

SB0228S02 compared with SB0228S01

~~text~~ shows text that was in SB0228S01 but was deleted in SB0228S02.

Inserted text shows text that was not in SB0228S01 but was inserted into SB0228S02.

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Senator Daniel McCay proposes the following substitute bill:

PUBLIC INFRASTRUCTURE DISTRICT ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Public Infrastructure District Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes a limit on a property tax levy for the operation of a public infrastructure district;
- ▶ imposes a limit on certain bonds that a public infrastructure district may issue;
- ▶ allows for local entities to create public infrastructure districts;
- ▶ provides for the appointment and potential election, in certain circumstances, of members of the board of trustees of a public infrastructure district;
- ▶ provides for the issuance of bonds for certain purposes;

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- ▶ allows a public infrastructure district to charge certain fees;
- ▶ imposes certain transparency requirements on public infrastructure districts;
- ▶ allows a public infrastructure district to impose a property tax penalty in the event of nonpayment;
- ▶ limits the time period during which a person may bring certain legal challenges against a public infrastructure district;
- ▶ requires the inclusion of a certain property tax penalty on the property tax notice;
and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-201, as last amended by Laws of Utah 2015, Chapter 396

17B-1-102, as last amended by Laws of Utah 2016, Chapter 176

17B-1-1102, as last amended by Laws of Utah 2015, Chapter 352

59-2-1317, as last amended by Laws of Utah 2018, Chapter 197

ENACTS:

17B-2a-1201, Utah Code Annotated 1953

17B-2a-1202, Utah Code Annotated 1953

17B-2a-1203, Utah Code Annotated 1953

17B-2a-1204, Utah Code Annotated 1953

17B-2a-1205, Utah Code Annotated 1953

17B-2a-1206, Utah Code Annotated 1953

17B-2a-1207, Utah Code Annotated 1953

17B-2a-1208, Utah Code Annotated 1953

17B-2a-1209, Utah Code Annotated 1953

17B-2a-1210, Utah Code Annotated 1953

17B-2a-1211, Utah Code Annotated 1953

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17B-2a-1212, Utah Code Annotated 1953

17B-2a-1213, Utah Code Annotated 1953

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

Section 1. Section **11-42-201** is amended to read:

**11-42-201. Resolution or ordinance designating an assessment area --
Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.**

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district as defined in Section 17B-1-102, may not be coextensive or substantially coterminous with the boundaries of the local entity.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 2. Section **17B-1-102** is amended to read:

17B-1-102. Definitions.

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As used in this title:

- (1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.
- (2) "Basic local district":
 - (a) means a local district that is not a specialized local district; and
 - (b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.
- (3) "Bond" means:
 - (a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and
 - (b) a lease agreement, installment purchase agreement, or other agreement that:
 - (i) includes an obligation by the district to pay money; and
 - (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.
- (4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.
- (5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.
- (6) "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 local 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.
- (7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.
- (8) "General obligation bond":

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

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district 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.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

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(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

- (a) this chapter; or
- (b) (i) this chapter; and
- (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- (B) Chapter 2a, Part 2, Drainage District Act;
- (C) Chapter 2a, Part 3, Fire Protection District Act;
- (D) Chapter 2a, Part 4, Improvement District Act;
- (E) Chapter 2a, Part 5, Irrigation District Act;
- (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- (H) Chapter 2a, Part 8, Public Transit District Act;
- (I) Chapter 2a, Part 9, Service Area Act;
- (J) Chapter 2a, Part 10, Water Conservancy District Act; ~~or~~
- (K) Chapter 2a, Part 11, Municipal Services District Act~~[-]~~; or
- (L) Chapter 2a, Part 12, Public Infrastructure District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city, town, or metro township.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

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(20) "Political subdivision" means a county, city, town, metro township, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(22) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(23) "Public infrastructure district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 12, Public Infrastructure District Act.

~~[(23)]~~ (24) "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

~~[(24)]~~ (25) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; 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.

~~[(25)]~~ (26) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

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- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

~~[(26)]~~ (27) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

~~[(27)]~~ (28) "Service area" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

~~[(28)]~~ (29) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

~~[(29)]~~ (30) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(30)]~~ (31) "Special assessment bond" means a bond payable from special assessments.

~~[(31)]~~ (32) "Specialized local district" means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, ~~[or]~~ a municipal services district, or a public infrastructure district.

~~[(32)]~~ (33) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

~~[(33)]~~ (34) "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 issued.

~~[(34)]~~ (35) "Unincorporated" means not included within a municipality.

~~[(35)]~~ (36) "Water conservancy district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

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~~[(36)]~~ (37) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 3. Section **17B-1-1102** is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject~~;~~ to:

(a) for a water conservancy district, ~~[to]~~ the property tax levy limits of Section 17B-2a-1006~~;~~ and

(b) for a limited tax bond [as defined in Section 17B-2a-1202](#) that a public infrastructure district issues, the property tax levy limits of Section 17B-2a-1209.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1, for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;

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(ix) .03, for a public transit district;

(x) .12, for a service area; [or]

(xi) .05 for a municipal services district[-]; or

(xii) except for a limited tax bond as defined in Section 17B-2a-1202, .15 for a public infrastructure district.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section 4. Section **17B-2a-1201** is enacted to read:

Part 12. Public Infrastructure District Act

17B-2a-1201. Title.

This part is known as "Public Infrastructure District Act."

Section 5. Section **17B-2a-1202** is enacted to read:

17B-2a-1202. Definitions.

As used in this part:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county or municipality that approves of the creation of the public infrastructure district.

(3) "District applicant" means the person proposing the creation of the public infrastructure district.

(4) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(5) "Governing Document" means the document governing the public infrastructure

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district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

~~(4)6~~ (a) "Limited tax bond" means a bond ~~that~~:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by the public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

(b) "Limited tax bond does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

~~(5) "Service plan" means a service plan governing the public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time:~~

~~(6) "Ward" means a division of a public infrastructure district:~~

~~(a) that is relatively equal in number of eligible voters or potential eligible voters to all other wards within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and~~

~~(b) which a member of the board represents.~~

~~Section 6. Section 17B-2a-1203 is enacted to read:~~

17B-2a-1203. Provisions applicable to public infrastructure districts.

(1) Each public infrastructure district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to a public infrastructure district.

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(3) A public infrastructure district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Section 7. Section **17B-2a-1204** is enacted to read:

17B-2a-1204. Creation.

(1) In addition to the provisions regarding creation of a local district in Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(a) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(b) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(2) The election requirement of Section 17B-1-214 does not apply to a petition meeting the requirements of Subsection (1).

(3) (a) Notwithstanding Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district after:

(i) adoption of ~~{a resolution}~~ resolutions of the board ~~{through the same manner by which a}~~ and the creating entity, each approving of the annexation;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the annexation into the public infrastructure district ~~{may be created. }~~

~~(b) (i) Except as provided in };~~ and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed and consents to the annexation into the public infrastructure district.

(b) Upon meeting the requirements of Subsection (3) ~~{ (b) (ii) and notwithstanding } a),~~ the board shall comply with the resolution and filing requirements of Subsections

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17B-1-414(1) and (2).

(c) (i) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district after:

(A) adoption of ~~fa resolution~~ resolutions of the board ~~through the same manner by which a~~ and the creating entity, each approving of the annexation;

(B) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the withdrawal from the public infrastructure district ~~may be created~~; and

(C) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn and consents to the withdrawal from the public infrastructure district.

(ii) If any bonds that the public infrastructure district issues are allocable to the area to be ~~removed and~~ withdrawn remain unpaid at the time of the proposed ~~removal~~ withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(d) Upon meeting the requirements of Subsection (3)(c), the board shall comply with the requirements of Section 17B-1-512.

(4) The creating entity may impose limitations on the powers of the public infrastructure district through ~~fa service plan~~ the governing document.

(5) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (5)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity or any municipality, county, the state, or any other political subdivision.

(ii) Notwithstanding Subsection (5)(b)(i) and Section 17B-1-216, the ~~service plan~~ governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial

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costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (5)(d)(i)(A).

(ii) A public infrastructure district ~~may only~~, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (5)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(6) The creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(7) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 8. Section **17B-2a-1205** is enacted to read:

17B-2a-1205. Public infrastructure district board -- ~~Service plan~~ Governing document.

(1) The legislative body of the entity that approves the creation of a public infrastructure district shall appoint the members of the board, in accordance with the ~~service~~

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plan:

~~_____~~ (2) (a) The members of the board shall serve for terms of not more than ~~the~~ governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) ~~{Unless otherwise provided in}~~ Notwithstanding Subsection (2)(a), approximately half of the ~~{service plan, the terms of}~~ members of the ~~{board continue until a date that is four years after the date on which a voter other than the voters who originally consented to the original formation of the public infrastructure district first resides within the boundaries of the public infrastructure district}~~ initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if ~~{, at the time of the creation of the public infrastructure district}~~:

(i) all of the surface property owners consent to the waiver of the residency requirement; ~~{ or }~~

(ii) there are no residents within the boundaries of the public infrastructure district; ~~{~~

~~_____~~ ~~(b) The}~~;

(iii) no qualified candidate timely files to be considered for appointment to the board;

or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected ~~{in}~~ for a ~~{ward}~~ division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of

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the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A ~~{service plan}~~ governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the ~~{service plan}~~ governing document identifies, including ~~{the density}~~ a milestone ~~{described in Subsection (4)(b)(i)}:~~

~~———— (b) (i) If the service plan described in Subsection (4)(a) provides for a transition from appointed to elected board members, the service plan may establish a density milestone} for each division or individual board position providing that when the ~~{density of a ward surpasses the density milestone, the ward elects}~~ milestone is reached:~~

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

~~(~~{ii}~~)b~~ Regardless of whether ~~{one or more wards elect }~~ a board member is elected under Subsection (4)(~~{b}~~)(~~{i}~~)a, the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective ~~{ward}~~ division or board position surpasses the density milestone described in ~~{Subsection (4)(b)(i)}:~~

~~———— (5) If a vacancy of an appointed seat occurs, the remaining members of the board may appoint an individual to fill the vacancy:~~

~~———— (6) (a) The} the governing document.~~

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each ~~{ward}~~ division so that each ~~{ward}~~ division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing ~~{ward}~~ division boundaries under Subsection (~~{6}~~)5(a), the board shall consider existing or potential developments within the ~~{wards}~~ divisions which, when completed, would increase or decrease the number of eligible voters within the ~~{ward}:~~

~~———— (7) The} division.~~

(c) The governing document may prohibit the board from reestablishing, without the

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consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable mill rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a ~~{service plan}~~governing document by each adopting a resolution that approves the amended ~~{service plan}~~governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

Section 9. Section **17B-2a-1206** is enacted to read:

17B-2a-1206. Additional public infrastructure district powers.

SB0228S02 compared with SB0228S01

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) the capital costs for **public** facilities necessary to provide:

(i) a television service, including cable television, television relay, and translator facilities; or

(ii) a public telecommunications service, **including Internet and fiber infrastructure;**

(c) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-401;

(d) ~~capital costs~~ **public improvements** related to **the provision of** housing; and

(e) capital costs related to public transportation;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act ~~;~~ **and**, **provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;**

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board ~~;~~ **or**;

(b) the creating entity, if required in the ~~service plan~~ **governing document; or**

(c) a surveyor or engineer that a public infrastructure district employs or engages to **perform the necessary engineering services for and to supervise the construction or installation of the improvements; and**

(4) **contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity.**

Section 10. Section **17B-2a-1207** is enacted to read:

17B-2a-1207. Public infrastructure district bonds.

SB0228S02 compared with SB0228S01

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section 17B-2a-1206, as provided in, as applicable:

(a) Title 11, Chapter 14, Local Government Bonding Act;

(b) Title 11, Chapter 27, Utah Refunding Bond Act;

(c) Title 11, Chapter 42, Assessment Area Act; and

(d) this section.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation ~~based on the greater of the following, as applicable:~~

~~(A) the fair market value of the taxable property within the public infrastructure district as agreed upon with the creating entity; or~~

~~(B) a limitation, if any, on the principal amount of indebtedness as agreed upon with the creating entity and as provided in the service plan.~~

~~(c) A described in the governing document.~~

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may ~~not only~~ issue ~~a~~ limited tax ~~bond described~~ bonds in ~~Subsection (3)(a) in a denomination~~ denominations of ~~not~~ less than \$500,000, and in integral

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multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public improvement district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent ~~{taxable}~~market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) ~~{shall};~~is sufficient to meet any ~~{election}~~ statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on ~~{a}~~ general obligation ~~{bond};~~bonds described in Subsection 17B-1-1102(4)(a)(xii).

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

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(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the ~~issuance of~~ resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17B-2a-1209.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

Section 11. Section **17B-2a-1208** is enacted to read:

17B-2a-1208. Fees.

A public infrastructure district may charge a fee or other charge for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

(1) costs of ~~providing the service.~~

~~Acquiring, improving, or extending improvements, facilities, or property; or~~

(2) costs associated with the enforcement of a legal remedy.

Section 12. Section **17B-2a-1209** is enacted to read:

17B-2a-1209. Limits on public infrastructure district property tax levy -- Notice requirements.

SB0228S02 compared with SB0228S01

(1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .~~{0015}~~015 per dollar of taxable value of taxable property in the district.

(2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.

(3) (a) Within 30 days after the day on which the creating entity adopts the resolution creating the public infrastructure district, the board shall record a notice with the recorder of the county in which property within the public infrastructure district is located.

(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the public infrastructure district;

(ii) state that a copy of the governing document is on file at the office of the creating entity;

(iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the public infrastructure district may levy.

Section 13. Section **17B-2a-1210** is enacted to read:

17B-2a-1210. Property tax penalty for nonpayment.

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Section 14. Section **17B-2a-1211** is enacted to read:

17B-2a-1211. Relation to other local entities.

(1) Notwithstanding the creation of the public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other local district.

(3) (a) All infrastructure that is connected to another public entity's ~~{systems}~~system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a

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public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) The public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Section 15. Section **17B-2a-1212** is enacted to read:

17B-2a-1212. Transparency.

A public infrastructure district shall file annual reports with the creating entity regarding the public infrastructure district's actions as provided in the {service plan}governing document.

Section 16. Section **17B-2a-1213** is enacted to read:

17B-2a-1213. Action to contest tax, fee, or proceeding -- Requirements --

Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity {that created the public infrastructure district} to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) shall bring the action in the district court with jurisdiction in the county in which the public infrastructure district is located; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:

(i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or

(ii) tax or fee, if the challenge is to a tax or fee.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

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(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Section 17. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

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(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506; [and]

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; and

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17B-2a-1210;

(viii) a statement that, due to potentially ongoing charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial

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payment in accordance with Subsection (9):

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this

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Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).