

**COUNTY AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: David L. Gladwell**

**This act modifies provisions relating to Counties. This act repeals a provision requiring the county legislative body to submit to the planning commission proposals to sell, lease, or modify a public street, structure, or property. The act modifies requirements relating to the recording of a map showing a division of agricultural land and authorizes the county legislative body to establish an alternate procedure for recording a document relating to a division of agricultural land. The act expands the type of county decisions that are subject to a requirement to exhaust administrative remedies before challenging the decision in district court. The act modifies county powers relating to the acquisition of real and personal property. The act requires the county legislative body to hold a public hearing before transferring title to real property over a specified value. The act modifies the powers of a county surveyor. The act modifies the procedure for determining whether an annexation petition meets specified requirements. The act repeals provisions relating to a requirement that older plats comply with minimum standards and the costs of compliance. The act prohibits the recording of a certified copy of a document in the office of the county recorder who issues the certified copy. The act modifies notarial seal requirements. The act modifies requirements relating to the recording of a resolution creating a municipal improvement district. The act prohibits the certification of a plat containing the same subdivision name as one in a plat already recorded and authorizes the county recorder to change a plat to avoid duplication or confusion on subdivision names. The act modifies provisions relating to fidelity bonds and authorizes the acquisition of theft or crime insurance for county officials. The act authorizes the county recorder to determine and collect fees not otherwise provided for and limits the county recorder's responsibility to collect fees unrelated to the recorder's**



28 **office. The act also makes technical changes.**

29 This act affects sections of Utah Code Annotated 1953 as follows:

30 AMENDS:

31 **10-2-405**, as last amended by Chapter 29, Laws of Utah 2002

32 **10-2-406**, as last amended by Chapter 206, Laws of Utah 2001

33 **10-2-407**, as last amended by Chapter 206, Laws of Utah 2001

34 **10-2-414**, as last amended by Chapter 206, Laws of Utah 2001

35 **10-9-804**, as last amended by Chapter 241, Laws of Utah 2001

36 **10-9-808**, as last amended by Chapter 291, Laws of Utah 2002

37 **17-21-18.5**, as renumbered and amended by Chapter 46 and last amended by Chapter  
38 241, Laws of Utah 2001

39 **17-23-12**, as enacted by Chapter 29, Laws of Utah 1987

40 **17-23-18**, as last amended by Chapter 241, Laws of Utah 2001

41 **17-27-305**, as last amended by Chapter 179, Laws of Utah 1995

42 **17-27-804**, as last amended by Chapter 241, Laws of Utah 2001

43 **17-27-806**, as last amended by Chapter 291, Laws of Utah 2002

44 **17-27-808**, as last amended by Chapter 291, Laws of Utah 2002

45 **17-27-1001**, as last amended by Chapter 241, Laws of Utah 2001

46 **17-50-302**, as renumbered and amended by Chapter 133, Laws of Utah 2000

47 **17-50-312**, as renumbered and amended by Chapter 133, Laws of Utah 2000

48 **17A-3-307**, as last amended by Chapter 181, Laws of Utah 1991

49 **46-1-16**, as repealed and reenacted by Chapter 287, Laws of Utah 1998

50 **57-3-104**, as renumbered and amended by Chapter 61, Laws of Utah 1998

51 REPEALS AND REENACTS:

52 **17-16-11**, as last amended by Chapter 251, Laws of Utah 1997

53 REPEALS:

54 **59-2-317**, as renumbered and amended by Chapter 4, Laws of Utah 1987

55 **59-2-318**, as renumbered and amended by Chapter 4, Laws of Utah 1987

56 **59-2-319**, as renumbered and amended by Chapter 4, Laws of Utah 1987

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

58 Section 1. Section **10-2-405** is amended to read:

59 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

60 (1) (a) (i) (A) A municipal legislative body may:

61 (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny  
62 a petition filed under Section 10-2-403; or

63 (II) accept the petition for further consideration under this part.

64 (B) A petition shall be considered to have been accepted for further consideration  
65 under this part if a municipal legislative body fails to act to deny or accept the petition under  
66 Subsection (1)(a)(i)(A):

67 (I) in the case of a city of the first or second class, within 14 days after the filing of the  
68 petition; or

69 (II) in the case of a city of the third class or a town, at the next regularly scheduled  
70 meeting of the municipal legislative body that is at least 14 days after the date the petition was  
71 filed.

72 (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it  
73 shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the  
74 clerk of the county in which the area proposed for annexation is located, and the chair of the  
75 planning commission of each township in which any part of the area proposed for annexation is  
76 located.

77 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403  
78 proposing to annex an area located in a county of the first class if:

79 (i) the petition contains the signatures of the owners of private real property that:

80 (A) is located within the area proposed for annexation;

81 (B) covers a majority of the private land area within the area proposed for annexation;

82 and

83 (C) is equal in value to at least 1/2 of the value of all private real property within the  
84 area proposed for annexation;

85 (ii) the population in the area proposed for annexation does not exceed 10% of the  
86 population of the proposed annexing municipality;

87 (iii) the property tax rate for municipal services in the area proposed to be annexed is  
88 higher than the property tax rate of the proposed annexing municipality; and

89 (iv) all annexations by the proposed annexing municipality during the year that the

90 petition was filed have not increased the municipality's population by more than 20%.

91 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or  
92 is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or  
93 town clerk, as the case may be, shall, within 30 days of that acceptance:

94 (a) ~~[with the assistance of the municipal attorney and of]~~ obtain from the assessor,  
95 clerk, surveyor, and recorder of the county in which the area proposed for annexation is  
96 located[;] the records the city recorder or town clerk needs to determine whether the petition  
97 meets the requirements of Subsections 10-2-403(2), (3), and (4); ~~[and]~~

98 (b) with the assistance of the municipal attorney, determine whether the petition meets  
99 the requirements of Subsections 10-2-403(2), (3), and (4); and

100 ~~[(b)]~~ (c) (i) if the city recorder or town clerk determines that the petition meets those  
101 requirements, certify the petition and mail or deliver written notification of the certification to  
102 the municipal legislative body, the contact sponsor, the county legislative body, and the chair of  
103 the planning commission of each township in which any part of the area proposed for  
104 annexation is located; or

105 (ii) if the city recorder or town clerk determines that the petition fails to meet any of  
106 those requirements, reject the petition and mail or deliver written notification of the rejection  
107 and the reasons for the rejection to the municipal legislative body, the contact sponsor, the  
108 county legislative body, and the chair of the planning commission of each township in which  
109 any part of the area proposed for annexation is located.

110 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(b)(ii),  
111 the petition may be modified to correct the deficiencies for which it was rejected and then  
112 refiled with the city recorder or town clerk, as the case may be.

113 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used  
114 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as  
115 modified under Subsection (3)(a)(i).

116 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city  
117 recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a  
118 newly filed petition under Subsection 10-2-403(1).

119 (4) Each county assessor, clerk, surveyor, and recorder shall ~~[cooperate with and assist]~~  
120 provide copies of records that a city recorder or town clerk ~~[in the determination]~~ requests

121 under Subsection (2)(a).

122 Section 2. Section **10-2-406** is amended to read:

123 **10-2-406. Notice of certification -- Publishing and providing notice of petition.**

124 (1) After receipt of the notice of certification from the city recorder or town clerk under  
125 Subsection 10-2-405(2)[~~(b)~~] (c)(i), the municipal legislative body shall:

126 (a) (i) publish a notice at least once a week for three successive weeks, beginning no  
127 later than ten days after receipt of the notice of certification, in a newspaper of general  
128 circulation within:

129 (A) the area proposed for annexation; and

130 (B) the unincorporated area within 1/2 mile of the area proposed for annexation; or

131 (ii) if there is no newspaper of general circulation within those areas, post written  
132 notices in conspicuous places within those areas that are most likely to give notice to residents  
133 within those areas; and

134 (b) within 20 days of receipt of the notice of certification under Subsection  
135 10-2-405(2)[~~(b)~~] (c)(i), mail written notice to each affected entity.

136 (2) (a) The notice under Subsections (1)(a) and (b) shall:

137 (i) state that a petition has been filed with the municipality proposing the annexation of  
138 an area to the municipality;

139 (ii) state the date of the municipal legislative body's receipt of the notice of certification  
140 under Subsection 10-2-405(2)[~~(b)~~] (c)(i);

141 (iii) describe the area proposed for annexation in the annexation petition;

142 (iv) state that the complete annexation petition is available for inspection and copying  
143 at the office of the city recorder or town clerk;

144 (v) state in conspicuous and plain terms that the municipality may grant the petition  
145 and annex the area described in the petition unless, within the time required under Subsection  
146 10-2-407(2)(a)(i)(A), a written protest to the annexation petition is filed with the commission  
147 and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing  
148 municipality; and

149 (vi) state the address of the commission or, if a commission has not yet been created in  
150 the county, the county clerk, where a protest to the annexation petition may be filed.

151 (b) The statement required by Subsection (2)(a)(v) shall state the deadline for filing a

152 written protest in terms of the actual date rather than by reference to the statutory citation.

153 (c) In addition to the requirements under Subsection (2)(a), a notice under Subsection  
154 (1)(a) for a proposed annexation of an area within a county of the first class shall include a  
155 statement that a protest to the annexation petition may be filed with the commission by  
156 property owners if it contains the signatures of the owners of private real property that:

157 (i) is located in the unincorporated area within 1/2 mile of the area proposed for  
158 annexation;

159 (ii) covers at least 25% of the private land area located in the unincorporated area  
160 within 1/2 mile of the area proposed for annexation; and

161 (iii) is equal in value to at least 15% of all real property located in the unincorporated  
162 area within 1/2 mile of the area proposed for annexation.

163 Section 3. Section **10-2-407** is amended to read:

164 **10-2-407. Protest to annexation petition -- Township planning commission**  
165 **recommendation -- Petition requirements -- Disposition of petition if no protest filed.**

166 (1) (a) A protest to an annexation petition under Section 10-2-403 may be filed by:

167 (i) the legislative body or governing board of an affected entity; or

168 (ii) for a proposed annexation of an area within a county of the first class, the owners  
169 of private real property that:

170 (A) is located in the unincorporated area within 1/2 mile of the area proposed for  
171 annexation;

172 (B) covers at least 25% of the private land area located in the unincorporated area  
173 within 1/2 mile of the area proposed for annexation; and

174 (C) is equal in value to at least 15% of all real property located in the unincorporated  
175 area within 1/2 mile of the area proposed for annexation.

176 (b) (i) A planning commission of a township located in a county of the first class may  
177 recommend to the legislative body of the county in which the township is located that the  
178 county legislative body file a protest against a proposed annexation under this part of an area  
179 located within the township.

180 (ii) (A) The township planning commission shall communicate each recommendation  
181 under Subsection (1)(b)(i) in writing to the county legislative body within 30 days of the city  
182 recorder or town clerk's certification of the annexation petition under Subsection

183 10-2-405(2)[(b)] (c)(i).

184 (B) At the time the recommendation is communicated to the county legislative body  
185 under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy  
186 of the recommendation to the legislative body of the proposed annexing municipality and to the  
187 contact sponsor.

188 (2) (a) Each protest under Subsection (1)(a) shall:

189 (i) be filed:

190 (A) no later than 30 days after the municipal legislative body's receipt of the notice of  
191 certification under Subsection 10-2-405(2)[(b)] (c)(i); and

192 (B) (I) in a county that has already created a commission under Section 10-2-409, with  
193 the commission; or

194 (II) in a county that has not yet created a commission under Section 10-2-409, with the  
195 clerk of the county in which the area proposed for annexation is located; and

196 (ii) state each reason for the protest of the annexation petition and, if the area proposed  
197 to be annexed is located in a specified county, justification for the protest under the standards  
198 established in this chapter;

199 (iii) if the area proposed to be annexed is located in a specified county, contain other  
200 information that the commission by rule requires or that the party filing the protest considers  
201 pertinent; and

202 (iv) the name and address of a contact person who is to receive notices sent by the  
203 commission with respect to the protest proceedings.

204 (b) The party filing a protest under this section shall on the same date deliver or mail a  
205 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

206 (c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall  
207 immediately notify the county legislative body of the protest and shall deliver the protest to the  
208 boundary commission within five days of its creation under Subsection 10-2-409(1)(b).

209 (d) Each protest of a proposed annexation of an area located in a county of the first  
210 class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and  
211 (b):

212 (i) indicate the typed or printed name and current residence address of each owner  
213 signing the protest; and

214 (ii) designate one of the signers of the protest as the contact person and state the  
215 mailing address of the contact person.

216 (3) (a) (i) If a protest is filed under this section:

217 (A) the municipal legislative body may, at its next regular meeting after expiration of  
218 the deadline under Subsection (2)(a)(i)(A) and, for a proposed annexation of an area located in  
219 a county of the first class, except as provided in Subsection (3)(a)(iii), deny the annexation  
220 petition; or

221 (B) if the municipal legislative body does not deny the annexation petition under  
222 Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the  
223 annexation petition until after receipt of the commission's notice of its decision on the protest  
224 under Section 10-2-416.

225 (ii) If a municipal legislative body denies an annexation petition under Subsection  
226 (3)(a)(i)(A), the municipal legislative body shall, within five days of the denial, send notice of  
227 the denial in writing to:

228 (A) the contact sponsor of the annexation petition;

229 (B) the commission;

230 (C) each entity that filed a protest; and

231 (D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an  
232 area located in a county of the first class, the contact person.

233 (iii) A municipal legislative body may not deny an annexation petition proposing to  
234 annex an area located in a county of the first class if:

235 (A) the petition contains the signatures of the owners of private real property that:

236 (I) is located within the area proposed for annexation;

237 (II) covers a majority of the private land area within the area proposed for annexation;

238 and

239 (III) is equal in value to at least 1/2 of the value of all private real property within the  
240 area proposed for annexation;

241 (B) the population in the area proposed for annexation does not exceed 10% of the  
242 population of the proposed annexing municipality;

243 (C) the property tax rate for municipal services in the area proposed to be annexed is  
244 higher than the property tax rate of the proposed annexing municipality; and

245 (D) all annexations by the proposed annexing municipality during the year that the  
246 petition was filed have not increased the municipality's population by more than 20%.

247 (b) (i) If no timely protest is filed under this section, the municipal legislative body  
248 may, subject to Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is  
249 the subject of the annexation petition.

250 (ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal  
251 legislative body shall:

252 (A) hold a public hearing; and

253 (B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

254 (I) publish notice of the hearing in a newspaper of general circulation within the  
255 municipality and the area proposed for annexation; or

256 (II) if there is no newspaper of general circulation in those areas, post written notices of  
257 the hearing in conspicuous places within those areas that are most likely to give notice to  
258 residents within those areas.

259 Section 4. Section **10-2-414** is amended to read:

260 **10-2-414. Modified annexation petition -- Supplemental feasibility study.**

261 (1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of  
262 an area located in a county of the first class do not meet the requirements of Subsection  
263 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility  
264 consultant's submission of the results of the study, file with the city recorder or town clerk of  
265 the proposed annexing municipality a modified annexation petition altering the boundaries of  
266 the proposed annexation.

267 (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the  
268 sponsors of the annexation petition shall deliver or mail a copy of the modified annexation  
269 petition to the clerk of the county in which the area proposed for annexation is located.

270 (b) Each modified annexation petition under Subsection (1)(a) shall comply with the  
271 requirements of Subsections 10-2-403(2), (3), and (4).

272 (2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified  
273 annexation petition, the city recorder or town clerk, as the case may be, shall follow the same  
274 procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and  
275 (3)(a) for an original annexation petition.

276 (b) If the city recorder or town clerk certifies the modified annexation petition under  
277 Subsection 10-2-405(2)[~~(b)~~] (c)(i), the city recorder or town clerk, as the case may be, shall  
278 send written notice of the certification to:

279 (i) the commission;

280 (ii) each entity that filed a protest to the annexation petition; and

281 (iii) if a protest was filed under Subsection 10-2-407(1)(a)(ii), the contact person.

282 (c) (i) If the modified annexation petition proposes the annexation of an area that  
283 includes part or all of a special district or school district that was not included in the area  
284 proposed for annexation in the original petition, the city recorder or town clerk, as the case may  
285 be, shall also send notice of the certification of the modified annexation petition to the board of  
286 the special district or school district.

287 (ii) If the area proposed for annexation in the modified annexation petition is within  
288 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the  
289 area proposed for annexation in the original annexation petition, the city recorder or town  
290 clerk, as the case may be, shall also send notice of the certification of the modified annexation  
291 petition to the legislative body of that municipality.

292 (3) Within ten days of the commission's receipt of the notice under Subsection (2)(b),  
293 the commission shall engage the feasibility consultant that conducted the feasibility study to  
294 supplement the feasibility study to take into account the information in the modified  
295 annexation petition that was not included in the original annexation petition.

296 (4) The commission shall require the feasibility consultant to complete the  
297 supplemental feasibility study and to submit written results of the supplemental study to the  
298 commission no later than 30 days after the feasibility consultant is engaged to conduct the  
299 supplemental feasibility study.

300 Section 5. Section **10-9-804** is amended to read:

301 **10-9-804. Plats required.**

302 (1) Unless exempt under Section 10-9-806 or not included in the definition of  
303 subdivision under Subsection 10-9-103(1), whenever any lands are laid out and platted, the  
304 owner of those lands shall provide an accurate plat that describes or specifies:

305 (a) the boundaries, course, and dimensions of the parcels of ground;

306 (b) whether the parcels of ground are intended to be used as streets or for other public

307 uses, and whether any areas are reserved for public purposes;

308 (c) the lot or unit reference, the block or building reference, the street or site address,  
309 the street name or coordinate address, the acreage or square footage for all parcels, units, or  
310 lots, and the length and width of the blocks and lots intended for sale; and

311 (d) existing right-of-way and easement grants of record for underground facilities, as  
312 defined in Section 54-8a-2, and for other utility facilities.

313 (2) (a) The owner of the land shall acknowledge the plat before an officer authorized  
314 by law to take the acknowledgement of conveyances of real estate.

315 (b) ~~[The]~~ (i) Subject to Subsection (2)(b)(ii), the surveyor making the plat shall certify  
316 it.

317 (ii) A surveyor may not certify a plat that gives the subdivision described in the plat the  
318 same name as a subdivision in a plat already recorded in the county recorder's office.

319 (c) The owner or operator of the underground and utility facilities shall approve the  
320 plat of its property interest if it specifies:

321 (i) the boundary, course, dimensions, and intended use of the right-of-way and  
322 easement grants of record;

323 (ii) the location of existing underground and utility facilities; and

324 (iii) any conditions or restrictions governing the location of the facilities within the  
325 right-of-way, and easement grants of records, and utility facilities within the subdivision.

326 (d) The legislative body shall approve the plat as provided in this part. Before the  
327 legislative body may approve a plat, the owner of the land shall provide the legislative body  
328 with a tax clearance indicating that all taxes, interest, and penalties owing on the land have  
329 been paid.

330 (3) After the plat has been acknowledged, certified, and approved, the owner of the  
331 land shall record it in the county recorder's office in the county in which the lands platted and  
332 laid out are situated.

333 (4) Before accepting a plat submitted for recording under this section, a county  
334 recorder may change the name of a subdivision described in the plat to avoid duplication or  
335 confusion with the name of a subdivision described in a plat already recorded in the county  
336 recorder's office.

337 Section 6. Section **10-9-808** is amended to read:

338 **10-9-808. Vacating or changing a subdivision plat.**

339 (1) (a) Subject to Subsection (2), the legislative body of a municipality or any other  
340 officer that the legislative body designates by ordinance may, with or without a petition,  
341 consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of  
342 a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

343 (b) If a petition is filed, the responsible body or officer shall hold the public hearing  
344 within 45 days after receipt of the planning commission's recommendation under Subsection  
345 (2) if:

- 346 (i) the plat change includes the vacation of a public street or alley;
- 347 (ii) any owner within the plat notifies the municipality of their objection in writing  
348 within ten days of mailed notification; or
- 349 (iii) a public hearing is required because all of the owners in the subdivision have not  
350 signed the revised plat.

351 (2) (a) Before the legislative body or officer designated by the legislative body may  
352 consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6), the  
353 legislative body or officer shall refer the proposal to the planning commission for its  
354 recommendation.

355 (b) The planning commission shall give its recommendation within 30 days after the  
356 proposed vacation, alteration, or amendment is referred to it.

357 (3) Any fee owner, as shown on the last county assessment rolls, of land within the  
358 subdivision that has been laid out and platted as provided in this part may, in writing, petition  
359 the legislative body to have the plat, any portion of it, or any street or lot contained in it,  
360 vacated, altered, or amended as provided in this section.

361 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street  
362 or lot contained in a plat shall include:

- 363 (a) the name and address of all owners of record of the land contained in the entire plat;
- 364 (b) the name and address of all owners of record of land adjacent to any street that is  
365 proposed to be vacated, altered, or amended; and
- 366 (c) the signature of each of these owners who consents to the petition.

367 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may  
368 not be scheduled for consideration at a public hearing before the legislative body until the

369 notice required by this part is given.

370 (b) The petitioner shall pay the cost of the notice.

371 (6) Subject to Subsection (2), if the responsible body or officer proposes to vacate,  
372 alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall  
373 consider the issue at a public hearing after giving the notice required by this part.

374 (7) (a) The owners of record of adjacent parcels that are described by either a metes  
375 and bounds description or a recorded plat may exchange title to portions of those parcels if the  
376 exchange of title is approved by the planning commission, or such other person or board as the  
377 municipal legislative body may designate, in accordance with Subsection (7)(b).

378 (b) The planning commission, or such other person or board as the municipal  
379 legislative body may designate, shall approve an exchange of title under Subsection (7)(a) if:

380 (i) no new dwelling lot or housing unit will result from the exchange of title; and

381 (ii) the exchange of title will not result in a violation of applicable zoning  
382 requirements.

383 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval  
384 shall be recorded by the planning commission, or such other person or board as the municipal  
385 legislative body may designate, in the office of the county recorder which:

386 (i) is executed by each owner included in the exchange and by the planning  
387 commission, or such other person or board as the municipal legislative body may designate;

388 (ii) contains an acknowledgment for each party executing the notice in accordance with  
389 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

390 (iii) recites the descriptions of both the original parcels and the parcels created by the  
391 exchange of title.

392 (d) A notice of approval recorded under this Subsection (7) does not act as a  
393 conveyance of title to real property and is not required for the recording of a document  
394 purporting to convey title to real property.

395 (8) (a) The name of a recorded subdivision may be changed by recording an amended  
396 plat making that change, as provided in this section.

397 (b) (i) Subject to Subsection (8)(b)(ii), the surveyor making the amended plat shall  
398 certify it.

399 (ii) A surveyor may not certify an amended plat that gives the subdivision described in

400 the plat the same name as a subdivision in a plat already recorded in the county recorder's  
401 office.

402 (iii) Before accepting an amended plat submitted for recording under this Subsection  
403 (8), a county recorder may change the name of a subdivision described in the amended plat to  
404 avoid duplication or confusion with the name of a subdivision described in a plat already  
405 recorded in the county recorder's office.

406 ~~(b)~~ (c) Except as provided in Subsection (8)(a), the recording of a declaration or other  
407 document that purports to change the name of a recorded plat is void.

408 (9) Municipalities operating under the council-mayor form of government shall comply  
409 with Section 10-3-1219.5.

410 Section 7. Section **17-16-11** is repealed and reenacted to read:

411 **17-16-11. Fidelity bonds and theft or crime insurance.**

412 (1) As used in this section, "county officials" means:

413 (a) the members of the county legislative body;

414 (b) the county executive;

415 (c) the county clerk;

416 (d) the county auditor;

417 (e) the county sheriff;

418 (f) the county attorney;

419 (g) in a county that is within a prosecution district, the district attorney;

420 (h) the county recorder;

421 (i) the county assessor;

422 (j) the county surveyor;

423 (k) each justice court judge and constable within the county;

424 (l) the county treasurer; and

425 (m) each deputy or assistant of those listed in Subsections (1)(a) through (l) for whom  
426 the county legislative body determines a general fidelity bond or theft or crime insurance  
427 should be acquired.

428 (2) (a) The legislative body of each county shall prescribe the amount of each general  
429 fidelity bond or of theft or crime insurance to be acquired for county officials, except the  
430 county treasurer, before the county officials, except the county treasurer, may discharge the

431 duties of their respective offices.

432 (b) The State Money Management Council created in Section 51-7-16 shall prescribe  
433 the amount of a general fidelity bond or theft or crime insurance to be acquired for the county  
434 treasurer before the county treasurer may discharge the duties of that office.

435 (c) A county legislative body may acquire a fidelity bond or theft or crime insurance on  
436 all county officials as a group rather than individually.

437 (3) (a) The county legislative body shall approve the premium for each fidelity bond  
438 before the bond may be filed and recorded.

439 (b) The cost of each fidelity bond and theft or crime insurance policy shall be paid  
440 from county funds.

441 (4) Each fidelity bond shall be recorded in the office of the county recorder and a copy  
442 of it filed and maintained in the office of the county clerk.

443 (5) (a) The district attorney of each multicounty prosecution district shall:

444 (i) execute a fidelity bond or acquire theft or crime insurance in the amount specified in  
445 the interlocal agreement that created the prosecution district; and

446 (ii) record each fidelity bond with the county recorder and file a copy of it with the  
447 county clerk as specified in the interlocal agreement.

448 (b) The cost of each fidelity bond or theft or crime insurance policy under Subsection  
449 (5)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

450 Section 8. Section **17-21-18.5** is amended to read:

451 **17-21-18.5. Fees of county recorder.**

452 (1) The county recorder shall receive the following fees:

453 (a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise  
454 provided for, other than bonds of public officers, \$10;

455 (b) for recording any instrument, paper, or notice, including those provided for under  
456 Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise  
457 provided for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in  
458 size, and \$2 for each additional page, and if any instrument, paper, or notice contains more than  
459 one description, \$1 for each additional description;

460 (c) for recording any instrument in which a right-of-way is described, which is  
461 connected with or is appurtenant to any tract of land described in the instrument, \$1, but if the

462 instrument contains a description of more than one right-of-way, \$1 for each additional  
463 right-of-way, and if any instrument contains more than two names for either first or second  
464 party, or plaintiffs or defendants, for each additional name, \$1;

465 (d) for recording, indexing, and abstracting mining location notices, and recording,  
466 indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if  
467 that page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page;  
468 and

469 (e) for a location notice, affidavit, or proof of labor which contains names of more than  
470 two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains  
471 more than one mining claim, \$1 for each additional mining claim.

472 (2) (a) Each county recorder shall record the mining rules of the several mining  
473 districts in each county without fee.

474 (b) Certified copies of these records shall be received in all tribunals and before all  
475 officers of this state as prima facie evidence of the rules.

476 (3) The county recorder shall receive the following fees:

477 (a) for copies of any record or document, a reasonable fee as determined by the county  
478 legislative body;

479 (b) for each certificate under seal, \$5;

480 (c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30  
481 for each sheet;

482 (d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit  
483 designation;

484 (e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2  
485 for each additional name;

486 (f) for recording any license issued by the Division of Occupational and Professional  
487 Licensing, \$10; and

488 (g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10[~~;~~and].

489 [~~(h)~~] (4) The county recorder may determine and collect a fee for all services not  
490 enumerated in this section[~~;~~a reasonable compensation].

491 (5) A county recorder may not be required to collect a fee for services that are  
492 unrelated to the county recorder's office.

493 Section 9. Section **17-23-12** is amended to read:

494 **17-23-12. Additional powers.**

495 The county surveyor may:

496 (1) administer oaths or affirmations necessary to legally establish roads and other  
497 surveys; [~~and~~]

498 (2) take evidence from any person who may have information to prove any point  
499 material to a survey or whenever necessary in the discharge of his official duties[-]; and

500 (3) establish procedures and guidelines for accepting plats, records, and other  
501 documents electronically under Title 46, Chapter 4, Uniform Electronic Transactions Act.

502 Section 10. Section **17-23-18** is amended to read:

503 **17-23-18. Amendment of survey maps or narratives by affidavit of corrections.**

504 (1) Any survey map or narrative filed [~~and recorded~~] under the provisions of this  
505 chapter may be amended by an affidavit of corrections:

506 (a) to show any courses or distances omitted from the map or narrative;

507 (b) to correct an error in the description of the real property shown on the map or  
508 narrative; or

509 (c) to correct any other errors or omissions where the error or omission is ascertainable  
510 from the data shown on the map or narrative as recorded.

511 (2) (a) The affidavit of correction shall be prepared by the licensed professional land  
512 surveyor who filed the map or narrative.

513 (b) In the event of the death, disability, or retirement from practice of the surveyor who  
514 filed the map or narrative, the county surveyor [~~or designated office~~] may prepare the affidavit  
515 of correction.

516 (c) The affidavit shall set forth in detail the corrections made.

517 (d) The seal and signature of the licensed professional land surveyor filing the affidavit  
518 of correction shall be affixed to the affidavit.

519 (3) The county surveyor [~~or designated office~~] having jurisdiction of the map or  
520 narrative shall certify that the affidavit of correction has been examined and that the changes  
521 shown on the map or narrative are changes permitted under this section.

522 (4) Nothing in this section permits changes in courses or distances for the purpose of  
523 redesigning parcel configurations.

524 Section 11. Section **17-27-305** is amended to read:

525 **17-27-305. Effect of the plan on public uses.**

526 [(+) After the legislative body has adopted a general plan or any amendments to the  
527 general plan, no street, park, or other public way, ground, place, or space, no publicly owned  
528 building or structure, and no public utility, whether publicly or privately owned, may be  
529 constructed or authorized until and unless:

530 [(a)] (1) it conforms to the plan; or

531 [(b)] (2) it has been considered by the planning commission and, after receiving the  
532 advice of the planning commission, approved by the legislative body as an amendment to the  
533 general plan.

534 [~~(2)(a) Before accepting, widening, removing, extending, relocating, narrowing,  
535 vacating, abandoning, changing the use, acquiring land for, or selling or leasing any street or  
536 other public way, ground, place, property, or structure, the legislative body shall submit the  
537 proposal to the planning commission for its review and recommendations.]~~

538 [~~(b) If the legislative body approves any of the items contained in Subsection (a), it  
539 shall also amend the general plan.]~~

540 Section 12. Section **17-27-804** is amended to read:

541 **17-27-804. Plats required.**

542 (1) Unless exempt under Section 17-27-806 or not included in the definition of a  
543 subdivision under Subsection 17-27-103(1), whenever any lands are divided, the owner of  
544 those lands shall have an accurate plat made of them that sets forth and describes:

545 (a) all the parcels of ground divided, by their boundaries, course, and extent, and  
546 whether they are intended for streets or other public uses, together with any areas that are  
547 reserved for public purposes; and

548 (b) the lot or unit reference, the block or building reference, the street or site address,  
549 the street name or coordinate address, the acreage or square footage for all parcels, units, or  
550 lots, and the length and width of the blocks and lots intended for sale.

551 (2) (a) The owner of the land shall acknowledge the plat before an officer authorized  
552 by law to take the acknowledgement of conveyances of real estate.

553 (b) [~~The~~] (i) Subject to Subsection (2)(b)(ii), the surveyor making the plat shall certify  
554 it.

555           (ii) A surveyor may not certify a plat that gives the subdivision described in the plat the  
556 same name as a subdivision in a plat already recorded in the county recorder's office.

557           (c) The county executive shall approve the plat as provided in this part. Before the  
558 county executive may approve a plat, the owner of the land shall provide the county executive  
559 with a tax clearance indicating that all taxes, interest, and penalties owing on the land have  
560 been paid.

561           (3) After the plat has been acknowledged, certified, and approved, the owner of the  
562 land shall record it in the county recorder's office in the county in which the lands platted and  
563 laid out are situated.

564           (4) Before accepting a plat submitted for recording under this section, a county  
565 recorder may change the name of a subdivision described in the plat to avoid duplication or  
566 confusion with the name of a subdivision described in a plat already recorded in the county  
567 recorder's office.

568           Section 13. Section **17-27-806** is amended to read:

569           **17-27-806. Exemptions from plat requirement.**

570           (1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to the  
571 county recorder's office for recording a document that subdivides property by metes and  
572 bounds into less than ten lots, without the necessity of recording a plat, if:

573           (i) the planning commission, if required by county ordinance, has given the county  
574 executive its recommendation, whether favorable or not; and

575           (ii) the document contains a certificate or written approval from:

576           (A) the executive of the county in whose unincorporated area the property is located; or

577           (B) other officers that the county legislative body designates in an ordinance.

578           (b) By indicating its approval on a document under Subsection (1)(a), the county  
579 executive or other officer designated by the county legislative body certifies that:

580           (i) the planning commission:

581           (A) has given its recommendation to the county executive; or

582           (B) is not required by county ordinance to give its recommendation;

583           (ii) the subdivision is not traversed by the mapped lines of a proposed street as shown  
584 in the general plan and does not require the dedication of any land for street or other public  
585 purposes; and

586 (iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the  
587 frontage, width, and area requirements of the zoning ordinance or has been granted a variance  
588 from those requirements by the board of adjustment.

589 (2) (a) Subject to Subsection (2)(b), a lot or parcel resulting from a division of  
590 agricultural land is exempt from the plat requirements of Section 17-27-804 if the lot or parcel:

591 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland  
592 Assessment Act;

593 (ii) meets the minimum size requirement of applicable zoning ordinances for  
594 agricultural uses; and

595 (iii) is not used and will not be used for any nonagricultural purpose.

596 (b) (i) The county legislative body may adopt an ordinance requiring the boundaries of  
597 each lot or parcel exempted under Subsection (2)(a) [~~shall~~] to be graphically illustrated on a  
598 record of survey map that, after receiving the same approvals as are required for a plat under  
599 Section 17-27-805, shall be recorded with the county recorder.

600 (ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county  
601 legislative body may establish a procedure under which a notice, covenant, or other specified  
602 legal instrument containing a legal description of the subject property and identifying the  
603 agricultural purpose for the land division is recorded with the county recorder.

604 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural  
605 purpose, the county in whose unincorporated area the lot or parcel is located may require the lot  
606 or parcel to comply with the requirements of Section 17-27-804.

607 (3) (a) Documents recorded in the county recorder's office that divide property by a  
608 metes and bounds description do not create a subdivision allowed by this part unless the  
609 certificate of written approval required by Subsection (1)(a)(ii) is attached to the document.

610 (b) The absence of the certificate or written approval required by Subsection (1)(a)(ii)  
611 does not affect the validity of a recorded document.

612 (c) A document recorded under Subsection (1)(a) which does not meet the  
613 requirements of Subsection (1)(a)(ii) may be corrected to comply with Subsection (1)(a)(ii) by  
614 the recording of an affidavit to which the required certificate or written approval is attached in  
615 accordance with Section 57-3-106.

616 Section 14. Section **17-27-808** is amended to read:

617 **17-27-808. Vacating or changing a subdivision plat.**

618 (1) (a) Subject to Subsection (2), the county executive or any other officer that the  
619 county legislative body designates by ordinance may, with or without a petition, consider any  
620 proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision  
621 plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

622 (b) If a petition is filed, the responsible officer shall hold the public hearing within 45  
623 days after receipt of the planning commission's recommendation under Subsection (2) if:

624 (i) the plat change includes the vacation of a public street or alley;

625 (ii) any owner within the plat notifies the municipality of their objection in writing  
626 within ten days of mailed notification; or

627 (iii) a public hearing is required because all of the owners in the subdivision have not  
628 signed the revised plat.

629 (2) (a) Before the county legislative body or officer designated by the county legislative  
630 body may consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or  
631 (6), the county legislative body or officer shall refer the proposal to the planning commission  
632 for its recommendation.

633 (b) The planning commission shall give its recommendation within 30 days after the  
634 proposed vacation, alteration, or amendment is referred to it.

635 (3) Any fee owner, as shown on the last county assessment rolls, of land within the  
636 subdivision that has been laid out and platted as provided in this part may, in writing, petition  
637 the county executive to have the plat, any portion of it, or any street or lot contained in it,  
638 vacated, altered, or amended as provided in this section.

639 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street  
640 or lot contained in a plat shall include:

641 (a) the name and address of all owners of record of the land contained in the entire plat;

642 (b) the name and address of all owners of record of land adjacent to any street that is  
643 proposed to be vacated, altered, or amended; and

644 (c) the signature of each of these owners who consents to the petition.

645 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may  
646 not be scheduled for consideration at a public hearing before the responsible officer until the  
647 notice required by this part is given.

648 (b) The petitioner shall pay the cost of the notice.

649 (6) Subject to Subsection (2), if the responsible body or officer proposes to vacate,  
650 alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall  
651 consider the issue at a public hearing after giving the notice required by this part.

652 (7) (a) The owners of record of adjacent parcels that are described by either a metes  
653 and bounds description or a recorded plat may exchange title to portions of those parcels if the  
654 exchange of title is approved by the planning commission, or such other person or board as the  
655 county legislative body may designate, in accordance with Subsection (7)(b).

656 (b) The planning commission, or such other person or board as the county legislative  
657 body may designate, shall approve an exchange of title under Subsection (7)(a) if:

- 658 (i) no new dwelling lot or housing unit will result from the exchange of title; and
- 659 (ii) the exchange of title will not result in a violation of applicable zoning requirements.

660 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval  
661 shall be recorded by the planning commission, or such other person or board as the county  
662 legislative body may designate, in the office of the county recorder which:

- 663 (i) is executed by each owner included in the exchange and by the planning  
664 commission, or such other person or board as the county legislative body may designate;
- 665 (ii) contains an acknowledgment for each party executing the notice in accordance with  
666 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
- 667 (iii) recites the descriptions of both the original parcels and the parcels created by the  
668 exchange of title.

669 (d) A notice of approval recorded under this Subsection (7) does not act as a  
670 conveyance of title to real property and is not required for the recording of a document  
671 purporting to convey title to real property.

672 (8) (a) The name of a recorded subdivision may be changed by recording an amended  
673 plat making that change, as provided in this section.

674 (b) (i) Subject to Subsection (8)(b)(ii), the surveyor making the amended plat shall  
675 certify it.

676 (ii) A surveyor may not certify an amended plat that gives the subdivision described in  
677 the plat the same name as a subdivision in a plat already recorded in the county recorder's  
678 office.

679 (iii) Before accepting an amended plat submitted for recording under this Subsection  
680 (8), a county recorder may change the name of a subdivision described in the amended plat to  
681 avoid duplication or confusion with the name of a subdivision described in a plat already  
682 recorded in the county recorder's office.

683 [~~(b)~~] (c) Except as provided in Subsection (8)(a), the recording of a declaration or other  
684 document that purports to change the name of a recorded plat is void.

685 Section 15. Section **17-27-1001** is amended to read:

686 **17-27-1001. Appeals.**

687 (1) No person may challenge in district court a county's [~~land use~~] decisions made  
688 under this chapter or under the regulation made under authority of this chapter until that person  
689 has exhausted all administrative remedies.

690 (2) (a) Any person adversely affected by any decision made in the exercise of the  
691 provisions of this chapter may file a petition for review of the decision with the district court  
692 within 30 days after the local decision is rendered.

693 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a  
694 property owner files a request for arbitration of a constitutional taking issue with the private  
695 property ombudsman under Section 63-34-13 until 30 days after:

696 (A) the arbitrator issues a final award; or

697 (B) the private property ombudsman issues a written statement under Subsection  
698 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

699 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
700 taking issues that are the subject of the request for arbitration filed with the private property  
701 ombudsman by a property owner.

702 (iii) A request for arbitration filed with the private property ombudsman after the time  
703 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

704 (3) (a) The courts shall:

705 (i) presume that land use decisions and regulations are valid; and

706 (ii) determine only whether or not the decision is arbitrary, capricious, or illegal.

707 (b) A determination of illegality requires a determination that the decision violates a  
708 statute, ordinance, or existing law.

709 Section 16. Section **17-50-302** is amended to read:

710 **17-50-302. General county powers.**

711 (1) A county may:

712 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and  
713 collect special assessments for benefits conferred; and714 (b) provide services, exercise powers, and perform functions that are reasonably related  
715 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by  
716 statute.

717 (2) A county may:

718 (a) sue and be sued;

719 (b) acquire ~~[land, including at a]~~ real property, including nonagricultural water and  
720 water rights, by tax sale, purchase, lease, contract, gift, or condemnation, and hold ~~[it]~~ the real  
721 property as necessary and proper for county purposes;722 (c) ~~[make such contracts and]~~ as may be necessary to the exercise of its powers, acquire  
723 personal property by purchase, lease, contract, gift, or, as allowed by law, condemnation, and  
724 hold such personal property ~~[as may be necessary to the exercise of its powers];~~ and

725 (d) manage and dispose of its property as the interests of its inhabitants may require.

726 Section 17. Section **17-50-312** is amended to read:727 **17-50-312. Acquisition, management, and disposal of property.**728 (1) A county may purchase, receive, hold, sell, lease, convey, or otherwise acquire and  
729 dispose of any real or personal property or any interest in such property that it determines to be  
730 in the public interest.731 (2) Any property interest acquired by the county shall be held in the name of the county  
732 unless specifically otherwise provided by law.733 (3) ~~[The]~~ (a) Subject to Subsection (3)(b), the county legislative body shall provide by  
734 ordinance, resolution, rule, or regulation for the manner in which property shall be acquired,  
735 managed, and disposed of.736 (b) Before transferring title to real property, as defined in Section 57-1-1, with a market  
737 value exceeding \$50,000, the county legislative body shall hold a public hearing on the  
738 proposed transfer.739 Section 18. Section **17A-3-307** is amended to read:740 **17A-3-307. Protests by property owners -- Hearing -- Alteration of proposal by**

741 **resolution -- Conditions for adding property to district -- Deletion of protesters' property**  
742 **from district -- Recording requirements -- Waiver of objections.**

743 (1) (a) Any person who is the owner of property to be assessed in the special  
744 improvement district described in the notice of intention may, within the time designated in the  
745 notice, file, in writing, a protest to the creation of the special improvement district or make any  
746 other objections relating to it.

747 (b) The protest shall describe or otherwise identify the property owned by the person  
748 making the protest.

749 (2) (a) On the date and at the time and place specified in the notice of intention, the  
750 governing body shall, in open and public session, consider all protests filed and hear all  
751 objections relating to the proposed special improvement district.

752 (b) The governing body may adjourn the hearing from time to time to a fixed future  
753 time and place.

754 (c) After the hearing has been concluded and after all persons desiring to be heard have  
755 been heard, the governing body shall consider the arguments and the protests made.

756 (d) The governing body may:

757 (i) make deletions and changes in the proposed improvements; and

758 (ii) make deletions and changes in the area to be included in the special improvement  
759 district as desirable or necessary to assure adequate benefits to the property in the district.

760 (e) The governing body may not provide for the making of any improvements that are  
761 not stated in the notice of intention nor for adding to the district any property not included  
762 within the boundaries of the district unless a new notice of intention is given and a new hearing  
763 held.

764 (3) (a) (i) After this consideration and determination, the governing body shall adopt a  
765 resolution either abandoning the district or creating the district either as described in the notice  
766 of intention or with deletions and changes made as authorized in this section.

767 (ii) The governing body shall abandon the district and not create it if the necessary  
768 number of protests as provided in Subsection (3)(b) have been filed on or before the time  
769 specified in the notice of intention for the filing of protests after eliminating from the filed  
770 protests:

771 (A) protests relating to property or relating to a type of improvement that has been

772 deleted from the district; and

773 (B) protests that have been withdrawn in writing before the conclusion of the hearing.

774 (b) For purposes of this section, the necessary number of protests means the aggregate  
775 of the following:

776 (i) protests representing [~~one-half~~] 1/2 of the front footage of property to be assessed in  
777 cases where an assessment is proposed to be made according to frontage;

778 (ii) protests representing [~~one-half~~] 1/2 of the area of the property to be assessed where  
779 an assessment is to be made according to area;

780 (iii) protests representing [~~one-half~~] 1/2 of the taxable value of the property to be  
781 assessed where an assessment is proposed to be made according to taxable value;

782 (iv) protests representing [~~one-half~~] 1/2 of the lots to be assessed where an assessment  
783 is proposed to be made according to lot; or

784 (v) protests representing [~~one-half~~] 1/2 of connections to be assessed where an  
785 assessment is proposed to be made according to number of connections.

786 (c) If less than the necessary number of protests are filed by the owners of the property  
787 to be assessed, the governing body may create the special improvement district and begin  
788 making improvements.

789 (4) Before the completion of construction of the proposed improvements, the  
790 governing body may add additional properties to be improved and assessed to a created  
791 district, but only after:

792 (a) the governing body finds that the inclusion of the additional property within the  
793 district will not adversely affect the owners of properties already included within the district;

794 (b) the governing body obtains a written consent from each owner of the property to be  
795 added and improved that includes the legal description and tax identification number of the  
796 property, a waiver of any right to protest against the creation of the district, consent to being  
797 included within the district, and consent to the making of the proposed improvements with  
798 respect to the property to be added; and

799 (c) the governing body approves for recording an addendum to the resolution that  
800 created the district.

801 (5) (a) If the proposed special improvement district is structured to include only  
802 properties whose owners have voluntarily consented to an assessment, all properties of owners

803 that have not consented to an assessment by the date specified in the notice of intention shall be  
804 deleted from the district.

805 (b) The governing body shall then determine whether or not to create the special  
806 improvement district considering:

807 (i) the amount of the proposed assessment to be levied against the remaining properties  
808 within the district; and

809 (ii) the benefits to be received by those properties from the improvements proposed to  
810 be constructed within the district.

811 (6) (a) (i) (A) If the governing body creates the special improvement district, it shall,  
812 within five days from the date of creating the district, ~~[file a copy of the final approved notice~~  
813 ~~of intention, a]~~ record the original or a certified copy of the final approved resolution creating  
814 the district~~[, and a list of properties proposed to be assessed described by tax identification~~  
815 ~~number and legal description]~~ in the [county] recorder's office ~~[in]~~ of the county in which the  
816 district is located.

817 (B) Each original or certified copy of the resolution recorded under Subsection  
818 (6)(a)(i)(A) shall contain the legal description and tax identification number of each property to  
819 be assessed.

820 (ii) The governing body may include the filing fee as part of the overhead costs  
821 authorized by Section 17A-3-313.

822 (b) If, after the district has been created, the governing body adds additional properties  
823 to be assessed to the district under this section, it shall, within five days from the date of adding  
824 these properties, ~~[file]~~ record in the county recorder's office ~~[a]~~ the original or a certified copy  
825 of the addendum required by Subsection (4) that includes the legal description and tax  
826 identification number of the added property.

827 (c) If the governing body deletes any property to be assessed within the district after the  
828 district has been created, it shall issue and record a release and discharge of the recorded  
829 encumbrance created as a result of the ~~[filing]~~ recording required by this section in a form that  
830 includes the legal description and tax identification number of the property and otherwise  
831 complies with the recording statutes.

832 (7) (a) Any person who fails to file a protest within the time specified, or having filed,  
833 withdraws his protest, is considered to have waived any objection to the creation of the district,

834 the making of the improvements, and the inclusion of his property in the district.

835 (b) A waiver does not preclude a person's right to object to the amount of the  
836 assessment at the hearing provided for in Section 17A-3-317.

837 Section 19. Section **46-1-16** is amended to read:

838 **46-1-16. Official signature -- Official seal -- Seal impression.**

839 (1) In completing a notarial act, a notary shall sign on the notarial certificate exactly  
840 and only the name indicated on the notary's commission.

841 (2) (a) A notary shall keep an official notarial seal that is the exclusive property of the  
842 notary and that may not be used by any other person. Upon the resignation, revocation, or  
843 expiration of a notarial commission, the seal shall be destroyed.

844 (b) Each notarial seal obtained by a notary on or after July 1, 2003 shall use purple ink.

845 (3) A new seal shall be obtained for any new commission or recommission. A new  
846 seal shall be obtained if the notary changes the notary's name or address of record at any time  
847 during the notary's four-year commission. The seal impression shall be affixed near the notary's  
848 official signature on a notarial certificate and shall include a sharp, legible, and  
849 photographically reproducible ink impression of the notarial seal that consists of:

850 (a) the notary public's name exactly as indicated on the commission;

851 (b) the words "notary public," "state of Utah," and "my commission expires  
852 (commission expiration date)";

853 (c) the address of the notary's business or residence;

854 (d) a facsimile of the great seal of the state of Utah; and

855 (e) a rectangular border no larger than one inch by two and one-half inches surrounding  
856 the required words and seal.

857 (4) An embossed seal impression that is not photographically reproducible may be used  
858 in addition to, but not in place of, the photographically reproducible seal required in this  
859 section.

860 (5) The notarial seal shall be affixed in a manner that does not obscure or render  
861 illegible any information or signatures contained in the document or in the notarial certificate.

862 (6) A notary acknowledgment on an annexation, subdivision, or other transparent map  
863 or plat is considered complete without the imprint of the notary's official seal if:

864 (a) the notary signs the acknowledgment in permanent ink; and

865 (b) the following appear below or immediately adjacent to the notary's signature:

866 (i) the notary's full name;

867 (ii) the words "A notary public commissioned in Utah"; and

868 (iii) the expiration date of the notary's commission.

869 (7) A notary acknowledgement on an electronic message or document is considered  
870 complete without the imprint of the notary's seal if:

871 (a) the electronic message or document has been digitally signed pursuant to Section  
872 46-3-401 in the presence of a notary;

873 (b) the notary has confirmed that the digital signature on the electronic message or  
874 document is verifiable by the public key listed in the certificate issued to the signer in  
875 accordance with Section 46-3-403;

876 (c) the notary electronically signs the acknowledgement with a digital signature  
877 pursuant to Section 46-3-401; and

878 (d) the following information appears electronically within the message digitally signed  
879 by the notary:

880 (i) the notary's full name and commission number exactly as indicated on their  
881 commission; and

882 (ii) the words "notary public," "state of Utah," and "my commission expires on \_\_\_\_\_  
883 (date)"; and

884 (iii) the address of the notary's business or residence exactly as indicated on their  
885 commission.

886 Section 20. Section **57-3-104** is amended to read:

887 **57-3-104. Certified copies entitled to record in another county -- Effect.**

888 [~~Whenever a~~] (1) (a) A document [is] of record in [the] a county recorder's office [of  
889 the county recorder of any county, a copy of the record of the document] that is certified by the  
890 county recorder may be recorded in the office of the county recorder of [any other] another  
891 county.

892 (b) The recording of a certified copy in the office of the county recorder of another  
893 county has the same force and effect as if the original document had been recorded in the other  
894 county.

895 (2) A certified copy of a document may not be submitted for recording under

896 Subsection (1) in the office of the same county recorder that issued the certified copy.

897 Section 21. **Repealer.**

898 This act repeals:

899 Section **59-2-317, Compliance with minimum standards.**

900 Section **59-2-318, Appropriations distributed to counties to cover costs of revised**  
901 **plats.**

902 Section **59-2-319, Statement of work submitted by county recorders.**

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**Legislative Review Note**  
**as of 2-3-03 4:46 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0164**

**County Amendments**

*12-Feb-03*

*4:45 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**