

ASSESSMENT AREA AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred R. Hunsaker

Senate Sponsor: Dennis E. Stowell

LONG TITLE

Committee Note:

The Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill modifies provisions relating to assessment areas.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ authorizes other political subdivisions of the state, in addition to counties, cities, towns, special service districts, and local districts, to designate an assessment area and levy assessments;
- ▶ clarifies which improvements a notice of a proposed designation resolution or ordinance may make provision for;
- ▶ modifies which owners of property may file a protest to a proposed assessment area or assessment;
- ▶ modifies the conditions under which a local entity may designate an assessment area;
- ▶ modifies the conditions under which a local entity may add to a designated assessment area;
- ▶ modifies items that can be included in the levy of an assessment;
- ▶ modifies the possible makeup of a board of equalization for assessment purposes;



- 28 ▶ specifies a time within which a board of equalization must mail a copy of the
- 29 board's final report;
- 30 ▶ allows local entity to publish a summary of an adopted assessment resolution or
- 31 ordinance rather than the resolution or ordinance itself;
- 32 ▶ modifies a provision relating to an amendment of an assessment resolution or
- 33 ordinance that results in an increase of an assessment;
- 34 ▶ includes capitalized interest in the items for which proceeds of bond anticipation
- 35 notes may be used;
- 36 ▶ authorizes a local entity to include interest accruing on bond anticipation notes in
- 37 the cost of improvements;
- 38 ▶ includes assessments in the list of items from which warrants or bond anticipation
- 39 notes are to be paid;
- 40 ▶ modifies a provision relating to how assessment bonds are to be issued;
- 41 ▶ includes interim warrants in a provision requiring the local entity to provide for the
- 42 retirement of the obligation; and
- 43 ▶ makes technical changes.

44 **Monies Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 None

48 **Utah Code Sections Affected:**

49 AMENDS:

- 50 **11-42-102**, as last amended by Laws of Utah 2008, Chapter 360
- 51 **11-42-202**, as enacted by Laws of Utah 2007, Chapter 329
- 52 **11-42-203**, as enacted by Laws of Utah 2007, Chapter 329
- 53 **11-42-205**, as last amended by Laws of Utah 2008, Chapter 382
- 54 **11-42-207**, as enacted by Laws of Utah 2007, Chapter 329
- 55 **11-42-301**, as enacted by Laws of Utah 2007, Chapter 329
- 56 **11-42-401**, as enacted by Laws of Utah 2007, Chapter 329
- 57 **11-42-403**, as enacted by Laws of Utah 2007, Chapter 329
- 58 **11-42-404**, as enacted by Laws of Utah 2007, Chapter 329

- 59 **11-42-410**, as enacted by Laws of Utah 2007, Chapter 329
- 60 **11-42-602**, as enacted by Laws of Utah 2007, Chapter 329
- 61 **11-42-603**, as enacted by Laws of Utah 2007, Chapter 329
- 62 **11-42-605**, as last amended by Laws of Utah 2008, Chapter 250
- 63 **11-42-702**, as enacted by Laws of Utah 2007, Chapter 329
- 64 **63G-2-103**, as last amended by Laws of Utah 2008, Chapter 155 and renumbered and
- 65 amended by Laws of Utah 2008, Chapter 382



66
67 *Be it enacted by the Legislature of the state of Utah:*

68 Section 1. Section **11-42-102** is amended to read:

69 **11-42-102. Definitions.**

70 (1) "Adequate protests" means timely filed, written protests under Section 11-42-203
71 that represent at least 50% of the frontage, area, taxable value, fair market value, lots, number
72 of connections, or equivalent residential units of the property proposed to be assessed,
73 according to the same assessment method by which the assessment is proposed to be levied,
74 after eliminating:

75 (a) protests relating to:

76 (i) property that has been deleted from a proposed assessment area; or

77 (ii) an improvement that has been deleted from the proposed improvements to be
78 provided to property within the proposed assessment area; and

79 (b) protests that have been withdrawn under Subsection 11-42-203(3).

80 (2) "Assessment area" means an area, or, if more than one area is designated, the
81 aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a
82 local entity under Part 2, Designating an Assessment Area, for the purpose of financing the
83 costs of improvements, operation and maintenance, or economic promotion activities that
84 benefit property within the area.

85 (3) "Assessment bonds" means bonds that are:

86 (a) issued under Section 11-42-605; and

87 (b) payable in part or in whole from assessments levied in an assessment area,
88 improvement revenues, and a guaranty fund or reserve fund.

89 (4) "Assessment fund" means a special fund that a local entity establishes under

90 Section 11-42-412.

91 (5) "Assessment lien" means a lien on property within an assessment area that arises
92 from the levy of an assessment, as provided in Section 11-42-501.

93 (6) "Assessment method" means the method by which an assessment is levied against
94 property, whether by frontage, area, taxable value, fair market value, lot, number of
95 connections, equivalent residential unit, or any combination of these methods.

96 (7) "Assessment ordinance" means an ordinance adopted by a local entity under
97 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

98 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
99 11-42-404 that levies an assessment on benefitted property within an assessment area.

100 (9) "Benefitted property" means property within an assessment area that directly or
101 indirectly benefits from improvements, operation and maintenance, or economic promotion
102 activities.

103 (10) "Bond anticipation notes" means notes issued under Section 11-42-602 in
104 anticipation of the issuance of assessment bonds.

105 (11) "Bonds" means assessment bonds and refunding assessment bonds.

106 (12) "Commercial area" means an area in which at least 75% of the property is devoted
107 to the interchange of goods or commodities.

108 (13) "Connection fee" means a fee charged by a local entity to pay for the costs of
109 connecting property to a publicly owned sewer, storm drainage, water, gas,
110 [~~telecommunications~~] communications, or electrical system, whether or not improvements are
111 installed on the property.

112 (14) "Contract price" means:

113 (a) the cost of acquiring an improvement, if the improvement is acquired; or

114 (b) the amount payable to one or more contractors for the design, engineering,
115 inspection, and construction of an improvement.

116 (15) "Designation ordinance" means an ordinance adopted by a local entity under
117 Section 11-42-206 designating an assessment area.

118 (16) "Designation resolution" means a resolution adopted by a local entity under
119 Section 11-42-206 designating an assessment area.

120 (17) "Economic promotion activities" means activities that promote economic growth

121 in a commercial area of a local entity, including:

- 122 (a) sponsoring festivals and markets;
123 (b) promoting business investment or activities;
124 (c) helping to coordinate public and private actions; and
125 (d) developing and issuing publications designed to improve the economic well-being
126 of the commercial area.

127 (18) "Equivalent residential unit" means a dwelling, unit, or development that is equal
128 to a single-family residence in terms of the nature of its use or impact on an improvement to be
129 provided in the assessment area.

130 (19) "Governing body" means:

- 131 (a) for a county, city, or town, the legislative body of the county, city, or town;
132 (b) for a local district, the board of trustees of the local district; and
133 (c) for a special service district:
134 (i) the legislative body of the county, city, or town that established the special service
135 district, if no administrative control board has been appointed under Section 17D-1-301; or
136 (ii) the administrative control board of the special service district, if an administrative
137 control board has been appointed under Section 17D-1-301.

138 (20) "Guaranty fund" means the fund established by a local entity under Section
139 11-42-701.

140 (21) "Improved property" means property proposed to be assessed within an
141 assessment area upon which a residential, commercial, or other building has been built.

142 (22) "Improvement":

143 (a) means any publicly owned infrastructure, system, or other facility that:

144 ~~[(a)]~~ (i) a local entity is authorized to provide; or

145 ~~[(b)]~~ (ii) the governing body of a local entity determines is necessary or convenient to
146 enable the local entity to provide a service that the local entity is authorized to provide[-]; and

147 (b) includes facilities in an assessment area, including a private driveway, an irrigation
148 ditch, and a water turnout, that:

149 (i) can be conveniently installed at the same time as an infrastructure, system, or other
150 facility described in Subsection (22)(a); and

151 (ii) are requested by a property owner on whose property or for whose benefit the

152 infrastructure, system, or other facility is being installed.

153 (23) "Improvement revenues":

154 (a) means charges, fees, impact fees, or other revenues that a local entity receives from
155 improvements; and

156 (b) does not include revenue from assessments.

157 (24) "Incidental refunding costs" means any costs of issuing refunding assessment
158 bonds and calling, retiring, or paying prior bonds, including:

159 (a) legal and accounting fees;

160 (b) charges of [~~fiscal agents~~] financial advisors, escrow agents, certified public
161 accountant verification entities, and trustees;

162 (c) underwriting discount costs, printing costs, the costs of giving notice;

163 (d) any premium necessary in the calling or retiring of prior bonds;

164 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to
165 refund the outstanding prior bonds;

166 (f) any other costs that the governing body determines are necessary or desirable to
167 incur in connection with the issuance of refunding assessment bonds; and

168 (g) any interest on the prior bonds that is required to be paid in connection with the
169 issuance of the refunding assessment bonds.

170 (25) "Installment payment date" means the date on which an installment payment of an
171 assessment is payable.

172 (26) "Interim warrant" means a warrant issued by a local entity under Section
173 11-42-601.

174 (27) "Jurisdictional boundaries" means:

175 (a) for a county, the boundaries of the unincorporated area of the county; and

176 (b) for each other local entity, the boundaries of the local entity.

177 (28) "Local district" means a local district under Title 17B, Limited Purpose Local
178 Government Entities - Local Districts.

179 (29) "Local entity" means a county, city, town, special service district, [~~or~~] local
180 district, or other political subdivision of the state.

181 (30) "Local entity obligations" means assessment bonds, refunding assessment bonds,
182 interim warrants, and bond anticipation notes issued by a local entity.

183 (31) "Mailing address" means:

184 (a) a property owner's last-known address using the name and address appearing on the
185 last completed real property assessment roll of the county in which the property is located; and

186 (b) if the property is improved property:

187 (i) the property's street number; or

188 (ii) the post office box, rural route number, or other mailing address of the property, if
189 a street number has not been assigned.

190 (32) "Net improvement revenues" means all improvement revenues that a local entity
191 has received since the last installment payment date, less all amounts payable by the local entity
192 from those improvement revenues for operation and maintenance costs.

193 (33) "Operation and maintenance costs":

194 (a) means the costs that a local entity incurs in operating and maintaining
195 improvements in an assessment area, ~~[including] whether or not those improvements have been~~
196 financed under this chapter; and

197 (b) includes service charges, administrative costs, ongoing maintenance charges, and
198 tariffs or other charges for electrical, water, gas, or other utility usage.

199 [~~(34) "Optional facilities":~~]

200 [~~(a) means facilities in an assessment area that:~~]

201 [~~(i) can be conveniently installed at the same time as improvements in the assessment~~
202 ~~area; and]~~

203 [~~(ii) are requested by a property owner on whose property or for whose benefit the~~
204 ~~improvements are being installed; and]~~

205 [~~(b) includes private driveways, irrigation ditches, and water turnouts:]~~

206 [~~(35)~~] (34) "Overhead costs" means the actual costs incurred or the estimated costs to
207 be incurred by a local entity in connection with an assessment area for appraisals, legal fees,
208 filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and
209 paying agent fees, publishing and mailing costs, costs of levying an assessment, recording
210 costs, and all other incidental costs.

211 [~~(36)~~] (35) "Prior bonds" means the assessment bonds that are refunded in part or in
212 whole by refunding assessment bonds.

213 [~~(37)~~] (36) "Prior assessment ordinance" means the ordinance levying the assessments

214 from which the prior bonds are payable.

215 ~~[(38)]~~ (37) "Prior assessment resolution" means the resolution levying the assessments
216 from which the prior bonds are payable.

217 ~~[(39)]~~ (38) "Project engineer" means the surveyor or engineer employed by or private
218 consulting engineer engaged by a local entity to perform the necessary engineering services for
219 and to supervise the construction or installation of the improvements.

220 ~~[(40)]~~ (39) "Property" includes real property and any interest in real property, including
221 water rights~~;~~ and leasehold rights~~;~~ ~~and personal property related to the property~~.

222 ~~[(41)]~~ (40) "Property price" means the price at which a local entity purchases or
223 acquires by eminent domain property to make improvements in an assessment area.

224 ~~[(42)]~~ (41) "Provide" or "providing," with reference to an improvement, includes the
225 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
226 expansion of an improvement.

227 ~~[(43)]~~ (42) "Public agency" means:

- 228 (a) the state or any agency, department, or division of the state; and
- 229 (b) a political subdivision of the state.

230 ~~[(44)]~~ (43) "Reduced payment obligation" means the full obligation of an owner of
231 property within an assessment area to pay an assessment levied on the property after the
232 assessment has been reduced because of the issuance of refunding assessment bonds, as
233 provided in Section 11-42-608.

234 ~~[(45)]~~ (44) "Refunding assessment bonds" means assessment bonds that a local entity
235 issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

236 ~~[(46)]~~ (45) "Reserve fund" means a fund established by a local entity under Section
237 11-42-702.

238 ~~[(47)]~~ (46) "Service" means:

- 239 (a) water, sewer, storm drainage, garbage collection, library, recreation,
240 communications, or electric service~~;~~;
- 241 (b) economic promotion activities~~;~~; or
- 242 (c) any other service that a local entity is required or authorized to provide.

243 ~~[(48)]~~ (47) "Special service district" has the same meaning as defined in Section
244 17D-1-102.

245 [~~(49)~~] (48) "Unimproved property" means property upon which no residential,
246 commercial, or other building has been built.

247 [~~(50)~~] (49) "Voluntary assessment area" means an assessment area that contains only
248 property whose owners have voluntarily consented to an assessment.

249 Section 2. Section **11-42-202** is amended to read:

250 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
251 **designation.**

252 (1) Each notice required under Subsection 11-42-201(2)(a) shall:

253 (a) state that the local entity proposes to:

254 (i) designate one or more areas within the local entity's jurisdictional boundaries as an
255 assessment area;

256 (ii) provide an improvement to property within the proposed assessment area; and

257 (iii) finance some or all of the cost of improvements by an assessment on benefitted
258 property within the assessment area;

259 (b) describe the proposed assessment area by any reasonable method that allows an
260 owner of property in the proposed assessment area to determine that the owner's property is
261 within the proposed assessment area;

262 (c) describe, in a general way, the improvements to be provided to the assessment area,
263 including:

264 (i) the general nature of the improvements; and

265 (ii) the general location of the improvements, by reference to streets or portions or
266 extensions of streets or by any other means that the governing body chooses that reasonably
267 describes the general location of the improvements;

268 (d) a statement of the estimated cost of the improvements as determined by a project
269 engineer;

270 (e) a statement that the local entity proposes to levy an assessment on benefitted
271 property within the assessment area to pay some or all of the cost of the improvements
272 according to the estimated direct and indirect benefits to the property from the improvements;

273 (f) a statement of the assessment method by which the assessment is proposed to be
274 levied;

275 (g) a statement of the time within which and the location at which protests against

276 designation of the proposed assessment area or of the proposed improvements are required to
277 be filed and the method by which the number of protests required to defeat the designation of
278 the proposed assessment area or acquisition or construction of the proposed improvements are
279 to be determined;

280 (h) state the date, time, and place of the public hearing under Section 11-42-204;

281 (i) if the governing body elects to create and fund a reserve fund under Section
282 11-42-702, a description of how the reserve fund will be funded and replenished and how
283 remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

284 (j) if the governing body intends to designate a voluntary assessment area, a property
285 owner consent form that:

286 (i) estimates the total assessment to be levied against the particular parcel of property;

287 (ii) describes any additional benefits that the governing body expects the assessed
288 property to receive from the improvements; and

289 (iii) designates the date and time by which the fully executed consent form is required
290 to be submitted to the governing body;

291 (k) if the local entity intends to levy an assessment to pay operation and maintenance
292 costs or for economic promotion activities:

293 (i) a description of the operation and maintenance costs or economic promotion
294 activities to be paid by assessments and the initial estimated annual assessment to be levied;

295 (ii) a description of how the estimated assessment will be determined;

296 (iii) a description of how and when the governing body will adjust the assessment to
297 reflect current operation and maintenance costs or the costs of current economic promotion
298 activities;

299 (iv) a description of the method of assessment if different from the method of
300 assessment to be used for financing any improvement; and

301 (v) a statement of the maximum number of years over which the assessment for
302 operation and maintenance or economic promotion activities will be levied; and

303 (1) if the governing body intends to divide the proposed assessment area into zones
304 under Subsection 11-42-201(1)(b), a description of the proposed zones.

305 (2) A notice required under Subsection 11-42-201(2)(a) may contain other information
306 that the governing body considers to be appropriate, including:

307 (a) the amount or proportion of the cost of the improvement to be paid by the local
308 entity or from sources other than an assessment;

309 (b) the estimated amount of each type of assessment for the various improvements to
310 be financed according to the method of assessment that the governing body chooses; and

311 (c) provisions for any ~~[optional]~~ improvements described in Subsection
312 11-42-102(22)(b).

313 (3) Each notice required under Subsection 11-42-201(2)(a) shall:

314 (a) (i) be published in a newspaper of general circulation within the local entity's
315 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at
316 least five but not more than 20 days before the deadline ~~[under Section 11-42-203]~~ for filing
317 protests specified in the notice under Subsection (1)(g); or

318 (ii) if there is no newspaper of general circulation within the local entity's jurisdictional
319 boundaries, be posted in at least three public places within the local entity's jurisdictional
320 boundaries at least 20 but not more than 35 days before the deadline under Section 11-42-203
321 for filing protests; and

322 (b) be mailed, postage prepaid, within ten days after the first publication or posting of
323 the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed
324 assessment area at the property owner's mailing address.

325 Section 3. Section **11-42-203** is amended to read:

326 **11-42-203. Protests.**

327 (1) An owner of property that is proposed to be ~~[included]~~ assessed within an
328 assessment area may, within the time specified in the notice under Section 11-42-202, file a
329 written protest against:

330 (a) the designation of the assessment area;

331 (b) the inclusion of the owner's property in the proposed assessment area;

332 (c) the proposed improvements to be acquired or constructed; or

333 (d) any other aspect of the proposed designation of an assessment area.

334 (2) Each protest under Subsection (1)(a) shall describe or otherwise identify the
335 property owned by the person filing the protest.

336 (3) An owner may withdraw a protest at any time before the conclusion of the hearing
337 under Section 11-42-204 by filing a written withdrawal with the governing body.

338 (4) If the governing body intends to assess property within the proposed assessment
339 area by type of improvement or by zone, the governing body shall, in determining whether
340 adequate protests have been filed, aggregate the protests by the type of improvement or by
341 zone.

342 (5) The failure of an owner of property within the proposed assessment area to file a
343 timely written protest constitutes a waiver of any objection to:

- 344 (a) the designation of the assessment area;
- 345 (b) any improvement to be provided to property within the assessment area; and
- 346 (c) the inclusion of the owner's property within the assessment area.

347 Section 4. Section **11-42-205** is amended to read:

348 **11-42-205. Unimproved property.**

349 (1) ~~[A]~~ (a) Before a local entity may ~~[not]~~ designate an assessment area in which more
350 than 75% of the property proposed to be assessed consists of unimproved property ~~[unless]~~, the
351 local entity shall obtain:

352 ~~[(a) has obtained]~~ (i) an appraisal;

353 (A) of the unimproved property;

354 (B) from an appraiser who is a member of the Appraisal Institute~~[-]~~;

355 (C) addressed to the local entity or a financial institution; and

356 (D) verifying that the market value of the property, after completion of the proposed
357 improvements, is at least three times the amount of the ~~[assessment]~~ assessments proposed to
358 be levied against the unimproved property; or

359 ~~[(b) has obtained from each owner of unimproved property:]~~

360 (ii) the most recent taxable value of the unimproved property from the assessor of the
361 county in which the unimproved property is located, verifying that the taxable value of the
362 property, after completion of the proposed improvements, is at least three times the amount of
363 the assessments proposed to be levied against the unimproved property.

364 (b) If the owner of the unimproved property has entered into a construction loan
365 acceptable to the local entity to finance the facilities to be constructed or installed on the
366 unimproved property, the market value of the unimproved property, as determined under
367 Subsection (1)(a)(i), may include, at the local entity's option:

368 (i) the principal amount of the construction loan; or

369 (ii) the value of the unimproved property with the facilities to be financed by the
 370 construction loan, as determined by an appraisal of:

371 (A) the unimproved property; and

372 (B) the facilities proposed to be constructed.

373 (2) With respect to the designation of an assessment area described in Subsection
 374 (1)(a), the local entity may require:

375 ~~[(i)]~~ (a) financial information acceptable to the governing body [demonstrating] with
 376 respect to the owner's ability to pay the proposed [assessment; or] assessments;

377 ~~[(ii)]~~ (b) a financial institution's commitment securing, to the governing body's
 378 satisfaction, the [owner's] owners' obligation to pay the proposed [assessment; and]
 379 assessments; or

380 ~~(c) [has prepared]~~ a development plan, approved by a qualified, independent third
 381 party, describing the plan of development and the financial feasibility of the plan, taking into
 382 account growth trends, absorption studies, and other demographic information applicable to the
 383 unimproved property.

384 ~~[(2)]~~ (3) Information that an owner provides to a local entity under Subsection
 385 ~~[(1)(b)(i)]~~ (2)(a) is not a record for purposes of Title 63G, Chapter 2, Government Records
 386 Access and Management Act.

387 Section 5. Section **11-42-207** is amended to read:

388 **11-42-207. Adding property to an assessment area.**

389 (1) A local entity may add to a designated assessment area property to be benefitted
 390 and assessed if ~~[(a) construction of the improvements in the assessment area has not been~~
 391 ~~completed; and (b)]~~ the governing body:

392 ~~[(i)]~~ (a) finds that the inclusion of the property will not adversely affect the owners of
 393 property already in the assessment area;

394 ~~[(ii)]~~ (b) obtains from each owner of property to be added and benefitted a written
 395 consent that contains:

396 ~~[(A)]~~ (i) the owner's consent to:

397 ~~[(F)]~~ (A) the owner's property being added to the assessment area; and

398 ~~[(H)]~~ (B) the making of the proposed improvements with respect to the owner's
 399 property;

400 ~~[(B)]~~ (ii) the legal description and tax identification number of the property to be
401 added; and

402 ~~[(C)]~~ (iii) the owner's waiver of any right to protest the creation of the assessment area;

403 ~~[(iii)]~~ (c) amends the designation resolution or ordinance to include the added property;

404 and

405 ~~[(iv)]~~ (d) within 15 days after amending the designation resolution or ordinance:

406 ~~[(A)]~~ (i) records in the office of the recorder of the county in which the added property

407 is located the original or certified copy of the amended designation resolution or ordinance

408 containing the legal description and tax identification number of each additional parcel of

409 property added to the assessment area and proposed to be assessed; and

410 ~~[(B)]~~ (ii) gives written notice to the property owner of the inclusion of the owner's

411 property in the assessment area.

412 (2) The failure of a local entity's governing body to comply with the requirement of

413 Subsection (1)~~[(b)(iv)]~~(d) does not affect the validity of the amended designation resolution or

414 ordinance.

415 (3) Except as provided in this section, a local entity may not add to an assessment area

416 ~~[land]~~ property not included in a notice under Section 11-42-202, or provide for making

417 improvements that are not stated in the notice, unless the local entity gives notice as provided

418 in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added

419 ~~[land]~~ property or additional improvements.

420 Section 6. Section **11-42-301** is amended to read:

421 **11-42-301. Improvements made only under contract let to lowest responsive,**

422 **responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to**

423 **contract requirement.**

424 (1) Except as otherwise provided in this section, a local entity may make improvements

425 in an assessment area only under contract let to the lowest responsive, responsible bidder for

426 the kind of service, material, or form of construction that the local entity's governing body

427 determines in compliance with any applicable local entity ordinances.

428 (2) A local entity may:

429 (a) divide improvements into parts;

430 (b) (i) let separate contracts for each part; or

431 (ii) combine multiple parts into the same contract; and

432 (c) let a contract on a unit basis.

433 (3) (a) A local entity may not let a contract until after publishing notice as provided in
434 Subsection (3)(b) at least one time in a newspaper of general circulation within the boundaries
435 of the local entity at least 15 days before the date specified for receipt of bids.

436 (b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will
437 receive sealed bids at a specified time and place for the construction of the improvements.

438 (c) Notwithstanding a local entity's failure, through inadvertence or oversight, to
439 publish the notice or to publish the notice within 15 days before the date specified for receipt of
440 bids, the governing body may proceed to let a contract for the improvements if the local entity
441 receives at least three sealed and bona fide bids from contractors by the time specified for the
442 receipt of bids.

443 (d) A local entity may publish a notice required under this Subsection (3) at the same
444 time as a notice under Section 11-42-202.

445 (4) (a) A local entity may accept as a sealed bid a bid that is:

446 (i) manually sealed and submitted; or

447 (ii) electronically sealed and submitted.

448 (b) The governing body or project engineer shall, at the time specified in the notice
449 under Subsection (3), open and examine the bids.

450 (c) In open session, the governing body:

451 (i) shall declare the bids; and

452 (ii) may reject any or all bids if the governing body considers the rejection to be for the
453 public good.

454 (d) The local entity may award the contract to the lowest responsive, responsible bidder
455 even if the price bid by that bidder exceeds the estimated costs as determined by the project
456 engineer.

457 (e) A local entity may in any case:

458 (i) refuse to award a contract;

459 (ii) obtain new bids after giving a new notice under Subsection (3);

460 (iii) determine to abandon the assessment area; or

461 (iv) not make some of the improvements proposed to be made.

- 462 (5) A local entity is not required to let a contract as provided in this section for:
463 (a) an improvement or part of an improvement the cost of which or the making of
464 which is donated or contributed;
465 (b) an improvement that consists of furnishing utility service or maintaining
466 improvements;
467 (c) labor, materials, or equipment supplied by the local entity;
468 (d) the local entity's acquisition of completed or partially completed improvements in
469 an assessment area;
470 (e) design, engineering, and inspection costs incurred with respect to the construction
471 of improvements in an assessment area; or
472 (f) additional work performed in accordance with the terms of a contract duly let to the
473 lowest responsive, responsible bidder.

474 (6) A local entity may itself furnish utility service and maintain improvements within
475 an assessment area.

476 (7) (a) A local entity may acquire completed or partially completed improvements in an
477 assessment area, but may not pay an amount for those improvements that exceeds their fair
478 market value.

479 (b) Upon the local entity's payment for completed or partially completed
480 improvements, title to the improvements shall be conveyed to the local entity or another public
481 agency.

482 (8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works
483 Projects, and Section 72-6-108 do not apply to improvements to be constructed in an
484 assessment area.

485 Section 7. Section **11-42-401** is amended to read:

486 **11-42-401. Levying an assessment -- Prerequisites -- Assessment list.**

487 (1) A local entity may levy an assessment against property within an assessment area as
488 provided in this part.

489 (2) Before a governing body may adopt a resolution or ordinance levying an
490 assessment against property within an assessment area:

491 (a) the governing body shall:

492 (i) subject to Subsection (3), prepare an assessment list designating:

- 493 (A) each parcel of property proposed to be assessed; and
- 494 (B) the amount of the assessment to be levied against the property;
- 495 (ii) appoint a board of equalization as provided in Section 11-42-403; and
- 496 (iii) give notice as provided in Section 11-42-402; and
- 497 (b) the board of equalization, appointed under Section 11-42-403, shall hold hearings,
- 498 make any corrections to assessments it considers appropriate, and report its findings to the
- 499 governing body as provided in Section 11-42-403.
- 500 (3) An assessment list under Subsection (2)(a)(i) may be prepared at any time after:
- 501 (a) the estimated or actual operation and maintenance costs have been determined, if
- 502 the assessment is to pay operation and maintenance costs;
- 503 (b) the light service has commenced, if the assessment is to pay for light service;
- 504 (c) the park maintenance has commenced, if the assessment is to pay for park
- 505 maintenance;
- 506 (d) adoption of a resolution or ordinance under Section 11-42-206, if the assessment is
- 507 to pay for economic promotion activities; or
- 508 (e) for any other assessment, the governing body has determined:
- 509 (i) the estimated or actual acquisition and construction costs of all proposed
- 510 improvements within the assessment area, including overhead costs and authorized
- 511 contingencies;
- 512 (ii) the estimated or actual property price for all property to be acquired to provide the
- 513 proposed improvements; and
- 514 (iii) the reasonable cost of any work to be done by the local entity.
- 515 (4) A local entity may levy an assessment for some or all of the cost of improvements
- 516 within an assessment area, including payment of:
- 517 (a) operation and maintenance costs of improvements constructed within the
- 518 assessment area;
- 519 (b) the actual cost that the local entity pays for utility services furnished or for
- 520 maintenance of improvements provided by another or, if the local entity itself furnishes utility
- 521 service or maintains improvements, for the reasonable cost of supplying the service or
- 522 maintenance;
- 523 (c) the reasonable cost of supplying labor, materials, or equipment in connection with

524 improvements; and

525 (d) the reasonable cost of connection fees or the cost of any sewer, storm drainage,
526 water, gas, electric, or [~~telecommunications~~] communications connections if the local entity
527 owns or supplies these services, to the depth that the local entity's governing body considers
528 just and equitable.

529 (5) A local entity may not levy an assessment for an amount donated or contributed for
530 an improvement or part of an improvement.

531 (6) The validity of an otherwise valid assessment is not affected because the actual cost
532 of improvements exceeds the estimated cost.

533 (7) An assessment levied to pay for operation and maintenance costs may not be levied
534 over a period of time exceeding the reasonable useful life of the facilities to be maintained by
535 the levy.

536 Section 8. Section 11-42-403 is amended to read:

537 **11-42-403. Board of equalization -- Hearings -- Corrections to proposed**
538 **assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of**
539 **objections.**

540 (1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the
541 governing body shall appoint a board of equalization.

542 (2) Each board of equalization under this section shall, at the option of the governing
543 body, consist of:

- 544 (a) three or more members of the governing body;
- 545 (b) (i) two members of the governing body; and
- 546 (ii) (A) a representative of the treasurer's office of the local entity; or
- 547 (B) a representative of the office of the local entity's engineer or the project engineer;

548 or

- 549 (c) (i) (A) one member of the governing body; or
- 550 (B) a representative of the governing body, whether or not a member of the governing
551 body, appointed by the governing body;

- 552 (ii) a representative of the treasurer's office of the local entity; and
- 553 (iii) a representative of the office of the local entity's engineer or the project engineer.

554 (3) (a) The board of equalization shall hold hearings on at least three consecutive days

555 for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section
556 11-42-402.

557 (b) The board of equalization may continue a hearing from time to time to a specific
558 place and a specific hour and day until the board's work is completed.

559 (c) At each hearing, the board of equalization shall hear arguments from any person
560 who claims to be aggrieved, including arguments relating to:

561 (i) the direct or indirect benefits accruing to a tract, block, lot, or parcel of property in
562 the assessment area; or

563 (ii) the amount of the proposed assessment against the tract, block, lot, or parcel.

564 (4) (a) After the hearings under Subsection (3) are completed, the board of equalization
565 shall:

566 (i) consider all facts and arguments presented at the hearings; and

567 (ii) make any corrections to the proposed assessment list that the board considers just
568 and equitable.

569 (b) A correction under Subsection (4)(a)(ii) may:

570 (i) eliminate one or more pieces of property from the assessment list; or

571 (ii) increase or decrease the amount of the assessment proposed to be levied against a
572 parcel of property.

573 (c) (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that
574 results in an increase of a proposed assessment, the board shall, before approving a corrected
575 assessment list:

576 (A) give notice as provided in Subsection (4)(c)(ii);

577 (B) hold a hearing at which the owner whose assessment is proposed to be increased
578 may appear and object to the proposed increase; and

579 (C) after holding a hearing, make any further corrections that the board considers just
580 and equitable with respect to the proposed increased assessment.

581 (ii) Each notice required under Subsection (4)(c)(i)(A) shall:

582 (A) state:

583 (I) that the property owner's assessment is proposed to be increased;

584 (II) the amount of the proposed increased assessment;

585 (III) that a hearing will be held at which the owner may appear and object to the

586 increase; and

587 (IV) the date, time, and place of the hearing; and

588 (B) be mailed, at least 15 days before the date of the hearing, to each owner of property
589 as to which the assessment is proposed to be increased at the property owner's mailing address.

590 (5) (a) After the board of equalization has held all hearings required by this section and
591 has made all corrections the board considers just and equitable, the board shall report to the
592 governing body its findings that:

593 (i) each parcel of property within the assessment area will be directly or indirectly
594 benefitted in an amount not less than the assessment to be levied against the property; and

595 (ii) except as provided in Subsection 11-42-409(6), no parcel of property on the
596 assessment list will bear more than its proportionate share of the cost of the improvements
597 benefitting the property.

598 (b) The board of equalization shall, within ten days after submitting its report to the
599 governing body, mail a copy of the board's final report to each property owner who objected at
600 the board hearings to the assessment proposed to be levied against the property owner's
601 property at the property owner's mailing address.

602 (6) (a) If a board of equalization includes members other than the governing body of
603 the local entity, a property owner may appeal a decision of the board to the governing body by
604 filing with the governing body a written notice of appeal within 15 days after the board's final
605 report is mailed to property owners under Subsection (5)(b).

606 (b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings
607 of a board of equalization.

608 (7) The findings of a board of equalization are final:

609 (a) when approved by the governing body, if no appeal is allowed under Subsection
610 (6); or

611 (b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed
612 under that subsection.

613 (8) (a) If a governing body has levied an assessment to pay operation and maintenance
614 costs within an assessment area, the governing body may periodically appoint a new board of
615 equalization to review assessments for operation and maintenance costs.

616 (b) Each board of equalization appointed under Subsection (8)(a) shall comply with the

617 requirements of Subsections (3) through (6).

618 (9) The failure of an owner of property within the assessment area to appear before the
619 board of equalization to object to the levy of the assessment constitutes a waiver of all
620 objections to the levy, except an objection that the governing body failed to obtain jurisdiction
621 to order that the improvements which the assessment is intended to pay be provided to the
622 assessment area.

623 Section 9. Section **11-42-404** is amended to read:

624 **11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice**
625 **of the adoption -- Effective date of resolution or ordinance -- Notice of assessment**
626 **interest.**

627 (1) (a) After receiving a final report from a board of equalization under Subsection
628 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection
629 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an
630 assessment against benefitted property within the assessment area.

631 (b) Each local entity that levies an assessment under this chapter shall levy the
632 assessment at one time only, unless the assessment is to pay operation and maintenance costs
633 or the costs of economic promotion activities.

634 (c) An assessment resolution or ordinance adopted under Subsection (1)(a):

635 (i) need not describe each tract, block, lot, part of block or lot, or parcel of property to
636 be assessed;

637 (ii) need not include the legal description or tax identification number of the parcels of
638 property assessed in the assessment area; and

639 (iii) is adequate for purposes of identifying the property to be assessed within the
640 assessment area if the assessment resolution or ordinance incorporates by reference the
641 corrected assessment list that describes the property assessed by legal description and tax
642 identification number.

643 (2) (a) Each local entity that adopts an assessment resolution or ordinance shall give
644 notice of the adoption by:

645 (i) publishing a copy of the resolution or ordinance, or a summary of the resolution or
646 ordinance, once in a newspaper of general circulation within the local entity's jurisdictional
647 boundaries; or

648 (ii) if there is no newspaper of general circulation with the local entity's jurisdictional
649 boundaries, posting a copy of the resolution or ordinance in at least three public places within
650 the local entity's jurisdictional boundaries for at least 21 days.

651 (b) No other publication or posting of the resolution or ordinance is required.

652 (3) Notwithstanding any other statutory provision regarding the effective date of a
653 resolution or ordinance, each assessment resolution or ordinance takes effect:

654 (a) on the date of publication or posting of the notice under Subsection (2); or

655 (b) at a later date provided in the resolution or ordinance.

656 (4) (a) The governing body of each local entity that has adopted an assessment
657 resolution or ordinance under Subsection (1) shall, within five days after the 25-day
658 prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment
659 interest with the recorder of the county in which the assessed property is located.

660 (b) Each notice of assessment interest under Subsection (4)(a) shall:

661 (i) state that the local entity has an assessment interest in the assessed property;

662 (ii) if the assessment is to pay operation and maintenance costs or for economic
663 promotion activities, state the maximum number of years over which an assessment will be
664 payable; and

665 (iii) describe the property assessed by legal description and tax identification number.

666 (c) A local entity's failure to file a notice of assessment interest under this Subsection
667 (4) has no affect on the validity of an assessment levied under an assessment resolution or
668 ordinance adopted under Subsection (1).

669 Section 10. Section **11-42-410** is amended to read:

670 **11-42-410. Amending an assessment resolution or ordinance.**

671 (1) A governing body may adopt a resolution or ordinance amending the original
672 assessment resolution or ordinance adopted under Section 11-42-404 to:

673 (a) correct a deficiency, omission, error, or mistake:

674 (i) with respect to:

675 (A) the total cost of an improvement;

676 (B) operation and maintenance costs; or

677 (C) the cost of economic promotion activities; or

678 (ii) that results in a tract, lot, block, or parcel not being fully assessed or assessed in an

679 incorrect amount;

680 (b) reallocate or adjust assessments under the original assessment resolution or
681 ordinance for operation and maintenance costs or the costs of economic promotion activities;

682 (c) reallocate or adjust assessments under the original assessment resolution or
683 ordinance; or

684 (d) reduce an assessment as a result of the issuance of refunding bonds.

685 (2) If an amendment under Subsection (1)(a) or (c) results in an increase in an
686 assessment for any property owner, the governing body shall comply with the notice
687 requirements of Section 11-42-402, unless the owner waives notice as provided in Section
688 11-42-104.

689 Section 11. Section **11-42-602** is amended to read:

690 **11-42-602. Bond anticipation notes.**

691 (1) A local entity may by resolution authorize the issuance of bond anticipation notes.

692 (2) A local entity may use the proceeds from the issuance of bond anticipation notes to
693 pay:

694 (a) the estimated acquisition and contract price;

695 (b) the property price; [~~and~~]

696 (c) capitalized interest; and

697 [~~(e)~~] (d) related costs, including overhead costs.

698 (3) Each resolution authorizing the issuance of bond anticipation notes shall:

699 (a) describe the bonds in anticipation of which the bond anticipation notes are to be
700 issued;

701 (b) specify the principal amount and maturity dates of the notes; and

702 (c) specify the interest rate applicable to the notes.

703 (4) (a) The interest rate on bond anticipation notes issued under this section may be
704 fixed, variable, or a combination of fixed and variable, as determined by the governing body.

705 (b) If bond anticipation notes carry a variable interest rate, the governing body shall
706 specify the basis upon which the rate is to be determined, the manner in which the rate is to be
707 adjusted, and a maximum interest rate.

708 (c) A local entity may provide for interest on bond anticipation notes to be paid
709 semiannually, annually, or at maturity.

710 (5) A local entity may:

711 (a) issue and sell bond anticipation notes in a manner and at a price, either at, below, or
712 above face value, as the governing body determines by resolution; and

713 (b) make bond anticipation notes redeemable prior to maturity, at the governing body's
714 option and in the manner and upon the terms fixed by the resolution authorizing their issuance.

715 (6) Bond anticipation notes shall be executed, be in a form, and have details and terms
716 as provided in the resolution authorizing their issuance.

717 (7) A local entity may issue bond anticipation notes to refund bond anticipation notes
718 previously issued by the local entity.

719 (8) A local entity may include interest accruing on bond anticipation notes in the cost
720 of improvements in an assessment area.

721 Section 12. Section **11-42-603** is amended to read:

722 **11-42-603. Sources of payment for interim warrants and bond anticipation notes.**

723 Each local entity that has issued interim warrants or bond anticipation notes shall pay
724 the warrants or notes from:

725 (1) proceeds from the sale of assessment bonds;

726 (2) cash the local entity receives from the payment for improvements;

727 (3) assessments;

728 [~~3~~] (4) improvement revenues that are not pledged to the payment of assessment
729 bonds;

730 [~~4~~] (5) proceeds from the sale of interim warrants or bond anticipation notes; or

731 [~~5~~] (6) the local entity's guaranty fund or, if applicable, the reserve fund.

732 Section 13. Section **11-42-605** is amended to read:

733 **11-42-605. Local entity may authorize the issuance of assessment bonds -- Limit**
734 **on amount of bonds -- Features of assessment bonds.**

735 (1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or,
736 if the 25-day prepayment period is waived under Section 11-42-104, after the assessment
737 resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay
738 the costs of improvements in an assessment area, and other related costs, against the funds that
739 the local entity will receive because of an assessment in an assessment area.

740 (2) The aggregate principal amount of bonds authorized under Subsection (1) may not

741 exceed the unpaid balance of assessments at the end of the 25-day prepayment period under
742 Subsection 11-42-411(6).

743 (3) Assessment bonds issued under this section:

744 (a) are fully negotiable for all purposes;

745 (b) shall mature at a time that does not exceed the period that installments of
746 assessments in the assessment area are due and payable, plus one year;

747 (c) shall bear interest at the lowest rate or rates reasonably obtainable;

748 (d) may not be dated earlier than the effective date of the assessment ordinance;

749 (e) shall be payable at the place, shall be in the form, and shall be sold in the manner
750 and with the details that are provided in the resolution authorizing the issuance of the bonds;

751 (f) shall be issued~~[, as the governing body determines: (i) in bearer form, with or~~
752 ~~without interest coupons attached; or (ii)]~~ in registered form as provided in Title 15, Chapter 7,

753 Registered Public Obligations Act; and

754 (g) provide that interest be paid semiannually, annually, or at another interval as
755 specified by the governing body.

756 (4) (a) A local entity may:

757 (i) (A) provide that assessment bonds be callable for redemption before maturity; and

758 (B) fix the terms and conditions of redemption, including the notice to be given and
759 any premium to be paid;

760 (ii) subject to Subsection (4)(b), require assessment bonds to bear interest at a fixed or
761 variable rate, or a combination of fixed and variable rates;

762 (iii) specify terms and conditions under which:

763 (A) assessment bonds bearing interest at a variable interest rate may be converted to
764 bear interest at a fixed interest rate; and

765 (B) the local entity agrees to repurchase the bonds; ~~and~~

766 (iv) engage a remarketing agent and indexing agent, subject to the terms and conditions
767 that the governing body agrees to; and

768 (v) include all costs associated with assessment bonds, including any costs resulting
769 from any of the actions the local entity is authorized to take under this section, in an assessment
770 levied under Section 11-42-401.

771 (b) If assessment bonds carry a variable interest rate, the local entity shall specify:

- 772 (i) the basis upon which the variable rate is to be determined over the life of the bonds;
- 773 (ii) the manner in which and schedule upon which the rate is to be adjusted; and
- 774 (iii) a maximum rate that the bonds may carry.

775 (5) (a) Nothing in this part may be construed to authorize the issuance of assessment
776 bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or
777 sidewalks.

778 (b) Notwithstanding Subsection (5)(a), a local entity may issue assessment bonds to
779 pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.

780 (c) A local entity's governing body may define by resolution or ordinance what
781 constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (5).

782 (d) Nothing in this Subsection (5) may be construed to limit a local entity from levying
783 an assessment within an assessment area to pay operation and maintenance costs as described
784 in a notice under Section 11-42-402.

785 (6) If a local entity has issued interim warrants under Section 11-42-601 or bond
786 anticipation notes under Section 11-42-602 in anticipation of assessment bonds that the local
787 entity issues under this part, the local entity shall provide for the retirement of the interim
788 warrants or bond anticipation notes contemporaneously with the issuance of the assessment
789 bonds.

790 Section 14. Section **11-42-702** is amended to read:

791 **11-42-702. Reserve fund.**

792 (1) In lieu of creating and funding a guaranty fund under Section 11-42-701 for an
793 issue of assessment bonds or refunding assessment bonds, a local entity may establish a reserve
794 fund to secure the issue.

795 (2) If a local entity establishes a reserve fund under this section:

796 (a) the bonds secured by the reserve fund are not secured by a guaranty fund under
797 Section 11-42-701;

798 (b) the local entity is not required to fund a guaranty fund under Section 11-42-701 for
799 those bonds; and

800 (c) unless otherwise provided in this part or in the proceedings authorizing the issuance
801 of bonds, the provisions of this part regarding a guaranty fund have no application to the bonds
802 that are secured by the reserve fund.

803 (3) Each local entity that establishes a reserve fund shall:

804 (a) fund and replenish the reserve fund in the amounts and manner provided in the
805 proceedings authorizing the issuance of the bonds that are secured by the reserve fund; and

806 (b) invest the funds on deposit in the reserve fund as provided in Title 51, Chapter 7,
807 State Money Management Act.

808 (4) (a) Subject to Subsection (4)(b), a local entity may replenish a reserve fund under
809 this section by any of the methods described in Subsection 11-42-701(1)(b).

810 (b) The proceedings authorizing the issuance of assessment bonds or refunding
811 assessment bonds shall provide that if a local entity uses any of the methods described in
812 Subsection 11-42-701(1)(b) to replenish a reserve fund, the local entity shall be reimbursed,
813 with interest at a rate that the local entity determines, with money that the local entity receives
814 from foreclosing on delinquent property.

815 (5) Upon the retirement of bonds secured by a reserve fund, the local entity shall:

816 (a) terminate the reserve fund; and

817 (b) disburse all remaining money in the fund as provided in the proceedings
818 authorizing the issuance of the bonds.

819 Section 15. Section **63G-2-103** is amended to read:

820 **63G-2-103. Definitions.**

821 As used in this chapter:

822 (1) "Audit" means:

823 (a) a systematic examination of financial, management, program, and related records
824 for the purpose of determining the fair presentation of financial statements, adequacy of
825 internal controls, or compliance with laws and regulations; or

826 (b) a systematic examination of program procedures and operations for the purpose of
827 determining their effectiveness, economy, efficiency, and compliance with statutes and
828 regulations.

829 (2) "Chronological logs" mean the regular and customary summary records of law
830 enforcement agencies and other public safety agencies that show:

831 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
832 and

833 (b) any arrests or jail bookings made by the agency.

834 (3) "Classification," "classify," and their derivative forms mean determining whether a
835 record series, record, or information within a record is public, private, controlled, protected, or
836 exempt from disclosure under Subsection 63G-2-201(3)(b).

837 (4) (a) "Computer program" means:

838 (i) a series of instructions or statements that permit the functioning of a computer
839 system in a manner designed to provide storage, retrieval, and manipulation of data from the
840 computer system; and

841 (ii) any associated documentation and source material that explain how to operate the
842 computer program.

843 (b) "Computer program" does not mean:

844 (i) the original data, including numbers, text, voice, graphics, and images;

845 (ii) analysis, compilation, and other manipulated forms of the original data produced by
846 use of the program; or

847 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
848 algorithms contained in the program, that would be used if the manipulated forms of the
849 original data were to be produced manually.

850 (5) (a) "Contractor" means:

851 (i) any person who contracts with a governmental entity to provide goods or services
852 directly to a governmental entity; or

853 (ii) any private, nonprofit organization that receives funds from a governmental entity.

854 (b) "Contractor" does not mean a private provider.

855 (6) "Controlled record" means a record containing data on individuals that is controlled
856 as provided by Section 63G-2-304.

857 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
858 governmental entity's familiarity with a record series or based on a governmental entity's
859 review of a reasonable sample of a record series, the primary classification that a majority of
860 records in a record series would be given if classified and the classification that other records
861 typically present in the record series would be given if classified.

862 (8) "Elected official" means each person elected to a state office, county office,
863 municipal office, school board or school district office, local district office, or special service
864 district office, but does not include judges.

- 865 (9) "Explosive" means a chemical compound, device, or mixture:
866 (a) commonly used or intended for the purpose of producing an explosion; and
867 (b) that contains oxidizing or combustive units or other ingredients in proportions,
868 quantities, or packing so that:
869 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
870 compound or mixture may cause a sudden generation of highly heated gases; and
871 (ii) the resultant gaseous pressures are capable of:
872 (A) producing destructive effects on contiguous objects; or
873 (B) causing death or serious bodily injury.
- 874 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 875 (11) (a) "Governmental entity" means:
876 (i) executive department agencies of the state, the offices of the governor, lieutenant
877 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
878 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
879 of Education, the State Board of Regents, and the State Archives;
880 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
881 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
882 committees, except any political party, group, caucus, or rules or sifting committee of the
883 Legislature;
884 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
885 administrative units in the judicial branch;
886 (iv) any state-funded institution of higher education or public education; or
887 (v) any political subdivision of the state, but, if a political subdivision has adopted an
888 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
889 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
890 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 891 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
892 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
893 funded or established by the government to carry out the public's business.
- 894 (12) "Gross compensation" means every form of remuneration payable for a given
895 period to an individual for services provided including salaries, commissions, vacation pay,

896 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
897 similar benefit received from the individual's employer.

898 (13) "Individual" means a human being.

899 (14) (a) "Initial contact report" means an initial written or recorded report, however
900 titled, prepared by peace officers engaged in public patrol or response duties describing official
901 actions initially taken in response to either a public complaint about or the discovery of an
902 apparent violation of law, which report may describe:

903 (i) the date, time, location, and nature of the complaint, the incident, or offense;

904 (ii) names of victims;

905 (iii) the nature or general scope of the agency's initial actions taken in response to the
906 incident;

907 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

908 (v) the name, address, and other identifying information about any person arrested or
909 charged in connection with the incident; or

910 (vi) the identity of the public safety personnel, except undercover personnel, or
911 prosecuting attorney involved in responding to the initial incident.

912 (b) Initial contact reports do not include follow-up or investigative reports prepared
913 after the initial contact report. However, if the information specified in Subsection (14)(a)
914 appears in follow-up or investigative reports, it may only be treated confidentially if it is
915 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

916 (15) "Legislative body" means the Legislature.

917 (16) "Notice of compliance" means a statement confirming that a governmental entity
918 has complied with a records committee order.

919 (17) "Person" means:

920 (a) an individual;

921 (b) a nonprofit or profit corporation;

922 (c) a partnership;

923 (d) a sole proprietorship;

924 (e) other type of business organization; or

925 (f) any combination acting in concert with one another.

926 (18) "Private provider" means any person who contracts with a governmental entity to

927 provide services directly to the public.

928 (19) "Private record" means a record containing data on individuals that is private as
929 provided by Section 63G-2-302.

930 (20) "Protected record" means a record that is classified protected as provided by
931 Section 63G-2-305.

932 (21) "Public record" means a record that is not private, controlled, or protected and that
933 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

934 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
935 card, tape, recording, electronic data, or other documentary material regardless of physical form
936 or characteristics:

937 (i) that is prepared, owned, received, or retained by a governmental entity or political
938 subdivision; and

939 (ii) where all of the information in the original is reproducible by photocopy or other
940 mechanical or electronic means.

941 (b) "Record" does not mean:

942 (i) a personal note or personal communication prepared or received by an employee or
943 officer of a governmental entity in the employee's or officer's private capacity;

944 (ii) a temporary draft or similar material prepared for the originator's personal use or
945 prepared by the originator for the personal use of an individual for whom the originator is
946 working;

947 (iii) material that is legally owned by an individual in the individual's private capacity;

948 (iv) material to which access is limited by the laws of copyright or patent unless the
949 copyright or patent is owned by a governmental entity or political subdivision;

950 (v) proprietary software;

951 (vi) junk mail or a commercial publication received by a governmental entity or an
952 official or employee of a governmental entity;

953 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
954 of a library open to the public;

955 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
956 of a library open to the public, regardless of physical form or characteristics of the material;

957 (ix) a daily calendar or other personal note prepared by the originator for the

958 originator's personal use or for the personal use of an individual for whom the originator is
959 working;

960 (x) a computer program that is developed or purchased by or for any governmental
961 entity for its own use;

962 (xi) a note or internal memorandum prepared as part of the deliberative process by:

963 (A) a member of the judiciary;

964 (B) an administrative law judge;

965 (C) a member of the Board of Pardons and Parole; or

966 (D) a member of any other body charged by law with performing a quasi-judicial
967 function;

968 (xii) a telephone number or similar code used to access a mobile communication
969 device that is used by an employee or officer of a governmental entity, provided that the
970 employee or officer of the governmental entity has designated at least one business telephone
971 number that is a public record as provided in Section 63G-2-301; [or]

972 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
973 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
974 paid to a health care provider under Subsection 17-50-319(2)(b)(ii)[-]; or

975 (xiv) information that an owner of unimproved property provides to a local entity as
976 provided in Section 11-42-205.

977 (23) "Record series" means a group of records that may be treated as a unit for
978 purposes of designation, description, management, or disposition.

979 (24) "Records committee" means the State Records Committee created in Section
980 63G-2-501.

981 (25) "Records officer" means the individual appointed by the chief administrative
982 officer of each governmental entity, or the political subdivision to work with state archives in
983 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
984 records.

985 (26) "Schedule," "scheduling," and their derivative forms mean the process of
986 specifying the length of time each record series should be retained by a governmental entity for
987 administrative, legal, fiscal, or historical purposes and when each record series should be
988 transferred to the state archives or destroyed.

989 (27) "Sponsored research" means research, training, and other sponsored activities as
990 defined by the federal Executive Office of the President, Office of Management and Budget:

991 (a) conducted:

992 (i) by an institution within the state system of higher education defined in Section
993 53B-1-102; and

994 (ii) through an office responsible for sponsored projects or programs; and

995 (b) funded or otherwise supported by an external:

996 (i) person that is not created or controlled by the institution within the state system of
997 higher education; or

998 (ii) federal, state, or local governmental entity.

999 (28) "State archives" means the Division of Archives and Records Service created in
1000 Section 63A-12-101.

1001 (29) "State archivist" means the director of the state archives.

1002 (30) "Summary data" means statistical records and compilations that contain data
1003 derived from private, controlled, or protected information but that do not disclose private,
1004 controlled, or protected information.

Legislative Review Note
as of 9-22-08 9:55 AM

Office of Legislative Research and General Counsel

H.B. 16 - Assessment Area Amendments

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
