

## SB0243S01 compared with SB0243

~~text~~ shows text that was in SB0243 but was deleted in SB0243S01.

text shows text that was not in SB0243 but was inserted into SB0243S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Jerry W. Stevenson proposes the following substitute bill:

### POLITICAL SUBDIVISIONS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: \_\_\_\_\_

---

#### LONG TITLE

#### General Description:

This bill modifies and enacts provisions relating to political subdivisions.

#### Highlighted Provisions:

This bill:

- ▶ authorizes the Utah Inland Port Authority to levy an assessment under the Assessment Area Act and makes provisions of that act applicable to the inland port authority;
- ▶ excludes a public infrastructure district created by the inland port authority from the definition of "taxing entity" applicable to the Utah Inland Port Authority Act;
- ▶ creates enterprise revolving loan funds, to be administered by the Division of Finance, to provide funding for infrastructure projects relating to the Utah Inland Port Authority, the Point of the Mountain State Land Authority, and the Military

## SB0243S01 compared with SB0243

Installation ~~and~~ Development Authority, and enacts provisions governing those funds;

- ▶ provides an exception to Open and Public Meeting Act requirements for electronic meetings held by the boards of the Utah Inland Port Authority and the Point of the Mountain State Land Authority, under certain circumstances;
  - ▶ modifies limitations on board members and the executive director of the Utah Inland Port Authority and the Point of the Mountain State Land Authority;
  - ▶ authorizes the Utah Inland Port Authority to create public infrastructure districts;
  - ▶ defines "public entity" in the context of provisions applicable to the Point of the Mountain State Land Authority;
  - ▶ modifies election provisions relating to a local district whose board members are elected by property owners;
  - ▶ makes an exception to a voter approval requirement for general obligation bonds issued by a local district whose board members are elected by property owners;
  - ▶ modifies a definition related to public infrastructure and improvements in the context of provisions applicable to the Military Installation Development Authority;
- and
- ▶ makes technical changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**11-42-102**, as last amended by Laws of Utah 2020, Chapter 282

**11-42-106**, as last amended by Laws of Utah 2020, Chapter 282

**11-42-202**, as last amended by Laws of Utah 2020, Chapter 282

**11-42-411**, as last amended by Laws of Utah 2020, Chapter 282

**11-58-102**, as last amended by Laws of Utah 2020, Chapter 126

**11-58-205**, as last amended by Laws of Utah 2020, Chapter 126

**11-58-304**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1

## SB0243S01 compared with SB0243

11-59-102, as enacted by Laws of Utah 2018, Chapter 388

11-59-204, as enacted by Laws of Utah 2018, Chapter 388

11-59-306, as enacted by Laws of Utah 2018, Chapter 388

17B-1-306, as last amended by Laws of Utah 2020, Chapter 31

17B-1-1102, as last amended by Laws of Utah 2019, Chapter 490

17B-2a-1202, as last amended by Laws of Utah 2020, Chapters 282 and 397

17B-2a-1205, as last amended by Laws of Utah 2020, Chapters 282 and 397

17B-2a-1206, as last amended by Laws of Utah 2020, Chapter 282

63H-1-102, as last amended by Laws of Utah 2020, Chapter 282

### ENACTS:

11-58-106, Utah Code Annotated 1953

11-59-104, Utah Code Annotated 1953

63A-3-401.5, Utah Code Annotated 1953

63A-3-402, Utah Code Annotated 1953

63A-3-403, Utah Code Annotated 1953

63A-3-404, Utah Code Annotated 1953

63H-1-104, Utah Code Annotated 1953

---

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

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

#### **11-42-102. Definitions.**

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

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

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

## **SB0243S01 compared with SB0243**

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

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

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

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

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

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

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

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

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

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

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

(9) "Benefitted property" means property within an assessment area that directly or

## **SB0243S01 compared with SB0243**

indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

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

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

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

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

- (i) commercial;
- (ii) mining;
- (iii) industrial;
- (iv) manufacturing;
- (v) governmental;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

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

- (i) is used as or held for dwelling purposes; and
- (ii) contains more than four rental units.

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

(15) "Contract price" means:

- (a) the cost of acquiring an improvement, if the improvement is acquired; or
- (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

## SB0243S01 compared with SB0243

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

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

(18) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

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

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

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

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

~~[(19)]~~ (20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

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

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

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

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

(c) for a special service district:

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

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

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

## SB0243S01 compared with SB0243

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

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

~~[(23)]~~ (24) "Improved property" means property upon which a residential, commercial, or other building has been built.

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

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

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

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

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

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

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

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

~~[(25)]~~ (26) "Improvement revenues":

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

(b) does not include revenue from assessments.

~~[(26)]~~ (27) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification

## SB0243S01 compared with SB0243

entities, and trustees;

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

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

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

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

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

~~[(27)]~~ (28) "Installment payment date" means the date on which an installment payment of an assessment is payable.

~~[(28)]~~ (29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

~~[(29)]~~ (30) "Jurisdictional boundaries" means:

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

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

~~[(30)]~~ (31) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

~~[(31)]~~ (32) "Local entity" means:

(a) a county, city, town, special service district, or local district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district created by ~~[the military installation]~~ a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

~~[(32)]~~ (33) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

~~[(33)]~~ (34) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and



## SB0243S01 compared with SB0243

(b) if the property is improved property:

(i) the property's street number; or

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

~~[(34)]~~ (35) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

~~[(35)]~~ (36) "Operation and maintenance costs":

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

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

~~[(36)]~~ (37) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

~~[(37)]~~ (38) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

~~[(38)]~~ (39) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

~~[(39)]~~ (40) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

~~[(40)]~~ (41) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

~~[(41)]~~ (42) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

~~[(42)]~~ (43) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

## SB0243S01 compared with SB0243

~~[(43)]~~ (44) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

~~[(44)]~~ (45) "Public agency" means:

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

~~[(45)]~~ (46) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

~~[(46)]~~ (47) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

~~[(47)]~~ (48) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

~~[(48)]~~ (49) "Service" means:

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

~~[(49)]~~ (50) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

- (i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;
- (ii) for which the local health department has inspected the system described in Subsection ~~[(49)]~~ (50)(b)(i) to ensure that the system is functioning properly; and
- (iii) for which the property owner opts out of the proposed assessment area for the

## SB0243S01 compared with SB0243

earlier of a period of 10 calendar years or until failure of the system described in Subsection [(49)] (50)(b)(i).

[(50)] (51) "Special service district" means the same as that term is defined in Section 17D-1-102.

[(51)] (52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

[(52)] (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[(53)] (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section **11-42-106** is amended to read:

**11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.**

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

- (a) set aside a proceeding to designate an assessment area; or
- (b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

- (B) assessment resolution or ordinance, if the challenge is to an assessment; or
- (C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:

- (A) adopted by [~~the military installation~~] a development authority[~~, created in Section~~

## SB0243S01 compared with SB0243

~~63H-1-201,~~] or a public infrastructure district created by [~~the military installation~~] a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

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

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

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

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or

## SB0243S01 compared with SB0243

question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

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

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

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

(a) state that the local entity proposes to:

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

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

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

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

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

(i) the nature of the improvements; and

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

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

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property

## SB0243S01 compared with SB0243

within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

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

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

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

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

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

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

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

(l) if the governing body intends to designate a voluntary assessment area, include a

## SB0243S01 compared with SB0243

property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;  
(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

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

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

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

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

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

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

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

(B) current operation and maintenance costs;

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

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

(A) operation and maintenance costs; or

(B) economic promotion activities;

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

## SB0243S01 compared with SB0243

classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

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

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

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

(c) provisions for any improvements described in Subsection 11-42-102~~(24)~~(25)(a)(ii).

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

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

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

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

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of



## SB0243S01 compared with SB0243

the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section ~~3~~4. Section **11-42-411** is amended to read:

### **11-42-411. Installment payment of assessments.**

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

## SB0243S01 compared with SB0243

(A) [~~the military installation~~] a development authority[~~, created in Section 63H-1-201~~];

or

(B) a public infrastructure district created by [~~the military installation~~] a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the

## SB0243S01 compared with SB0243

assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

- (i) the basis upon which the rate is to be determined from time to time;
- (ii) the manner in which and schedule upon which the rate is to be adjusted; and
- (iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

- (a) interest on assessment bonds;
- (b) ongoing local entity costs incurred for administration of the assessment area; and
- (c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section ~~{4}~~5. Section **11-58-102** is amended to read:

**11-58-102. Definitions.**

## **SB0243S01 compared with SB0243**

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary

delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

## **SB0243S01 compared with SB0243**

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(11) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority business.

(12) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft

## SB0243S01 compared with SB0243

project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(13) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(14) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(15) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(16) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330;  
or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(17) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(18) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

## SB0243S01 compared with SB0243

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(19) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(20) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(21) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area[;]; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(22) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section ~~5~~6. Section **11-58-106** is enacted to read:

**11-58-106. Loan approval committee -- Approval of infrastructure loans.**

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the two board members appointed by the governor;

(ii) the board member appointed by the president of the Senate;

(iii) the board member appointed by the speaker of the House of Representatives; and

(iv) the board member appointed by the chair of the Permanent Community Impact

## SB0243S01 compared with SB0243

### Fund Board.

(2) The loan approval committee may approve an infrastructure loan from the inland port fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section ~~63~~7. Section **11-58-205** is amended to read:

**11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member.**

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.



## **SB0243S01 compared with SB0243**

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

- (i) determined by the municipality; and
- (ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local

## SB0243S01 compared with SB0243

government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the written determination otherwise

## SB0243S01 compared with SB0243

required under Subsection 52-4-207(4).

Section ~~{7}~~8. Section **11-58-304** is amended to read:

### **11-58-304. Limitations on board members and executive director.**

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money;

and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, [~~on or within five miles of the authority jurisdictional land~~] within a project area, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located [~~on or within one-half mile of the authority jurisdictional land~~] within a project area; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility [~~on the authority jurisdictional land~~] within a project area.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority:

(a) a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2); or

(b) for an individual to whom Subsection 11-58-302(8) applies, the disclosure required

## SB0243S01 compared with SB0243

under that subsection.

(4) (a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located [~~on or within five miles of the authority jurisdictional land~~] within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the [~~authority jurisdictional land~~] project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of [~~authority jurisdictional land~~] a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section ~~8~~9. Section **11-59-102** is amended to read:

### **11-59-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or

## SB0243S01 compared with SB0243

other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" ~~{}~~ means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(6) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

Section ~~{9}~~10. Section **11-59-104** is enacted to read:

**11-59-104. Loan approval committee -- Approval of infrastructure loans.**

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

## SB0243S01 compared with SB0243

(d) "Point of the mountain fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member:

(A) who is a member of the Senate appointed under Subsection 11-59-302(2)(a); and

(B) whose Senate district is closer to the boundary of the point of the mountain state land than is the Senate district of the other member of the Senate appointed under Subsection 11-59-302(2)(a);

(ii) the board member:

(A) who is a member of the House of Representatives appointed under Subsection 11-59-302(2)(b); and

(B) whose House district is closer to the boundary of the point of the mountain state land than is the House district of the other member of the House of Representatives appointed under Subsection 11-59-302(2)(b);

(iii) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(i);

(iv) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(ii); and

(v) the board member who is the mayor of Draper or a member of the Draper city council.

(2) The loan approval committee may approve an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator

## SB0243S01 compared with SB0243

### Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section ~~{10}~~11. Section 11-59-204 is amended to read:

#### **11-59-204. Applicability of other law -- Coordination with municipality.**

(1) The authority and the point of the mountain state land are not subject to:

- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
- (b) the jurisdiction of a local district under Title 17B, Limited Purpose Local

Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a local district or special service district; and

(ii) the authority elects to receive service from the local district or special service district for the point of the mountain state land that is included within the boundary of the local district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to ~~{title}~~Title 52, Chapter 4, Open and Public Meetings

## SB0243S01 compared with SB0243

Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

Section ~~11-59-12~~12. Section **11-59-306** is amended to read:

### **11-59-306. Limitations on board members.**

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money;

and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(c) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

(v) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

(vi) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

(vii) leasehold interest; and

(viii) any other real property interest that is capable of being owned.

(2) An individual may not serve as a member of the board if:



## SB0243S01 compared with SB0243

(a) the individual owns an interest in real property, other than a personal residence in which the individual resides, [~~within five miles of~~] that is part of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, [~~located within one-half mile of~~] that is part of the point of the mountain state land; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land.

(3) Before taking office as a board member, an individual shall submit to the authority a statement verifying that the individual's service as a board member does not violate Subsection (2).

(4) A board member may not, at any time during the board member's service on the board, take any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property [~~located within five miles of~~] that is part of the point of the mountain state land.

(5) (a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

Section ~~{12}~~13. Section **17B-1-306** is amended to read:

### **17B-1-306. Local district board -- Election procedures.**

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

## **SB0243S01 compared with SB0243**

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy;

(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and

## SB0243S01 compared with SB0243

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) \_\_\_\_\_, being first duly sworn, say that I reside at (Street) \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, state of Utah, (Zip Code) \_\_\_\_\_, (Telephone Number, if any) \_\_\_\_\_; that I meet the qualifications for the office of board of trustees member for \_\_\_\_\_ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if

## SB0243S01 compared with SB0243

filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(Signed) \_\_\_\_\_

(Clerk or Notary Public)"<sub>3</sub>.

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

## **SB0243S01 compared with SB0243**

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners;

and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

## SB0243S01 compared with SB0243

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear ~~its~~ the district's own costs of each election ~~it~~ the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

- (i) a local district board; or
- (ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

- (i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and
- (ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

- (i) all future elections for membership on the board shall be held at the time of the regular general election; and
- (ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election,

## SB0243S01 compared with SB0243

under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a local district if:

(i) the local district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the local district was created before January 1, 2020.

(b) The board of a local district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the local district board, subject to Subsection (15)(d).

(d) (i) The local district board shall provide to property owners eligible to vote at the local district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The local district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the local district board shall provide a ballot to all property owners eligible to vote at the local district election.

(B) A local district board shall allow at least five days for ballots to be returned.

(iv) A local district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section ~~{13}~~ 14. Section **17B-1-1102** is amended to read:

### **17B-1-1102. General obligation bonds.**

(1) Except as provided in [~~Subsection (3)~~] Subsections (3) and (7), 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,

## SB0243S01 compared with SB0243

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, 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, except as provided in Subsection (7);

(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;

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

(x) .12, for a service area;

(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.



## SB0243S01 compared with SB0243

(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.

(7) (a) As used in this Subsection (7), "property owner district" means a local district whose board members are elected by property owners, as provided in Subsection 17B-1-1402(1)(b).

(b) A property owner district may issue a general obligation bond with the consent of:

(i) the owners of all property within the district; and

(ii) all registered voters, if any, within the boundary of the district.

(c) A property owner district may use proceeds from a bond issued under this Subsection (7) to fund:

(i) the acquisition and construction of a system or improvement authorized in the district's creation resolution; and

(ii) a connection outside the boundary of the district between systems or improvements within the boundary of the district.

(d) The consent under Subsection (7)(b) is sufficient for any requirement necessary for the issuance of a general obligation bond.

(e) A general obligation bond issued under this Subsection (7):

(i) shall mature no later than 40 years after the date of issuance; and

(ii) is not subject to the limit under Subsection (4)(a)(i).

(f) (i) A property owner district may not issue a general obligation bond under this Subsection (7) if the issuance will cause the outstanding principal amount of all the district's general ~~obligations~~ obligation bonds to exceed one-half of the market value of all real property within the district.

(ii) Market value under Subsection (7)(f)(i) shall:

(A) be based on the value that the real property will have after all improvements financed by the general obligation bonds are constructed; and

(B) be determined by appraisal by an appraiser who is a member of the Appraisal Institute.

(g) With respect to a general obligation bond issued under this Subsection (7), the board of a property owner district may, by resolution, delegate to one or more officers of the

## SB0243S01 compared with SB0243

district, the authority to:

(i) approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

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

(iii) approve a contract related to the acquisition and construction of an improvement, facility, or property to be financed with proceeds from the bond.

(h) (i) A person may commence a lawsuit or other proceeding to contest the legality of the issuance of a general obligation bond issued under this Subsection (7) or any provision relating to the security or payment of the bond if the lawsuit or other proceeding is commenced within 30 days after the publication of:

(A) the resolution authorizing the issuance of the general obligation bond; or

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

(ii) Following the period described in Subsection (7)(h)(i), no person may bring a lawsuit or other proceeding to contest for any reason the regularity, formality, or legality of a general obligation bond issued under this Subsection (7).

(i) (i) A property owner district that charges and collects an impact fee or other fee on real property at the time the real property is sold may proportionally pay down a general obligation bond issued under this Subsection (7) from the money collected from the impact fee or other fee.

(ii) A property owner district that proportionally pays down a general obligation bond under Subsection (7)(i)(i) shall reduce the property tax rate on the parcel of real property on which the district charged and collected an impact fee or other charge, to reflect the amount of outstanding principal of a general obligation bond issued under this Subsection (7) that was paid down and is attributable to that parcel.

(j) If a property owner fails to pay a property tax that the property owner district imposes in connection with a general obligation bond issued under this Subsection (7), the district may impose a property tax penalty at an annual rate of .07, in addition to any other penalty allowed by law.

Section ~~{14}~~15. Section **17B-2a-1202** is amended to read:

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

## SB0243S01 compared with SB0243

As used in this part:

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

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

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

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

(5) "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.

(6) "Governing document" means the document 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, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

(7) (a) "Limited tax bond" means a bond:

(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 property tax levy 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

## SB0243S01 compared with SB0243

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) publicly owned infrastructure and improvements, as defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and

(b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 16. Section 17B-2a-1205 is amended to read:

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

(1) The legislative body or board of the creating entity shall appoint the members of the board, in accordance with 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) Notwithstanding Subsection (2)(a), approximately half of the members of the 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:

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

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

(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)~~(5).

(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 for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

## **SB0243S01 compared with SB0243**

(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 the public infrastructure district; and

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

(4) (a) A 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 governing document identifies, including a milestone for each division or individual board position providing that when the 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.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in 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 division so that each 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 division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions which, when completed, would increase or decrease the number of eligible voters within the division.

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

## SB0243S01 compared with SB0243

- (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 property tax levy 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 governing document by each adopting a resolution that approves the amended governing document.
- (b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate 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.
- (10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section ~~15~~17. Section **17B-2a-1206** is amended to read:

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

In addition to the powers conferred on a public infrastructure district under Section

## SB0243S01 compared with SB0243

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) 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-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by ~~the~~ a development authority, the cost of acquiring or financing ~~publicly-owned~~ public infrastructure and improvements;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, 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;

(b) the creating entity, if required in the 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;

(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; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain ~~publicly-owned~~ public infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those ~~publicly-owned~~ public infrastructure and improvements; and

## SB0243S01 compared with SB0243

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section ~~{16}~~18. Section **63A-3-401.5** is enacted to read:

### Part 4. Infrastructure Revolving Loan Funds

#### **63A-3-401.5. Definitions.**

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the ~~{inland port authority, the point of the mountain authority, or the military development authority.~~

~~{~~Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

~~{ii}~~b) outside a project area, if the respective loan approval committee determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(6) "Inland port" means the same as that term is defined in Section 11-58-102.

~~{7}~~ "Inland port authority" means the Utah Inland Port Authority created in Section 11-58-201.

~~{8}~~ "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

~~{9}~~ "Military development authority" means the military installation development authority created in Section 63H-1-201.

~~{10}~~8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).



## SB0243S01 compared with SB0243

~~{ (11) "Point of the mountain authority" means the Point of the Mountain State Land Authority created in Section 11-59-201.~~

~~{ (12)9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).~~

~~{ (13)10) "Project area" means:~~

~~(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund~~{,};~~~~

~~(b) the same as that term is point of the mountain state land, as defined in Section 11-58-102;~~

~~(b) 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund~~{, the point of the mountain state land, as defined in Section 11-59-102; and~~~~

~~(c) for purposes of an infrastructure loan from the military development fund,}; and~~

~~(c) the same as that term is defined in Section 63H-1-102.~~

~~(14) "Property tax revenue" means:~~

~~(a) property tax differential, as defined in Section 11-58-102, with respect to an infrastructure loan from the inland port fund; or~~

~~(b) property tax allocation, as defined in Section 63H-1-102, {with respect to}for purposes of an infrastructure loan from the military development fund.~~

~~(11) "Property tax revenue" means:~~

~~(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or~~

~~(b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.~~

~~{ (15)12) "Public infrastructure and improvements" { means}:~~

~~(a) {with respect to}for purposes of an infrastructure loan from the inland port fund~~{,};~~~~

~~(i) means publicly owned infrastructure and improvements, as defined in Section 11-58-102; and~~

~~(ii) includes an inland port facility; and~~

~~(b) {with respect to the military development fund,}means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.~~

## SB0243S01 compared with SB0243

~~{16}~~13 "Respective loan approval committee" means:

(a) ~~{with respect to a loan from the inland port fund, }~~the committee created in Section 11-58-106~~;~~

~~— (b) with respect to a}, for purposes of an infrastructure loan from the ~~{point of the mountain}~~inland port fund~~;~~;~~

~~(b)~~ the committee created in Section 11-59-104~~;~~ and

~~— (c) with respect to a loan from the military development fund, }~~for purposes of an infrastructure loan from the point of the mountain fund; and

~~(c)~~ the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section ~~{17}~~19. Section **63A-3-402** is enacted to read:

**63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.**

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; and

(c) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3) (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of the respective loan approval committee.

Section ~~{18}~~20. Section **63A-3-403** is enacted to read:

**63A-3-403. Money in infrastructure funds.**

(1) Money in each of the infrastructure funds shall be kept separate and accounted for separately from money in the other infrastructure funds.

(2) Each infrastructure fund includes money:

(a) appropriated to that fund by the Legislature;

(b) transferred to the fund from the State Infrastructure Bank Fund created in Section 72-2-202, if applicable;

## SB0243S01 compared with SB0243

(c) from federal, state, or other public grants or contributions;

(d) that an independent political subdivision transfers to the fund from other money available to the independent political subdivision;

(e) contributed or granted to the infrastructure fund from a private source; and

(f) collected from repayments of loans of infrastructure fund money.

(3) In addition to money identified in Subsection (2), the military development fund includes money repaid after May 5, 2021 from a loan under Subsection 63B-27-101(3)(a).

(4) (a) Each infrastructure fund shall earn interest.

(b) All interest earned on infrastructure fund money shall be deposited into the respective infrastructure fund and included in the money of the infrastructure fund available to be loaned.

(5) The state treasurer shall invest infrastructure fund money as provided in Title 51, Chapter 7, State Money Management Act.

Section ~~{19}~~21. Section **63A-3-404** is enacted to read:

### **63A-3-404. Loan agreement.**

(1) (a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.

(b) (i) A loan agreement under Subsection (1)(a) shall be secured by:

(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or

(B) revenue generated from an infrastructure project.

(ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.

(c) The respective loan approval committee may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.

(2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) (a) Subject to Subsection (3)(b), the respective loan approval committee shall determine the length of term of an infrastructure loan.

(b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax

## SB0243S01 compared with SB0243

revenue to generate sufficient money to cover payments under the infrastructure loan.

(4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.

(5) (a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:

(i) seek any legal or equitable remedy to obtain:

(A) compliance with the agreement; or

(B) the payment of damages; and

(ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.

(b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.

(6) Upon approval from the respective loan approval committee, the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval committee.

(7) (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a).

(ii) Payments due after May 5, 2021 under the loan under Subsection 63B-27-101(3)(a) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.

Section ~~20~~22. Section **63H-1-102** is amended to read:

### **63H-1-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a

## **SB0243S01 compared with SB0243**

project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

## **SB0243S01 compared with SB0243**

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

## **SB0243S01 compared with SB0243**

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

- (a) the base taxable value of property in the project area;
- (b) the projected property tax allocation expected to be generated within the project area;
- (c) the amount of the property tax allocation expected to be shared with other taxing entities;
- (d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
- (e) the property tax allocation expected to be used to cover the cost of administering the project area plan;
- (f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:
  - (i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or
  - (B) a legal description of the portion of the project area from which the property tax allocation will be collected; and
  - (ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and
- (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(18) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

- (b) "Property tax" does not include a privilege tax on the taxable value:
  - (i) attributable to a portion of a facility leased to the military for a calendar year when:

## SB0243S01 compared with SB0243

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity, including the authority.

(22) (a) [~~"Publicly owned"~~] "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities [~~and are~~]; and

(+) (ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another public entity;



## SB0243S01 compared with SB0243

~~[(ii)]~~ (B) are owned by a utility; or

~~[(iii)]~~ (C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

~~[(b)]~~ (c) ~~["Publicly owned"]~~ "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(25) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(26) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(27) "Telecommunications tax" means a telecommunications license tax under Title

## SB0243S01 compared with SB0243

10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) "Transient room tax" means a tax under Section 59-12-352.

Section ~~{21}~~23. Section **63H-1-104** is enacted to read:

### **63H-1-104. Loan approval committee -- Approval of infrastructure loans.**

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);

(ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);

(iii) the board members who are appointed by the president of the Senate and the speaker of the House of Representatives under Subsection 63H-1-302(3); and

(iv) a voting or nonvoting board member designated by the board.

(2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a).

(6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security.

## SB0243S01 compared with SB0243

to the Executive Appropriations Committee.

(7) (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.

(b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.

(8) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.