

1 **FACILITIES WITH REGIONAL IMPACT**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Ralph Becker**

5 Gregory H. Hughes



7 **LONG TITLE**

8 **General Description:**

9 This bill modifies and enacts provisions relating to notice and land use dispute  
10 resolution applicable to certain entities in first and second class counties.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies provisions relating to elements of a county or municipality's general plan;
- 14 ▶ requires certain local government entities and certain public utilities to provide  
15 notice before preparing or amending a general, long-range, or capital facilities plan;
- 16 ▶ requires certain entities to provide notice of an intent to acquire real property if its  
17 intended use is inconsistent with local planning or zoning, unless the entity has  
18 previously provided notice of the property's general location;
- 19 ▶ requires certain entities to provide post-acquisition notice of the acquisition of real  
20 property, under certain circumstances;
- 21 ▶ establishes a commission to hear and decide certain land use disputes;
- 22 ▶ provides for the membership and duties of that commission;
- 23 ▶ provides for judicial review of a commission decision; and
- 24 ▶ requires commission review of certain disputes before judicial review may be  
25 sought.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-9-301**, as last amended by Chapter 105, Laws of Utah 2003

33 **10-9-302**, as last amended by Chapters 23 and 93, Laws of Utah 1992

34 **10-9-1001**, as last amended by Chapter 124, Laws of Utah 2003

35 **11-36-201**, as last amended by Chapter 239, Laws of Utah 2002

36 **17-27-301**, as last amended by Chapter 105, Laws of Utah 2003

37 **17-27-302**, as last amended by Chapters 23 and 93, Laws of Utah 1992

38 **17-27-1001**, as last amended by Chapter 124, Laws of Utah 2003

39 ENACTS:

40 **10-9-301.5**, Utah Code Annotated 1953

41 **11-41-101**, Utah Code Annotated 1953

42 **11-41-102**, Utah Code Annotated 1953

43 **11-41-103**, Utah Code Annotated 1953

44 **11-41-104**, Utah Code Annotated 1953

45 **11-41-105**, Utah Code Annotated 1953

46 **11-41-106**, Utah Code Annotated 1953

47 **17-27-301.5**, Utah Code Annotated 1953

48 **17A-2-104**, Utah Code Annotated 1953

49 **17B-2-104**, Utah Code Annotated 1953

50 **53A-2-123**, Utah Code Annotated 1953

51 **54-3-27**, Utah Code Annotated 1953



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

54 Section 1. Section **10-9-301** is amended to read:

55 **10-9-301. General plan.**

56 (1) In order to accomplish the purposes set forth in this chapter, each municipality shall  
57 prepare and adopt a comprehensive, long-range general plan for:

58 (a) present and future needs of the municipality; and

59 (b) growth and development of the land within the municipality or any part of the  
60 municipality.

61 (2) The plan may provide for:

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

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

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

67 (i) food and water; and

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

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

70 (e) the protection of urban development;

71 (f) the protection and promotion of air quality;

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

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

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

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

80 Section 2. Section **10-9-301.5** is enacted to read:

81 **10-9-301.5. Notice of intent to prepare a general plan or amendments to a general**  
82 **plan in certain municipalities.**

83 (1) As used in this section:

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

86 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title  
87 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

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

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

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

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

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

105 (c) be sent to:

106 (i) each affected entity;

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

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

110 and

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

112 (d) with respect to the notice to affected entities, invite the affected entities to provide  
113 information for the municipality to consider in the process of preparing, adopting, and

114 implementing a general plan or amendments to a general plan concerning:

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

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

120 (e) include the address of an Internet website, if the municipality has one, and the name

121 and telephone number of a person where more information can be obtained concerning the  
122 municipality's proposed general plan or amendments to a general plan.

123 Section 3. Section **10-9-302** is amended to read:

124 **10-9-302. Plan preparation.**

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

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

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

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

135 (a) a land use element that:

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

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

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

145 (c) an environmental element that addresses:

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

149 (ii) the reclamation of land, flood control, prevention and control of the pollution of  
150 streams and other waters, regulation of the use of land on hillsides, stream channels and other  
151 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,

152 protection of watersheds and wetlands, and the mapping of known geologic hazards;

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

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

158 (i) historic preservation; and

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

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

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

168 (h) provisions addressing any of the matters listed in Subsection 10-9-301(2); and  
169 ~~(h)~~ (i) any other elements the municipality considers appropriate.

170 Section 4. Section **10-9-1001** is amended to read:

171 **10-9-1001. Appeals.**

172 (1) (a) No person may challenge in district court a municipality's land use decisions  
173 made under this chapter or under the regulation made under authority of this chapter until that  
174 person has exhausted his administrative remedies.

175 (b) An appeal by another municipality or by a county, independent special district  
176 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,  
177 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title  
178 11, Chapter 13, Interlocal Cooperation Act, or specified public utility, as defined in Section  
179 10-9-301.5, of a municipality's land use decision that prevents the municipality, county,  
180 independent special district, local district, school district, interlocal cooperation entity, or  
181 specified public utility from pursuing its proposed use of land is not governed by this section  
182 but is governed by Title 11, Chapter 41, Facilities Dispute Resolution Commission.

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

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

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

190 (B) the private property ombudsman issues a written statement under Subsection  
 191 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

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

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

197 (3) The courts shall:

198 (a) presume that land use decisions and regulations are valid; and

199 (b) determine only whether or not the decision is arbitrary, capricious, or illegal.

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

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

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

205 (b) A local political subdivision may not:

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

207 (ii) impose or charge any other fees as a condition of development approval unless  
 208 those fees are a reasonable charge for the service provided.

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

212 (d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12)  
 213 that are charged by local political subdivisions need not comply with the requirements of this

214 chapter until July 1, 1997.

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

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

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

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

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

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

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

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

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

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

235 (ii) Before preparing a capital facilities plan for facilities proposed on land located  
236 within a county of the first or second class, each local political subdivision and each private  
237 entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare  
238 a capital facilities plan.

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

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

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

244 (C) be sent to:



245 (I) each county in whose unincorporated area and each municipality in whose  
246 boundaries is located the land on which the proposed facilities will be located;  
247 (II) each affected entity;  
248 (III) the Automated Geographic Reference Center created in Section 63A-6-202;  
249 (IV) the association of governments, established pursuant to an interlocal agreement  
250 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to  
251 be located; and

252 (V) the state planning coordinator appointed under Section 63-38d-202; and  
253 (D) with respect to the notice to affected entities, invite the affected entities to provide  
254 information for the local political subdivision or private entity to consider in the process of  
255 preparing, adopting, and implementing a capital facilities plan concerning:

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

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

260 [~~(b)~~] (c) The plan shall identify:

261 (i) demands placed upon existing public facilities by new development activity; and  
262 (ii) the proposed means by which the local political subdivision will meet those  
263 demands.

264 [~~(c)~~] (d) Municipalities and counties need not prepare a separate capital facilities plan  
265 if the general plan required by Sections 10-9-301 and 17-27-301 contains the elements required  
266 by Subsection (2)[~~(b)~~](c).

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

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

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

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

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

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

277 (ii) Municipalities shall comply with the notice and hearing requirements of, and,  
278 except as provided in Subsection 11-36-401(4)(f), receive the protections of, Subsections  
279 10-9-103(2) and 10-9-402(2).

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

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

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

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

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

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

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

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

301 (i) identifies the impact on system improvements required by the development activity;

302 (ii) demonstrates how those impacts on system improvements are reasonably related to  
303 the development activity;

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

306 (iv) based upon those factors and the requirements of this chapter, identifies how the

307 impact fee was calculated.

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

311 (i) the cost of existing public facilities;

312 (ii) the manner of financing existing public facilities, such as user charges, special  
313 assessments, bonded indebtedness, general taxes, or federal grants;

314 (iii) the relative extent to which the newly developed properties and the other  
315 properties in the municipality have already contributed to the cost of existing public facilities,  
316 by such means as user charges, special assessments, or payment from the proceeds of general  
317 taxes;

318 (iv) the relative extent to which the newly developed properties and the other  
319 properties in the municipality will contribute to the cost of existing public facilities in the  
320 future;

321 (v) the extent to which the newly developed properties are entitled to a credit because  
322 the municipality is requiring their developers or owners, by contractual arrangement or  
323 otherwise, to provide common facilities, inside or outside the proposed development, that have  
324 been provided by the municipality and financed through general taxation or other means, apart  
325 from user charges, in other parts of the municipality;

326 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

327 (vii) the time-price differential inherent in fair comparisons of amounts paid at  
328 different times.

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

332 (6) Each local political subdivision that adopts an impact fee enactment under Section  
333 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit  
334 to each public library within the local political subdivision:

335 (a) a copy of the written analysis required by Subsection (5)(a); and

336 (b) a copy of the summary required by Subsection (5)(c).

337 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any

338 impact fee in effect on the effective date of this act that is pledged as a source of revenues to  
339 pay bonded indebtedness that was incurred before the effective date of this act.

340 Section 6. Section 11-41-101 is enacted to read:

341 **CHAPTER 41. FACILITIES DISPUTE RESOLUTION COMMISSION**

342 **11-41-101. Title.**

343 This chapter is known as the "Facilities Dispute Resolution Commission."

344 Section 7. Section 11-41-102 is enacted to read:

345 **11-41-102. Definitions.**

346 As used in this chapter:

347 (1) "Commission" means a facilities dispute resolution commission established under  
348 Section 11-41-103.

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

351 Section 8. Section 11-41-103 is enacted to read:

352 **11-41-103. Facilities Dispute Resolution Commission.**

353 (1) There is established a facilities dispute resolution commission for each association  
354 of governments:

355 (a) that has been established pursuant to an interlocal agreement under Chapter 13,  
356 Interlocal Cooperation Act; and

357 (b) whose membership includes a county of the first or second class.

358 (2) Each commission shall be composed of:

359 (a) one person who holds an elected county office in a county of the first or second  
360 class, appointed by the association of governments;

361 (b) one person who holds an elected municipal office in a municipality located in a  
362 county of the first or second class, appointed by the association of governments;

363 (c) one person who serves as a member of a board of trustees of an independent special  
364 district under Title 17A, Chapter 2, Independent Special Districts, appointed by the Utah  
365 Association of Special Districts;

366 (d) one person who is an officer or employee of a specified public utility that provides  
367 service within a county of the first or second class, appointed by the Utah Public Service  
368 Commission;

369 (e) one person who serves as a board member of a school district located in a county of  
370 the first or second class, appointed by the State Board of Education; and

371 (f) two persons who reside within a county of the first or second class that is a member  
372 of the association of governments, appointed by majority vote of the five other members of the  
373 commission.

374 (3) The term of each commission member shall be four years, except that:

375 (a) the initial term of two members of the commission, chosen by lot, shall be one year;

376 (b) the initial term of two members of the commission, chosen by lot, shall be two  
377 years; and

378 (c) the initial term of two members of the commission, chosen by lot, shall be three  
379 years.

380 (4) A commission member is not limited in the number of terms the member may  
381 serve.

382 (5) (a) For each member of the commission under Subsection (2), an alternate member  
383 shall be appointed by the same body that appointed the member.

384 (b) Each alternate member shall serve for the same term as the member for which the  
385 alternate member is an alternate.

386 (c) An alternate serves on the commission only:

387 (i) if the member for whom the alternate member is an alternate is:

388 (A) disqualified under Subsection 11-41-105(2); or

389 (B) otherwise unable to participate in the commission's consideration of a particular  
390 dispute; and

391 (ii) for each particular dispute for which the member does not serve under Subsection  
392 (5)(c)(i).

393 (6) (a) Commission members shall choose from their number a chair, who shall preside  
394 at commission meetings, and a vice chair, who shall preside at commission meetings in the  
395 absence of the chair.

396 (b) The chair and vice chair serve in those positions at the pleasure of the commission,  
397 but the commission may designate a set term for those positions.

398 (7) (a) A majority of commission members constitutes a quorum for holding meetings  
399 and transacting business.

400 (b) A decision by the commission resolving a dispute requires the concurrence of a  
401 majority of commission members.

402 Section 9. Section **11-41-104** is enacted to read:

403 **11-41-104. Commission duties and authority.**

404 (1) Each commission shall hear and decide disputes concerning:

405 (a) a proposed use of land that is rejected by the county in whose unincorporated area  
406 or the municipality in whose boundaries the land is located; or

407 (b) a school district's action that the county or municipality claims violates its land use  
408 planning and zoning ordinances.

409 (2) Each commission shall activate and operate only when presented with a dispute as  
410 provided in this chapter.

411 (3) In resolving disputes, the commission shall consider:

412 (a) whether the entity proposing the use of land:

413 (i) included the proposed use of land in its long-term planning;

414 (ii) complied with applicable notice requirements with respect to the acquisition or  
415 proposed use of land; and

416 (iii) has made a good faith effort to cooperate and resolve conflicts with the applicable  
417 county or municipality concerning the proposed use of land;

418 (b) whether allowing the proposed use of land will provide a greater benefit to a larger  
419 segment of the public than not allowing it;

420 (c) whether there are other suitable locations for the proposed use;

421 (d) (i) whether an entity other than the entity proposing the land use will bear an  
422 unreasonable burden or suffer an unreasonable impact, including financial burden or impact,  
423 from the proposed use of land; and

424 (ii) the extent to which the entity proposing the use of land is willing to mitigate the  
425 burden or impact;

426 (e) whether the proposed use of land is consistent with the county or municipality's  
427 general plan;

428 (f) whether the county or municipality's general plan and zoning applicable to the land  
429 in question was consistent with the proposed use of the land at the time the entity proposing the  
430 use of land acquired it; and

431 (g) all other factors the commission considers relevant to a resolution of the dispute  
432 that best serves the public interest.

433 (4) A commission may:

434 (a) adopt and enforce rules of procedure for the orderly and fair conduct of its  
435 proceedings;

436 (b) authorize a member of the commission to administer oaths if necessary in the  
437 performance of the commission's duties; and

438 (c) in order to enable the commission to carry out its duties in hearing and deciding  
439 disputes, use the services of the staff of the association of governments or employ other  
440 personnel.

441 (5) Each commission shall keep a record of all its proceedings concerning a dispute.

442 (6) If the commission decides to allow the proposed use of land, the commission may  
443 formulate its decision to achieve a result that best serves the public interest, including:

444 (a) imposing reasonable conditions or requirements on the entity proposing the use of  
445 land to mitigate the unreasonable burdens or impacts caused by the proposed use of land; and

446 (b) allowing a land use that is contrary to existing local municipal or county land use  
447 ordinances.

448 (7) The principal place of business of the association of counties shall constitute the  
449 commission's office and shall be the place for filing a petition under Section 11-41-105.

450 Section 10. Section **11-41-105** is enacted to read:

451 **11-41-105. Procedure for commission review of dispute.**

452 (1) (a) (i) A county, municipality, independent special district under Title 17A, Chapter  
453 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts,  
454 school district, interlocal cooperation entity established under Chapter 13, Interlocal  
455 Cooperation Act, or specified public utility may request commission review of a county or  
456 municipality's land use decision that prevents the county, municipality, independent special  
457 district, local district, school district, interlocal cooperation entity, or specified public utility  
458 from pursuing its proposed use of land by filing with the commission a petition requesting  
459 review of the land use decision.

460 (ii) A county or municipality may request commission review of a school district action  
461 that the county or municipality claims violates its land use planning and zoning ordinances.

- 462 (b) Each petition under Subsection (1)(a) shall be filed within 30 days after:  
463 (i) for a petition under Subsection (1)(a)(i), the date of the land use decision for which  
464 commission review is sought; and  
465 (ii) for a petition under Subsection (1)(a)(ii), the date of the school district action for  
466 which commission review is sought.
- 467 (2) (a) A commission member is disqualified from hearing and deciding a dispute if:  
468 (i) the member has a direct interest in the outcome of the dispute;  
469 (ii) the member concludes that the member cannot impartially participate in the hearing  
470 and decision of the dispute; or  
471 (iii) a majority of all remaining members of the commission vote to remove the  
472 member from participating in the hearing and decision of the dispute.
- 473 (b) If a member is disqualified under Subsection (2)(a), that member's alternate shall  
474 serve on the commission for purposes of hearing and deciding that particular dispute for which  
475 the member is disqualified.
- 476 (3) The parties to a dispute before the commission shall equally share the expenses  
477 incurred by the commission relating to its hearing and deciding the dispute.
- 478 Section 11. Section **11-41-106** is enacted to read:  
479 **11-41-106. Court review of commission decision.**
- 480 (1) (a) A county, municipality, independent special district under Title 17A, Chapter 2,  
481 Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school  
482 district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act,  
483 and specified public utility may not seek district court review of a municipality or county's land  
484 use decision for which commission review is provided in this chapter unless the land use  
485 decision has been heard and decided by the commission.
- 486 (b) A county or municipality may not seek district court review of a school district  
487 action that the county or municipality claims violates its land use planning and zoning  
488 ordinances unless the dispute has been heard and decided by the commission.
- 489 (2) An entity adversely affected by a commission decision may file, within 30 days  
490 after the commission decision, a petition for review of the decision with the district court.
- 491 (3) The district court review of a commission decision is on the record created during  
492 the commission proceedings.



493           (4) In its review of a commission decision, the court shall uphold the decision if it is  
494 supported by substantial evidence.

495           Section 12. Section **17-27-301** is amended to read:

496           **17-27-301. General plan.**

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

499           (a) the present and future needs of the county; and

500           (b) the growth and development of the land within the county or any part of the county,  
501 including uses of land for urbanization, trade, industry, residential, agricultural, wildlife  
502 habitat, and other purposes.

503           (2) The plan may provide for:

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

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

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

509           (i) food and water; and

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

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

512           (e) the protection of urban development;

513           (f) the protection and promotion of air quality;

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

515           (h) identifying future uses of land that are likely to require an expansion or significant  
516 modification of services or facilities provided by affected entities and specified public utilities,

517 as those terms are defined in Section 17-27-301.5; and

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

520           (3) (a) The plan shall include specific provisions related to any areas within, or  
521 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
522 county, which are proposed for the siting of a storage facility or transfer facility for the  
523 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as

524 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the  
525 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 526 (i) the information identified in Section 19-3-305;
- 527 (ii) information supported by credible studies that demonstrates that the provisions of  
528 Subsection 19-3-307(2) have been satisfied; and
- 529 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater  
530 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

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

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

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

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

- 541 (i) comply with Subsection (3)(a) as soon as reasonably possible; and
- 542 (ii) send a certified copy of the repeal to the executive director of the Department of  
543 Environmental Quality by certified mail within 30 days after the repeal.

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

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

548 Section 13. Section **17-27-301.5** is enacted to read:

549 **17-27-301.5. Notice of intent to prepare a general plan or amendments to a**  
550 **general plan in certain counties.**

551 (1) As used in this section:

552 (a) (i) "Affected entity" means each county, municipality, independent special district  
553 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,  
554 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title

555 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

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

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

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

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

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

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

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

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

571 (c) be sent to:

572 (i) each affected entity;

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

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

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

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

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

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

584 (e) include the address of an Internet website, if the county has one, and the name and  
585 telephone number of a person where more information can be obtained concerning the county's

586 proposed general plan or amendments to a general plan.

587 Section 14. Section **17-27-302** is amended to read:

588 **17-27-302. Plan preparation.**

589 (1) (a) [~~The~~] Subject to Section 17-27-301.5, the planning commission shall make and  
590 recommend to the legislative body a proposed general plan for the area within the county.

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

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

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

600 (a) a land use element that:

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

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

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

610 (c) an environmental element that addresses:

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

614 (ii) the reclamation of land, flood control, prevention and control of the pollution of  
615 streams and other waters, regulation of the use of land on hillsides, stream channels and other  
616 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,

617 protection of watersheds and wetlands, and the mapping of known geologic hazards;

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

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

623 (i) historic preservation; and

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

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

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

633 (h) provisions addressing any of the matters listed in Subsection 17-27-301(2); and  
634 ~~[(h)]~~ (i) any other elements that the county considers appropriate.

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

636 **17-27-1001. Appeals.**

637 (1) (a) No person may challenge in district court a county's land use decisions made  
638 under this chapter or under the regulation made under authority of this chapter until that person  
639 has exhausted all administrative remedies.

640 (b) An appeal by another county or by a municipality, independent special district  
641 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,  
642 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title  
643 11, Chapter 13, Interlocal Cooperation Act, or specified public utility, as defined in Section  
644 10-9-301.5, of a county's land use decision that prevents the county, municipality, independent  
645 special district, local district, school district, interlocal cooperation entity, or specified public  
646 utility from pursuing its proposed use of land is not governed by this section but is governed by  
647 Title 11, Chapter 41, Facilities Dispute Resolution Commission.

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

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

- 654 (A) the arbitrator issues a final award; or
- 655 (B) the private property ombudsman issues a written statement under Subsection  
656 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

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

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

662 (3) (a) The courts shall:

- 663 (i) presume that land use decisions and regulations are valid; and
- 664 (ii) determine only whether or not the decision is arbitrary, capricious, or illegal.

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

667 Section 16. Section **17A-2-104** is enacted to read:

668 **17A-2-104. Notice before preparing a long-range plan or acquiring certain**  
669 **property.**

670 (1) As used in this section:

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

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

677 (B) that has filed with the independent special district a copy of the general or  
678 long-range plan of the county, municipality, independent special district, local district, school

679 district, interlocal cooperation entity, or specified public utility.

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

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

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

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

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

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

695 (iii) be sent to:

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

699 (B) each affected entity;

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

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

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

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

709 (A) impacts that the use of land proposed in the proposed long-range plan or

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

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

718 (3) (a) Except as provided in Subsection (3)(d), each independent special district  
719 intending to acquire real property for the purpose of expanding the district's infrastructure or  
720 other facilities used for providing the services that the district is authorized to provide shall  
721 provide written notice, as provided in this Subsection (3), of its intent to acquire the property if  
722 the intended use of the property is contrary to:

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

724 or

725 (ii) the property's current zoning designation.

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

727 (i) indicate that the independent special district intends to acquire real property;

728 (ii) identify the real property; and

729 (iii) be sent to:

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

732 (B) each affected entity.

733 (c) A notice under this Subsection (3) is a protected record as provided in Subsection  
734 63-2-304(7).

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

739 (ii) If an independent special district is not required to comply with the notice  
740 requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the



741 independent special district shall provide the notice specified in Subsection (3)(a) as soon as  
742 practicable after its acquisition of the real property.

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

744 **17B-2-104. Notice before preparing a long-range plan or acquiring certain**  
745 **property.**

746 (1) As used in this section:

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

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

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

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

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

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

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

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

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

769 (iii) be sent to:

770 (A) each county in whose unincorporated area and each municipality in whose  
771 boundaries is located the land on which the proposed long-range plan or amendments to a

772 long-range plan are expected to indicate that the proposed facilities will be located;

773 (B) each affected entity;

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

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

776 under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality

777 described in Subsection (2)(b)(iii)(A) is a member; and

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

779 (iv) with respect to the notice to counties and municipalities described in Subsection

780 (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to

781 consider in the process of preparing, adopting, and implementing the long-range plan or

782 amendments to a long-range plan concerning:

783 (A) impacts that the use of land proposed in the proposed long-range plan or

784 amendments to a long-range plan may have on the county, municipality, or affected entity; and

785 (B) uses of land that the county, municipality, or affected entity is planning or

786 considering that may conflict with the proposed long-range plan or amendments to a long-range

787 plan; and

788 (v) include the address of an Internet website, if the local district has one, and the name

789 and telephone number of a person where more information can be obtained concerning the

790 local district's proposed long-range plan or amendments to a long-range plan.

791 (3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire

792 real property for the purpose of expanding the district's infrastructure or other facilities used for

793 providing the services that the district is authorized to provide shall provide written notice, as

794 provided in this Subsection (3), of its intent to acquire the property if the intended use of the

795 property is contrary to:

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

797 or

798 (ii) the property's current zoning designation.

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

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

801 (ii) identify the real property; and

802 (iii) be sent to:

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

805 (B) each affected entity.

806 (c) A notice under this Subsection (3) is a protected record as provided in Subsection  
807 63-2-304(7).

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

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

815 Section 18. Section **53A-2-123** is enacted to read:

816 **53A-2-123. Notice before preparing or amending a long-range plan or acquiring**  
817 **certain property.**

818 (1) As used in this section:

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

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

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

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

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

834 prepare a long-range plan or to amend an existing long-range plan.

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

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

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

840 (iii) be sent to:

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

844 (B) each affected entity;

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

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

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

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

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

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

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

862 (3) (a) Except as provided in Subsection (3)(d), each school district intending to  
863 acquire real property for the purpose of expanding the district's infrastructure or other facilities  
864 shall provide written notice, as provided in this Subsection (3), of its intent to acquire the

865 property if the intended use of the property is contrary to:

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

867 or

868 (ii) the property's current zoning designation.

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

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

871 (ii) identify the real property; and

872 (iii) be sent to:

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

875 (B) each affected entity.

876 (c) A notice under this Subsection (3) is a protected record as provided in Subsection  
877 63-2-304(7).

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

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

885 Section 19. Section **54-3-27** is enacted to read:

886 **54-3-27. Notice required of certain public utilities before preparing a long-range**  
887 **plan or acquiring certain property.**

888 (1) As used in this section:

889 (a) (i) "Affected entity" means each county, municipality, independent special district  
890 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,  
891 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title  
892 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

893 (A) whose services or facilities are likely to require expansion or significant  
894 modification because of expected uses of land under a proposed long-range plan or under  
895 proposed amendments to a long-range plan; or

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

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

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

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

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

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

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

913 (iii) be sent to:

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

917 (B) each affected entity;

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

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

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

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

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

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

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

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

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

943 (ii) the property's current zoning designation.

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

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

946 (ii) identify the real property; and

947 (iii) be sent to:

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

950 (B) each affected entity.

951 (c) A notice under this Subsection (3) is a protected record as provided in Subsection  
952 63-2-304(7).

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

957 (ii) If a specified public utility is not required to comply with the notice requirement of

958 Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility  
959 shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition  
960 of the real property.

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**Legislative Review Note**  
**as of 1-27-04 11:45 AM**

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

**Office of Legislative Research and General Counsel**



**State Impact**

Passage of this bill could increase arbitration costs to impacted local governments. However, it is estimated that increases could be handled within existing budgets.

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**