

**Senator J. Stuart Adams** proposes the following substitute bill:

**ASSESSMENT AREA AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: J. Stuart Adams

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the designation of an assessment area.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a governing body from designating an assessment area beginning on May 13, 2014, and before May 12, 2015;
- ▶ authorizes a governing body to circulate a petition to designate an assessment area if the protests to an assessment area are contestable; 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 2013, Chapter 246

**11-42-202**, as last amended by Laws of Utah 2013, Chapters 246 and 265



26 [11-42-206](#), as last amended by Laws of Utah 2013, Chapter 265

27 ENACTS:

28 [11-42-201.5](#), Utah Code Annotated 1953

29 [63I-2-211](#), Utah Code Annotated 1953

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

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

33 **11-42-102. Definitions.**

34 (1) (a) "Adequate protests" means timely filed, written protests [~~under Section~~  
35 ~~11-42-203~~] that represent [~~at least 50%~~] no less than 45% of the frontage, area, taxable value,  
36 fair market value, lots, number of connections, or equivalent residential units of the property  
37 proposed to be assessed, according to the same assessment method by which the assessment is  
38 proposed to be levied[~~, after eliminating~~].

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

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

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

43 [(b)] (ii) protests that have been withdrawn under Subsection [11-42-203\(3\)](#).

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

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

50 (a) issued under Section [11-42-605](#); and

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

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

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

57 (6) "Assessment method" means the method  
58 by which an assessment is levied against property, whether by frontage, area, taxable  
59 value, fair market value, lot, parcel, number of connections, equivalent residential unit, any  
60 combination of these methods, or any other method

61 that equitably reflects the benefit received from the improvement.

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

64 (8) "Assessment resolution" means a resolution adopted by a local entity under Section  
65 11-42-404 that levies an assessment on benefitted property within an assessment area.

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

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

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

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

74 (13) (a) "Commercial or industrial real property" means real property used directly or  
75 indirectly or held for one of the following purposes or activities, regardless of whether the  
76 purpose or activity is for profit:

77 (i) commercial;

78 (ii) mining;

79 (iii) industrial;

80 (iv) manufacturing;

81 (v) governmental;

82 (vi) trade;

83 (vii) professional;

84 (viii) a private or public club;

85 (ix) a lodge;

86 (x) a business; or

87 (xi) a similar purpose.

88 (b) "Commercial or industrial real property" includes real property that:

89 (i) is used as or held for dwelling purposes; and

90 (ii) contains four or more rental units.

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

94 (15) (a) "Contestable protests" means timely filed, written protests that represent no  
95 less than 35% and less than 45% of the frontage, area, taxable value, fair market value, lots,  
96 number of connections, or equivalent residential units of the property proposed to be assessed,  
97 according to the same assessment method by which the assessment is proposed to be levied.

98 (b) "Contestable protests" does not include written protests relating to:

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

100 (B) an improvement that has been deleted from the proposed improvements to be  
101 provided to property within the proposed assessment area; and

102 (ii) protests that have been withdrawn under Subsection [11-42-203\(3\)](#).

103 [~~15~~] (16) "Contract price" means:

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

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

107 [~~16~~] (17) "Designation ordinance" means an ordinance adopted by a local entity  
108 under Section [11-42-206](#) designating an assessment area.

109 [~~17~~] (18) "Designation resolution" means a resolution adopted by a local entity under  
110 Section [11-42-206](#) designating an assessment area.

111 [~~18~~] (19) "Economic promotion activities" means activities that promote economic  
112 growth in a commercial area of a local entity, including:

113 (a) sponsoring festivals and markets;

114 (b) promoting business investment or activities;

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

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

118 [~~19~~] (20) "Energy efficiency upgrade" means an improvement that is permanently

119 affixed to commercial or industrial real property that is designed to reduce energy  
120 consumption, including:

- 121 (a) insulation in:
  - 122 (i) a wall, roof, floor, or foundation; or
  - 123 (ii) a heating and cooling distribution system;
- 124 (b) a window or door, including:
  - 125 (i) a storm window or door;
  - 126 (ii) a multiglazed window or door;
  - 127 (iii) a heat-absorbing window or door;
  - 128 (iv) a heat-reflective glazed and coated window or door;
  - 129 (v) additional window or door glazing;
  - 130 (vi) a window or door with reduced glass area; or
  - 131 (vii) other window or door modifications;
- 132 (c) an automatic energy control system;
- 133 (d) in a building or a central plant, a heating, ventilation, or air conditioning and  
134 distribution system;
- 135 (e) caulk or weatherstripping;
- 136 (f) a light fixture that does not increase the overall illumination of a building unless an  
137 increase is necessary to conform with the applicable building code;
- 138 (g) an energy recovery system;
- 139 (h) a daylighting system;
- 140 (i) measures to reduce the consumption of water, through conservation or more  
141 efficient use of water, including:
  - 142 (i) installation of low-flow toilets and showerheads;
  - 143 (ii) installation of timer or timing systems for a hot water heater; or
  - 144 (iii) installation of rain catchment systems; or
  - 145 (j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving  
146 measure by the governing body of a local entity.

147 ~~[(20)]~~ (21) "Equivalent residential unit" means a dwelling, unit, or development that is  
148 equal to a single-family residence in terms of the nature of its use or impact on an improvement  
149 to be provided in the assessment area.

150 [~~(21)~~] (22) "Governing body" means:

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

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

153 (c) for a special service district:

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

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

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

160 [~~(22)~~] (23) "Guaranty fund" means the fund established by a local entity under Section  
161 [11-42-701](#).

162 [~~(23)~~] (24) "Improved property" means property proposed to be assessed within an  
163 assessment area upon which a residential, commercial, or other building has been built.

164 [~~(24)~~] (25) "Improvement":

165 (a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or  
166 privately owned energy efficiency upgrade, or a publicly or privately owned renewable energy  
167 system that:

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

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

171 (C) a local entity is requested to provide through an interlocal agreement in accordance  
172 with Title 11, Chapter 13, Interlocal Cooperation Act; and

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

175 (A) can be conveniently installed at the same time as an infrastructure, system, or other  
176 facility described in Subsection [~~(24)~~] (25)(a)(i); and

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

179 (b) for a local district created to assess groundwater rights in accordance with Section  
180 [17B-1-202](#), means a system or plan to regulate groundwater withdrawals within a specific

181 groundwater basin in accordance with Sections [17B-1-202](#) and [73-5-15](#).

182 ~~[(25)]~~ [\(26\)](#) "Improvement revenues":

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

185 (b) does not include revenue from assessments.

186 [\(27\)](#) (a) "Inadequate protests" means timely filed, written protests that represent less  
187 than 35% of the frontage, area, taxable value, fair market value, lots, number of connections, or  
188 equivalent residential units of the property proposed to be assessed, according to the same  
189 assessment method by which the assessment is proposed to be levied.

190 (b) "Inadequate protests" does not include written protests relating to:

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

192 (B) an improvement that has been deleted from the proposed improvements to be  
193 provided to property within the proposed assessment area; and

194 (ii) protests that have been withdrawn under Subsection [11-42-203\(3\)](#).

195 ~~[(26)]~~ [\(28\)](#) "Incidental refunding costs" means any costs of issuing refunding  
196 assessment bonds and calling, retiring, or paying prior bonds, including:

197 (a) legal and accounting fees;

198 (b) charges of financial advisors, escrow agents, certified public accountant verification  
199 entities, and trustees;

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

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

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

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

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

208 ~~[(27)]~~ [\(29\)](#) "Installment payment date" means the date on which an installment  
209 payment of an assessment is payable.

210 ~~[(28)]~~ [\(30\)](#) "Interim warrant" means a warrant issued by a local entity under Section  
211 [11-42-601](#).

212 [~~(29)~~] (31) "Jurisdictional boundaries" means:

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

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

215 [~~(30)~~] (32) "Local district" means a local district under Title 17B, Limited Purpose

216 Local Government Entities - Local Districts.

217 [~~(31)~~] (33) "Local entity" means a county, city, town, special service district, local

218 district, an interlocal entity as defined in Section 11-13-103, a military installation development

219 authority created in Section 63H-1-201, or other political subdivision of the state.

220 [~~(32)~~] (34) "Local entity obligations" means assessment bonds, refunding assessment

221 bonds, interim warrants, and bond anticipation notes issued by a local entity.

222 [~~(33)~~] (35) "Mailing address" means:

223 (a) a property owner's last-known address using the name and address appearing on the

224 last completed real property assessment roll of the county in which the property is located; and

225 (b) if the property is improved property:

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

227 (ii) the post office box, rural route number, or other mailing address of the property, if

228 a street number has not been assigned.

229 [~~(34)~~] (36) "Net improvement revenues" means all improvement revenues that a local

230 entity has received since the last installment payment date, less all amounts payable by the local

231 entity from those improvement revenues for operation and maintenance costs.

232 [~~(35)~~] (37) "Operation and maintenance costs":

233 (a) means the costs that a local entity incurs in operating and maintaining

234 improvements in an assessment area, whether or not those improvements have been financed

235 under this chapter; and

236 (b) includes service charges, administrative costs, ongoing maintenance charges, and

237 tariffs or other charges for electrical, water, gas, or other utility usage.

238 [~~(36)~~] (38) "Overhead costs" means the actual costs incurred or the estimated costs to

239 be incurred by a local entity in connection with an assessment area for appraisals, legal fees,

240 filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and

241 paying agent fees, publishing and mailing costs, costs of levying an assessment, recording

242 costs, and all other incidental costs.



243            [~~(37)~~] (39) "Prior assessment ordinance" means the ordinance levying the assessments  
244 from which the prior bonds are payable.

245            [~~(38)~~] (40) "Prior assessment resolution" means the resolution levying the assessments  
246 from which the prior bonds are payable.

247            [~~(39)~~] (41) "Prior bonds" means the assessment bonds that are refunded in part or in  
248 whole by refunding assessment bonds.

249            [~~(40)~~] (42) "Project engineer" means the surveyor or engineer employed by or private  
250 consulting engineer engaged by a local entity to perform the necessary engineering services for  
251 and to supervise the construction or installation of the improvements.

252            [~~(41)~~] (43) "Property" includes real property and any interest in real property, including  
253 water rights and leasehold rights.

254            [~~(42)~~] (44) "Property price" means the price at which a local entity purchases or  
255 acquires by eminent domain property to make improvements in an assessment area.

256            [~~(43)~~] (45) "Provide" or "providing," with reference to an improvement, includes the  
257 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and  
258 expansion of an improvement.

259            [~~(44)~~] (46) "Public agency" means:

260            (a) the state or any agency, department, or division of the state; and

261            (b) a political subdivision of the state.

262            [~~(45)~~] (47) "Reduced payment obligation" means the full obligation of an owner of  
263 property within an assessment area to pay an assessment levied on the property after the  
264 assessment has been reduced because of the issuance of refunding assessment bonds, as  
265 provided in Section [11-42-608](#).

266            [~~(46)~~] (48) "Refunding assessment bonds" means assessment bonds that a local entity  
267 issues under Section [11-42-607](#) to refund, in part or in whole, assessment bonds.

268            [~~(47)~~] (49) "Renewable energy system" means a product, a system, a device, or an  
269 interacting group of devices that:

270            (a) is permanently affixed to commercial or industrial real property; and

271            (b) produces energy from renewable resources, including:

272            (i) a photovoltaic system;

273            (ii) a solar thermal system;

- 274 (iii) a wind system;
- 275 (iv) a geothermal system, including:
- 276 (A) a generation system;
- 277 (B) a direct-use system; or
- 278 (C) a ground source heat pump system;
- 279 (v) a microhydro system; or
- 280 (vi) other renewable sources approved by the governing body of a local entity.
- 281 [~~48~~] (50) "Reserve fund" means a fund established by a local entity under Section

282 [11-42-702](#).

283 [~~49~~] (51) "Service" means:

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

288 [~~50~~] (52) "Special service district" has the same meaning as defined in Section

289 [17D-1-102](#).

290 [~~51~~] (53) "Unimproved property" means property upon which no residential,

291 commercial, or other building has been built.

292 [~~52~~] (54) "Voluntary assessment area" means an assessment area that contains only

293 property whose owners have voluntarily consented to an assessment.

294 Section 2. Section **11-42-201.5** is enacted to read:

295 **11-42-201.5. Prohibition on designation of an assessment area before May 12,**

296 **2015.**

297 (1) Except as provided in Subsection (2)(a), a governing body of a local entity may not

298 designate an assessment area under this part beginning on May 13, 2014, and before May 12,

299 2015.

300 (2) (a) Subsection (1) does not apply to an assessment area  $\hat{S}\rightarrow$  :

300a (i)  $\leftarrow\hat{S}$  for which:

301  $\hat{S}\rightarrow$  [~~ii~~] (A)  $\leftarrow\hat{S}$  notice described in Subsection [11-42-201\(2\)\(a\)](#) is published in accordance

301a with

302 Subsection [11-42-202\(3\)](#) before May 13, 2014; or

303  $\hat{S}\rightarrow$  [~~ii~~] (B)  $\leftarrow\hat{S}$  a designation ordinance or resolution has been adopted under Section

303a [11-42-206](#)

304 before May 13, 2014, designating the assessment area and the assessment area will expire by

305 law unless the governing body redesignates the assessment area ~~§~~ → [ ] ; or

305a (ii) that is a voluntary assessment area and all property owners have consented to the  
 305b creation of the assessment area in writing before publication of the notice described in  
 305c Subsection 11-42-201(2)(a). ← ~~§~~

306 (b) If a governing body redesignates an assessment area described in Subsection (2)(a),  
 307 the governing may not expand the boundaries of the assessment area.

308 Section 3. Section **11-42-202** is amended to read:

309 **11-42-202. Requirements applicable to a notice of a proposed assessment area**  
 310 **designation.**

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

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

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

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

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

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

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

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

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

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

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

331 (f) state the assessment method by which the governing body proposes to levy the  
 332 assessment, including, if the local entity is a municipality or county, whether the assessment  
 333 will be collected:

334 (i) by directly billing a property owner; or

335 (ii) by inclusion on a property tax notice issued in accordance with Section **59-2-1317**;

- 336 (g) state:
- 337 (i) the date described in Section 11-42-203 and the location at which protests against  
338 designation of the proposed assessment area or of the proposed improvements are required to  
339 be filed; and
- 340 (ii) the method by which the governing body will determine the number of protests  
341 required to defeat the designation of the proposed assessment area or acquisition or  
342 construction of the proposed improvements;
- 343 (h) state the date, time, and place of the public hearing required in Section 11-42-204;
- 344 (i) if the governing body elects to create and fund a reserve fund under Section  
345 11-42-702, include a description of:
- 346 (i) how the reserve fund will be funded and replenished; and  
347 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of  
348 the bonds;
- 349 (j) if the governing body intends to designate a voluntary assessment area, include a  
350 property owner consent form that:
- 351 (i) estimates the total assessment to be levied against the particular parcel of property;  
352 (ii) describes any additional benefits that the governing body expects the assessed  
353 property to receive from the improvements; and
- 354 (iii) designates the date and time by which the fully executed consent form is required  
355 to be submitted to the governing body;
- 356 (k) if the local entity intends to levy an assessment to pay operation and maintenance  
357 costs or for economic promotion activities, include:
- 358 (i) a description of the operation and maintenance costs or economic promotion  
359 activities to be paid by assessments and the initial estimated annual assessment to be levied;  
360 (ii) a description of how the estimated assessment will be determined;  
361 (iii) a description of how and when the governing body will adjust the assessment to  
362 reflect the costs of:
- 363 (A) in accordance with Section 11-42-406, current economic promotion activities; or  
364 (B) current operation and maintenance costs;
- 365 (iv) a description of the method of assessment if different from the method of  
366 assessment to be used for financing any improvement; and

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

369 (A) operation and maintenance costs; or

370 (B) economic promotion activities; and

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

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

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

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

379 (c) provisions for any improvements described in Subsection 11-42-102[(24)]  
380 (25)(a)(ii).

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

382 (a) (i) (A) be published in a newspaper of general circulation within the local entity's  
383 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at  
384 least five but not more than 20 days before the day of the hearing required in Section  
385 11-42-204; or

386 (B) if there is no newspaper of general circulation within the local entity's jurisdictional  
387 boundaries, be posted in at least three public places within the local entity's jurisdictional  
388 boundaries at least 20 but not more than 35 days before the day of the hearing required in  
389 Section 11-42-204; and

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

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

396 Section 4. Section 11-42-206 is amended to read:

397 **11-42-206. Adoption of a resolution or an ordinance regarding a proposed**

398 **assessment area -- Designation of an assessment area may not occur if adequate protests**  
399 **filed -- Recording of resolution or ordinance and notice of proposed assessment.**

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

403 (i) abandoning the proposal to designate an assessment area; or

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

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

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

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

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

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

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

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

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

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

422 (b) If inadequate protests have been filed, the governing body may designate the  
423 described assessment area.

424 (c) If contestable protests have been filed, the governing body may not designate the  
425 described assessment area unless the governing body:

426 (i) (A) circulates a petition to designate the assessment area described in the notice  
427 under Section 11-42-202; and

428 (B) clearly indicates on the petition that it is a petition to designate the assessment area;

- 429 (ii) collects for the petition described in Subsection (3)(c)(i)(A):  
430 (A) the signatures of owners of private real property that is located within the proposed  
431 assessment area;  
432 (B) enough signatures to exceed the number of contestable protest signatures received  
433 by the governing body protesting the described assessment area by no less than 5% based on  
434 the same assessment method representation that was used to calculate the number of  
435 contestable protest signatures; and  
436 (C) the necessary signatures described in Subsection (3)(c)(ii)(B) no later than 60 days  
437 after the day on which the public hearing described in Subsection (1)(a) is held;  
438 (iii) submits the signatures on the petition to the county clerk, municipal clerk, or  
439 municipal recorder, respectively, for certification;  
440 (iv) holds a public meeting after the county clerk, municipal clerk, or municipal  
441 recorder notifies the governing body that the clerk or recorder has certified the petition in  
442 accordance with Subsection (3)(e); and  
443 (v) at the public meeting casts a unanimous vote to adopt a designation resolution or  
444 ordinance designating the assessment area.  
445 (d) A property owner who signs the petition may withdraw the owner's signature from  
446 the petition at any time before the expiration of the 60-day period described in Subsection  
447 (3)(c)(ii)(C) by filing a written withdrawal with the county clerk, municipal clerk, or municipal  
448 recorder, respectively.  
449 (e) No later than 30 days after receiving a petition described in Subsection (3)(c)(i)  
450 from a governing body for certification, a county clerk, municipal clerk, or municipal recorder  
451 shall:  
452 (i) determine if the petition complies with the petition and signature requirements of  
453 Subsections (3)(c)(i) and (ii);  
454 (ii) certify the petition if the petition is in compliance or reject the petition; and  
455 (iii) notify the governing body in writing that the petition has been certified or rejected.  
456 (f) If the county clerk, municipal clerk, or municipal recorder, respectively, fails to  
457 certify or reject a petition within 30 days after it is submitted by the governing body, the  
458 petition shall be considered to be rejected.  
459 (4) (a) If the governing body adopts a designation resolution or ordinance designating

460 an assessment area, the governing body shall, within 15 days after adopting the designation  
461 resolution or ordinance:

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

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

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

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

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

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

473 Section 5. Section **63I-2-211** is enacted to read:

474 **63I-2-211. Repeal dates -- Title 11.**

475 Section [11-42-201.5](#) is repealed July 1, 2015.