

# HB0102S01 compared with HB0102

~~{deleted text}~~ shows text that was in HB0102 but was deleted in HB0102S01.

inserted text shows text that was not in HB0102 but was inserted into HB0102S01.

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Senator J. Stuart Adams proposes the following substitute bill:

## ASSESSMENT AREA AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: ~~{\_\_\_\_\_}~~ J. Stuart Adams

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### LONG TITLE

#### General Description:

This bill amends provisions related to the designation of an assessment area ~~{and the levy of an assessment}~~.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a governing body from designating an assessment area ~~{with boundaries that are coextensive or substantially coterminous with the boundaries of the assessing local entity}~~ beginning on May 13, 2014, and before May 12, 2015;
- ▶ authorizes a governing body to circulate a petition to designate an assessment area if the protests to an assessment area are contestable; ~~{~~

~~→ amends language authorizing a local entity to levy an assessment that provides an~~

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~~indirect benefit;~~

~~prohibits a local entity that levies an assessment for economic promotion activities from using a taxable value assessment method or levying the assessment on a residential property;~~ and

- ▶ makes technical corrections.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**11-42-102**, as last amended by Laws of Utah 2013, Chapter 246

~~{ **11-42-201**, as last amended by Laws of Utah 2010, Chapter 238~~

~~† **11-42-202**, as last amended by Laws of Utah 2013, Chapters 246 and 265~~

**11-42-206**, as last amended by Laws of Utah 2013, Chapter 265

~~{ **11-42-403**, as last amended by Laws of Utah 2009, Chapter 246~~

~~— **11-42-406**, as last amended by Laws of Utah 2010, Chapter 238~~

~~— **11-42-409**, as enacted by Laws of Utah 2007, Chapter 329; ENACTS:~~

**11-42-201.5**, Utah Code Annotated 1953

**63I-2-211**, Utah Code Annotated 1953

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

Section 1. Section **11-42-102** is amended to read:

#### **11-42-102. Definitions.**

(1) (a) "Adequate protests" means timely filed, written protests [~~under Section 11-42-203~~] that represent [~~at least 50%~~] no less than 45% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied [~~, after eliminating:~~].

~~(a)~~ (b) "Adequate protests" does not include written protests relating to:

(i) (A) property that has been deleted from a proposed assessment area; or

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~~(ii)~~ (B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

~~(b)~~ (ii) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method~~(s)~~

~~(a)~~ by which an assessment is levied against property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method~~(s); and~~

~~(b)~~ that equitably reflects the ~~direct~~ benefit received from the improvement.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly ~~(s)~~ or indirectly ~~(s)~~ benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

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(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly ~~or~~ or indirectly ~~or~~ or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- (i) commercial;
- (ii) mining;
- (iii) industrial;
- (iv) manufacturing;
- (v) governmental;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

- (i) is used as or held for dwelling purposes; and
- (ii) contains four or more rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) (a) "Contestable protests" means timely filed, written protests that represent no less than 35% and less than 45% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied.

(b) "Contestable protests" does not include written protests relating to:

- (i) (A) property that has been deleted from a proposed assessment area;
- (B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and
- (ii) protests that have been withdrawn under Subsection 11-42-203(3).

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~~[(15)]~~ (16) "Contract price" means:

- (a) the cost of acquiring an improvement, if the improvement is acquired; or
- (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

~~[(16)]~~ (17) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

~~[(17)]~~ (18) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

~~[(18)]~~ (19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;
- (c) helping to coordinate public and private actions; and
- (d) developing and issuing publications designed to improve the economic well-being of the commercial area.

~~[(19)]~~ (20) "Energy efficiency upgrade" means an improvement that is permanently affixed to commercial or industrial real property that is designed to reduce energy consumption, including:

- (a) insulation in:
  - (i) a wall, roof, floor, or foundation; or
  - (ii) a heating and cooling distribution system;
- (b) a window or door, including:
  - (i) a storm window or door;
  - (ii) a multiglazed window or door;
  - (iii) a heat-absorbing window or door;
  - (iv) a heat-reflective glazed and coated window or door;
  - (v) additional window or door glazing;
  - (vi) a window or door with reduced glass area; or
  - (vii) other window or door modifications;
- (c) an automatic energy control system;
- (d) in a building or a central plant, a heating, ventilation, or air conditioning and

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distribution system;

(e) caulk or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of low-flow toilets and showerheads;

(ii) installation of timer or timing systems for a hot water heater; or

(iii) installation of rain catchment systems; or

(j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body of a local entity.

~~[(20)]~~ (21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

~~[(21)]~~ (22) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

~~[(22)]~~ (23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

~~[(23)]~~ (24) "Improved property" means property proposed to be assessed within an assessment area upon which a residential, commercial, or other building has been built.

~~[(24)]~~ (25) "Improvement":

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(a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or privately owned energy efficiency upgrade, or a publicly or privately owned renewable energy system that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection [~~(24)~~] (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

[~~(25)~~] (26) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(27) (a) "Inadequate protests" means timely filed, written protests that represent less than 35% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied.

(b) "Inadequate protests" does not include written protests relating to:

(i) (A) property that has been deleted from a proposed assessment area;

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

[~~(26)~~] (28) "Incidental refunding costs" means any costs of issuing refunding

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assessment bonds and calling, retiring, or paying prior bonds, including:

- (a) legal and accounting fees;
- (b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;
- (c) underwriting discount costs, printing costs, the costs of giving notice;
- (d) any premium necessary in the calling or retiring of prior bonds;
- (e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;
- (f) any other costs that the governing body determines are necessary or desirable to incur in connection with the issuance of refunding assessment bonds; and
- (g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

~~[(27)]~~ (29) "Installment payment date" means the date on which an installment payment of an assessment is payable.

~~[(28)]~~ (30) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

~~[(29)]~~ (31) "Jurisdictional boundaries" means:

- (a) for a county, the boundaries of the unincorporated area of the county; and
- (b) for each other local entity, the boundaries of the local entity.

~~[(30)]~~ (32) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

~~[(31)]~~ (33) "Local entity" means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

~~[(32)]~~ (34) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

~~[(33)]~~ (35) "Mailing address" means:

- (a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and
- (b) if the property is improved property:
  - (i) the property's street number; or

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(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

~~[(34)]~~ (36) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

~~[(35)]~~ (37) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

~~[(36)]~~ (38) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

~~[(37)]~~ (39) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

~~[(38)]~~ (40) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

~~[(39)]~~ (41) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

~~[(40)]~~ (42) "Project engineer" means the surveyor or engineer employed by or private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

~~[(41)]~~ (43) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

~~[(42)]~~ (44) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

~~[(43)]~~ (45) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and

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expansion of an improvement.

~~[(44)]~~ (46) "Public agency" means:

- (a) the state or any agency, department, or division of the state; and
- (b) a political subdivision of the state.

~~[(45)]~~ (47) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

~~[(46)]~~ (48) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

~~[(47)]~~ (49) "Renewable energy system" means a product, a system, a device, or an interacting group of devices that:

- (a) is permanently affixed to commercial or industrial real property; and
- (b) produces energy from renewable resources, including:
  - (i) a photovoltaic system;
  - (ii) a solar thermal system;
  - (iii) a wind system;
  - (iv) a geothermal system, including:
    - (A) a generation system;
    - (B) a direct-use system; or
    - (C) a ground source heat pump system;
  - (v) a microhydro system; or
  - (vi) other renewable sources approved by the governing body of a local entity.

~~[(48)]~~ (50) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

~~[(49)]~~ (51) "Service" means:

- (a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;
- (b) economic promotion activities; or
- (c) any other service that a local entity is required or authorized to provide.

~~[(50)]~~ (52) "Special service district" has the same meaning as defined in Section

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17D-1-102.

[(51)] (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[(52)] (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42-201.5 is ~~amended~~enacted to read:

11-42-201.5. Prohibition on designation of an assessment area ~~{-- Zones within an assessment area -- Preconditions to adoption of a resolution or an ordinance.~~

~~— (1) (a) Subject to the requirements of this part~~before May 12, 2015.

(1) Except as provided in Subsection (2)(a), a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating ~~may not designate~~ an assessment area under this part beginning on May 13, 2014, and before May 12, 2015.

~~— (b) A designation resolution or designation ordinance~~

(2) (a) Subsection (1) does not apply to an assessment area for which:

(i) notice described in Subsection ~~{(1)(a) may divide the assessment area into zones to allow the governing body to:~~

~~— (i) levy a different level of assessment; or~~

~~— (ii) use a different assessment method in each zone to reflect more fairly the benefits that property within the different zones is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities;~~

~~— (c) The boundaries of a proposed assessment area [may include property that is not intended to be assessed.];~~

~~— (i) may include property that is not intended to be assessed; and~~

~~— (ii) may not be coextensive or substantially coterminous with the boundaries of the local entity;~~

~~— (2) Before adopting a designation resolution or~~11-42-201(2)(a) is published in accordance with Subsection 11-42-202(3) before May 13, 2014; or

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(ii) a designation ordinance or resolution has been adopted under Section 11-42-206 before May 13, 2014, designating the assessment area and the assessment area will expire by law unless the governing body redesignates the assessment area.

(b) If a governing body redesignates an assessment area described in Subsection ~~(11)2~~(a), the governing ~~body~~ may not expand the boundaries of the ~~local entity shall~~

~~(a) give notice as provided in Section 11-42-202;~~

~~(b) receive and consider all protests filed under Section 11-42-203; and~~

~~(c) hold a public hearing as provided in Section 11-42-204.~~ assessment area.

Section 3. Section 11-42-202 is amended to read:

**11-42-202. Requirements applicable to a notice of a proposed assessment area designation.**

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general way, the improvements to be provided to the assessment area, including:

(i) the general nature of the improvements; and

(ii) the general location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated direct ~~and~~ and indirect ~~and~~ benefits to the property from the improvements;

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(f) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317;

(g) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; and

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements;

(h) state the date, time, and place of the public hearing required in Section 11-42-204;

(i) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(j) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(k) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to

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reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

(l) if the governing body intends to divide the proposed assessment area into zones under Subsection 11-42-201(1)(b), include a description of the proposed zones.

(2) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102[~~(24)~~]  
(25)(a)(ii).

(3) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(g); and

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(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 4. Section 11-42-206 is amended to read:

**11-42-206. Adoption of a resolution or an ordinance regarding a proposed assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.**

(1) (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

(b) In accordance with Section 11-42-203, the governing body:

(i) may not schedule the public meeting before the expiration of the 60-day protest period; and

(ii) shall consider and report on any timely filed protests.

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and

(b) determine whether to designate a voluntary assessment area, after considering:

(i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and

(ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.

(3) (a) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.

(b) If inadequate protests have been filed, the governing body may designate the described assessment area.

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(c) If contestable protests have been filed, the governing body may not designate the described assessment area unless the governing body:

(i) (A) circulates a petition to designate the assessment area described in the notice under Section 11-42-202; and

(B) clearly indicates on the petition that it is a petition to designate the assessment area;

(ii) collects for the petition described in Subsection (3)(c)(i)(A):

(A) the signatures of owners of private real property that is located within the proposed assessment area;

(B) enough signatures to exceed the number of contestable protest signatures received by the governing body protesting the described assessment area by no less than 5% based on the same assessment method representation that was used to calculate the number of contestable protest signatures; and

(C) the necessary signatures described in Subsection (3)(c)(ii)(B) no later than 60 days after the day on which the public hearing described in Subsection (1)(a) is held;

(iii) submits the signatures on the petition to the county clerk, municipal clerk, or municipal recorder, respectively, for certification;

(iv) holds a public meeting after the county clerk, municipal clerk, or municipal recorder notifies the governing body that the clerk or recorder has certified the petition in accordance with Subsection (3)(e); and

(v) at the public meeting casts a unanimous vote to adopt a designation resolution or ordinance designating the assessment area.

(d) A property owner who signs the petition may withdraw the owner's signature from the petition at any time before the expiration of the 60-day period described in Subsection (3)(c)(ii)(C) by filing a written withdrawal with the county clerk, municipal clerk, or municipal recorder, respectively.

(e) No later than 30 days after receiving a petition described in Subsection (3)(c)(i) from a governing body for certification, a county clerk, municipal clerk, or municipal recorder shall:

(i) determine if the petition complies with the petition and signature requirements of Subsections (3)(c)(i) and (ii);

(ii) certify the petition if the petition is in compliance or reject the petition; and

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(iii) notify the governing body in writing that the petition has been certified or rejected.

(f) If the county clerk, municipal clerk, or municipal recorder, respectively, fails to certify or reject a petition within 30 days after it is submitted by the governing body, the petition shall be considered to be rejected.

(4) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number, the property proposed to be assessed.

(b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.

(5) After the adoption of a designation resolution or ordinance under Subsection (1)(a), the local entity may begin providing the specified improvements.

Section 5. Section ~~{11-42-403}~~631-2-211 is ~~{amended}~~enacted to read:

~~{~~**11-42-403. Board of equalization -- Hearings -- Corrections to proposed assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of objections:**

~~\_\_\_\_\_ (1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the governing body shall appoint a board of equalization.~~

~~\_\_\_\_\_ (2) Each board of equalization under this section shall, at the option of the governing body, consist of:~~

~~\_\_\_\_\_ (a) three or more members of the governing body;~~

~~\_\_\_\_\_ (b) (i) two members of the governing body; and~~

~~\_\_\_\_\_ (ii) (A) a representative of the treasurer's office of the local entity; or~~

~~\_\_\_\_\_ (B) a representative of the office of the local entity's engineer or the project engineer;~~

~~or~~

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- ~~—— (c) (i) (A) one member of the governing body; or~~
- ~~—— (B) a representative of the governing body, whether or not a member of the governing body, appointed by the governing body;~~
- ~~—— (ii) a representative of the treasurer's office of the local entity; and~~
- ~~—— (iii) a representative of the office of the local entity's engineer or the project engineer.~~
- ~~—— (3) (a) The board of equalization shall hold hearings on at least three consecutive days for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section 11-42-402.~~
- ~~—— (b) The board of equalization may continue a hearing from time to time to a specific place and a specific hour and day until the board's work is completed.~~
- ~~—— (c) At each hearing, the board of equalization shall hear arguments from any person who claims to be aggrieved, including arguments relating to:~~
  - ~~—— (i) the direct [or indirect] benefits accruing to a tract, block, lot, or parcel of property in the assessment area; or~~
  - ~~—— (ii) the amount of the proposed assessment against the tract, block, lot, or parcel.~~
- ~~—— (4) (a) After the hearings under Subsection (3) are completed, the board of equalization shall:~~
  - ~~—— (i) consider all facts and arguments presented at the hearings; and~~
  - ~~—— (ii) make any corrections to the proposed assessment list that the board considers just and equitable.~~
- ~~—— (b) A correction under Subsection (4)(a)(ii) may:~~
  - ~~—— (i) eliminate one or more pieces of property from the assessment list; or~~
  - ~~—— (ii) increase or decrease the amount of the assessment proposed to be levied against a parcel of property.~~
- ~~—— (c) (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that results in an increase of a proposed assessment, the board shall, before approving a corrected assessment list:~~
  - ~~—— (A) give notice as provided in Subsection (4)(c)(ii);~~
  - ~~—— (B) hold a hearing at which the owner whose assessment is proposed to be increased may appear and object to the proposed increase; and~~
  - ~~—— (C) after holding a hearing, make any further corrections that the board considers just~~

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~~and equitable with respect to the proposed increased assessment.~~

~~—— (ii) Each notice required under Subsection (4)(c)(i)(A) shall:~~

~~—— (A) state:~~

~~—— (I) that the property owner's assessment is proposed to be increased;~~

~~—— (II) the amount of the proposed increased assessment;~~

~~—— (III) that a hearing will be held at which the owner may appear and object to the increase; and~~

~~—— (IV) the date, time, and place of the hearing; and~~

~~—— (B) be mailed, at least 15 days before the date of the hearing, to each owner of property as to which the assessment is proposed to be increased at the property owner's mailing address:~~

~~—— (5) (a) After the board of equalization has held all hearings required by this section and has made all corrections the board considers just and equitable, the board shall report to the governing body its findings that:~~

~~—— (i) each parcel of property within the assessment area will be directly [or indirectly] benefitted in an amount not less than the assessment to be levied against the property; and~~

~~—— (ii) except as provided in Subsection 11-42-409(6), no parcel of property on the assessment list will bear more than its proportionate share of the cost of the improvements benefitting the property:~~

~~—— (b) The board of equalization shall, within 10 days after submitting its report to the governing body, mail a copy of the board's final report to each property owner who objected at the board hearings to the assessment proposed to be levied against the property owner's property at the property owner's mailing address:~~

~~—— (6) (a) If a board of equalization includes members other than the governing body of the local entity, a property owner may appeal a decision of the board to the governing body by filing with the governing body a written notice of appeal within 15 days after the board's final report is mailed to property owners under Subsection (5)(b):~~

~~—— (b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings of a board of equalization:~~

~~—— (7) The findings of a board of equalization are final:~~

~~—— (a) when approved by the governing body, if no appeal is allowed under Subsection (6); or~~

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~~\_\_\_\_\_ (b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed under that subsection:~~

~~\_\_\_\_\_ (8) (a) If a governing body has levied an assessment to pay operation and maintenance costs within an assessment area, the governing body may periodically appoint a new board of equalization to review assessments for operation and maintenance costs:~~

~~\_\_\_\_\_ (b) Each board of equalization appointed under Subsection (8)(a) shall comply with the requirements of Subsections (3) through (6):~~

~~\_\_\_\_\_ (9) The failure of an owner of property within the assessment area to appear before the board of equalization to object to the levy of the assessment constitutes a waiver of all objections to the levy, except an objection that the governing body failed to obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area:~~

~~\_\_\_\_\_ Section 6. Section ~~11-42-406~~ is amended to read:~~

~~\_\_\_\_\_ **11-42-406. Assessment for economic promotion activities -- Reporting.**~~

~~\_\_\_\_\_ (1) (a) If the governing body of a local entity designates an assessment area in accordance with Part 2, Designating an Assessment Area, for economic promotion activities, the governing body:~~

~~\_\_\_\_\_ (i) may levy an assessment to pay for economic promotion activities by adopting an assessment resolution or ordinance in accordance with Section ~~11-42-404~~; [and]~~

~~\_\_\_\_\_ (ii) subject to Subsection (1)(b), may levy an additional assessment for economic promotion activities for the designated assessment area described in Subsection (1)(a):~~

~~\_\_\_\_\_ (A) by adopting an assessment resolution or an ordinance in accordance with Section ~~11-42-404~~; and~~

~~\_\_\_\_\_ (B) for a period of five years, beginning on the day on which the local entity adopts the initial assessment resolution or ordinance described in Subsection (1)(a)(i)[-];~~

~~\_\_\_\_\_ (iii) may not levy an assessment on a residential property for the economic promotion activities;~~

~~\_\_\_\_\_ (iv) may not use taxable value as the assessment method; and~~

~~\_\_\_\_\_ (v) shall use an assessment method that fairly and equitably reflects the growth in economic activity received by the benefitted property.~~

~~\_\_\_\_\_ (b) A governing body may not levy an additional assessment to pay for economic~~

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~~promotion activities after the five-year period described in Subsection (1)(a)(ii)(B) unless the governing body:~~

~~—— (i) designates a new assessment area in accordance with Part 2, Designating an Assessment Area; and~~

~~—— (ii) adopts a new assessment resolution or ordinance in accordance with Section 11-42-404.~~

~~—— (2) If a local entity designates an assessment area for economic promotion activities, the local entity:~~

~~—— (a) shall spend on economic promotion activities at least 70% of the money generated from an assessment levied in the assessment area and from improvement revenues;~~

~~—— (b) may not spend more than 30% of the money generated from the assessment levied in the assessment area and from improvement revenues on administrative costs, including salaries, benefits, rent, travel, and costs incidental to publications; and~~

~~—— (c) in accordance with Subsection (3), shall publish a detailed report including the following:~~

~~—— (i) an account of money deposited into the assessment fund described in Section 11-42-412;~~

~~—— (ii) an account of expenditures from the fund described in Section 11-42-412; and~~

~~—— (iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii) was made for economic promotion activities described in Subsection (2)(a) or for administrative costs described in Subsection (2)(b).~~

~~—— (3) A local entity shall publish a report required in Subsection (2)(c):~~

~~—— (a) on:~~

~~—— (i) if available, the local entity's public web site; and~~

~~—— (ii) if the local entity is not a county or municipality, on the public web site of any county or municipality in which the local entity has jurisdiction;~~

~~—— (b) (i) within one year after the day on which the local entity adopts a new assessment resolution or ordinance for economic promotion activities; and~~

~~—— (ii) each subsequent year that the economic promotion activities levy is assessed by updating the information described in Subsection (2)(c); and~~

~~—— (c) for six months on a web site described in Subsection (3)(a) after the day on which~~

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~~the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii):~~

~~Section 7. Section 11-42-409 is amended to read:~~

~~11-42-409. Assessment requirements:~~

~~(1) (a) Each local entity that levies an assessment under this chapter shall levy the assessment on each block, lot, tract, or parcel of property that [borders, is adjacent to, or] benefits from an improvement:~~

~~(i) to the extent that the improvement directly [or indirectly] benefits the property; and~~

~~(ii) to whatever depth on the parcel of property that the governing body determines, including the full depth:~~

~~(b) The validity of an otherwise valid assessment is not affected by the fact that the benefit to the property from the improvement[.] does not increase the fair market value of the property:~~

~~[(i) is only indirect; or]~~

~~[(ii) does not increase the fair market value of the property.]~~

~~(2) [The] Subject to Section 11-42-406, the assessment method a governing body uses to calculate an assessment may be according to frontage, area, taxable value, fair market value, lot, number of connections, equivalent residential unit, or any combination of these methods, as the governing body considers fair and equitable:~~

~~(3) In calculating assessments, a governing body may:~~

~~(a) use different methods for different improvements in an assessment area; and~~

~~(b) assess different amounts in different zones, even when using the same method, if acquisition or construction costs differ from zone to zone:~~

~~(4) (a) Each local entity shall make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides:~~

~~(b) A local entity may allocate a corner lot allowance under Subsection (4)(a) to all other benefitted property within the assessment area by increasing the assessment levied against the other property:~~

~~(5) (a) Assessments shall be fair and equitable according to the benefit to the benefitted property from the improvement:~~

~~(b) To comply with Subsection (5)(a), a local entity may levy assessments within zones:~~

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~~—— (6) A local entity may levy an assessment that would otherwise violate a provision of this chapter if the owners of all property to be assessed enter into a written agreement with the local entity consenting to the assessment.~~

### Legislative Review Note

~~—— as of 2-4-14 11:49 AM~~

~~—— Office of Legislative Research and General Counsel; 63I-2-211. Repeal dates -- Title 11. Section 11-42-201.5 is repealed July 1, 2015.~~