

**2nd Sub. H.B. 190**  
**ASSESSMENT AREA ACT MODIFICATIONS**

Senator **J. Stuart Adams** proposes the following amendments:

1. *Page 3, Lines 59 through 62:*

59 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203  
60 that represent at least [50%] ~~{40%}~~ 30% of the frontage, area, taxable value, fair market value, lots,  
61 number of connections, or equivalent residential units of the property proposed to be assessed,  
62 according to the same assessment method by which the assessment is proposed to be levied,

2. *Page 12, Line 362 through Page 13, Line 370:*

362 assessment may not be commenced, and a court may not inquire into those matters.

363 (6) ~~{(a)}~~ This section may not be interpreted to insulate a local entity from a claim of  
364 misuse of assessment funds after the expiration of the 60-day period described in Subsection  
365 (2)(b).

366 ~~{(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus~~  
367 ~~is the sole form of relief available to a party challenging the misuse of assessment funds.~~  
368 ~~—(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal~~  
369 ~~charges against or the prosecution of a party for the misuse of assessment funds.}~~

370 Section 4. Section 11-42-201 is amended to read:

3. *Page 16, Lines 480 through 482:*

480 (2) ~~{The}~~ If the estimated interest rate and term of financing in Subsection (1)(p) ~~{may~~  
not be  
481 interpreted as a limitation to the actual interest rate incurred or the actual term of financing as  
482 subject to the market rate at the time of the issuance of the bond} is not within 2% of the actual  
interest rate, the local entity may not designate the assessment area or levy the assessment for the  
improvement, operation and maintenance, or economic promotion activities, as applicable, identified in  
the notice .

4. *Page 31, Lines 926 through 948:*

926 assessment area.]

927 (9) ~~{(a) An owner who fails to make an objection setting forth all claims, in accordance~~  
928 ~~with Subsection (9)(b), to the board of equalization waives all objections, except as provided in~~  
929 ~~Subsection (10), to the levy.}~~

930 ~~{(b)}~~ An owner may set forth a claim and object to a levy by:

931            ~~{(i)}~~    (a)    appearing before the board of equalization in person or through a designated agent;  
932    or  
933            ~~{(ii)}~~    (b)    submitting the objection in writing if the objection is received by the board of  
934    equalization before:  
935            ~~{(A)}~~    (i)    the first hearing as described in Subsection (3)(a); or  
936            ~~{(B)}~~    (ii)   if applicable to the owner, a subsequent hearing described in Subsection  
937    (4)(c)(i)(B).  
938            ~~{(10) The provisions of Subsection (9)(a) do not prohibit an owner's objection that the~~  
939    ~~governing body failed to obtain jurisdiction to order that the improvements which the~~  
940    ~~assessment is intended to pay be provided to the assessment area.}~~  
941            ~~{(11)(a)}~~    (10)    This section may not be interpreted to insulate a local entity from a claim of  
942    misuse of assessment funds.  
943            ~~{(b)(i) Except as provided in Subsection (11)(b)(ii), an action in the nature of~~  
944    ~~mandamus is the sole form of relief available to a party challenging the misuse of assessment~~  
945    ~~funds.~~  
946    ~~——(ii) The limitation in Subsection (11)(b)(i) does not prohibit the filing of criminal~~  
947    ~~charges against or the prosecution of a party for the misuse of assessment funds.}~~  
948            Section 13. Section 11-42-404 is amended to read: