

Representative James A. Dunnigan proposes the following substitute bill:

INFRASTRUCTURE FINANCING DISTRICTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts and modifies provisions related to infrastructure financing districts.

Highlighted Provisions:

This bill:

- ▶ authorizes the creation of a type of special district for the purpose of financing infrastructure;
- ▶ provides a process for the creation of an infrastructure financing district;
- ▶ provides for the powers and governance of an infrastructure financing district;
- ▶ authorizes an infrastructure financing district to impose an assessment on property within the district and to issue assessment bonds to finance infrastructure within the district;

⚡→ ▶ authorizes specified local entities to provide for a longer installment payment period for assessments imposed in an assessment area; ←⚡

- ▶ provides for the district to have bonding authority, with limitations;
- ▶ authorizes the district to levy a property tax;
- ▶ requires a district to provide proof to a county or municipality that an assessment bond has been paid in full on owner-occupied residential property before the county or municipality may issue a certificate of occupancy;
- ▶ provides for the annexation of an area to an infrastructure financing district, the withdrawal of an area from a district, and for dissolution of a district;



522 (d) The boundary of an assessment area proposed to be designated in an ordinance or
 523 resolution of an infrastructure financing district may not include an area that is ~~§~~ → [already included
 524 in] , at the time of adoption of the ordinance or resolution, part of ~~§~~ ← an assessment area
 524a designated under an ordinance or resolution previously adopted by the
 525 infrastructure financing district.

526 (2) Before adopting a designation resolution or designation ordinance described in
 527 Subsection (1)(a), the governing body of the local entity shall:

- 528 (a) give notice as provided in Section 11-42-202;
- 529 (b) receive and consider all protests filed under Section 11-42-203; and
- 530 (c) hold a public hearing as provided in Section 11-42-204.

531 Section 5. Section **11-42-202** is amended to read:

532 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
 533 **designation -- Notice.**

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

- 535 (a) state that the local entity proposes to:
 - 536 (i) designate one or more areas within the local entity's jurisdictional boundaries as an
 - 537 assessment area; and
 - 538 (ii) (A) provide an improvement to property within the proposed assessment area[;]
 - 539 and [(iii)] finance some or all of the cost of improvements by an assessment on benefitted
 - 540 property within the assessment area; or

541 (B) finance improvements to property through an assessment on benefitted property
 542 within the assessment area;

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

546 (c) describe, in a general and reasonably accurate way, the improvements to be
 547 provided to the assessment area, including:

- 548 (i) the nature of the improvements; and
- 549 (ii) the location of the improvements, by reference to streets or portions or extensions
- 550 of streets or by any other means that the governing body chooses that reasonably describes the
- 551 general location of the improvements;

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

646 (6) A local entity shall make available on the local entity's website, or, if no website is
647 available, at the local entity's place of business, the address and type of use of each unassessed
648 benefitted government property described in Subsection (1)(g).

649 (7) If a governing body fails to provide actual or constructive notice under this section,
650 the local entity may not assess a levy against a benefitted property omitted from the notice
651 unless:

652 (a) the property owner gives written consent;

653 (b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did
654 not object to the levy of the assessment before the final hearing of the board of equalization; or

655 (c) the benefitted property is conveyed to a subsequent purchaser and, before the date
656 of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable,
657 Subsection 11-42-207(1)(d)(i) are met.

658 Section 6. Section **11-42-411** is amended to read:

659 **11-42-411. Installment payment of assessments.**

660 (1) (a) In an assessment resolution or ordinance, the governing body may, subject to
661 Subsection (1)(b), provide that some or all of the assessment be paid in installments over a
662 period:

663 (i) not to exceed 20 years from the effective date of the resolution or ordinance, except
664 as provided in Subsection (1)(a)(ii); or

665 (ii) not to exceed 30 years from the effective date of the resolution, for a resolution
666 adopted by:

667 (A) a development authority; [~~or~~]

668 (B) an infrastructure financing district under Title 17B, Chapter 2a, Part 13,

669 Infrastructure Financing Districts; ~~or~~ ←

670 [~~(B)~~] (C) a public infrastructure district created by a development authority under Title
671 17D, Chapter 4, Public Infrastructure District Act ~~or~~ [:] ; or

671a (D) any other local entity, if the resolution is adopted with the consent of all owners of
671b surface property within the assessment area. ←

672 (b) If an assessment resolution or ordinance provides that some or all of the assessment
673 be paid in installments for a period exceeding 10 years from the effective date of the resolution
674 or ordinance, the governing body:

675 (i) shall make a determination that:

676 (A) the improvement for which the assessment is made has a reasonable useful life for

1514 (b) The time for a signer of a petition for the creation of an infrastructure financing
 1515 district to withdraw or reinstate the signer's signature is any time before the petition is certified
 1516 under Section 17B-1-209.

1517 (3) (a) A clerk of the county who receives a timely, valid written withdrawal or
 1518 reinstatement from a signer of a registered voter request or registered voter petition shall use
 1519 the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or
 1520 reinstate the individual's signature.

1521 (b) If a municipal clerk or recorder receives a timely, valid written withdrawal or
 1522 reinstatement from a signer of a registered voter request or registered voter petition, the clerk of
 1523 the municipality's county shall assist the municipal clerk or recorder with determining whether
 1524 to remove or reinstate the individual's signature using the procedures described in Subsection
 1525 20A-1-1003(3).

1526 Section 16. Section **17B-1-208** is amended to read:

1527 **17B-1-208. Additional petition requirements and limitations.**

1528 (1) (a) Each petition shall:

1529 ~~[(a)]~~ (i) be filed with the responsible clerk;

1530 ~~[(b)]~~ (ii) separately group signatures by county and municipality, so that all signatures
 1531 of the owners of real property located within or of registered voters residing within each county
 1532 whose unincorporated area includes and each municipality whose boundaries include part of
 1533 the proposed special district are grouped separately; and

1534 ~~[(c)]~~ (iii) (A) state the number of members that the board of trustees of the proposed
 1535 special district will have, consistent with the requirements of Subsection ~~[17B-1-302(4)]~~ **§→ 17B-**

1535a **1-302(8) ←§** ; and

1536 (B) for a petition proposing the creation of an infrastructure financing district, include
 1537 the name and address of each of the proposed board members.

1538 (b) (i) A petition for the creation of an infrastructure financing district shall state the
 1539 name of the proposed infrastructure financing district.

1540 (ii) The name of an infrastructure financing district shall include the phrase
 1541 "infrastructure financing district."

1542 (c) A petition for the creation of an infrastructure financing district shall be
 1543 accompanied by a written statement, signed by an engineer licensed under Title 58, Chapter 22,
 1544 Professional Engineers and Professional Land Surveyors **§→ Licensing Act ←§** , certifying that the

1576 (2) (a) No later than 35 days after the day on which a petition is filed, the clerk of each
 1577 county whose unincorporated area includes and the clerk or recorder of each municipality
 1578 whose boundaries include part of the proposed special district shall:

1579 (i) with the assistance of other county or municipal officers from whom the county
 1580 clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's
 1581 respective county or municipality, whether the petition complies with the requirements of
 1582 Subsection 17B-1-203(1)(a), (b), ~~or~~ (c), or (d), as the case may be, and Subsections
 1583 17B-1-208(2), (3), and (4); and

1584 (ii) notify the responsible clerk in writing of the clerk or recorder's determination under
 1585 Subsection (2)(a)(i).

1586 (b) The responsible clerk may rely on the determinations of other county clerks or
 1587 municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's
 1588 determinations and certification or rejection under Subsection (3).

1589 (3) (a) Within 45 days after the filing of a petition, the responsible clerk shall~~(i)~~
 1590 determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), ~~or~~ (c), or (d),
 1591 as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208~~(i) and~~.

1592 ~~(ii) (A) if~~ (b) (i) If the responsible clerk determines that the petition complies with the
 1593 applicable requirements, the responsible clerk shall, within the time specified in Subsection
 1594 (3)(a):

1595 ~~(i) (A) [(Aa)]~~ certify the petition [and] as complying with all applicable requirements;
 1596 (B) deliver the certified petition [to the responsible body] as provided in Subsection
 1597 (3)(b)(iii); and

1598 ~~(Bb) (C)~~ mail or deliver written notification of the certification and a copy of the
 1599 certified petition to the contact sponsor~~(i) or~~.

1600 ~~(ii) [(ii) (i)]~~ For each petition described in Subsection [(3)(b)(i);] **§→ [(3)(e)(i) (3)(d)(i)**

1600a **←§** , the

1601 responsible clerk shall, within the time specified in Subsection (3)(a), deliver a copy of the
 1602 petition to the legislative body of each county whose unincorporated area includes and each
 1603 municipality whose boundaries include any of the proposed basic special district, with a notice
 1604 indicating that the clerk has determined that the petition complies with all applicable
 1605 requirements~~(i) or~~.

1606 (iii) (A) Except as provided in Subsection (3)(b)(iii)(B), the responsible clerk shall

1917 Section 23. Section **17B-1-216** is amended to read:

1918 **17B-1-216. Costs and expenses of creating a special district.**

1919 (1) (a) Except as provided in Subsection (2) and subject to Subsection (1)(b), each
1920 county whose unincorporated area includes and each municipality whose boundaries include
1921 some or all of the proposed special district shall bear their respective costs and expenses
1922 associated with the procedure under this part for creating a special district.

1923 [~~2~~] (b) Within a year after its creation, each special district shall reimburse the costs
1924 and expenses associated with the preparation, certification, and recording of the approved final
1925 local entity plat of the special district and accompanying documents under Section 17B-1-215.

1926 (2) (a) Subject to Subsection (2)(b), the sponsors of a petition for the creation of an
1927 infrastructure financing district shall bear the costs and expenses associated with the procedure
1928 under this part for creating the infrastructure financing district.

1929 (b) An infrastructure financing district may reimburse petition sponsors the costs and
1930 expenses the petition sponsors paid under Subsection (2)(a).

1931 Section 24. Section **17B-1-219** is enacted to read:

1932 **17B-1-219. Provisions not applicable to the creation of an infrastructure financing**
1933 **district.**

1934 Sections 17B-1-210, 17B-1-211, 17B-1-212, ~~§~~ and ~~§~~ 17B-1-213 do not apply to the
1934a proposed
1935 creation of an infrastructure financing district.

1936 Section 25. Section **17B-1-302** is amended to read:

1937 **17B-1-302. Board member qualifications -- Number of board members.**

1938 (1) Except as provided in Section 17B-2a-905, each member of a special district board
1939 of trustees shall be:

1940 (a) a registered voter at the location of the member's residence; and

1941 (b) except as otherwise provided in Subsection (2) [~~or~~], (3), or (4), a resident within:

1942 (i) the boundaries of the special district; and

1943 (ii) if applicable, the boundaries of the division of the special district from which the
1944 member is elected or appointed.

1945 (2) (a) As used in this Subsection (2):

1946 (i) "Proportional number" means the number of members of a board of trustees that
1947 bears, as close as mathematically possible, the same proportion to all members of the board that

3498 **Exceptions -- Conflicting provisions -- Contract for administrative services.**

3499 (1) ~~§~~ ~~(a)~~ ~~←~~ ~~§~~ An infrastructure financing district is governed by and has the powers
3499a stated in:

3500 ~~§~~ ~~(a)~~ ~~←~~ ~~§~~ this part; and

3501 ~~§~~ ~~(b)~~ ~~←~~ ~~§~~ Chapter 1, Provisions Applicable to All Special Districts, except as
3501a provided in

3502 Subsection (1)(b).

3503 (2) (a) Notwithstanding Subsection 17B-1-103(2)(f), an infrastructure financing district
3504 may issue bonds only as provided in Title 11, Chapter 42, Assessment Area Act, subject to
3505 Subsection (1)(b)(i)(B), and Title 11, Chapter 42a, Commercial Property Assessed Clean
3506 Energy Act.

3507 (b) To the extent that the provisions of Title 11, Chapter 42, Assessment Area Act,
3508 apply to the use of funds from an assessment or an assessment bond for infrastructure operation
3509 and maintenance costs or for the cost of conducting economic promotion activities, those
3510 provisions do not apply to an infrastructure financing district.

3511 (c) Before a county or municipality's final inspection required for the issuance of a
3512 certificate of occupancy for a residential unit that is subject to an assessment levied by an
3513 infrastructure financing district under Title 11, Chapter 42, Assessment Area Act, the
3514 infrastructure financing district shall ensure that the assessment allocable to that unit is paid in
3515 full and that any assessment lien on that unit is satisfied and released.

3516 (3) Notwithstanding Subsection 17B-1-103(2)(h), an infrastructure financing district
3517 may not exercise the power of eminent domain.

3518 (4) This part applies only to an infrastructure financing district.

3519 (5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
3520 Special Districts, and a provision in this part, the provision in this part governs.

3521 (6) An infrastructure financing district may contract with another governmental entity
3522 for the other governmental entity to provide administrative services to the infrastructure
3523 financing district.

3524 Section 56. Section **17B-2a-1303** is enacted to read:

3525 **17B-2a-1303. Governing document.**

3526 (1) The sponsors of a petition filed under Subsection 17B-1-203(1)(d) to create an
3527 infrastructure financing district may include with the petition a governing document.

3528 (2) A governing document may contain provisions for the governance of the

3529 infrastructure financing district, consistent with this part, including:

3530 (a) for a residential district, milestones or events that will guide the board in
 3531 considering modifications to division boundaries to ensure that each division has as nearly as
 3532 possible the same number of registered voters;

3533 (b) a provision allowing a property owner within the infrastructure financing district to
 3534 make recommendations, in proportion to the amount of the owner's property in relation to all
 3535 property within the infrastructure financing district, for individuals to serve as appointed board
 3536 members; and

3537 (c) any other provisions or information that petition sponsors or the board considers
 3538 necessary or advisable for the governance of the infrastructure financing district.

3539 (3) A governing document shall:

3540 (a) include a description of infrastructure that the infrastructure financing district will
 3541 provide funding for;

3542 (b) include, for a residential district, a provision for a transition from an appointment
 3543 board position, whether at large or for a division, to an elected board position, based upon
 3544 milestones or events that the ~~§~~→ [government] governing ←~~§~~ document identifies;

3545 (c) if applicable, include a copy of a development agreement that has been executed
 3546 relating to infrastructure to be developed within the boundary of the infrastructure financing
 3547 district and for which the infrastructure financing district anticipates providing funding; and

3548 (d) if applicable, describe a designated expansion area.

3549 (4) (a) An area may not be designated as a designated expansion area unless the area is
 3550 contiguous to the original district boundary.

3551 (b) An area may not be annexed to an infrastructure financing district unless the area is
 3552 within the designated expansion area that is described in a governing document that is included
 3553 and submitted with the petition to create the infrastructure financing district.

3554 Section 57. Section **17B-2a-1304** is enacted to read:

3555 **17B-2a-1304. Board of trustees -- Conflict of interest -- Compensation.**

3556 (1) A board member with a personal investment described in Section 67-16-9 is not in
 3557 violation of Section 67-16-9 if:

3558 (a) before beginning service as a board member, the board member complies with the
 3559 disclosure requirements of Section 67-16-7, as though that section applied to the board

3560 member's ownership of a personal investment described in Section 67-16-9; and
 3561 (b) during the board member's service, the board member complies with:
 3562 (i) the disclosure requirements of Section 67-16-7, as provided in Subsection (1)(a),
 3563 upon any significant change in the board member's personal investment; and
 3564 (ii) applicable requirements of this part and the governing document.
 3565 (2) An infrastructure financing district may not compensate a board member for the
 3566 member's service on the board unless the board member is a resident within the boundary of
 3567 the infrastructure financing district.

3568 Section 58. Section **17B-2a-1305** is enacted to read:

3569 **17B-2a-1305. Relationship with other local entities.**

3570 (1) The applicability of local land use regulations under Title 10, Chapter 9a,
 3571 Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County
 3572 Land Use, Development, and Management Act, is not affected by:

- 3573 (a) the creation or operation of an infrastructure financing district; or
- 3574 (b) the infrastructure financing district's provision of funding for the development of
 3575 infrastructure within the infrastructure financing district boundary.

3576 (2) The boundary of an infrastructure financing district is not affected by:

- 3577 (a) a municipality's annexation of an unincorporated area of a county; or
- 3578 (b) the adjustment of a boundary shared by more than one municipality.

3579 (3) A debt, obligation, or other financial burden of an infrastructure financing district,
 3580 including any liability of or claim or judgment against an infrastructure financing district:

- 3581 (a) is borne solely by the infrastructure financing district; and
- 3582 (b) is not the debt, obligation, or other financial burden of any other political
 3583 subdivision of the state or of the state.

3584 (4) (a) Nothing in this part affects the requirement for infrastructure for which an
 3585 infrastructure financing district provides funding to comply with all applicable standards and
 3586 design, inspection, and other requirements of the county ~~Ŝ→ [or] , ←Ŝ~~ municipality ~~Ŝ→ [with~~
 3587 ~~jurisdiction over]~~ , **special district, or special service district that will own and operate ←Ŝ**
 3588 **the infrastructure Ŝ→ after the infrastructure is completed ←Ŝ** .

3589 (b) Upon the completion of infrastructure for which an infrastructure financing district
 3590 has provided funding, the infrastructure shall be conveyed ~~Ŝ→~~ :

- 3589a (i) ←Ŝ to the county, municipality, ~~Ŝ→ [or] ←Ŝ~~
 3590 special district ~~Ŝ→ [with jurisdiction over]~~ , or special service district that will operate ←Ŝ the
 3590a infrastructure ~~Ŝ→ [;]~~ ; and
- 3590b (ii) ←Ŝ at no cost to the county, municipality,

3591 ~~§~~ → [or] ← ~~§~~ special district ~~§~~ → , or special service district ← ~~§~~ .

3592 Section 59. Section **17B-2a-1306** is enacted to read:

3593 **17B-2a-1306. Contesting an infrastructure financing district action.**

3594 (1) As used in this section:

3595 (a) "Contestable action" means:

3596 (i) the creation of an infrastructure financing district or any part of the process to create
3597 an infrastructure financing district;

3598 (ii) a property tax levied by an infrastructure financing district or any part of the
3599 process to levy the tax; or

3600 (iii) a fee imposed by an infrastructure financing district or any part of the process to
3601 impose the fee.

3602 (b) "Effective date" means:

3603 (i) with respect to the creation of an infrastructure financing district, the date of the
3604 lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;

3605 (ii) with respect to a property tax levied by an infrastructure financing district, the date
3606 of the board's adoption of a resolution levying the tax; and

3607 (iii) for a fee imposed by an infrastructure financing district, the date of the board's
3608 adoption of a resolution imposing the fee.

3609 (2) (a) A person may file a court action to contest the legality or validity of a
3610 contestable action.

3611 (b) A court action under Subsection (2)(a) is the exclusive remedy for a person to
3612 contest the legality or validity of a contestable action.

3613 (3) A person may not bring an action under Subsection (2) or serve a summons relating
3614 to the action more than 30 days after the effective date of the contestable action.

3615 (4) After the expiration of the 30-day period stated in Subsection (3):

3616 (a) a contestable action becomes incontestable against any person who has not brought
3617 an action and served a summons within the time specified in Subsection (3); and

3618 (b) a person may not bring an action to:

3619 (i) enjoin an infrastructure financing district from levying and collecting a property tax
3620 or imposing and collecting a fee that the infrastructure financing district levies or imposes; or

3621 (ii) attack or question in any way the legality or validity of a contestable action.

3622 (5) (a) This section does not affect a claim for a misuse of funds against the
 3623 infrastructure financing district or an officer or employee of the infrastructure financing district.

3624 (b) A person may not seek relief for a claimed misuse of funds described in Subsection
 3625 (5)(a) except for injunctive relief.

3626 (c) The limitation under Subsection (5)(b) does not affect the filing or prosecution of
 3627 criminal charges for the misuse of infrastructure financing district funds.

3628 Section 60. Section **17B-2a-1307** is enacted to read:

3629 **17B-2a-1307. Reporting requirements.**

3630 (1) An infrastructure financing district shall submit an annual report, as provided in
 3631 this section, to:

3632 (a) the state auditor; ~~§~~ [and] ~~←§~~

3633 (b) the clerk or recorder of each municipality in which the infrastructure financing
 3634 district is located ~~§~~ [] ; and

3634a (c) the clerk of the county in which the infrastructure financing district is located, if all
 3634b or part of the infrastructure financing district is located in an unincorporated area of the
 3634c county. ~~←§~~

3635 (2) A report required under Subsection (1) shall:

3636 (a) be filed no later than May 31 of each year; and

3637 (b) report, for the preceding calendar year:

3638 (i) if applicable, the amount of property tax revenue the infrastructure financing district
 3639 received;

3640 (ii) the amount of money the infrastructure financing district received from
 3641 assessments levied in an assessment area designated under Title 11, Chapter 42, Assessment
 3642 Area Act;

3643 (iii) the outstanding principal of any assessment bonds issued or other debt incurred by
 3644 the infrastructure financing district;

3645 (iv) the amount spent for site improvement or site preparation costs, the installation of
 3646 public infrastructure and improvements, and administrative costs;

3647 (v) any boundary change of the infrastructure financing district; and

3648 (vi) the number of residential housing units constructed within the infrastructure
 3649 financing district.

3650 Section 61. Section **20A-1-512** is amended to read:

3651 **20A-1-512. Midterm vacancies on local district boards -- Notice.**

3652 (1) (a) When a vacancy occurs on any special district board for any reason, the