

~~_____ Section 6. Section **10-9a-905** is enacted to read:~~

~~_____ **10-9a-905. Request certification -- Amended request.**~~

~~_____ (1) (a) Within 30 days after the day on which a petition is filed in accordance with Section 10-9a-904, the municipal clerk or recorder shall determine whether the petition complies with the requirements of Section 10-9a-904.~~

~~_____ (b) If the municipal clerk or recorder determines that the petition complies with the applicable requirements, the municipal clerk or recorder shall:~~

~~_____ (i) certify the petition and deliver the certified petition to the municipal legislative~~

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~~body; and~~

~~—— (ii) mail or deliver written notification of the certification to the contact sponsor.~~

~~—— (c) (i) If the municipal clerk or recorder determines that the petition fails to comply with any of the applicable requirements, the municipal clerk or recorder shall reject the petition and notify the contact sponsor in writing of the rejection and the reasons for rejection.~~

~~—— (ii) If the municipal clerk or recorder rejects a petition under Subsection (1)(c)(i), the petition may be amended to correct deficiencies for which it was rejected and then refiled.~~

~~—— (iii) A valid signature on a petition that was rejected may be used toward fulfilling the applicable signature requirement of the petition as amended.~~

~~—— (iv) If a petition is amended and refiled under Subsection (1)(c)(ii), the amended petition is considered as newly filed, and its processing priority is determined by the date on which it is refiled.~~

~~—— (2) If the municipal clerk or recorder fails to certify or reject a petition within 30 days after its filing, the petition is considered certified.~~

~~—— (3) The municipal clerk or recorder shall act in good faith in making the determinations under this section.~~

~~—— Section 7. Section **10-9a-906** is enacted to read:~~

~~—— **10-9a-906. Public hearing -- Designation of historical district.**~~

~~—— (1) No later than 45 days after receiving a certified petition from the municipal clerk or recorder, the municipal legislative body shall hold a public hearing to determine whether to designate an historical district in the area identified in the petition.~~

~~—— (2) Before holding the public hearing described in Subsection (1), the municipal legislative body shall, in addition to the notice requirements of Section 52-4-202, mail a notice of the hearing to each resident residing within and each owner of real property located within the proposed historical district.~~

~~—— (3) At the public hearing described in Subsection (1), the municipal legislative body shall:~~

~~—— (a) allow the public reasonable opportunity to provide input on whether or not the municipality should designate an historical district; and~~

~~—— (b) vote whether or not to adopt an ordinance that designates the historical district.~~

~~—— Section 8. Section **17-27a-901** is enacted to read:~~

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Part 9. Historical Districts

~~17-27a-901. Definitions:~~

~~As used in this part:~~

~~(1) "Historical district" means an area or a group of areas:~~

~~(a) not necessarily having contiguous boundaries located in the unincorporated part of a county; and~~

~~(b) that contains an historic resource or a group of historic resources that are related by history, architecture, archaeology, engineering, or culture.~~

~~(2) "Historic preservation" means the identification, evaluation, establishment, and protection of an historic resource.~~

~~(3) "Historic resource" means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of the United States, Utah, or a community within a county.~~

~~Section 9. Section 17-27a-902 is enacted to read:~~

~~17-27a-902. Historical district may be created:~~

~~(1) A county may not designate an historical district unless, in accordance with this part, a petition is filed and certified and the county adopts an ordinance designating the historical district.~~

~~(2) A county may:~~

~~(a) expend public funds for historic preservation;~~

~~(b) obtain an easement or right-of-way across public or private property to ensure access or proper development of an historical district;~~

~~(c) adopt a land use ordinance to:~~

~~(i) ensure proper development and utilization of land or an area within or adjacent to an historical district; or~~

~~(ii) protect or preserve an historic resource located in an historical district; and~~

~~(d) enter into an agreement with a person for the right to purchase an historic resource or other property located within an historical district if the person elects to sell or dispose of the historic resource or other property.~~

~~Section 10. Section 17-27a-903 is enacted to read:~~

~~17-27a-903. Property owner provisions:~~

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~~For purposes of this part, the owner of real property is the fee title owner according to the records of the county recorder on the date of the filing of a petition.~~

~~Section 11. Section 17-27a-904 is enacted to read:~~

~~**17-27a-904. Process to initiate the designation of an historical district -- Petition requirements -- Withdrawal of signature:**~~

~~(1) The process to designate an historical district shall be initiated by a petition signed by the owners of private property that:~~

~~(a) is located within the proposed historical district; and~~

~~(b) covers at least two-thirds of the total private land area within the proposed historical district.~~

~~(2) A petition shall:~~

~~(a) indicate the typed or printed name and current residence address of each property owner signing the petition;~~

~~(b) indicate the address of the property described in Subsection (1) for which the owner is signing the petition;~~

~~(c) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;~~

~~(d) describe the entire area of the proposed historical district;~~

~~(e) be accompanied by a map, prepared by a licensed surveyor, showing the boundaries of the entire proposed historical district;~~

~~(f) describe in simple terms that the designation of an historical district may:~~

~~(i) require a property owner whose property is located within the historical district to request special permission from or apply for specific permits with the county before the owner may:~~

~~(A) build on or alter the property or an existing structure on the property; or~~

~~(B) build a new structure on the property;~~

~~(ii) prohibit the property owner from certain activities on the owner's property in order to preserve certain historical characteristics, aspects, or appearances of the property; and~~

~~(iii) require the property owner to comply with a land use ordinance that applies only to the historical district; and~~

~~(g) substantially comply with and be circulated in the following form:~~

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~~"PETITION FOR DESIGNATION OF AN HISTORICAL DISTRICT~~

~~To the Honorable County Legislative Body of (insert the name of the county in which the proposed historical district is located):~~

~~We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to designate the area described in this petition as an historical district. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be designated as an historical district is described as follows: (insert an accurate description of the area proposed to be designated as an historical district)."~~

~~(3) A petition may not include:~~

~~(a) an area within a municipality or another county; or~~

~~(b) some or all of an area described in a previously filed petition that:~~

~~(i) proposes the designation of an historical district; and~~

~~(ii) is certified by the county clerk within the past five years;~~

~~(4) A petition signer may withdraw or, once withdrawn, reinstate the signer's signature at any time before the petition is filed by submitting a written withdrawal or reinstatement with the county clerk.~~

~~(5) A person described in Subsection (2)(c) shall file the petition with the county clerk of the county in which the proposed historical district is located.~~

~~Section 12. Section **17-27a-905** is enacted to read:~~

~~**17-27a-905. Request certification -- Amended request.**~~

~~(1) (a) Within 30 days after the day on which a petition is filed in accordance with Section 17-27a-904, the county clerk shall determine whether the petition complies with the requirements of Section 17-27a-904.~~

~~(b) If the county clerk determines that the petition complies with the applicable requirements, the county clerk shall:~~

~~(i) certify the petition and deliver the certified petition to the county legislative body; and~~

~~(ii) mail or deliver written notification of the certification to the contact sponsor.~~

~~(c) (i) If the county clerk determines that the petition fails to comply with any of the~~

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~~applicable requirements, the county clerk shall reject the petition and notify the contact sponsor in writing of the rejection and the reasons for rejection:~~

~~—— (ii) If the county clerk rejects a petition under Subsection (1)(c)(i), the petition may be amended to correct deficiencies for which it was rejected and then refiled:~~

~~—— (iii) A valid signature on a petition that was rejected may be used toward fulfilling the applicable signature requirement of the petition as amended:~~

~~—— (iv) If a petition is amended and refiled under Subsection (1)(c)(ii), the amended petition is considered as newly filed, and its processing priority is determined by the date on which it is refiled:~~

~~—— (2) If the county clerk fails to certify or reject a petition within 30 days after its filing, the petition is considered certified:~~

~~—— (3) The county clerk shall act in good faith in making the determinations under this section:~~

~~—— Section 13. Section **17-27a-906** is enacted to read:~~

~~—— **17-27a-906. Public hearing -- Designation of historical district.**~~

~~—— (1) No later than 45 days after receiving a certified petition from the county clerk, the county legislative body shall hold a public hearing to determine whether to designate an historical district in the area identified in the petition:~~

~~—— (2) Before holding the public hearing described in Subsection (1), the county legislative body shall, in addition to the notice requirements of Section 52-4-202, mail a notice of the hearing to each resident residing within and each owner of real property located within the proposed historical district:~~

~~—— (3) At the public hearing described in Subsection (1), the county legislative body shall:~~

~~—— (a) allow the public reasonable opportunity to provide input on whether or not the county should designate an historical district; and~~

~~—— (b) vote whether or not to adopt an ordinance that designates the historical district.~~

~~—— Section 14. **Repealer.**~~

~~—— This bill repeals:~~

~~—— Section **10-8-85.9, Preservation of historical areas and sites.**~~

~~—— Section **17-50-326, Preservation of historical areas and sites.**~~

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Legislative Review Note

~~as of 11-17-11 12:58 PM~~

~~Office of Legislative Research and General Counsel}~~