

**FACILITIES WITH REGIONAL IMPACT**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ralph Becker**

Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions relating to notice applicable to certain entities in first and second class counties.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions relating to elements of a county or municipality's general plan;
- ▶ requires certain local government entities and certain public utilities to provide notice before preparing or amending a general, long-range, or capital facilities plan;
- ▶ requires certain entities to provide notice of an intent to acquire real property if its intended use is inconsistent with local planning or zoning, unless the entity has previously provided notice of the property's general location; and
- ▶ requires certain entities to provide post-acquisition notice of the acquisition of real property, under certain circumstances.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-8-2**, as last amended by Chapter 124, Laws of Utah 2003

**10-9-301**, as last amended by Chapter 105, Laws of Utah 2003

**10-9-302**, as last amended by Chapters 23 and 93, Laws of Utah 1992

**11-36-201**, as last amended by Chapter 239, Laws of Utah 2002

**17-27-301**, as last amended by Chapter 105, Laws of Utah 2003

**17-27-302**, as last amended by Chapters 23 and 93, Laws of Utah 1992

**17-50-302**, as last amended by Chapter 211, Laws of Utah 2003

ENACTS:

**10-9-301.5**, Utah Code Annotated 1953

**17-27-301.5**, Utah Code Annotated 1953

**17A-2-104**, Utah Code Annotated 1953

**17B-2-104**, Utah Code Annotated 1953

**53A-2-123**, Utah Code Annotated 1953

**54-3-27**, Utah Code Annotated 1953

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

Section 1. Section **10-8-2** is amended to read:

**10-8-2. Appropriations -- Acquisition and disposal of property -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**

(1) A municipal legislative body may:

(a) appropriate money for corporate purposes only;

(b) provide for payment of debts and expenses of the corporation;

(c) subject to [~~Subsection~~] Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries;

(d) improve, protect, and do any other thing in relation to this property that an individual could do; and

(e) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(2) Services or assistance provided pursuant to Subsection (1)(e) is not subject to the

provisions of Subsection (3). The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(e) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) Prior to the municipal legislative body making any decision to appropriate any funds for a corporate purpose under this section, a public hearing shall be held. Notice of the hearing shall be published in a newspaper of general circulation at least 14 days prior to the date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period.

(e) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:

(i) what identified benefit the municipality will receive in return for any money or resources appropriated;

(ii) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace,

order, comfort, or convenience of the inhabitants of the municipality; and

(iii) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation. The appeal shall be filed within 30 days after the date of that decision, to the district court. Any appeal shall be based on the record of the proceedings before the legislative body. A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section shall only apply to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

- (A) outside the boundaries of the municipality; and
- (B) in a county of the first or second class; and
- (ii) the intended use of the property is contrary to:
  - (A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or
  - (B) the property's current zoning designation.
- (b) Each notice under Subsection (5)(a) shall:
  - (i) indicate that the municipality intends to acquire real property;
  - (ii) identify the real property; and
  - (iii) be sent to:
    - (A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and
    - (B) each affected entity.
  - (c) A notice under this Subsection (5) is a protected record as provided in Subsection 63-2-304(7).
  - (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9-301.5 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.
  - (ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 2. Section **10-9-301** is amended to read:

**10-9-301. General plan.**

- (1) In order to accomplish the purposes set forth in this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:
  - (a) present and future needs of the municipality; and
  - (b) growth and development of the land within the municipality or any part of the municipality.

(2) The plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation; [~~and~~]

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by affected entities and specified public utilities, as those terms are defined in Section 10-9-301.5; and

~~[(h)]~~ (i) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

(3) The municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section **10-9-301.5** is enacted to read:

**10-9-301.5. Notice of intent to prepare a general plan or amendments to a general plan in certain municipalities.**

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification

because of an intended use of land; or

(B) that has filed with the municipality a copy of the entity's general or long-range plan.

(ii) "Affected entity" does not include the municipality that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) Before preparing a proposed general plan or amendments to an existing general plan, each municipality within a county of the first or second class shall provide written notice, as provided in this section, of its intent to prepare a proposed general plan or amendments to a general plan.

(3) Each notice under Subsection (2) shall:

(a) indicate that the municipality intends to prepare a general plan or amendments to a general plan, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendments to a general plan;

(c) be sent to:

(i) each affected entity;

(ii) the Automated Geographic Reference Center created in Section 63A-6-202;

(iii) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(iv) the state planning coordinator appointed under Section 63-38d-202;

(d) with respect to the notice to affected entities, invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendments to a general plan concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendments to a general plan may have on the affected entity; and

(ii) uses of land within the municipality that the affected entity is planning or considering that may conflict with the proposed general plan or amendments to the general plan; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendments to a general plan.

Section 4. Section **10-9-302** is amended to read:

**10-9-302. Plan preparation.**

(1) (a) ~~[The]~~ Subject to Section 10-9-301.5, the planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(b) The plan may include areas outside the boundaries of the municipality if, in the commission's judgment, they are related to the planning of the municipality's territory.

(c) Except as otherwise provided by law, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) The general plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the planning commission's recommendations for the development of the territory covered by the plan, and may include, among other things:

(a) a land use element that:

(i) designates the proposed general distribution and location and extent of uses of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(ii) may include a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan;

(b) a transportation and circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that are appropriate, all correlated with the land use element of the plan;

(c) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and



(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(d) a public services and facilities element showing general plans for sewage, waste disposal, drainage, local utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(e) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation; and

(ii) the elimination of blight and for redevelopment, including housing sites, business and industrial sites, and public building sites;

(f) an economic element composed of appropriate studies and an economic development plan that may include review of municipal revenue and expenditures, revenue sources, identification of base and residentiary industry, primary and secondary market areas, employment, and retail sales activity;

(g) recommendations for implementing the plan, including the use of zoning ordinances, subdivision ordinances, capital improvement plans, and other appropriate actions; ~~and~~

(h) provisions addressing any of the matters listed in Subsection 10-9-301(2); and

~~(h)~~ (i) any other elements the municipality considers appropriate.

Section 5. Section **11-36-201** is amended to read:

**11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan -- Summary -- Exemptions.**

(1) (a) Each local political subdivision and private entity shall comply with the requirements of this chapter before establishing or modifying any impact fee.

(b) A local political subdivision may not:

(i) establish any new impact fees that are not authorized by this chapter; or

(ii) impose or charge any other fees as a condition of development approval unless those

fees are a reasonable charge for the service provided.

(c) Notwithstanding any other requirements of this chapter, each local political subdivision shall ensure that each existing impact fee that is charged for any public facility not authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

(d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12) that are charged by local political subdivisions need not comply with the requirements of this chapter until July 1, 1997.

(ii) By July 1, 1997, each local political subdivision shall:

(A) review any impact fees in existence as of the effective date of this act, and prepare and approve the analysis required by this section for each of those impact fees; and

(B) ensure that the impact fees comply with the requirements of this chapter.

(2) (a) Before imposing impact fees, each local political subdivision shall prepare a capital facilities plan.

(b) (i) As used in this Subsection (2)(b):

(A) (I) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(Aa) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed capital facilities plan; or

(Bb) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(II) "Affected entity" does not include the local political subdivision or private entity that is required under this Subsection (2) to provide notice.

(B) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(ii) Before preparing a capital facilities plan for facilities proposed on land located within

a county of the first or second class, each local political subdivision and each private entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare a capital facilities plan.

(iii) Each notice under Subsection (2)(b)(ii) shall:

(A) indicate that the local political subdivision or private entity intends to prepare a capital facilities plan;

(B) describe or provide a map of the geographic area where the proposed capital facilities will be located;

(C) be sent to:

(I) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed facilities will be located;

(II) each affected entity;

(III) the Automated Geographic Reference Center created in Section 63A-6-202;

(IV) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to be located; and

(V) the state planning coordinator appointed under Section 63-38d-202; and

(D) with respect to the notice to affected entities, invite the affected entities to provide information for the local political subdivision or private entity to consider in the process of preparing, adopting, and implementing a capital facilities plan concerning:

(I) impacts that the facilities proposed in the capital facilities plan may have on the affected entity; and

(II) facilities or uses of land that the affected entity is planning or considering that may conflict with the facilities proposed in the capital facilities plan.

~~(b)~~ (c) The plan shall identify:

(i) demands placed upon existing public facilities by new development activity; and

(ii) the proposed means by which the local political subdivision will meet those demands.

~~(c)~~ (d) Municipalities and counties need not prepare a separate capital facilities plan if

the general plan required by Sections 10-9-301 and 17-27-301 contains the elements required by Subsection (2)~~(b)~~(c).

~~(d)~~ (e) (i) If a local political subdivision prepares an independent capital facilities plan rather than including a capital facilities element in the general plan, the local political subdivision shall, before adopting the capital facilities plan:

(A) give public notice of the plan according to this Subsection (2)~~(d)~~(e);

(B) at least 14 days before the date of the public hearing:

(I) make a copy of the plan, together with a summary designed to be understood by a lay person, available to the public; and

(II) place a copy of the plan and summary in each public library within the local political subdivision; and

(C) hold a public hearing to hear public comment on the plan.

(ii) Municipalities shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of, Subsections 10-9-103(2) and 10-9-402(2).

(iii) Counties shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of, Subsections 17-27-103(2) and 17-27-402(2).

(iv) Special districts and private entities shall comply with the notice and hearing requirements of, and receive the protections of, Section 17A-1-203.

(v) Nothing contained in this Subsection (2)~~(d)~~(e) or in the subsections referenced in Subsections (2)~~(d)~~(e)(ii) and (iii) may be construed to require involvement by a planning commission in the capital facilities planning process.

~~(e)~~ (f) (i) Local political subdivisions with a population or serving a population of less than 5,000 as of the last federal census need not comply with the capital facilities plan requirements of this part, but shall ensure that the impact fees imposed by them are based upon a reasonable plan.

(ii) Subsection (2)~~(e)~~(f)(i) does not apply to private entities.

(3) In preparing the plan, each local political subdivision shall generally consider all revenue sources, including impact fees, to finance the impacts on system improvements.

(4) A local political subdivision may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received.

(5) (a) Each local political subdivision imposing impact fees shall prepare a written analysis of each impact fee that:

- (i) identifies the impact on system improvements required by the development activity;
- (ii) demonstrates how those impacts on system improvements are reasonably related to the development activity;

(iii) estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and

(iv) based upon those factors and the requirements of this chapter, identifies how the impact fee was calculated.

(b) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision shall identify, if applicable:

- (i) the cost of existing public facilities;
- (ii) the manner of financing existing public facilities, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
- (iii) the relative extent to which the newly developed properties and the other properties in the municipality have already contributed to the cost of existing public facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
- (iv) the relative extent to which the newly developed properties and the other properties in the municipality will contribute to the cost of existing public facilities in the future;
- (v) the extent to which the newly developed properties are entitled to a credit because the municipality is requiring their developers or owners, by contractual arrangement or otherwise, to

provide common facilities, inside or outside the proposed development, that have been provided by the municipality and financed through general taxation or other means, apart from user charges, in other parts of the municipality;

(vi) extraordinary costs, if any, in servicing the newly developed properties; and  
(vii) the time-price differential inherent in fair comparisons of amounts paid at different times.

(c) Each local political subdivision that prepares a written analysis under this Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis, designed to be understood by a lay person.

(6) Each local political subdivision that adopts an impact fee enactment under Section 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit to each public library within the local political subdivision:

- (a) a copy of the written analysis required by Subsection (5)(a); and
- (b) a copy of the summary required by Subsection (5)(c).

(7) Nothing in this chapter may be construed to repeal or otherwise eliminate any impact fee in effect on the effective date of this act that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this act.

Section 6. Section **17-27-301** is amended to read:

**17-27-301. General plan.**

(1) In order to accomplish the purposes set forth in this chapter, each county shall prepare and adopt a comprehensive general plan for:

- (a) the present and future needs of the county; and
- (b) the growth and development of the land within the county or any part of the county, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.

(2) The plan may provide for:

- (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation; [~~and~~]

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by affected entities and specified public utilities, as those terms are defined in Section 17-27-301.5; and

~~[(h)]~~ (i) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

(3) (a) The plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the

county are rejected.

(c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

(d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county shall:

(i) comply with Subsection (3)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(4) The plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(5) The county may determine the comprehensiveness, extent, and format of the general plan.

Section 7. Section **17-27-301.5** is enacted to read:

**17-27-301.5. Notice of intent to prepare a general plan or amendments to a general plan in certain counties.**

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the county a copy of the entity's general or long-range plan.

(ii) "Affected entity" does not include the county that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or



telephone corporation, as those terms are defined in Section 54-2-1.

(2) Before preparing a proposed general plan or amendments to an existing general plan, each county of the first or second class shall provide written notice, as provided in this section, of its intent to prepare a proposed general plan or amendments to a general plan.

(3) Each notice under Subsection (2) shall:

(a) indicate that the county intends to prepare a general plan or amendments to a general plan, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendments to a general plan;

(c) be sent to:

(i) each affected entity;

(ii) the Automated Geographic Reference Center created in Section 63A-6-202;

(iii) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(iv) the state planning coordinator appointed under Section 63-38d-202;

(d) with respect to the notice to affected entities, invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendments to a general plan concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendments to a general plan may have on the affected entity; and

(ii) uses of land within the county that the affected entity is planning or considering that may conflict with the proposed general plan or amendments to the general plan; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of a person where more information can be obtained concerning the county's proposed general plan or amendments to a general plan.

Section 8. Section **17-27-302** is amended to read:

**17-27-302. Plan preparation.**

(1) (a) ~~[The]~~ Subject to Section 17-27-301.5, the planning commission shall make and

recommend to the legislative body a proposed general plan for the area within the county.

(b) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is adopted by the municipal planning commission and the governing body of the municipality.

(2) The general plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the planning commission's recommendations for the development of the territory covered by the plan, and may include, among other things:

(a) a land use element that:

(i) designates the proposed general distribution and location and extent of uses of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(ii) may include a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan;

(b) a transportation and circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that are appropriate, all correlated with the land use element of the plan;

(c) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(d) a public services and facilities element showing general plans for sewage, waste

disposal, drainage, local utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(e) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation; and

(ii) the elimination of blight and for redevelopment, including housing sites, business and industrial sites, and public building sites;

(f) an economic element composed of appropriate studies and an economic development plan that may include review of county revenue and expenditures, revenue sources, identification of base and residentiary industry, primary and secondary market areas, employment, and retail sales activity;

(g) recommendations for implementing the plan, including the use of zoning ordinances, subdivision ordinances, capital improvement plans, and other appropriate actions; ~~and~~

(h) provisions addressing any of the matters listed in Subsection 17-27-301(2); and

~~(h)~~ (i) any other elements that the county considers appropriate.

Section 9. Section **17-50-302** is amended to read:

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

(1) A county may:

(a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and collect special assessments for benefits conferred; and

(b) provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by statute.

(2) (a) A county may:

(i) sue and be sued;

(ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease, contract, gift, or condemnation, and hold the real property as necessary and proper for county purposes;

(iii) as may be necessary to the exercise of its powers, acquire personal property by purchase, lease, contract, or gift, and hold such personal property; and

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

(b) Nothing in Subsection (2)(a)(ii) may be construed to authorize a county to acquire by condemnation the rights to water used in agricultural production unless the land to which those water rights are appurtenant is acquired by condemnation.

(c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire real property for the purpose of expanding the county's infrastructure or other facilities used for providing services that the county offers or intends to offer shall provide written notice, as provided in this Subsection (2)(c), of its intent to acquire the property if:

(A) the property is located:

(I) outside the boundaries of the unincorporated area of the county; and

(II) in a county of the first or second class; and

(B) the intended use of the property is contrary to:

(I) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(II) the property's current zoning designation.

(ii) Each notice under Subsection (2)(c)(i) shall:

(A) indicate that the county intends to acquire real property;

(B) identify the real property; and

(C) be sent to:

(I) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(II) each affected entity.

(iii) A notice under this Subsection (2)(c) is a protected record as provided in Subsection 63-2-304(7).

(iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county previously provided notice under Section 17-27-301.5 identifying the general location within the

municipality or unincorporated part of the county where the property to be acquired is located.

(B) If a county is not required to comply with the notice requirement of Subsection (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.

Section 10. Section **17A-2-104** is enacted to read:

**17A-2-104. Notice before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, independent special district under this chapter, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the independent special district a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the independent special district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If an independent special district under this chapter located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the independent special district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the independent special district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63A-6-202;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63-38d-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the independent special district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the independent special district has one, and the name and telephone number of a person where more information can be obtained concerning the independent special district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each independent special district intending to acquire real property in a county of the first or second class for the purpose of

expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

- (i) the anticipated use of the property under the county or municipality's general plan; or
- (ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

- (i) indicate that the independent special district intends to acquire real property;
- (ii) identify the real property; and
- (iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63-2-304(7).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the independent special district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If an independent special district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the independent special district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 11. Section **17B-2-104** is enacted to read:

**17B-2-104. Notice before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under this chapter, school

district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this chapter located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63A-6-202;

(D) each association of governments, established pursuant to an interlocal agreement



under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63-38d-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of a person where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63-2-304(7).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 12. Section **53A-2-123** is enacted to read:

**53A-2-123. Notice before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

(a) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63A-6-202;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63-38d-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's

infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

- (i) the anticipated use of the property under the county or municipality's general plan; or
- (ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63-2-304(7).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 13. Section **54-3-27** is enacted to read:

**54-3-27. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification

because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding its facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63A-6-202;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63-38d-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of a person where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding its infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63-2-304(7).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.