

SB0020S01 compared with SB0020

~~{deleted text}~~ shows text that was in SB0020 but was deleted in SB0020S01.

inserted text shows text that was not in SB0020 but was inserted into SB0020S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

MILITARY INSTALLATION DEVELOPMENT AUTHORITY

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~_____The Retirement and Independent Entities Interim Committee recommended this bill.~~

~~_____Legislative Vote: 10 voting for 0 voting against 5 absent~~

~~{General Description:~~

This bill amends provisions related to the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ for purposes of creating a public infrastructure district, clarifies who is considered the owner of military land within a project area by the Military Installation

SB0020S01 compared with SB0020

Development Authority (authority);

- ▶ amends provisions relating to ownership of a former rail line adjacent to a project area located at an air force base;
- ▶ enacts provisions immunizing a governmental entity from liability related to the ownership of certain historically contaminated property; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17D-4-201, as renumbered and amended by Laws of Utah 2021, Chapter 314

63H-1-208, as enacted by Laws of Utah 2021, Chapter 414

ENACTS:

63H-1-209, Utah Code Annotated 1953

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

Section 1. Section **17D-4-201** is amended to read:

17D-4-201. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

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

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

(b) (i) As used in this Subsection (1)(b):

(A) "Military land" means the same as that term is defined in Section 63H-1-102.

SB0020S01 compared with SB0020

(B) "Project area" means the same as that term is defined in Section 63H-1-102.

(ii) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and any other provision of this chapter, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(iii) For purposes of Subsection (1)(b)(ii), if the surface property proposed to be included within the public infrastructure district includes military land that is within a project area, the owner of the military land within the project area is the lessee of the military land.

(2) (a) The following do not apply to the creation of a public infrastructure district:

- (i) Section 17B-1-203;
- (ii) Section 17B-1-204;
- (iii) Subsection 17B-1-208(2);
- (iv) Section 17B-1-212; or
- (v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

- (i) may be certified under Section 17B-1-209; and
- (ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

SB0020S01 compared with SB0020

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

(B) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

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

(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

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

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity;

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

(iii) a petition is filed with the creating entity that contains the signatures of 100% of

SB0020S01 compared with SB0020

surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

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

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

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

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

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

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

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

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

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

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

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

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

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

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

SB0020S01 compared with SB0020

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

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

- (a) historical performance of the district applicant;
- (b) compliance with the creating entity's master plan;
- (c) credit worthiness of the district applicant;
- (d) plan of finance of the public infrastructure district; and
- (e) proposed development within the public infrastructure district.

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

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

Section 2. Section **63H-1-208** is amended to read:

63H-1-208. Former rail line.

(1) A former rail line automatically becomes included within a project area located at an air force base if:

(a) the authority acquires title to the former rail line ~~as~~ as provided in Subsection (2); and

(b) a portion of the former rail line is adjacent to the project area.

(2) Notwithstanding Section 72-5-117, the Department of Transportation may transfer to the authority, at no cost to the authority, title to that portion of a former rail line adjacent to a project area located at an air force base that the Department of Transportation does not need for construction of a freeway interchange.

~~(2)~~ (3) The authority may:

(a) develop the former rail line; or

(b) transfer title of all or part of the former rail line, at no cost, to another governmental entity or nonprofit entity who agrees to receive the title.

(4) A governmental entity or nonprofit entity that agrees to receive title to all or part of

SB0020S01 compared with SB0020

a former rail line under Subsection (3)(b) assumes responsibility for the maintenance of and any construction that remains to be completed on the former rail line.

Section 3. Section **63H-1-209** is enacted to read:

63H-1-209. Immunity from contaminated property claims.

(1) As used in this section:

(a) "Agency" means the same as that term is defined in Section 57-25-102.

(b) "Claim" means an action, suit, claim, demand, allegation, or cause of action, whether grounded in law or equity, made in a court of competent jurisdiction, mediation, arbitration, before a regulatory body, or in another dispute resolution forum.

(c) "Contaminated property" means real property in a project area that is:

(i) affected by historical contamination; and

(ii) owned by a governmental entity.

(d) "Environmental covenant" means the same as that term is defined in Section 57-25-102.

(e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

(f) "Hazardous materials" means the same as that term is defined in Section 19-6-302.

(g) "Hazardous substances" means the same as that term is defined in Section 19-6-302.

(h) "Historical contamination" means the placement, disposal, or release of hazardous materials or hazardous substances onto, into, under, or in a way that affects real property, and which placement, disposal, or release of hazardous materials or hazardous substances occurred prior to ownership of the real property by a governmental entity.

(i) "Ownership," "own," "owned," "owns," or "acquires" means to have an ownership or other established interest in real property, including holding title to, leasing, operating on, or maintaining real property.

(2) In addition to the liability protection provided by Subsections 63G-7-201(4)(l) and 63G-7-201(4)(s)(iii) and the other provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah, the protections of Subsection (3) apply to a governmental entity that owns or approves the use of contaminated property.

(3) (a) Ownership of contaminated property by a governmental entity, or a

SB0020S01 compared with SB0020

governmental entity's approval of the use of contaminated property does not subject a governmental entity, its agents, or its officers or employees to any liability for or related to a claim arising from, proximately caused by, or related to historical contamination.

(b) No governmental entity waives immunity from suit or liability by this section.

(c) A claim made against a governmental entity, its agents, or its officers or employees in violation of this section shall subject the claimant to the payment of double the attorney fees and costs incurred by the governmental entity related to the claim.

(d) This Subsection (3) does not limit or alter:

(i) claims against or the liability of the party that placed, disposed of, or released the hazardous materials or hazardous substances onto, into, under, or in a way that affects contaminated property; or

(ii) a workers' compensation claim made by an employee of an entity that works on contaminated property or conducts work related to contaminated property.

(4) If a governmental entity that owns contaminated property develops the contaminated property for public or governmental purposes, including recreation, government offices, parking, or related uses, then Subsection (3) extends to that governmental entity, regardless of whether the governmental entity had a role in approving use of the contaminated property, if the governmental entity:

(a) obtains a certificate of completion from the Utah Department of Environmental Quality following participation in the voluntary cleanup program, as set forth in Section 19-8-111; or

(b) complies with the terms of an environmental covenant signed by an agency and properly recorded in the county records against the property.

Section 4. **Effective date.**

~~This~~ If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.