

# HB0021S02 compared with HB0021

~~{deleted text}~~ shows text that was in HB0021 but was deleted in HB0021S02.

inserted text shows text that was not in HB0021 but was inserted into HB0021S02.

**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.

Representative Joel K. Briscoe proposes the following substitute bill:

## OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel K. Briscoe**

Senate Sponsor: \_\_\_\_\_

---

### LONG TITLE

#### ~~{Committee Note:~~

~~\_\_\_\_\_The Government Operations Interim Committee recommended this bill.~~

~~\_\_\_\_\_Legislative Vote: 10 voting for 0 voting against \_\_\_\_\_4 absent~~

#### ~~{General Description:~~

This bill modifies the Open and Public Meetings Act relating to public comment requirements and electronic meetings.

#### **Highlighted Provisions:**

This bill:

- ▶ requires a public body holding an open meeting to allow a reasonable opportunity for the public to provide verbal comment at the meeting, with certain exceptions; ~~{and}~~ and
- ▶ requires a public body to adopt a resolution, rule, or ordinance allowing public

## HB0021S02 compared with HB0021

comment in a public meeting.



- ▶ permits a public body of a local district or special service district to convene and conduct an electronic meeting in certain circumstances; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

11-59-204, as last amended by Laws of Utah 2021, Chapter 415

17B-1-302, as last amended by Laws of Utah 2022, Chapter 381

17D-1-102, as last amended by Laws of Utah 2014, Chapter 377

17D-1-304, as last amended by Laws of Utah 2014, Chapter 377

52-4-201, as last amended by Laws of Utah 2006, Chapter 263 and renumbered and amended by Laws of Utah 2006, Chapter 14

52-4-202, as last amended by Laws of Utah 2021, Chapters 84, 345

52-4-207, as last amended by Laws of Utah 2022, Chapters 24, 402

63H-1-202, as last amended by Laws of Utah 2022, Chapters 274, 463

ENACTS:

17D-1-307, Utah Code Annotated 1953

---

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

Section 1. 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:

## HB0021S02 compared with HB0021

(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 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 required under ~~Subsection 52-4-207(4)~~ Subsection 52-4-207(5)(a)(i).

### Section 2. Section 17B-1-302 is amended to read:

#### **17B-1-302. Board member qualifications -- Number of board members.**

(1) ~~Except as provided in Section 17B-2a-905, each member of a local district board of trustees shall be:~~

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

## HB0021S02 compared with HB0021

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) ~~[whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis]~~ whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land~~], that~~:

(i) that receives, or intends to receive, service from the district; and

(ii) that is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district, or in any other type of local district that is located solely within a county of the fourth, fifth, or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) may be replaced by the requirement that the member be:

(i) a resident within the boundaries of the local district~~], or that the member~~; or

(ii) ~~[be]~~ an owner of land, or an agent or officer of the owner of land, within the local district that receives, or intends to receive, service from the district ~~[or an agent or officer of the owner]~~.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the

## HB0021S02 compared with HB0021

county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:  
(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or  
(B) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);

(ii) fewer qualified candidates timely file to be considered for appointment to the local district board than are necessary to fill the board;

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

(iv) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(d) If it is necessary to reconstitute the board of trustees of a local district located solely within a county of the fourth, fifth, or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the local district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

## HB0021S02 compared with HB0021

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 3. Section 17D-1-102 is amended to read:

### **17D-1-102. Definitions.**

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

## HB0021S02 compared with HB0021

(d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

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

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board created under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board created under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

(7) "Local district" has the same meaning as defined in Section 17B-1-102.

(8) "Revenue bond":

## HB0021S02 compared with HB0021

(a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Seasonally occupied home" means a single-family residence:

(a) that is located within the special service district;

(b) that receives service from the special service district; and

(c) whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.

~~[(9)]~~ (10) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(10)]~~ (11) "Special assessment bond" means a bond payable from special assessments.

~~[(11)]~~ (12) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

(a) is created under authority of the Utah Constitution Article XI, Section 7; and

(b) operates under, is subject to, and has the powers set forth in this chapter.

~~[(12)]~~ (13) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Section 4. Section 17D-1-304 is amended to read:

**17D-1-304. Qualifications of administrative control board members -- Term of office.**

(1) (a) Except as provided in Subsection (1)(b), each member of an administrative control board shall be:

(i) a registered voter within the special service district;



## HB0021S02 compared with HB0021

(ii) an officer or employee of the county or municipality that created the special service district; or

(iii) ~~if over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, an owner of land, or an agent or officer of an owner of land, that receives services from the special service district and is located within the special service district, provided that the number of members appointed under this Subsection (1)(a)(iii) comprises less than a quorum of the board.]~~ an owner of land, or an agent or officer of the owner of land, located within the special service district that receives, or intends to receive, service from the special service district, if:

(A) at least 60% of the residences within the special service district are seasonally occupied homes; or

(B) more than 50%, but less than 60%, of the residences within the special service district are seasonally occupied homes, if the number of members appointed under this Subsection (1)(a)(iii)(B) comprises less than a quorum of the board.

(b) Subsection (1)(a) does not apply if:

(i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or

(ii) the member is appointed under Subsection 17D-1-303(3) or (4).

(2) (a) Except as provided in Subsection (2)(b), the term of each member of an administrative control board is four years.

(b) The term of as close as possible to half of the initial members of an administrative control board, chosen by lot, is two years.

Section ~~{1}~~5. Section ~~{52-4-201 is amended to read:~~  
17D-1-307 is enacted to read:

### 17D-1-307. Meetings of administrative control board.

(1) (a) Each meeting of the administrative control board shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Subject to Subsection (2), an administrative control board shall:

(i) adopt rules of order and procedure to govern a public meeting of the administrative control board;

(ii) conduct a public meeting in accordance with the rules of order and procedure

## HB0021S02 compared with HB0021

described in Subsection (1)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (1)(b)(i) available to the public:

(A) at each meeting of the administrative control board; and

(B) if the special service district has a public website, on the website.

(2) Subsection (1)(b) does not affect the administrative control board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 6. Section 52-4-201 is amended to read:

### **52-4-201. Meetings open to the public -- Exceptions.**

(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.

(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

(3) (a) (i) A public body holding a meeting that is open to the public shall allow a reasonable opportunity for the public to provide verbal comment that is germane to the topics to be considered during the meeting.

## HB0021S02 compared with HB0021

(ii) Subsection (3)(a)(i) does not apply to:

(A) a meeting that is a work session of the public body; ~~or~~

(B) a planning commission meeting under Title 10, Chapter 9a, Part 3, General Land Use Provisions, or Title 17, Chapter 27a, Part 3, General Land Use Provisions; ~~or~~

(C) a public body that is solely an advisory body.

(b) No later than July 1, 2023, a public body shall adopt a resolution, rule, or ordinance that provides a reasonable opportunity for the public to provide verbal and written comments in a meeting of the public body:

(i) that is open to the public; and

(ii) to which Subsection (3)(a) applies.

(c) ~~Notwithstanding Subsections (3)(a) and (b), legislative rules govern public comment at a public meeting of~~ The resolution, rule, or ordinance described in Subsection (3)(b) may limit public verbal and written comments to topics that are germane to the topics to be considered during the meeting.

(4) Subsection (3) does not apply to the Legislature ~~or~~, a legislative committee, or another body within the state legislative branch.

Section 7. Section 52-4-202 is amended to read:

**52-4-202. Public notice of meetings -- Emergency meetings.**

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of

## HB0021S02 compared with HB0021

the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) except for an electronic meeting held without an anchor location under [Subsection 52-4-207(4)] Subsection 52-4-207(5), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section 63A-16-601; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63A-16-601(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the

## HB0021S02 compared with HB0021

meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 8. Section 52-4-207 is amended to read:

### **52-4-207. Electronic meetings -- Authorization -- Requirements.**

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting [~~held after December 31, 2022;~~] shall establish the conditions under which a remote member is included in calculating a quorum.

(c) A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;

## HB0021S02 compared with HB0021

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy; or

(vi) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes and conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52-4-202;

(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and

(c) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting.

(4) (a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public [~~who are not physically present at the anchor location~~] may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a) (i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means; [~~or~~]

(b) (i) during the course of the electronic meeting, the chair:

## HB0021S02 compared with HB0021

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means[-];

(c) (i) the public body is a local district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;

(ii) the board of trustee's membership consists of:

(A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B-1-302(2)(b); or

(B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17B-1-302(3)(a)(ii);

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the board of trustees allows members of the public attending the meeting by remote electronic means to participate in the meeting; or

(d) (i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;

(ii) the administrative control board's membership consists of:

(A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D-1-304(1)(a)(iii)(A) or (B), as applicable; or

(B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D-1-304(1)(b)(i);

## **HB0021S02 compared with HB0021**

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the administrative control board allows members of the public attending the meeting by remote electronic means to participate in the meeting.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.

Section 9. Section **63H-1-202** is amended to read:

### **63H-1-202. Applicability of other law.**

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) 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.

(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



## HB0021S02 compared with HB0021

by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) 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 authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

## HB0021S02 compared with HB0021

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(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)~~] Subsection 52-4-207(5)(a)(i).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a)(i).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

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

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D,

## HB0021S02 compared with HB0021

Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

## HB0021S02 compared with HB0021

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.