Representative Joel Ferry proposes the following substitute bill:

**SUBDIVISION PLAT AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Derrin R. Owens

**LONG TITLE**

General Description:

This bill amends provisions applicable to the recording of a subdivision plat.

**Highlighted Provisions:**

This bill:

- defines terms;
- requires an owner of land seeking a municipality's or county's approval for the recording of a subdivision plat to describe certain water conveyance facilities located within the plat;
- modifies provisions related to:
  - a municipality's or county's notification to the owners of certain water conveyance facilities regarding a proposed subdivision; and
  - the comments provided to a municipality or county regarding a proposed subdivision;
- requires the surveyor making a subdivision plat to verify certain information regarding water conveyance facilities located within the plat, in addition to underground facilities and utility facilities; and
- makes technical and conforming changes.

Money Appropriated in this Bill:
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

[(+) (2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that
describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in
the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
intended to be used as a street or for any other public use, and whether any such area is
reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street
name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
and width of the blocks and lots intended for sale; [and]

(d) every existing right-of-way and recorded easement [grant of record for an
underground facility, as defined in Section 54-8a-2, and for any other utility facility.] located
within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including
from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(2) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary
water authority, the sanitary sewer authority, and the local health department, [as defined in
Section 26A-1-102,] if the local health department and the municipality consider the local
health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority
and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or
entity who:
(i) is not an employee or agent of the municipality; or
(ii) does not:
(A) have a legal or equitable interest in the property within the proposed subdivision;
(B) provide a utility or other service directly to a lot within the subdivision;
(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or
(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

[(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:]
[(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:]
[(A) Section 10-9a-211;]
[(B) Subsection 73-5-7(2); or]
[(C) Subsection (5)(c); and]
(d) A municipality shall:
(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the facility owner:
(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
(B) in the state engineer's inventory of canals; or
(C) from a surveyor under Subsection (6)(c); and
(ii) wait to not approve or reject the subdivision application plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (2) (3)(d)(i), in order to receive input from the canal
owner or associated canal operator, including input any comments from each facility owner regarding:

(A) access to the [canal] water conveyance facility;
(B) maintenance of the [canal] water conveyance facility;
([C) canal protection; and]
([D) canal safety:]
(C) protection of the water conveyance facility;
(D) safety of the water conveyance facility; or
(E) any other issue related to water conveyance facility operations.
(e) When applicable, the owner of the land seeking subdivision [applicant] plat approval shall comply with Section 73-1-15.5.
(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:
((i) the canal's centerline is located within 100 feet of a proposed subdivision; and]
((ii) the centerline alignment is available to the land use authority:]
((A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;]
((B) using the state engineer's inventory of canals under Section 73-5-7; or]
((C) from information provided by a surveyor under Subsection (5)(c).]
(f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.
(4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
(5) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):
((i) an electronic copy of the approved final plat; or
(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection [(4)] (5)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection [(4)] (5)(a) for inclusion in the unified statewide 911 emergency service database.

[(5)] (6) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection [(5)] (6)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing [or proposed] water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, [or a representative designated by the owner or operator,] to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of [an existing] the existing water conveyance facility, or the existing or proposed underground facility [and] or utility facility; and
(C) physical restrictions governing the location of the existing or proposed underground facility [and] or utility facility [within the subdivision].

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection [(5)] (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing [underground and utility] facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

[(6)] (7) (a) Except as provided in Subsection [(5)] (6)(c), after the plat has been acknowledged, certified, and approved, the [individual] owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the [land-use authority] municipality.

Section 2. Section 10-9a-604 is amended to read:

10-9a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 10-9a-603[(5)](6)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is
(3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section 3. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

[(1)] (2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
and width of the blocks and lots intended for sale; [and]

d) every existing right-of-way and recorded easement [grant of record for an
underground facility, as defined in Section 54-8a-2, and for any other utility facility] located
within the plat for:

(i) an underground facility;
(ii) a water conveyance facility; or
(iii) any other utility facility; and
(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including
from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or
(B) from a surveyor under Subsection (6)(c).

[(2)] (3) (a) Subject to Subsections [(3), (5), and (6)] (4), (6), and (7), if the plat
conforms to the county's ordinances and this part and has been approved by the culinary water
authority, the sanitary sewer authority, and the local health department, [as defined in Section
26A-4-102,] if the local health department and the county consider the local health
department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and
the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity
who:

(i) is not an employee or agent of the county; or
(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;
(B) provide a utility or other service directly to a lot within the subdivision;
(C) own an easement or right-of-way adjacent to the proposed subdivision who signs
for the purpose of confirming the accuracy of the location of the easement or right-of-way in
relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as
provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.
[(d) For a subdivision application that includes land located within a notification zone, as
determined under Subsection (2)(f), the land use authority shall:
](i) within 20 days after the day on which a complete subdivision application is filed,
provide written notice of the application to the canal owner or associated canal operator contact
described in:

[(A) Section 17-27a-211;]
[(B) Subsection 73-5-7(2); or]
[(C) Subsection (5)(c); and]

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a
complete subdivision plat land use application, mail written notice of the proposed subdivision
to the facility owner of any water conveyance facility located, entirely or partially, within 100
feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global
positioning satellite units or digitized data from the most recent aerial photo available to the
facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20
days after the day on which the county mails to each facility owner the
notice under Subsection [(2)] (3)(d)(i) in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

[(C) canal protection; and]

[(D) canal safety;]

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision approval shall comply with Section 73-1-15.5.
The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection [(4)] (5)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection [(4)] (5)(a) for inclusion in the unified statewide 911 emergency service database.

A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):
(i) prior to recordation, the county has approved and signed the plat;
(ii) each owner of record of land described on the plat has signed the owner's
dedication as shown on the plat; and
(iii) the signature of each owner described in Subsection [(5)] (6)(a)(ii) is
acknowledged as provided by law.
(b) The surveyor making the plat shall certify that the surveyor:
(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
Professional Land Surveyors Licensing Act;
(ii) has completed a survey of the property described on the plat in accordance with
Section 17-23-17 and has verified all measurements; and
(iii) has placed monuments as represented on the plat.
(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a
representative designated by the owner or operator, of an existing [or proposed] water
conveyance facility located within the proposed subdivision, or an existing or proposed
underground facility or utility facility located within the proposed subdivision, [or a
representative designated by the owner or operator,] to verify the accuracy of the surveyor's
depiction of the:
(A) boundary, course, dimensions, and intended use of the public rights-of-way, a
public or private easement, or grants of record;
(B) location of [an] the existing water conveyance facility, or the existing or proposed
underground facility [and] or utility facility; and
(C) physical restrictions governing the location of the existing or proposed
underground facility [and] or utility facility [within the subdivision].
(ii) The cooperation of an owner or operator of a water conveyance facility,
underground facility, or utility facility under Subsection [(5)] (6)(c)(i):
(A) indicates only that the plat approximates the location of the existing [underground
and utility] facilities but does not warrant or verify their precise location; and
(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,
Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law
applicable to prescriptive rights, or any other provision of law.
[(6)] (7) (a) Except as provided in Subsection [(5)] (6)(c), after the plat has been
acknowledged, certified, and approved, the [individual] owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the [land use authority] county.

Section 4. Section 17-27a-604 is amended to read:

17-27a-604. Subdivision plat approval procedure — Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603[(5)](6)(a);
(b) the plat has been approved by:
   (i) the land use authority of the:
      (A) county in whose unincorporated area the land described in the plat is located; or
      (B) mountainous planning district in whose area the land described in the plat is located; and
   (ii) other officers that the county designates in its ordinance;
(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and
(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.