

HB0066S02 compared with HB0066

~~{deleted text}~~ shows text that was in HB0066 but was deleted in HB0066S02.

inserted text shows text that was not in HB0066 but was inserted into HB0066S02.

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Representative James A. Dunnigan proposes the following substitute bill:

POLITICAL SUBDIVISION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to ~~{notice and protest requirements for}~~ an assessment area, local district, and special service district.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "adequate protest" for an assessment area;
- ▶ amends notice requirements for an assessment area;
- ▶ specifies a deadline for filing a protest to an assessment area;
- ▶ requires a governing body to consider a timely filed protest at a public meeting;
- ▶ amends notice requirements for a local district;
- ▶ amends the definition of "adequate protest" for a special service district;
- ▶ amends notice requirements for a special service district;

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- ▶ amends the filing deadline for a protest to a special service district; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-102, as last amended by Laws of Utah 2011, Chapters 68 and 388

11-42-202, as last amended by Laws of Utah 2011, Chapter 68

11-42-203, as last amended by Laws of Utah 2009, Chapter 246

11-42-204, as enacted by Laws of Utah 2007, Chapter 329

11-42-206, as enacted by Laws of Utah 2007, Chapter 329

17B-1-211, as last amended by Laws of Utah 2011, Chapter 68

17B-1-213, as last amended by Laws of Utah 2011, Chapter 68

17B-1-214, as last amended by Laws of Utah 2012, Chapter 97

17B-1-215, as last amended by Laws of Utah 2011, Chapter 68

17D-1-102, as enacted by Laws of Utah 2008, Chapter 360

17D-1-205, as last amended by Laws of Utah 2009, Chapter 388

17D-1-206, as enacted by Laws of Utah 2008, Chapter 360

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

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

11-42-102. Definitions.

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

- (i) filed in accordance with Section 11-42-203; and
- (ii) signed by the owners of private real property that:

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(A) is located within the proposed assessment area;

(B) covers at least 25% of the total private land area within the proposed assessment area; and

(C) is equal in value to at least 15% of the value of all private real property within the proposed assessment area.

~~[(a)]~~ (b) "Adequate protests" does not include written protests relating to:

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

~~[(ii)]~~ (B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

~~[(b)]~~ (ii) protests that have been withdrawn under Subsection 11-42-203(3).

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

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

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

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

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

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

(6) "Assessment method" means the method by which an assessment is levied against property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method that equitably reflects the benefit received from the improvement.

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

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

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

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

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

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

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

(14) "Contract price" means:

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

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

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

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

(17) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

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

(19) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

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(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

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

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

(22) "Improvement":

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

(A) a local entity is authorized to provide; or

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; and

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

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

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(23) "Improvement revenues":

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

(b) does not include revenue from assessments.

(24) "Incidental refunding costs" means any costs of issuing refunding assessment

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bonds and calling, retiring, or paying prior bonds, including:

- (a) legal and accounting fees;
- (b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;
- (c) underwriting discount costs, printing costs, the costs of giving notice;
- (d) any premium necessary in the calling or retiring of prior bonds;
- (e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;
- (f) any other costs that the governing body determines are necessary or desirable to incur in connection with the issuance of refunding assessment bonds; and
- (g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

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

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

(27) "Jurisdictional boundaries" means:

- (a) for a county, the boundaries of the unincorporated area of the county; and
- (b) for each other local entity, the boundaries of the local entity.

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

(29) "Local entity" means a county, city, town, special service district, local district, military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

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

(31) "Mailing address" means:

- (a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and
- (b) if the property is improved property:
 - (i) the property's street number; or

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

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

(33) "Operation and maintenance costs":

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

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

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

(35) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(36) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(37) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

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

(39) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

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

(41) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and

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expansion of an improvement.

(42) "Public agency" means:

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

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

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

(45) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

(46) "Service" means:

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

(47) "Special service district" has the same meaning as defined in Section 17D-1-102.

(48) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(49) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

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

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

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

- (a) state that the local entity proposes to:
 - (i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;
 - (ii) provide an improvement to property within the proposed assessment area; and
 - (iii) finance some or all of the cost of improvements by an assessment on benefitted

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property within the assessment area;

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

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

(i) the general nature of the improvements; and

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

(d) state the estimated cost of the improvements as determined by a project engineer;

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

(f) state the assessment method by which the governing body proposes to levy the assessment;

(g) state:

(i) [~~the time within which~~] the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; and

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements;

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

(i) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

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

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

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

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

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

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

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

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

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

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

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

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

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

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

(c) provisions for any improvements described in Subsection 11-42-102(22)(a)(ii).

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

(a) (i) (A) be published in a newspaper of general circulation within the local entity's

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jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the [~~deadline for filing protests specified in the notice under Subsection (1)(g)~~] day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the [~~deadline for filing protests specified in the notice under Subsection (1)(g)~~] day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(g); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

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

11-42-203. Protests.

(1) An owner of property that is proposed to be assessed within an assessment area may, within [~~the time specified in the notice under Section 11-42-202~~] 60 days after the day of the hearing described in Section 11-42-204, or, if there are multiple hearings, the final hearing, file a written protest against:

- (a) the designation of the assessment area;
- (b) the inclusion of the owner's property in the proposed assessment area;
- (c) the proposed improvements to be acquired or constructed; or
- (d) any other aspect of the proposed designation of an assessment area.

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

(3) An owner may withdraw a protest at any time before the [~~conclusion of the hearing under Section 11-42-204~~] expiration of the 60-day period described in Subsection (1) by filing a written withdrawal with the governing body.

(4) If the governing body intends to assess property within the proposed assessment area by type of improvement or by zone, the governing body shall, in determining whether

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adequate protests have been filed, aggregate the protests by the type of improvement or by zone.

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

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

Section 4. Section **11-42-204** is amended to read:

11-42-204. Hearing.

(1) On the date and at the time and place specified in the notice under Section 11-42-202, the governing body shall hold a public hearing.

(2) The governing body may continue the public hearing from time to time to a fixed future date and time.

(3) At the public hearing, the governing body shall:

(a) hear all objections to the designation of the proposed assessment area or the improvements proposed to be provided in the assessment area; and

(b) hear all persons desiring to be heard~~[-and]~~.

~~[(c) consider all protests filed under Section 11-42-203.]~~

(4) The governing body may make changes in:

(a) improvements proposed to be provided to the proposed assessment area; or

(b) the area or areas proposed to be included within the proposed assessment area.

Section 5. Section **11-42-206** is amended to read:

11-42-206. Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1) (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:

~~[(a)]~~ (i) abandoning the proposal to designate an assessment area; or

~~[(b)]~~ (ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

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(b) In accordance with Section 11-42-203, the governing body:

(i) may not schedule the public meeting before the expiration of the 60-day protest period; and

(ii) shall consider and report on any timely filed protests.

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and

(b) determine whether to designate a voluntary assessment area, after considering:

(i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and

(ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.

(3) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.

(4) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number, the property proposed to be assessed.

(b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.

(5) After the adoption of a designation resolution or ordinance under Subsection (1)~~(b)~~(a), the local entity may begin providing the specified improvements.

Section 6. Section **17B-1-211** is amended to read:

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17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

(a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or

(B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice in accordance with Subsection (2)[~~-(F)~~] at least one notice per 1,000 population of that area[~~;~~] and [~~(H)~~] at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

(2) Each published notice under Subsection (1)(a)(i)(A) shall:

(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(b) if possible, appear in a newspaper that is published at least one day per week;

(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;

(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and

(e) be [~~run at least~~] published once each week for [~~two successive~~] four consecutive weeks, with the final publication being no [~~less~~] fewer than [~~three~~] five and no more than [~~10~~] 20 days before the hearing or the first of the set of hearings.

(3) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local

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district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(4) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 7. Section **17B-1-213** is amended to read:

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

~~(2)~~ (3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a local district or

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include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

~~[(3)]~~ (4) Subsection ~~[(2)]~~ (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

~~[(4)]~~ (5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), or (f), a resolution approving the creation of the local district may be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and

(B) the legislative body of a municipality whose area is included within the proposed local district; or

(ii) the board of trustees of the initiating local district.

(b) Each resolution adopted under Subsection ~~[(4)]~~ (5)(a) shall:

(i) describe the area included in the local district;

(ii) be accompanied by a map that shows the boundaries of the local district;

(iii) describe the service to be provided by the local district;

(iv) state the name of the local district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Section 8. Section **17B-1-214** is amended to read:

17B-1-214. Election -- Exceptions.

(1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213~~[(2)]~~(3)(a), an election on the question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the

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responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed local district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with

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groundwater rights within the proposed local district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes a majority of the unincorporated area of one or more counties;

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a local district that has no registered voters within its boundaries; or

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii).

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 9. Section **17B-1-215** is amended to read:

17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Local district incorporated as specialized local district or basic local district -- Effective date.

(1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at

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the election within the proposed local district as a whole vote in favor of the creation of a local district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

(iii) adoption of a resolution, under Subsection 17B-1-213~~(4)~~(5) approving the creation of a local district for which an election was not required under Subsection 17B-1-214(3)(d), (e), or (f), by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed local district, or by the board of trustees of the initiating local district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the local district is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213~~(4)~~(5); or

(b) if the local district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213~~(4)~~(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C);

and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213~~(4)~~(5).

(3) The area of each local district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new local district

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as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed local district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), or (f), the area of the new local district as described in the resolution adopted under Subsection 17B-1-213~~[(4)]~~[(5)].

(4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the local district is created and incorporated as:

(i) the type of specialized local district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized local district; or

(ii) a basic local district, if the petition or resolution did not propose the creation of a specialized local district.

(b) (i) The effective date of a local district's incorporation for purposes of assessing property within the local district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated local district may not:

(A) levy or collect a property tax on property within the local district;

(B) levy or collect an assessment on property within the local district; or

(C) charge or collect a fee for service provided to property within the local district.

Section 10. Section **17D-1-102** is amended to read:

17D-1-102. Definitions.

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

~~[(a) owners of property within the applicable area representing more than 33% of the taxable value of all taxable property within the applicable area; or]~~

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the

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applicable area; or

(b) [~~more than 33% of all~~] registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

(d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

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(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board appointed under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board appointed under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

(7) "Local district" has the same meaning as defined in Section 17B-1-102.

(8) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(10) "Special assessment bond" means a bond payable from special assessments.

(11) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

(a) is created under authority of the Utah Constitution Article XI, Section 7; and

(b) operates under, is subject to, and has the powers set forth in this chapter.

(12) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is

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issued.

Section 11. Section **17D-1-205** is amended to read:

17D-1-205. Notice.

(1) Each notice required under Subsection 17D-1-204(1) shall:

(a) state that:

(i) the legislative body has adopted a resolution stating its intent to create a special service district; or

(ii) a petition has been filed proposing the creation of a special service district;

(b) describe the boundary of the proposed special service district;

(c) generally describe each service that the special service district is proposed to provide;

(d) state that taxes may be levied annually upon all taxable property within the proposed special service district;

(e) state that fees or charges may be imposed to pay for some or all of the services that the special service district is proposed to provide;

(f) explain the process, requirements, and timetable for filing a protest against the creation of the special service district or against a service that the special service district is proposed to provide;

(g) designate a date, time, and place for a public hearing on the proposed creation of the special service district; and

(h) except as provided in Subsection (2), be published:

(i) (A) [~~at least~~] once a week [~~during three~~] for four consecutive weeks;

(B) not [~~less~~] fewer than [~~21~~] five days [~~or~~] and no more than [~~35~~] 20 days before the date of the public hearing required under Subsection 17D-1-204(2); and

(C) in a newspaper of general circulation in the county or municipality by which the special service district is proposed to be created; and

(ii) in accordance with Section 45-1-101 for 35 days before the date of the public hearing required under Subsection 17D-1-204(2).

(2) Notwithstanding Subsection (1)(h)(i), if the proposed special service district is located entirely within a city of the third, fourth, or fifth class or a town that has no newspaper of general circulation in the city or town, the legislative body of the city or town may provide

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that the notice required under Subsection 17D-1-204(1) be given by posting the notice in at least five public places in the city or town at least 21 days before the public hearing required under Subsection 17D-1-204(2).

(3) The legislative body of the county or municipality by which the special service district is proposed to be created may include in a notice under this section any other information that the legislative body considers necessary or appropriate.

Section 12. Section **17D-1-206** is amended to read:

17D-1-206. Protests.

(1) An interested person may protest:

(a) the creation of a special service district; or

(b) a service that the special service district is proposed to provide.

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

(a) be in writing;

(b) be submitted:

(i) to the legislative body of the county or municipality by which the special service district is proposed to be created; and

(ii) no later than ~~[15]~~ 60 days after the public hearing required under Subsection 17D-1-204(2); and

(c) explain why the person is protesting.

(3) A person who submitted a written protest against the creation of a special service district may withdraw the protest or, having withdrawn a protest, cancel the withdrawal, ~~[until~~ 30] no later than 60 days after the public hearing required under Subsection 17D-1-204(2).

(4) The legislative body of a county or municipality may not adopt a resolution or ordinance creating a special service district if adequate protests are filed with respect to the creation of the special service district.

(5) The legislative body of a county or municipality may not adopt a resolution or ordinance authorizing a special service district to provide a service if adequate protests are filed with respect to that service.

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~~Legislative Review Note~~

~~as of 1-8-13 10:19 AM~~

~~Office of Legislative Research and General Counsel~~