

S.B. 58 - Energy and Telecommunications Taxes for Metro Townships



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Key Points

- ▶ Metro Townships (MTs) are not part of Salt Lake County or any other County.
- ▶ The MTs are already incorporated municipalities governed under the Municipal Code.
 - ▶ Utah Code Ann. § 10-1-104(5)(c) "'Municipality' means...a metro township."
 - ▶ Utah Code Ann. § 10-3c-103(1) "A metro township is...a political subdivision of the state."
- ▶ Because the MTs are municipalities, SB 58 would not affect or otherwise apply to Counties in any way.

History and Current Situation

- ▶ 2014 – 2015 legislation (SB 216 and SB 199).
 - ▶ Objective: get Salt Lake County out of municipal services business by requiring remaining unincorporated areas to incorporate.
 - ▶ Required SLCo townships to choose between incorporating as a city or town or as a new form of municipal government known as a “metro township” or “MTs” that would allow them to pool their resources to save costs.
 - ▶ Five communities lacked (and still lack) the commercial tax base to incorporate as cities or towns and elected to incorporate as MTs– Copperton, Emigration Canyon, Kearns, Magna and White City.
 - ▶ The MTs only exist in SLCo and no more can be created anywhere in Utah.
 - ▶ As incorporated municipalities MTs ARE NOT the same as unincorporated townships.
 - ▶ Created the Municipal Services District (MSD) to allow pooling of revenues to provide services to MTs.
 - ▶ Because SLCo provided some services to the MTs, the legislation barred MTs from collecting municipal energy or telecom (MET) taxes (Utah Code Ann. § 10-3c-204).
 - ▶ Every other municipality in Utah has MET authority.

MT and MSD Governance

Governance

- ▶ Initially, SLCo was required under statute to provide certain administrative and legal services; SLCo Mayor was CEO of MSD.
- ▶ **Today**
 - ▶ SLCo no longer required to provide administrative, legal, or planning services.
 - ▶ Subject to the MT's discretion and oversight, MTs may contract with SLCo or other entities for administrative, legal, and planning services or provide themselves.
 - ▶ MTs have a five-member council, which selects one member to act as mayor.
 - ▶ MSD Board includes each MT mayor, a Brighton Town Council representative, and one SLCo council member for the unincorporated parts of SLCo that MSD serves.
 - ▶ **SLCo Mayor no longer CEO of MSD.**
 - ▶ State Code has evolved to recognize MTs as fully independent “municipalities” but still has distinctions between cities/towns and MTs (e.g., no MET authority).

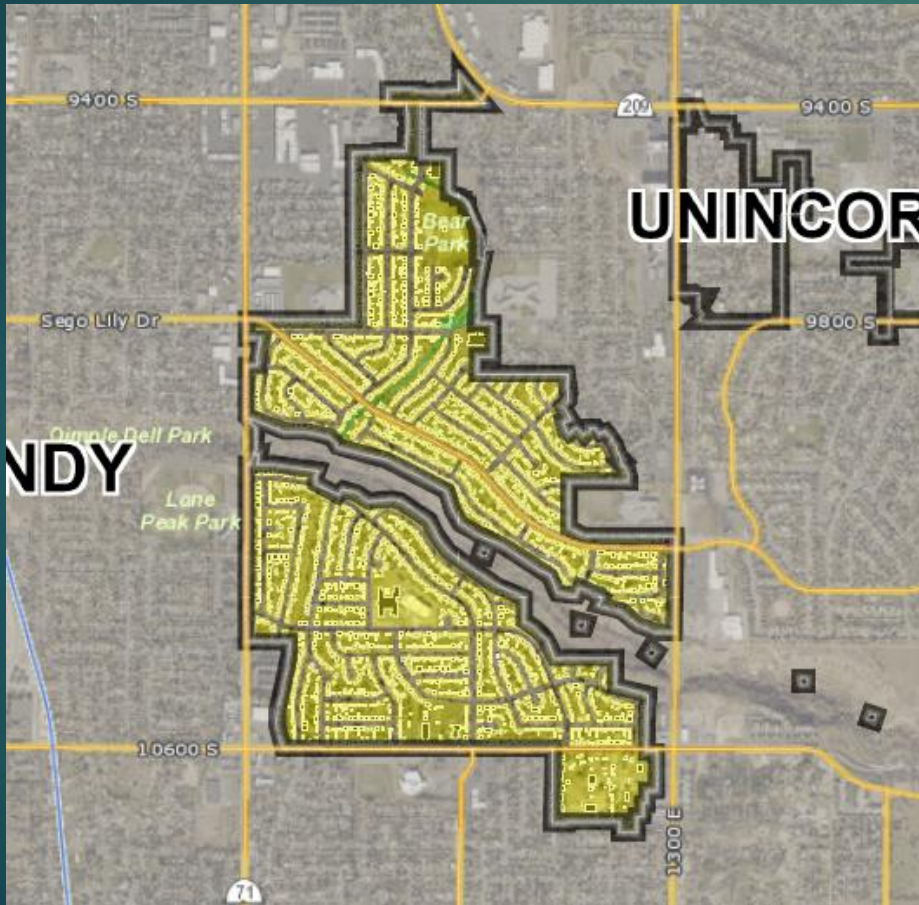
Where Things Are Now

- ▶ As MTs have matured, they are no longer “quasi municipalities” that rely on SLCo – they have “cut the cord” from SLCO and are now independent.
- ▶ *MTs have the same responsibilities and budgetary challenges as cities and towns but lack the same funding authority because they don't have MET authority.*
- ▶ Cities and towns are the only entities that have MET authority.

MTs Need MET Authority to Stay Independent

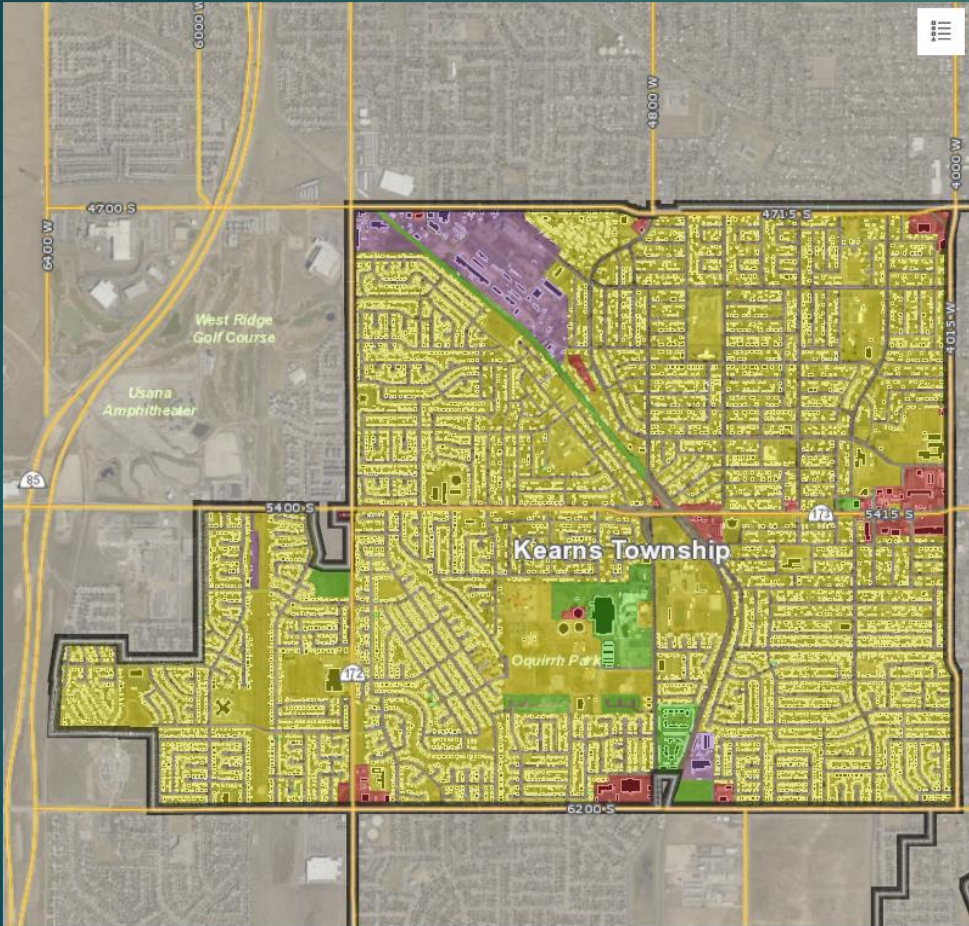
- ▶ Because MTs have limited revenue streams and lack MET authority, the MSD (and by extension the MTs) are at a structural disadvantage compared to other municipalities.
- ▶ *Without diversified revenue sources, some MTs may ultimately be forced to disincorporate or will be forced to drastically raise property taxes.*
 - ▶ Sales tax increase are not an option because commercial development in the MTs is extremely limited and developing a commercial tax base will require re-development of existing areas in most MTs, which will take years to accomplish.
 - ▶ Unlike most other cities or towns, the MTs don't own other income generating assets, such as a water utility, land that can be leased, or other assets that can be monetized.
- ▶ *In all other cities and towns in SLCo, government entities, and non-profits pay MET taxes, thereby contributing to the municipal services they receive. These entities, however, are not subject to sales and property taxes.*
- ▶ *Because property and sales tax-exempt entities make up a significant portion of Kearns and other MTs, denying MTs MET authority places a disproportionate tax burden on property owners:*
<https://gslmsd.maps.arcgis.com/apps/opsdashboard/index.html#/a073090571f84b0aaa990fcf9a1066f0>.

Example #1 – White City



- ▶ Entirely built out and surrounded by other incorporated municipalities.
- ▶ No way to annex additional land to build a commercial tax base.
- ▶ 98.67% residential (yellow).
- ▶ Only has one commercial lot - a dentist's office representing 0.11% of its area (too small to see at this scale).
- ▶ Parks make up the other 1.22%.

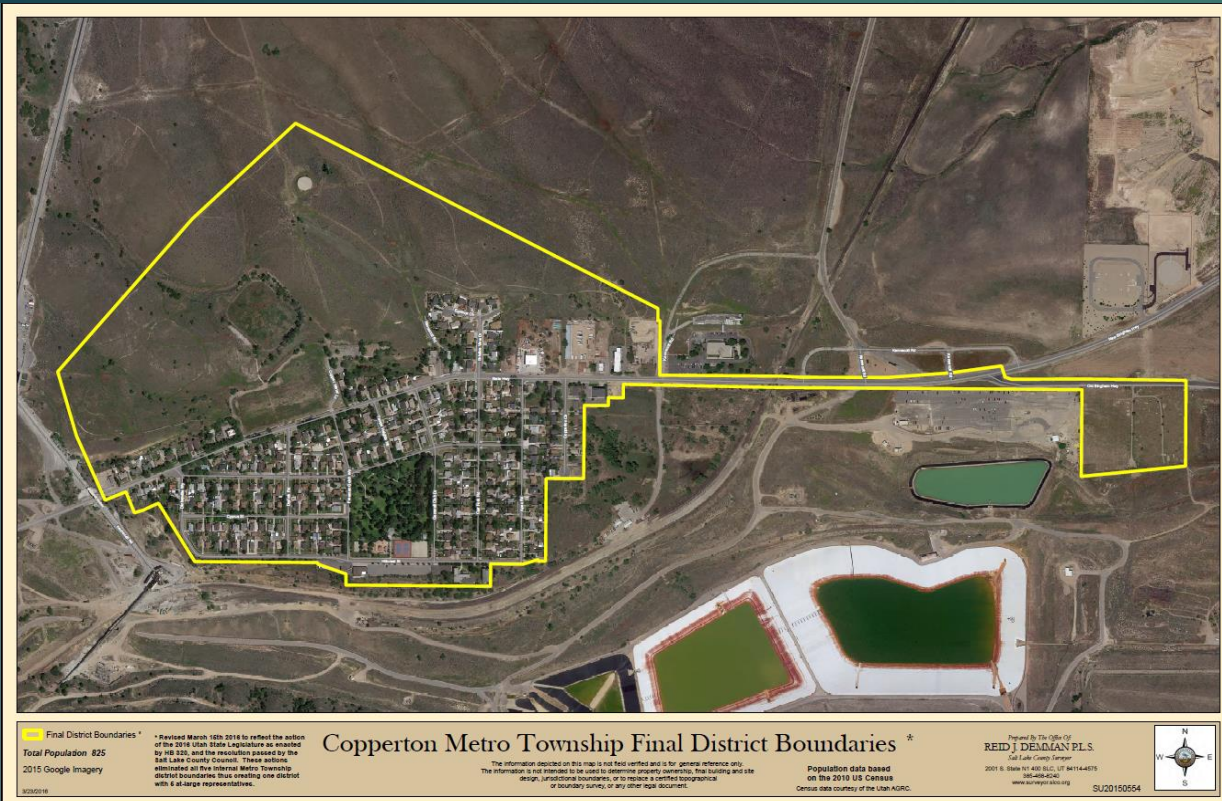
Example #2 - Kearns



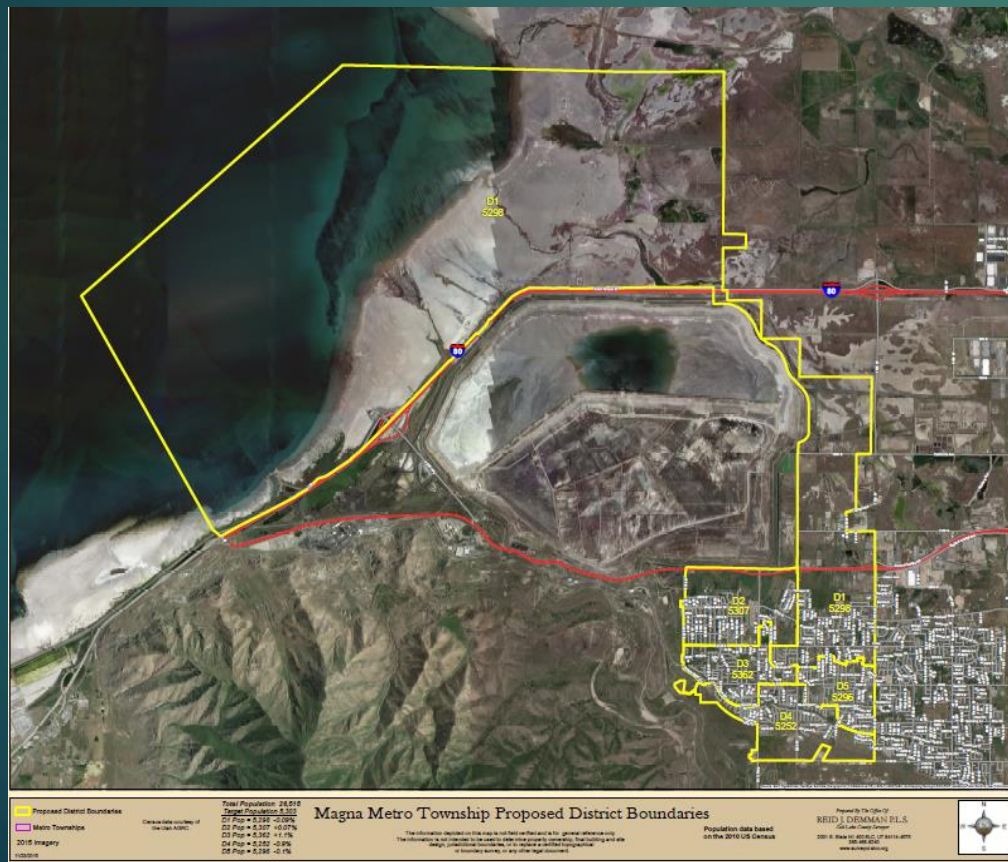
- ▶ Almost entirely built out and surrounded by other incorporated municipalities.
- ▶ No way to annex additional land to build a commercial tax base.
- ▶ 86.98% Residential (yellow).
- ▶ Only 3.44% commercial (red) and best commercial sites were annexed into other municipalities before Kearns' incorporation.
- ▶ Only 4.97% industrial (purple).

Energy Intensive Industries Were Removed from MT Boundaries Before Incorporation

- ▶ All of Rio Tinto's operations were removed from Copperton's boundaries before incorporation.
- ▶ Rio Tinto does own the undeveloped land in the northern half of town, but it is keeping this land as a buffer to prevent development from encroaching on its operations.
- ▶ The incorporated portion of Copperton is almost entirely residential.



Energy Intensive Industries Were Removed from MT Boundaries Before Incorporation



- ▶ Magna is the one MT with land that can be developed, but all of Rio Tinto's operations were removed from its boundaries before incorporation.
- ▶ Although Northrop Grumman has facilities and operations in the vicinity, they are located outside of Magna's boundaries.
- ▶ About 8% of the Inland Port is located within Magna – the rest is located within SLC and WVC, which already have MET authority.

What MET Taxes Do

- ▶ **Telecom License Tax**
 - ▶ May impose a tax of up to 3.5% on the value of telecom services provided within their boundaries.
- ▶ **Energy Sales and Use Tax**
 - ▶ Cities and towns may impose a tax of up to 6% of the delivered value of taxable energy (gas and electricity) sold or used within its borders.
- ▶ **METs are imposed on the service provider**, which may *but does not always*, pass the cost on the end users.
- ▶ To the extent that METs are passed onto end users, **all end users pay** – *including those that are exempt from property and sales tax, distributing the tax burden more equitably.*

What Will Happen If the MTs Are Denied MET Authority?

- ▶ Under the current framework, MTs will be forced to address funding needs solely through property tax increases and stormwater fees.
- ▶ This will place virtually the entire tax burden on private property owners and will result in an inequitable distribution of the tax burden in the MTs.
 - ▶ Property taxes in the MTs are already higher than in surrounding communities because of the taxes imposed by UPD and UFA.
 - ▶ Non-profit and government entities, which are some of the largest property owners and create some of the largest demands for municipal services, are exempt from sales and property taxes, meaning that they contribute relatively little to the services they receive.
 - ▶ Non-profit and government entities pay MET fees in other municipalities in Utah.

Why Don't the MTs Become Cities and Towns?

- ▶ The MTs lack the commercial tax base needed to incorporate as cities and towns and therefore need to pool their resources through the MSD to remain viable:
 - ▶ The majority are mostly built out and almost entirely residential with aging infrastructure.
 - ▶ Prior to their incorporation in 2017, neighboring cities wouldn't annex them because they represented a liability; and
 - ▶ They mostly surrounded by other municipalities and can't annex more land.
 - ▶ MT commercial development is limited and developing a commercial tax base will take years if such development is even possible.
 - ▶ Unlike most other cities or towns, the MTs don't own other income generating assets, such as a water utility, land that can be leased, or other assets that can be monetized.

Final Points

- ▶ The Utah League of Cities and Towns Supports SB 58.
- ▶ The MTs worked with the Utah Taxpayers Association on the amended version of SB 58, which passed the Senate:
 - ▶ The amended version requires MTs to mail and post notice and to hold a public hearing before enacting a MET tax.