

Effective 5/1/2024

Part 13
Infrastructure Financing District

17B-2a-1301 Definitions.

As used in this part:

- (1) "Assessment bond" means the same as that term is defined in Section 11-42-102.
- (2) "Board" means the board of trustees of an infrastructure financing district.
- (3) "Designated expansion area" means an area that is:
 - (a) outside and contiguous to the original district boundary; and
 - (b) designated and described in a governing document as an area that may be subject to future annexation to the infrastructure financing district.
- (4) "Governing document" means a document described in Section 17B-2a-1303.
- (5) "Original district boundary" means the boundary of an infrastructure financing district as described in the approved final local entity plat, as defined in Section 67-1a-6.5.
- (6)
 - (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:
 - (i) benefit the public; and
 - (ii)
 - (A) are or will be owned by a public entity or a utility; or
 - (B) are publicly maintained or operated by a public entity.
 - (b) "Public infrastructure and improvements" includes facilities, lines, or systems that provide:
 - (i) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;
 - (ii) streets, roads, curb, gutter, sidewalk, solid waste facilities, parking facilities, or public transportation facilities; and
 - (iii) green space, parks, trails, recreational amenities, or other similar facilities.
 - (c) "Public infrastructure and improvements" does not include any infrastructure, improvements, facilities, or buildings owned or to be owned by a private person, including a homeowner association.
- (7) "Residential district" means an infrastructure financing district that contains or is projected to contain owner-occupied residential units within the boundary of the infrastructure financing district.

Enacted by Chapter 388, 2024 General Session

**17B-2a-1302 Provisions applicable to infrastructure financing district -- Exceptions --
Conflicting provisions -- Contract for administrative services.**

- (1) An infrastructure financing district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Special Districts, except as provided in Subsection (1) (b).
- (2)
 - (a) Notwithstanding Subsection 17B-1-103(2)(f), an infrastructure financing district may issue bonds only as provided in Title 11, Chapter 42, Assessment Area Act, subject to Subsection (2)(b), and Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

- (b) To the extent that the provisions of Title 11, Chapter 42, Assessment Area Act, apply to the use of funds from an assessment or an assessment bond for infrastructure operation and maintenance costs or for the cost of conducting economic promotion activities, those provisions do not apply to an infrastructure financing district.
- (c) Before a county or municipality's final inspection required for the issuance of a certificate of occupancy for a residential unit that is subject to an assessment levied by an infrastructure financing district under Title 11, Chapter 42, Assessment Area Act, the infrastructure financing district shall ensure that the assessment allocable to that unit is paid in full and that any assessment lien on that unit is satisfied and released.
- (3) Notwithstanding Subsection 17B-1-103(2)(h), an infrastructure financing district may not exercise the power of eminent domain.
- (4) This part applies only to an infrastructure financing district.
- (5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- (6) An infrastructure financing district may contract with another governmental entity for the other governmental entity to provide administrative services to the infrastructure financing district.

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17B-2a-1303 Governing document.

- (1) The sponsors of a petition filed under Subsection 17B-1-203(1)(d) to create an infrastructure financing district may include with the petition a governing document.
- (2) A governing document may contain provisions for the governance of the infrastructure financing district, consistent with this part, including:
 - (a) for a residential district, milestones or events that will guide the board in considering modifications to division boundaries to ensure that each division has as nearly as possible the same number of registered voters;
 - (b) a provision allowing a property owner within the infrastructure financing district to make recommendations, in proportion to the amount of the owner's property in relation to all property within the infrastructure financing district, for individuals to serve as appointed board members; and
 - (c) any other provisions or information that petition sponsors or the board considers necessary or advisable for the governance of the infrastructure financing district.
- (3) A governing document shall:
 - (a) include a description of infrastructure that the infrastructure financing district will provide funding for;
 - (b) include, for a residential district, a provision for a transition from an appointed board position, whether at large or for a division, to an elected board position, based upon milestones or events that the governing document identifies;
 - (c) if applicable, include a copy of a development agreement that has been executed relating to infrastructure to be developed within the boundary of the infrastructure financing district and for which the infrastructure financing district anticipates providing funding; and
 - (d) if applicable, describe a designated expansion area.
- (4)
 - (a) An area may not be designated as a designated expansion area unless the area is contiguous to the original district boundary.

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

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

- (1) A board member with a personal investment described in Section 67-16-9 is not in violation of Section 67-16-9 if:
 - (a) before beginning service as a board member, the board member complies with the disclosure requirements of Section 67-16-7, as though that section applied to the board member's ownership of a personal investment described in Section 67-16-9; and
 - (b) during the board member's service, the board member complies with:
 - (i) the disclosure requirements of Section 67-16-7, as provided in Subsection (1)(a), upon any significant change in the board member's personal investment; and
 - (ii) applicable requirements of this part and the governing document.
- (2) An infrastructure financing district may not compensate a board member for the member's service on the board unless the board member is a resident within the boundary of the infrastructure financing district.

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

- (1) The applicability of local land use regulations under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, is not affected by:
 - (a) the creation or operation of an infrastructure financing district; or
 - (b) the infrastructure financing district's provision of funding for the development of infrastructure within the infrastructure financing district boundary.
- (2) The boundary of an infrastructure financing district is not affected by:
 - (a) a municipality's annexation of an unincorporated area of a county; or
 - (b) the adjustment of a boundary shared by more than one municipality.
- (3) A debt, obligation, or other financial burden of an infrastructure financing district, including any liability of or claim or judgment against an infrastructure financing district:
 - (a) is borne solely by the infrastructure financing district; and
 - (b) is not the debt, obligation, or other financial burden of any other political subdivision of the state or of the state.
- (4)
 - (a) Nothing in this part affects the requirement for infrastructure for which an infrastructure financing district provides funding to comply with all applicable standards and design, inspection, and other requirements of the county, municipality, special district, or special service district that will own and operate the infrastructure after the infrastructure is completed.
 - (b) Upon the completion of infrastructure for which an infrastructure financing district has provided funding, the infrastructure shall be conveyed:
 - (i) to the county, municipality, special district, or special service district that will operate the infrastructure; and
 - (ii) at no cost to the county, municipality, special district, or special service district.

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

- (1) As used in this section:
 - (a) "Contestable action" means:
 - (i) the creation of an infrastructure financing district or any part of the process to create an infrastructure financing district;
 - (ii) a property tax levied by an infrastructure financing district or any part of the process to levy the tax; or
 - (iii) a fee imposed by an infrastructure financing district or any part of the process to impose the fee.
 - (b) "Effective date" means:
 - (i) with respect to the creation of an infrastructure financing district, the date of the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;
 - (ii) with respect to a property tax levied by an infrastructure financing district, the date of the board's adoption of a resolution levying the tax; and
 - (iii) for a fee imposed by an infrastructure financing district, the date of the board's adoption of a resolution imposing the fee.
- (2)
 - (a) A person may file a court action to contest the legality or validity of a contestable action.
 - (b) A court action under Subsection (2)(a) is the exclusive remedy for a person to contest the legality or validity of a contestable action.
- (3) A person may not bring an action under Subsection (2) or serve a summons relating to the action more than 30 days after the effective date of the contestable action.
- (4) After the expiration of the 30-day period stated in Subsection (3):
 - (a) a contestable action becomes incontestable against any person who has not brought an action and served a summons within the time specified in Subsection (3); and
 - (b) a person may not bring an action to:
 - (i) enjoin an infrastructure financing district from levying and collecting a property tax or imposing and collecting a fee that the infrastructure financing district levies or imposes; or
 - (ii) attack or question in any way the legality or validity of a contestable action.
- (5)
 - (a) This section does not affect a claim for a misuse of funds against the infrastructure financing district or an officer or employee of the infrastructure financing district.
 - (b) A person may not seek relief for a claimed misuse of funds described in Subsection (5)(a) except for injunctive relief.
 - (c) The limitation under Subsection (5)(b) does not affect the filing or prosecution of criminal charges for the misuse of infrastructure financing district funds.

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17B-2a-1307 Reporting requirements.

- (1) An infrastructure financing district shall submit an annual report, as provided in this section, to:
 - (a) the state auditor;
 - (b) the clerk or recorder of each municipality in which the infrastructure financing district is located; and

- (c) the clerk of the county in which the infrastructure financing district is located, if all or part of the infrastructure financing district is located in an unincorporated area of the county.
- (2) A report required under Subsection (1) shall:
- (a) be filed no later than May 31 of each year; and
 - (b) report, for the preceding calendar year:
 - (i) if applicable, the amount of property tax revenue the infrastructure financing district received;
 - (ii) the amount of money the infrastructure financing district received from assessments levied in an assessment area designated under Title 11, Chapter 42, Assessment Area Act;
 - (iii) the outstanding principal of any assessment bonds issued or other debt incurred by the infrastructure financing district;
 - (iv) the amount spent for site improvement or site preparation costs, the installation of public infrastructure and improvements, and administrative costs;
 - (v) any boundary change of the infrastructure financing district; and
 - (vi) the number of residential housing units constructed within the infrastructure financing district.

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