

PUBLIC INFRASTRUCTURE DISTRICT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies provisions in the Public Infrastructure District Act.

Highlighted Provisions:

This bill:

- ▶ allows the Military Installation Development Authority to create a public infrastructure district;
 - ▶ allows a public infrastructure district to annex or withdraw property without the consent of the creating entity if authorized in the district's governing document;
 - ▶ exempts a public infrastructure district from certain notice and hearing requirements upon:
 - levying a property tax if certain conditions are met; or
 - amending a property tax mill limitation in the district's governing document;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [17B-2a-1202](#), as enacted by Laws of Utah 2019, Chapter 490

29 [17B-2a-1204](#), as enacted by Laws of Utah 2019, Chapter 490

30 [17B-2a-1205](#), as enacted by Laws of Utah 2019, Chapter 490

31 [17B-2a-1207](#), as enacted by Laws of Utah 2019, Chapter 490



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

34 Section 1. Section **17B-2a-1202** is amended to read:

35 **17B-2a-1202. Definitions.**

36 As used in this part:

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

38 (2) "Creating entity" means the county ~~[or]~~₂ municipality, or development authority that
39 approves ~~[of]~~ the creation of the public infrastructure district.

40 (3) "Development authority" means the military installation development authority
41 created in Section [63H-1-201](#).

42 ~~[(3)]~~ (4) "District applicant" means the person proposing the creation of the public
43 infrastructure district.

44 ~~[(4)]~~ (5) "Division" means a division of a public infrastructure district:

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

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

50 ~~[(5)]~~ (6) "Governing document" means the document governing the public
51 infrastructure district to which the creating entity agrees before the creation of the public
52 infrastructure district, as amended from time to time, and subject to the limitations of Chapter
53 1, Provisions Applicable to All Local Districts, and this part.

54 ~~[(6)]~~ (7) (a) "Limited tax bond" means a bond:

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

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

58 (B) on taxable property within the district;

59 (ii) that is a general obligation of the public infrastructure district; and
60 (iii) for which the ad valorem property tax levy for repayment of the bond does not
61 exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as
62 provided in Subsection 17B-2a-1207(8).

63 (b) "Limited tax bond" does not include:

- 64 (i) a short-term bond;
- 65 (ii) a tax and revenue anticipation bond; or
- 66 (iii) a special assessment bond.

67 Section 2. Section 17B-2a-1204 is amended to read:

68 **17B-2a-1204. Creation -- Annexation or withdrawal of property.**

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

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

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

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

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

83 (i) (A) adoption of resolutions of the board and the creating entity, each approving of
84 the annexation; or

85 (B) adoption of a governing document that authorizes the board to annex an area
86 outside of the boundaries of the public infrastructure district without the consent of the creating
87 entity;

88 (ii) if there are any registered voters within the area proposed to be annexed, a petition
89 is filed with the creating entity that contains the signatures of 100% of registered voters within

90 the area and approves of the annexation into the public infrastructure district; and

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

94 (b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with
95 the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

96 ~~[(c)(i)]~~ (4)(a) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be
97 withdrawn from a public infrastructure district after:

98 (i) (A) adoption of resolutions of the board and the creating entity, each approving of
99 the ~~[annexation;]~~ withdrawal; or

100 (B) adoption of a governing document that authorizes the board to withdraw property
101 from the public infrastructure district without the consent of the creating entity;

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

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

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

112 ~~[(d)]~~ (c) Upon meeting the requirements of ~~[Subsection (3)(c)]~~ Subsections (4)(a) and
113 (b), the board shall comply with the requirements of Section 17B-1-512.

114 ~~[(4)]~~ (5) The creating entity may impose limitations on the powers of the public
115 infrastructure district through the governing document.

116 ~~[(5)]~~ (6) (a) A public infrastructure district is separate and distinct from the creating
117 entity.

118 (b) (i) Except as provided in Subsection ~~[(5)]~~ (6)(b)(ii), any financial burden of a
119 public infrastructure district:

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

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

123 (ii) Notwithstanding Subsection [~~(5)~~] (6)(b)(i) and Section 17B-1-216, the governing
124 document may require:

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

127 (B) the public infrastructure district to reimburse the district applicant for the initial
128 costs the creating entity bears.

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

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

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

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

136 (B) The creating entity does not bear the responsibility described in Subsection [~~(5)~~]
137 (6)(d)(i)(A).

138 (ii) A public infrastructure district, and not the creating entity, shall undertake the
139 enforcement responsibility described in, as applicable, Subsection [~~(5)~~] (6)(d)(i) in accordance
140 with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

141 [~~(6)~~] (7) The creating entity may establish criteria in determining whether to approve or
142 disapprove of the creation of a public infrastructure district, including:

143 (a) historical performance of the district applicant;

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

145 (c) credit worthiness of the district applicant;

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

147 (e) proposed development within the public infrastructure district.

148 [~~(7)~~] (8) (a) The creation of a public infrastructure district is subject to the sole
149 discretion of the creating entity responsible for approving or rejecting the creation of the public
150 infrastructure district.

151 (b) The proposed creating entity bears no liability for rejecting the proposed creation of

152 a public infrastructure district.

153 Section 3. Section **17B-2a-1205** is amended to read:

154 **17B-2a-1205. Public infrastructure district board -- Governing document.**

155 (1) The legislative body of the entity that approves the creation of a public
156 infrastructure district shall appoint the members of the board, in accordance with the governing
157 document.

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

160 (b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial
161 board shall serve a six-year term so that, after the expiration of the initial term, the term of
162 approximately half the board members expires every two years.

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

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

165 (3) (a) Notwithstanding Subsection **17B-1-302(1)(b)**, a board member is not required
166 to be a resident within the boundaries of the public infrastructure district if:

167 (i) all of the surface property owners consent to the waiver of the residency
168 requirement;

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

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

171 or

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

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

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

180 (i) an owner of land or an agent or officer of the owner of land within the boundaries of
181 the public infrastructure district; and

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

183 (4) (a) A governing document may provide for a transition from legislative body
184 appointment under Subsection (1) to a method of election by registered voters based upon
185 milestones or events that the governing document identifies, including a milestone for each
186 division or individual board position providing that when the milestone is reached:

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

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

192 (b) Regardless of whether a board member is elected under Subsection (4)(a), the
193 position of each remaining board member shall continue to be appointed under Subsection (1)
194 until the member's respective division or board position surpasses the density milestone
195 described in the governing document.

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

200 (b) In reestablishing division boundaries under Subsection (5)(a), the board shall
201 consider existing or potential developments within the divisions which, when completed,
202 would increase or decrease the number of eligible voters within the division.

203 (c) The governing document may prohibit the board from reestablishing, without the
204 consent of the creating entity, the division boundaries as described in Subsection (5)(a).

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

208 (7) The governing document shall:

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

210 (b) state the number of board members;

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

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

213 (e) establish any applicable limitation on the principal amount of indebtedness for the

214 public infrastructure district; and

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

217 (8) (a) Except as provided in Subsection (8)(b), the board and the governing body of
218 the creating entity may amend a governing document by each adopting a resolution that
219 approves the amended governing document.

220 [~~(b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill
221 limitation requires:]~~

222 [~~(i) before the adoption of the resolution of the creating entity described in Subsection
223 (8)(a), the public infrastructure district to comply with the notice and public hearing
224 requirements of Section 59-2-919, with at least one member of the governing body of the
225 creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b);
226 or]~~

227 [~~(ii) the consent of:]~~

228 [~~(A) 100% of surface property owners within the boundaries of the public
229 infrastructure district; and]~~

230 [~~(B) 100% of the registered voters, if any, within the boundaries of the public
231 infrastructure district.]~~

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

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

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

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

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

241 (i) before any appointment or election; and

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

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

245 Section 4. Section **17B-2a-1207** is amended to read:

246 **17B-2a-1207. Public infrastructure district bonds.**

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

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

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

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

252 (d) this section.

253 (2) A public infrastructure district bond:

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

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

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

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

262 (ii) upon approval of a majority of the registered voters within the boundaries of the
263 public infrastructure district voting in an election held for that purpose under Title 11, Chapter
264 14, Local Government Bonding Act.

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

266 (i) is not subject to the limitation on a general obligation bond described in Subsection
267 **17B-1-1102(4)(a)(xii)**; and

268 (ii) is subject to a limitation, if any, on the principal amount of indebtedness as
269 described in the governing document.

270 (c) Unless limited tax bonds are initially purchased exclusively by one or more
271 qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public
272 infrastructure district may only issue limited tax bonds in denominations of not less than
273 \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

274 (d) (i) Without any further election or consent of property owners or registered voters,
275 a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to

276 a general obligation bond if the principal amount of the related limited tax bond together with
277 the principal amount of other related outstanding general obligation bonds of the public
278 infrastructure district does not exceed 15% of the fair market value of taxable property in the
279 public improvement district securing the general obligation bonds, determined by:

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

282 (B) the most recent market value of the property from the assessor of the county in
283 which the property is located.

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

288 (iii) A general obligation bond resulting from a conversion of a limited tax bond under
289 this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in
290 Subsection [17B-1-1102\(4\)\(a\)\(xii\)](#).

291 (e) A public infrastructure district that levies a property tax for payment of debt service
292 on a limited tax bond issued under this section is not required to comply with the notice and
293 hearing requirements of Section [59-2-919](#) unless the rate exceeds the rate established in:

294 (i) Section [17B-2a-1209](#), except as provided in Subsection (8);

295 (ii) the governing document; or

296 (iii) the documents relating to the issuance of the limited tax bond.

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

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

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

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

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

308 (c) approve any contract related to the acquisition and construction of the

309 improvements, facilities, or property to be financed with a bond.

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

313 (i) publication of the resolution authorizing the bond; or

314 (ii) publication of a notice of bond containing substantially the items required under

315 Subsection 11-14-316(2).

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

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

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

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