{deleted text} shows text that was in HB0013 but was deleted in HB0013S01.

inserted text shows text that was not in HB0013 but was inserted into HB0013S01.

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 James A. Dunnigan proposes the following substitute bill:

#### INFRASTRUCTURE FINANCING DISTRICTS

2024 GENERAL SESSION STATE OF UTAH

Chief Sponsor: \ James A. Dunnigan

Senate Sponsor: {-}\_\_\_\_\_

#### **LONG TITLE**

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The Political Subdivisions Interim Committee recommended this bill.

Legislative Vote: 13 voting for 2 voting against 1 absent

#### General Description:

This bill enacts and modifies provisions related to infrastructure financing districts.

#### **Highlighted Provisions:**

This bill:

- authorizes the creation of a type of special district for the purpose of financing infrastructure;
- provides a process for the creation of an infrastructure financing district;
- provides for the powers and governance of an infrastructure financing district;
- authorizes an infrastructure financing district to impose an assessment on property

within the district and to issue assessment bonds to finance infrastructure within the district;

- provides for the district to have bonding authority, with limitations;
- authorizes the district to levy a property tax;
- requires a district to provide proof to a county or municipality that an assessment bond has been paid in full on owner-occupied residential property before the county or municipality may issue a certificate of occupancy;
- provides for the annexation of an area to an infrastructure financing district, the
   withdrawal of an area from a district, and for dissolution of a district;
- authorizes sponsors of a petition to create an infrastructure financing district to create a governing document with provisions that govern the district, including providing for board membership and the transition from appointed board positions to elected board positions; and
- makes technical and conforming changes.

#### Money Appropriated in this Bill:

None

#### **Other Special Clauses:**

None

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

#### AMENDS:

10-9a-509, as last amended by Laws of Utah 2023, Chapter 478

11-42-102, as last amended by Laws of Utah 2023, Chapter 16

11-42-106, as last amended by Laws of Utah 2021, Chapters 314, 415

11-42-201, as last amended by Laws of Utah 2021, Chapter 314

**11-42-202**, as last amended by Laws of Utah 2023, Chapter 435

#### 11-42-411, as last amended by Laws of Utah 2021, Chapters 314, 415

17-27a-508, as last amended by Laws of Utah 2023, Chapter 478

17B-1-102, as last amended by Laws of Utah 2023, Chapter 15

17B-1-103, as last amended by Laws of Utah 2023, Chapter 15

17B-1-105, as last amended by Laws of Utah 2023, Chapter 15

17B-1-201, as last amended by Laws of Utah 2023, Chapter 15

17B-1-202, as last amended by Laws of Utah 2023, Chapter 15 17B-1-203, as last amended by Laws of Utah 2023, Chapter 15 17B-1-204, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-205**, as last amended by Laws of Utah 2023, Chapters 15, 116 17B-1-208, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-209**, as last amended by Laws of Utah 2023, Chapters 15, 116 17B-1-210, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-211**, as last amended by Laws of Utah 2023, Chapters 15, 435 17B-1-213, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-214**, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-215**, as last amended by Laws of Utah 2023, Chapter 15 17B-1-216, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-302**, as last amended by Laws of Utah 2023, Chapters 15, 100 17B-1-303, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-306.5**, as last amended by Laws of Utah 2023, Chapter 15 17B-1-403, as last amended by Laws of Utah 2023, Chapter 15 17B-1-404, as last amended by Laws of Utah 2023, Chapter 15 17B-1-405, as last amended by Laws of Utah 2023, Chapter 15 17B-1-406, as last amended by Laws of Utah 2023, Chapter 15 17B-1-407, as last amended by Laws of Utah 2023, Chapter 15 17B-1-408, as last amended by Laws of Utah 2023, Chapter 15 17B-1-409, as last amended by Laws of Utah 2023, Chapter 15 17B-1-411, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-413**, as last amended by Laws of Utah 2023, Chapters 15, 435 17B-1-414, as last amended by Laws of Utah 2023, Chapter 15 17B-1-504, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-506**, as last amended by Laws of Utah 2023, Chapters 15, 116 17B-1-511, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-1001**, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-1002**, as last amended by Laws of Utah 2023, Chapter 15 **17B-1-1302**, as last amended by Laws of Utah 2023, Chapter 15

17B-1-1303, as last amended by Laws of Utah 2023, Chapter 15

**17B-1-1310**, as last amended by Laws of Utah 2023, Chapter 15

**17B-1-1402**, as last amended by Laws of Utah 2023, Chapter 15

17B-2a-404, as last amended by Laws of Utah 2018, Chapter 112

17B-2a-405, as last amended by Laws of Utah 2017, Chapter 112

**17B-2a-407**, as enacted by Laws of Utah 2023, Chapter 15 and further amended by Revisor Instructions, Laws of Utah 2023, Chapter 16

17B-2a-604, as last amended by Laws of Utah 2018, Chapter 112

17B-2a-704, as last amended by Laws of Utah 2019, Chapter 40

**17B-2a-905**, as last amended by Laws of Utah 2019, Chapter 108

**20A-1-512**, as last amended by Laws of Utah 2023, Chapters 15, 435

**52-4-207**, as last amended by Laws of Utah 2023, Chapter 100

67-1a-6.5, as last amended by Laws of Utah 2023, Chapter 16

#### **ENACTS**:

#### **17B-1-219**, Utah Code Annotated 1953

**17B-1-405.5**, Utah Code Annotated 1953

**17B-2a-1301**, Utah Code Annotated 1953

**17B-2a-1302**, Utah Code Annotated 1953

**17B-2a-1303**, Utah Code Annotated 1953

**17B-2a-1304**, Utah Code Annotated 1953

**17B-2a-1305**, Utah Code Annotated 1953

**17B-2a-1306**, Utah Code Annotated 1953

**17B-2a-1307**, Utah Code Annotated 1953

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

Section 1. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -
Municipality's requirements and limitations -- Vesting upon submission of development

plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive

review of the application under the land use regulations:

- (A) in effect on the date that the application is complete; and
- (B) applicable to the application or to the information shown on the application.
- (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
- (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
- (B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.
- (b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
  - (i) 180 days have passed since the municipality initiated the proceedings; and
- (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or
- (B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.
- (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.
- (d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.
- (e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
  - (f) A municipality may not impose on an applicant who has submitted a complete

application a requirement that is not expressed in:

- (i) this chapter;
- (ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or
- (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
  - (i) in a land use permit;
  - (ii) on the subdivision plat;
  - (iii) in a document on which the land use permit or subdivision plat is based;
- (iv) in the written record evidencing approval of the land use permit or subdivision plat;
  - (v) in this chapter;
  - (vi) in a municipal ordinance; or
- (vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.
- (h) Except as provided in Subsection (1)(i) or (j), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
- (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or
  - (ii) in this chapter or the municipality's ordinances.
- (i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:
- (i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or
- (ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an

applicable ordinance that the legislative body adopts under this chapter.

- (j) A municipality may not {issue}conduct a final inspection required before issuing a certificate of occupancy for {an owner-occupied}a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the {infrastructure financing district}applicant for the certificate of occupancy provides adequate proof to the municipality that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.
- (2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- (3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.
- (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:
  - (i) to the local clerk as defined in Section 20A-7-101; and
- (ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).
- (b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:
  - (i) the relevant land use approval; and
  - (ii) any land use regulation enacted specifically in relation to the land use approval. Section 2. 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
  - (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 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.
- (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.
- (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.
- (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.
- (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.
  - (22) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a special district, the board of trustees of the special 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;
- (e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102; and
- (f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.
- (23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.
- (24) "Improved property" means property upon which a residential, commercial, or other building has been built.
  - (25) "Improvement":
- (a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:
  - (A) a local entity is authorized to provide or finance;
- (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 (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 special 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.
  - (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.
- (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 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.
- (28) "Installment payment date" means the date on which an installment payment of an assessment is payable.
- (29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.
  - (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.
  - (31) "Local entity" means:
  - (a) a county, city, town, special service district, or special 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 under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by a development authority;
  - (e) the Utah Inland Port Authority, created in Section 11-58-201; or
  - (f) any other political subdivision of the state.
- (32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.
  - (33) "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
  - (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) "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) "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) "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) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.
- (38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

- (39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.
- (40) "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) "Property" includes real property and any interest in real property, including water rights and leasehold rights.
- (42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.
- (43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.
  - (44) "Public agency" means:
  - (a) the state or any agency, department, or division of the state; and
  - (b) a political subdivision of the state.
- (45) "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) "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) "Reserve fund" means a fund established by a local entity under Section 11-42-702.
  - (48) "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) (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)(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 earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).
- (50) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities Special Districts.
- (51) "Special service district" means the same as that term is defined in Section 17D-1-102.
- (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.
- (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.
- (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

#### Section 3. 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) the designation resolution, assessment resolution, or amended resolution was adopted by a development authority [or], an infrastructure financing district under Title 17B, Chapter 2a, Part 13, Infrastructure Financing Districts, or a public infrastructure district created by a development authority under Title 17D, Chapter 4, 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 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 4. Section 11-42-201 is amended to read:

# 11-42-201. Resolution or ordinance designating an assessment area -- Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.

- (1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing <u>or financing</u> improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.
- (b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:
  - (i) levy a different level of assessment; or

- (ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.
  - (c) The boundaries of a proposed assessment area:
  - (i) may include property that is not intended to be assessed; and
- (ii) except for an assessment area within a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act, or within an infrastructure financing district as defined in Section 17B-1-102, may not be coextensive or substantially coterminous with the boundaries of the local entity.
- (d) The boundary of an assessment area proposed to be designated in an ordinance or resolution of an infrastructure financing district may not include an area that is already included in an assessment area designated under an ordinance or resolution previously adopted by the infrastructure financing district.
- (2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:
  - (a) give notice as provided in Section 11-42-202;
  - (b) receive and consider all protests filed under Section 11-42-203; and
  - (c) hold a public hearing as provided in Section 11-42-204.

Section 5. Section 11-42-202 is amended to read:

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

- (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; and
- (ii) (A) provide an improvement to property within the proposed assessment area[;] and {
- finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area; or
- (B) finance improvements to property { within the proposed assessment area} through 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 notice mailed under Subsection (4), 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 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 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 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(25)(a)(ii).
  - (4) Each notice required under Subsection 11-42-201(2)(a) shall be published for the

governing body's jurisdiction, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42-204.

- (5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4) 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 6. 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:

- (A) \_a development authority; <del>{or</del>
- (B)}[<u>or</u>]
- (B) an infrastructure financing district under Title 17B, Chapter 2a, Part 13, Infrastructure Financing Districts; or
- [(B)] (C) a public infrastructure district created by a development authority under Title 17D, Chapter 4, 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 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  $\frac{(6)}{7}$ . Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
  - (A) in effect on the date that the application is complete; and
- (B) applicable to the application or to the information shown on the submitted application.
- (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:
- (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
- (B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.
- (b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
  - (i) 180 days have passed since the county initiated the proceedings; and
- (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or
- (B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.
- (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances

and pays all applicable fees.

- (d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:
  - (i) this chapter;
- (ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection [17-27a-508(1)(a)(ii)] (1)(a)(ii); or
- (iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
  - (i) in a land use permit;
  - (ii) on the subdivision plat;
  - (iii) in a document on which the land use permit or subdivision plat is based;
- (iv) in the written record evidencing approval of the land use permit or subdivision plat;
  - (v) in this chapter;
  - (vi) in a county ordinance; or
- (vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.
- (g) Except as provided in Subsection (1)(h) or (i), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
- (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or
  - (ii) in this chapter or the county's ordinances.
- (h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

- (i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or
- (ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (i) A county may not {issue}conduct a final inspection required before issuing a certificate of occupancy for {an owner-occupied}a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the {infrastructure financing district}applicant for the certificate of occupancy provides adequate proof to the county that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.
- (2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- (3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.
- (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:
  - (i) to the local clerk as defined in Section 20A-7-101; and
- (ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).
- (b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:
  - (i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval. Section \(\frac{17}{8}\). Section \(\frac{17}{8}\). Section \(\frac{17}{8}\).

#### 17B-1-102. Definitions.

As used in this title:

- (1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.
  - (2) "Basic special district":
  - (a) means a special district that is not a specialized special district; and
- (b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a special district, as defined under the law in effect before April 30, 2007.
  - (3) "Bond" means:
- (a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and
  - (b) a lease agreement, installment purchase agreement, or other agreement that:
  - (i) includes an obligation by the district to pay money; and
- (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.
- (4) "Cemetery maintenance district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.
- (5) "Drainage district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.
- (6) "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 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.
- (7) "Fire protection district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including

an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

- (8) "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 district that issues the bond; and
  - (B) on taxable property within the district; and
- (ii) in excess of the ad valorem property taxes of the district 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.
- (9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:
  - (a) to guarantee the proper completion of an improvement;
- (b) that is required before a special district may provide a service requested by a service applicant; and
- (c) that is offered to a special district to induce the special district before construction of an improvement begins to:
  - (i) provide the requested service; or
  - (ii) commit to provide the requested service.
- (10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:
  - (a) comply with standards adopted by a special district; and
  - (b) will not fail in any material respect within an agreed warranty period.
- (11) "Improvement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

- (12) "Infrastructure financing district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 13, Infrastructure Financing Districts.
- [(12)] (13) "Irrigation district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.
- [(13)] (14) "Metropolitan water district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.
- [(14)] (15) "Mosquito abatement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.
  - [(15)] (16) "Municipal" means of or relating to a municipality.
  - [(16)] (17) "Municipality" means a city, town, or metro township.
- [(17)] (18) "Municipal services district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.
- [(18)] (19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.
- [(19)] (20) "Political subdivision" means a county, city, town, metro township, special district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.
- [(20)] (21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.
  - $\left[\frac{(21)}{(22)}\right]$  "Public entity" means:
  - (a) the United States or an agency of the United States;

- (b) the state or an agency of the state;
- (c) a political subdivision of the state or an agency of a political subdivision of the state;
  - (d) another state or an agency of that state; or
  - (e) a political subdivision of another state or an agency of that political subdivision.
- [(22)] (23) "Public transit district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.
  - [<del>(23)</del>] <u>(24)</u> "Revenue bond":
- (a) means a bond payable from designated taxes or other revenues other than the special district's ad valorem property taxes; 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.
- [(24)] (25) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
  - (a) parliamentary order and procedure;
  - (b) ethical behavior; and
  - (c) civil discourse.
- [(25)] (26) "Service applicant" means a person who requests that a special district provide a service that the special district is authorized to provide.
- [(26)] (27) "Service area" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.
- [(27)] (28) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.
  - [(28)] (29) "Special assessment" means an assessment levied against property to pay all

or a portion of the costs of making improvements that benefit the property.

- [(29)] (30) "Special assessment bond" means a bond payable from special assessments.
- [(30)] (31) "Special district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers described in:
  - (a) this chapter; or
  - (b) (i) this chapter; and
  - (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
  - (B) Chapter 2a, Part 2, Drainage District Act;
  - (C) Chapter 2a, Part 3, Fire Protection District Act;
  - (D) Chapter 2a, Part 4, Improvement District Act;
  - (E) Chapter 2a, Part 5, Irrigation District Act;
  - (F) Chapter 2a, Part 6, Metropolitan Water District Act;
  - (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
  - (H) Chapter 2a, Part 8, Public Transit District Act;
  - (I) Chapter 2a, Part 9, Service Area Act;
  - (J) Chapter 2a, Part 10, Water Conservancy District Act; [or]
  - (K) Chapter 2a, Part 11, Municipal Services District Act[-]; or
  - (L) Chapter 2a, Part 13, Infrastructure Financing Districts.
- [(31)] (32) "Specialized special district" means a special district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district, [or a public infrastructure district] \(\bigcap\_{\text{.}}\) or an infrastructure financing district.
- [(32)] (33) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.
  - [(33)] (34) "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.

- [(34)] (35) "Unincorporated" means not included within a municipality.
- [(35)] (36) "Water conservancy district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.
- [(36)] (37) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a special district.

Section <del>18</del> <u>9</u>. Section **17B-1-103** is amended to read:

# 17B-1-103. Special district status and powers -- Registration as a limited purpose entity.

- (1) A special district:
- (a) is:
- (i) a body corporate and politic with perpetual succession;
- (ii) a quasi-municipal corporation; [and]
- (iii) a political subdivision of the state; and
- (iv) separate and distinct from and independent of any other political subdivision of the state; and
  - (b) may sue and be sued.
  - (2) A special district may:
- (a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
- (b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
- (c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);
- (d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;
  - (e) borrow money and incur indebtedness for any lawful district purpose;

- (f) issue bonds, including refunding bonds:
- (i) for any lawful district purpose; and
- (ii) as provided in and subject to Part 11, Special District Bonds;
- (g) levy and collect property taxes:
- (i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and
  - (ii) as provided in and subject to Part 10, Special District Property Tax Levy;
- (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;
  - (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;
- (j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:
  - (A) maintaining and operating the district;
  - (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
  - (C) issuing bonds and paying debt service on district bonds; and
  - (D) providing a reserve established by the board of trustees; and
- (ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;
- (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;
- (l) enter into a contract that the special district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:
  - (i) with the United States or any department or agency of the United States;
  - (ii) to indemnify and save harmless; or
  - (iii) to do any act to exercise district powers;
  - (m) purchase supplies, equipment, and materials;
- (n) encumber district property upon terms and conditions that the board of trustees considers appropriate;
  - (o) exercise other powers and perform other functions that are provided by law;
  - (p) construct and maintain works and establish and maintain facilities, including works

or facilities:

- (i) across or along any public street or highway, subject to Subsection (3) and if the district:
- (A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and
- (B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;
- (ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or
  - (iii) across any stream of water or watercourse, subject to Section 73-3-29;
- (q) perform any act or exercise any power reasonably necessary for the efficient operation of the special district in carrying out its purposes;
- (r) (i) except for a special district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or
- (ii) for a special district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;
- (s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;
- (t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:
  - (i) (A) with another political subdivision of the state; or
  - (B) with a public or private owner of property on which the district has a right-of-way

or adjacent to which the district owns fee title to property; and

- (ii) to allow the use of property:
- (A) owned by the district; or
- (B) on which the district has a right-of-way; and
- (u) if the special district receives, as determined by the special district board of trustees, adequate monetary or nonmonetary consideration in return:
  - (i) provide services or nonmonetary assistance to a nonprofit entity;
  - (ii) waive fees required to be paid by a nonprofit entity; or
- (iii) provide monetary assistance to a nonprofit entity, whether from the special district's own funds or from funds the special district receives from the state or any other source.
- (3) With respect to a special district's use of a street or highway, as provided in Subsection (2)(p)(i):
- (a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:
  - (i) an excavation and the refilling of an excavation;
  - (ii) the relaying of pavement; and
  - (iii) the protection of the public during a construction period; and
- (b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:
  - (i) may not require the district to pay a license or permit fee or file a bond; and
  - (ii) may require the district to pay a reasonable inspection fee.
  - (4) (a) A special district may:
- (i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:
- (A) the purpose of the facilities is to harness energy that results inherently from the district's operation of a project or facilities that the district is authorized to operate or from the district providing a service that the district is authorized to provide;
- (B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

- (C) operation of the facilities will not hinder or interfere with the primary operations of the district;
  - (ii) (A) use electricity generated by the facilities; or
- (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.
  - (b) A district may not act as a retail distributor or seller of electricity.
- (c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.
  - (5) A special district may adopt and, after adoption, alter a corporate seal.
- (6) (a) Each special district shall register and maintain the special district's registration as a limited purpose entity, in accordance with Section 67-1a-15.
- (b) A special district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.
- (7) (a) As used in this Subsection (7), "knife" means a cutting instrument that includes a sharpened or pointed blade.
- (b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a special district.
- (c) Unless specifically authorized by the Legislature by statute, a special district may not adopt or enforce a regulation or rule pertaining to a knife.

Section \(\frac{49}{10}\). Section 17B-1-105 is amended to read:

#### 17B-1-105. Name of special district -- Name change.

- (1) (a) The name of each special district created on or after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).
- (b) The board of each special district affected by Subsection 17-50-103(2)(b) shall ensure that after January 1, 2005 the special district name complies with the requirements of Subsection 17-50-103(2)(b).
- (2) The name of a special district created after April 30, 2007 may not include the name of a county or municipality.
  - (3) The name of a special district may include words descriptive of the type of service

that the district provides.

- (4) The name of an infrastructure financing district shall comply with Subsection 17B-1-208(1)(b)(ii).
- $[\underbrace{(4)}]$  (5) (a) A special district board may change the name of that special district as provided in this Subsection  $[\underbrace{(4)}]$  (5).
  - (b) To initiate a name change, the special district board shall:
  - (i) hold a public hearing on the proposed name change;
  - (ii) adopt a resolution approving the name change; and
- (iii) file with the lieutenant governor a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).
- (c) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the special district board shall:
- (i) if the special district is located within the boundary of a single county, submit to the recorder of that county:
  - (A) the original:
  - (I) notice of an impending name change; and
  - (II) certificate of name change; and
  - (B) a certified copy of the resolution approving the name change; or
  - (ii) if the special district is located within the boundaries of more than a single county:
  - (A) submit to the recorder of one of those counties:
- (I) the original of the documents listed in Subsections [(4)(c)(i)(A)(I)] (5)(c)(i)(A)(I) and (II); and
  - (II) a certified copy of the resolution approving the name change; and
  - (B) submit to the recorder of each other county:
- (I) a certified copy of the documents listed in Subsections  $[\frac{(4)(c)(i)(A)(I)}{(5)(c)(i)(A)(I)}]$  and (II); and
  - (II) a certified copy of the resolution approving the name change.
- (d) (i) A name change under this Subsection [(4)] (5) becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.
- (ii) Notwithstanding Subsection  $[\frac{(4)(d)(i)}{(5)(d)(i)}]$ , the special district may not operate under the new name until the documents listed in Subsection  $[\frac{(4)(c)}{(5)(c)}]$  (5)(c) are recorded in the

office of the recorder of each county in which the special district is located.

Section  $\frac{10}{11}$ . Section 17B-1-201 is amended to read:

#### 17B-1-201. Definitions.

As used in this part:

- (1) "Applicable area" means:
- (a) for a county, the unincorporated area of the county that is included within the proposed special district; or
- (b) for a municipality, the area of the municipality that is included within the proposed special district.
  - (2) "Governing body" means:
  - (a) for a county or municipality, the legislative body of the county or municipality; and
  - (b) for a special district, the board of trustees of the special district.
- (3) "Groundwater right owner petition" means a petition under Subsection 17B-1-203(1)(c).
- (4) "Groundwater right owner request" means a request under Section 17B-1-204 that is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).
- (5) "Initiating special district" means a special district that adopts a resolution proposing the creation of a special district under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(f).
  - (6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b), [or] (c), or (d).
  - (7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).
- (8) "Property owner request" means a request under Section 17B-1-204 that is signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).
- (9) "Registered voter request" means a request under Section 17B-1-204 that is signed by registered voters as provided in Subsection 17B-1-204(2)(b)(iii).
  - (10) "Registered voter petition" means a petition under Subsection 17B-1-203(1)(b).
  - (11) "Request" means a request as described in Section 17B-1-204.
  - (12) "Responsible body" means the governing body of:
- (a) the municipality in which the proposed special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single municipality;

- (b) the county in which the proposed special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single county and all or part of the proposed special district is located within:
  - (i) the unincorporated part of the county; or
  - (ii) more than one municipality within the county;
- (c) if the petition or resolution proposes the creation of a special district located within more than one county, the county whose boundaries include more of the area of the proposed special district than is included within the boundaries of any other county; or
- (d) the initiating special district, if a resolution proposing the creation of a special district is adopted under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(f).
  - (13) "Responsible clerk" means:
- (a) except as provided in Subsection (13)(b), the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body; or
- (b) for the proposed creation of an infrastructure financing district, the clerk of the county in which the majority of the acreage within the boundary of the proposed infrastructure financing district is located.

Section  $\{11\}$  12. Section 17B-1-202 is amended to read:

## 17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

- (1) (a) A special district may be created as provided in this part to provide within its boundaries service consisting of:
  - (i) the operation of an airport;
  - (ii) the operation of a cemetery;
- (iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;
  - (iv) garbage collection and disposal;
  - (v) health care, including health department or hospital service;
  - (vi) the operation of a library;
  - (vii) abatement or control of mosquitos and other insects;
  - (viii) the operation of parks or recreation facilities or services;
  - (ix) the operation of a sewage system;

- (x) the construction and maintenance of a right-of-way, including:
- (A) a curb;
- (B) a gutter;
- (C) a sidewalk;
- (D) a street;
- (E) a road;
- (F) a water line;
- (G) a sewage line;
- (H) a storm drain;
- (I) an electricity line;
- (J) a communications line;
- (K) a natural gas line; or
- (L) street lighting;
- (xi) transportation, including public transit and providing streets and roads;
- (xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
- (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;
  - (xiv) law enforcement service;
- (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;
  - (xvi) the control or abatement of earth movement or a landslide;
  - (xvii) the operation of animal control services and facilities; [or]
- (xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or
- (xix) the financing of infrastructure, as provided in Chapter 2a, Part 13, Infrastructure Financing Districts.

- (b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.
- (c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.
- (i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).
- (ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
- (iii) (A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).
- (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.
- (iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.
- (v) A special district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.
  - (2) As used in this section:
- (a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

- (b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.
- (3) (a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).
- (b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.
- (4) (a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.
- (b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:
  - (i) sewage system; or
  - (ii) water system.
- (5) (a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.
  - (b) The area of a special district need not be contiguous.
- (6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:
  - (a) paramedic service; and
  - (b) emergency service, including hazardous materials response service.
- (7) A special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.
- (8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.
  - (9) A special district may not be created under this chapter for two years after the date

on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:

- (a) provides the same or a substantially similar service as the dissolved special district; and
  - (b) is located in substantially the same area as the dissolved special district.
- (10) {The} An infrastructure financing district may not be created unless the estimated cost of the public infrastructure and improvements to be constructed within the boundary of the proposed infrastructure financing district exceeds \$1,000,000, as certified under Subsection 17B-1-208(1)(c).
- (11) (a) Except as provided in Subsection (11)(b), the inclusion of an area within an infrastructure financing district does not affect whether the area may be included within another special district.
- (b) An infrastructure financing district may not include an area included within another infrastructure financing district.

Section  $\frac{12}{13}$ . Section 17B-1-203 is amended to read:

## 17B-1-203. Process to initiate the creation of a special district -- Petition or resolution.

- (1) The process to create a special district may be initiated by:
- (a) unless the proposed special district is a special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:
  - (i) is located within the proposed special district;
- (ii) covers at least 33% of the total private land area within the proposed special district as a whole and within each applicable area;
- (iii) is equal in value to at least 25% of the value of all private real property within the proposed special district as a whole and within each applicable area; and
- (iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
  - (b) subject to Section 17B-1-204, a petition that:
- (i) is signed by registered voters residing within the proposed special district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in

the proposed special district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and

- (ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
- (c) if the proposed special district is a special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:
  - (i) are diverted within the proposed special district;
- (ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special district as a whole and within each applicable area; and
  - (iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;
- (d) for the creation of an infrastructure financing district, a petition signed by 100% of the owners of surface property within the applicable area;
- [(d)] (e) a resolution proposing the creation of a special district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed special district; or
- [(e)] (f) a resolution proposing the creation of a special district, adopted by the board of trustees of an existing special district whose boundaries completely encompass the proposed special district, if:
- (i) the proposed special district is being created to provide one or more components of the same service that the initiating special district is authorized to provide; and
- (ii) the initiating special district is not providing to the area of the proposed special district any of the components that the proposed special district is being created to provide.
  - (2) (a) Each resolution under Subsection [(1)(d) or (e)] (1)(e) or (f) shall:
  - (i) describe the area proposed to be included in the proposed special district;
- (ii) be accompanied by a map that shows the boundaries of the proposed special district;
  - (iii) describe the service proposed to be provided by the proposed special district;
  - (iv) if the resolution proposes the creation of a specialized special district, specify the

type of specialized special district proposed to be created;

- (v) explain the anticipated method of paying the costs of providing the proposed service;
- (vi) state the estimated average financial impact on a household within the proposed special district;
- (vii) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection [17B-1-302(4)] 17B-1-302(8);
  - (viii) for a proposed basic special district:
- (A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
- (B) if one or more members will be elected, state the basis upon which each elected member will be elected; and
- (C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
- (ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and
- (x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
  - (A) the county legislative body;
  - (B) appointed as provided in Section 17B-1-304; or
  - (C) elected as provided in Section 17B-1-306.
- (b) Each county or municipal legislative body adopting a resolution under Subsection [(1)(d)] (1)(e) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same special district.

Section <del>{13}</del>14. Section **17B-1-204** is amended to read:

## 17B-1-204. Request for service required before filing of petition -- Request requirements.

- (1) [A] Except for a petition for the creation of an infrastructure financing district, a petition may not be filed until after:
  - (a) a request has been filed with:
- (i) the clerk of each county in whose unincorporated area any part of the proposed special district is located; and
- (ii) the clerk or recorder of each municipality in which any part of the proposed special district is located; and
  - (b) each county and municipality with which a request under Subsection (1)(a) is filed:
- (i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will provide the requested service; or
- (ii) is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).
  - (2) Each request under Subsection (1)(a) shall:
- (a) ask the county or municipality to provide the service proposed to be provided by the proposed special district within the applicable area; and
  - (b) be signed by:
- (i) unless the request is a request to create a special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of private real property that:
  - (A) is located within the proposed special district;
  - (B) covers at least 10% of the total private land area within the applicable area; and
- (C) is equal in value to at least 7% of the value of all private real property within the applicable area;
- (ii) if the request is a request to create a special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of groundwater rights that:
  - (A) are diverted within the proposed special district; and
- (B) cover at least 10% of the amount of groundwater diverted in accordance with groundwater rights within the applicable area; or
- (iii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last

general election prior to the filing of the request.

(3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition shall be considered to be part of that municipality.

Section  $\frac{\{14\}}{15}$ . Section 17B-1-205 is amended to read:

#### 17B-1-205. Petition and request requirements -- Withdrawal of signature.

- (1) Each petition and request shall:
- (a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;
- (b) (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or
- (ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;
  - (c) describe the entire area of the proposed special district;
- (d) be accompanied by a map showing the boundaries of the entire proposed special district;
  - (e) specify the service proposed to be provided by the proposed special district;
- (f) if the petition or request proposes the creation of a specialized special district, specify the type of specialized special district proposed to be created;
  - (g) for a proposed basic special district:
- (i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
- (ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and
- (iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
- (h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those

members will be elected; [and]

- (i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
  - (i) the county legislative body;
  - (ii) appointed as provided in Section 17B-1-304; or
  - (iii) elected as provided in Section 17B-1-306;
- (j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
- (k) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:
  - (i) of paying for the groundwater right acquisition; and
  - (ii) of addressing blowing dust created by the reduced use of water; [and]
- (l) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:
  - (i) of assessing the groundwater right and securing payment of the assessment; and
  - (ii) of addressing blowing dust created by the reduced use of water[-]; and
  - (m) for a proposed infrastructure financing district:
- (i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed;
- (ii) if one or more members will be elected, state the basis upon which each elected member will be elected;
- (iii) {if applicable, }explain how {the election or appointment of}appointed board {members}member positions will transition {from one method to another}to elected board member positions based on stated milestones or events, as provided in Section 17B-2a-1303;
- (iv) state whether divisions will be established within the boundary of the infrastructure financing district so that some or all board members represent a division rather than the district at large and, if so, describe the boundary of each division; and
- (v) if applicable, be accompanied by the governing document prepared according to Section {17B-2-1303}17B-2a-1303.

- (2) (a) [A] Subject to Subsection (2)(b), a signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:
  - $[\frac{a}{a}]$  (i) in the case of a request:
- [(i)] (A) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request;
- [(ii)] (B) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or
- [(iii)] (C) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or
  - [(b)] (ii) in the case of a petition, the responsible clerk.
- (b) The time for a signer of a petition for the creation of an infrastructure financing district to withdraw or reinstate the signer's signature is any time before the petition is certified under Section 17B-1-209.
- (3) (a) A clerk of the county who receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate the individual's signature.
- (b) If a municipal clerk or recorder receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition, the clerk of the municipality's county shall assist the municipal clerk or recorder with determining whether to remove or reinstate the individual's signature using the procedures described in Subsection 20A-1-1003(3).

Section  $\frac{\{15\}}{16}$ . Section 17B-1-208 is amended to read:

#### 17B-1-208. Additional petition requirements and limitations.

- (1) (a) Each petition shall:
- [(a)] (i) be filed with the responsible clerk;
- [(b)] (ii) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of

the proposed special district are grouped separately; and

- [(c)] (iii) (A) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection [17B-1-302(4){] 17B-1-302(8)[}-]; and
- (B) for a petition proposing the creation of an infrastructure financing district, include the name and address of each of the proposed board members.
- (b) (i) A petition for the creation of an infrastructure financing district shall state the name of the proposed infrastructure financing district.
- (ii) The name of an infrastructure financing district shall include the phrase "infrastructure financing district."
- (c) A petition for the creation of an infrastructure financing district shall be accompanied by a written statement, signed by an engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors, certifying that the estimated cost of the public infrastructure and improvements to be constructed in the proposed infrastructure financing district exceeds \$1,000,000.
- (2) (a) A petition may not propose the creation of a special district that includes an area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1) indicating that the county or municipality will provide to that area the service proposed to be provided by the proposed special district.
- (b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-1-212(3).
- (c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a special district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-1-212, it will provide the requested service.
  - (3) A petition may not propose the creation of a special district whose area includes:
- (a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-1-202(4)(b):
  - (i) proposes the creation of a special district to provide the same service as proposed by

the later filed petition; and

- (ii) is still pending at the time the later petition is filed; or
- (b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed special district.
- (4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

Section  $\{16\}$ 17. Section 17B-1-209 is amended to read:

#### 17B-1-209. Petition certification -- Amended petition.

- (1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed special district is located.
- (2) (a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed special district shall:
- (i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b), [or] (c), or (d), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and
- (ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).
- (b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).
- (3) (a) Within 45 days after the filing of a petition, the responsible clerk shall[:{]}

  [}\_(i)]{} determine whether the petition complies with Subsection 17B-1-203(1)(a),
  (b), [or] (c), or (d), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208[; and].

[(ii) (A) {} if] (b) (i) If the responsible clerk determines that the petition complies with

the applicable requirements, the responsible clerk shall, within the time specified in Subsection (3)(a):

- [(1)] (A) [(Aa)] (i) (A)} certify the petition [and] as complying with all applicable requirements;
- (B) deliver the certified petition [to the responsible body] as provided in Subsection (3)(b)(iii); and
- [(Bb)] (C) mail or deliver written notification of the certification and a copy of the certified petition to the contact sponsor[; or].
- [(H)] (ii) [for] For each petition described in Subsection [(3)(b)(i) {] (3)(d)(i),}.] (3)(e)(i), the responsible clerk shall, within the time specified in Subsection (3)(a), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic special district, with a notice indicating that the clerk has determined that the petition complies with all applicable requirements [; or].
- (iii) (A) Except as provided in Subsection (3)(b)(iii)(B), the responsible clerk shall deliver the certified petition to the responsible body.
- (B) For a petition proposing the creation of an infrastructure financing district, the responsible clerk shall deliver the certified petition to the lieutenant governor.
- (iv) If the responsible clerk certifies a petition proposing the creation of an infrastructure district, the responsible clerk shall, within the time specified in Subsection (3)(a), file with the lieutenant governor, in addition to the certified petition:
- (A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
  - (B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
- [(B){ if}] (c) [if] If the responsible clerk determines that the petition fails to comply with any of the applicable requirements, the responsible clerk shall reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- [(b)] (d) (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic special district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose

unincorporated area includes and each municipality whose boundaries include any of the proposed special district.

- (ii) Before adopting a resolution giving its approval under Subsection [(3)(b)(i)] (3)(d)(i), a county or municipal legislative body may hold one or more public hearings on the petition.
- (iii) If a petition described in Subsection [(3)(b)(i)] (3)(d)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:
  - (A) certify the petition and deliver the certified petition to the responsible body; and
  - (B) mail or deliver written notification of the certification to the contact sponsor.
- (4) Except for a petition described in Subsection [(3)(b)(i)] (3)(d)(i), if the responsible clerk fails to certify or reject a petition within 45 days after [its filing] the petition is filed, the petition [shall be] is considered to be certified.
- (5) (a) If a petition for the creation of an infrastructure financing district is considered to be certified under Subsection (4) and the responsible clerk has failed to comply with the requirements of Subsection (3)(b)(iv), the petition sponsors may notify the lieutenant governor in writing that the petition is considered to be certified.
- (b) The petition sponsors notification to the lieutenant governor under Subsection (5)(a) shall be accompanied by:
  - (i) the petition proposing the creation of an infrastructure financing district;
- (ii) a statement indicating the date that the petition was filed and certifying that the responsible clerk failed to certify the petition within the time specified in Subsection (3)(a);
- (iii) a copy of the engineer's written statement described in Subsection 17B-1-208(1)(c);
- (iv) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
  - (v) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
- [(5)](6) The responsible clerk shall certify or reject petitions in the order in which they are filed.
- [(6)] (7) (a) If the responsible clerk rejects a petition under Subsection [(3)(a)(ii)(B)] (3)(c), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

- (b) A valid signature on a petition that was rejected under Subsection [(3)(a)(ii)(B)] (3)(c) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).
- (c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection [(3)(a)(ii)(B)] (3)(c), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

[(7)] (8) The responsible clerk and each county clerk and municipal clerk or recorder shall:

- (a) act in good faith in making the determinations under this section; and
- (b) with the assistance of the county clerk if necessary, and as applicable, use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter.

Section  $\frac{17}{18}$ . Section 17B-1-210 is amended to read:

#### 17B-1-210. Public hearing.

- (1) The legislative body of each county and municipality with which a request is filed or that adopts a resolution under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(e) and the board of trustees of each special district that adopts a resolution under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(f) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the proposed special district need travel an unreasonable distance to attend a public hearing.
  - (2) Each public hearing under Subsection (1) shall be held:
  - (a) no later than 45 days after:
- (i) for a public hearing on a request, certification of a request under Subsection 17B-1-206(1)(b)(i); or
- (ii) for a public hearing on a resolution, adoption of a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f);
  - (b) within the proposed special district;
  - (c) except as provided in Subsections (6) and (7), within the applicable area; and
  - (d) for the purpose of:
  - (i) for a public hearing on a request, allowing public input on:

- (A) whether the requested service is needed in the area of the proposed special district;
- (B) whether the service should be provided by the county or municipality or the proposed special district; and
  - (C) all other matters relating to the request or the proposed special district; or
- (ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the governing body holding the hearing regarding the issues contained in or raised by the resolution.
- (3) A quorum of each governing body holding a public hearing under this section shall be present throughout each hearing held by that governing body.
- (4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.
- (5) At the beginning and end of each hearing concerning a resolution, the governing body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.
- (6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.
- (7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or set of public hearings outside the applicable area if:
  - (a) there is no reasonable place to hold a public hearing within the applicable area; and
- (b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

Section <del>{18}</del>19. Section **17B-1-211** is amended to read:

#### 17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(e) and the board of trustees of each special district that adopts a resolution under Subsection [17B-1-203(1)(e)] 17B-1-203(1)(f) shall publish notice for the proposed special district, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the hearing or the day of the first of the set of hearings.

- (2) Each notice required under Subsection (1) shall:
- (a) if the hearing or set of hearings is concerning a resolution:
- (i) contain the entire text or an accurate summary of the resolution; and
- (ii) state the deadline for filing a protest against the creation of the proposed special district;
  - (b) clearly identify each governing body involved in the hearing or set of hearings;
- (c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and
  - (d) describe or include a map of the entire proposed special district.
- (3) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section  $\frac{19}{20}$ . Section 17B-1-213 is amended to read:

# 17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

- (1) For purposes of this section, "adequate protests" means protests that are:
- (a) filed with the county clerk, municipal clerk or recorder, or special district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and
  - (b) signed by:
  - (i) the owners of private real property that:
  - (A) is located within the proposed special district;
  - (B) covers at least 25% of the total private land area within the applicable area; and
- (C) is equal in value to at least 15% of the value of all private real property within the applicable area; or
- (ii) 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.
- (2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).
- (3) If adequate protests are filed, the governing body that adopted a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f):

- (a) may not:
- (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;
- (ii) take any further action under the protested resolution to create a special district or include the applicable area in a special district; or
- (iii) for a period of two years, adopt a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f) proposing the creation of a special district including substantially the same area as the applicable area and providing the same service as the proposed special district in the protested resolution; and
- (b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.
- (4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed special district whose boundaries do not include an applicable area that is the subject of adequate protests.
- (5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a special district for which an election is not required under Subsection 17B-1-214(3)(d), (e), (f), or (g), a resolution approving the creation of the special district shall be adopted by:
- (i) (A) the legislative body of a county whose unincorporated area is included within the proposed special district; and
- (B) the legislative body of a municipality whose area is included within the proposed special district; or
  - (ii) the board of trustees of the initiating special district.
  - (b) Each resolution adopted under Subsection (5)(a) shall:
  - (i) describe the area included in the special district;
  - (ii) be accompanied by a map that shows the boundaries of the special district;
  - (iii) describe the service to be provided by the special district;
  - (iv) state the name of the special district; and
- (v) provide a process for the appointment of the members of the initial board of trustees.

Section  $\frac{20}{21}$ . Section 17B-1-214 is amended to read:

#### 17B-1-214. Election -- Exceptions.

- (1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the special district should be created shall be held by:
- (i) if the proposed special district is located entirely within a single county, the responsible clerk; or
- (ii) except as provided under Subsection (1)(b), if the proposed special district is located within more than one county, the clerk of each county in which part of the proposed special district is located, in cooperation with the responsible clerk.
- (b) Notwithstanding Subsection (1)(a)(ii), if the proposed special district is located within more than one county and the only area of a county that is included within the proposed special district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.
- (2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:
- (a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under [Subsection 17B-1-209(3)(a)] Subsections 17B-1-209(3)(a), (b), and (c); or
- (b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.
  - (3) The election requirement of Subsection (1) does not apply to:
- (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:
  - (i) is located within the proposed special district;
- (ii) covers at least 67% of the total private land area within the proposed special district as a whole and within each applicable area; and
- (iii) is equal in value to at least 50% of the value of all private real property within the proposed special district as a whole and within each applicable area;
- (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed special district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed special district as a whole and in each applicable area, respectively, for the office of governor at

the last general election prior to the filing of the petition;

- (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:
  - (i) are diverted within the proposed special district; and
- (ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special district as a whole and within each applicable area;
- (d) a resolution adopted under Subsection [<del>17B-1-203(1)(d)</del>] <u>17B-1-203(1)(e)</u> on or after May 5, 2003, that proposes the creation of a special district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed special district:
- (i) includes the unincorporated area, whether in whole or in part, of one or more counties; or
  - (ii) consists of an area that:
- (A) has a boundary that is the same as the boundary of the municipality whose legislative body adopts the resolution proposing the creation of the special district;
- (B) previously received fire protection, paramedic, and emergency services or law enforcement service from another special district; and
- (C) may be withdrawn from the other special district under Section 17B-1-505 without an election because the withdrawal is pursuant to an agreement under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b);
- (e) a resolution adopted under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f) if the resolution proposes the creation of a special district that has no registered voters within its boundaries;
- (f) a resolution adopted under Subsection [17B-1-203(1)(d)] 17B-1-203(1)(e) on or after May 11, 2010, that proposes the creation of a special district described in Subsection 17B-1-202(1)(a)(xiii); [or]
- (g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district; or
  - (h) a petition for the creation of an infrastructure financing district.
- (4) (a) If the proposed special district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder

of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

- (b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.
- (c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section  $\frac{21}{22}$ . Section 17B-1-215 is amended to read:

- 17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Special district incorporated as specialized special district or basic special district -- Effective date.
- (1) (a) Within the time specified in Subsection (1)(b) and except as provided in Section 17B-1-209 for a petition proposing the creation of an infrastructure financing district, the responsible body shall file with the lieutenant governor:
- (i) if applicable, a copy of the petition certified, under Section 17B-1-209, as complying with all applicable requirements;
- [(i)] (ii) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
  - [(iii)] (iii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
- (b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:
- (i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed special district as a whole vote in favor of the creation of a special district;
- (ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), [or] (c), or (h); or
- (iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a special district for which an election was not required under Subsection 17B-1-214(3)(d), (e), (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed special district, or by the board of trustees of the initiating special district.

- (2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:
- (a) if the special district is located within the boundary of a single county, submit to the recorder of that county:
  - (i) the original:
  - (A) notice of an impending boundary action;
  - (B) certificate of incorporation; and
  - (C) approved final local entity plat; and
- (ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or
  - (b) if the special district is located within the boundaries of more than a single county:
  - (i) submit to the recorder of one of those counties:
  - (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and
- (B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and
  - (ii) submit to the recorder of each other county:
- (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and
- (B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).
  - (3) The area of each special district consists of:
- (a) if an election was held under Section 17B-1-214, the area of the new special district as approved at the election;
- (b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), [or] (c), or (h), the area of the proposed special district as described in the petition; or
- (c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), (f), or (g), the area of the new special district as described in the resolution adopted under Subsection 17B-1-213(5).
- (4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the special district is created and incorporated as:
  - (i) the type of specialized special district that was specified in the petition under

Subsection 17B-1-203(1)(a), (b), [or] (c), or (d) or resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f), if the petition or resolution proposed the creation of a specialized special district; or

- (ii) a basic special district, if the petition or resolution did not propose the creation of a specialized special district.
- (b) (i) The effective date of a special district's incorporation for purposes of assessing property within the special district is governed by Section 59-2-305.5.
- (ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated special district may not:
  - (A) levy or collect a property tax on property within the special district;
  - (B) levy or collect an assessment on property within the special district; [or]
- (C) charge or collect a fee for service provided to property within the special district[:]; or
  - (D) issue bonds.

Section  $\frac{(22)}{23}$ . Section 17B-1-216 is amended to read:

#### 17B-1-216. Costs and expenses of creating a special district.

- (1) (a) Except as provided in Subsection (2) and subject to Subsection (1)(b), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed special district shall bear their respective costs and expenses associated with the procedure under this part for creating a special district.
- [(2)] (b) Within a year after its creation, each special district shall reimburse the costs and expenses associated with the preparation, certification, and recording of the approved final local entity plat of the special district and accompanying documents under Section 17B-1-215.
- (2) (a) Subject to Subsection (2)(b), the sponsors of a petition for the creation of an infrastructure financing district shall bear the costs and expenses associated with the procedure under this part for creating the infrastructure financing district.
- (b) An infrastructure financing district may reimburse petition sponsors the costs and expenses the petition sponsors paid under Subsection (2)(a).

Section  $\frac{\{23\}}{24}$ . Section  $\frac{\{17B-1-302\}}{17B-1-219}$  is  $\frac{\{amended\}}{amended}$  to read:

17B-1-219. Provisions not applicable to the creation of an infrastructure financing

#### district.

Sections 17B-1-210, 17B-1-211, 17B-1-212, 17B-1-213 do not apply to the proposed creation of an infrastructure financing district.

#### Section 25. 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 special 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), or (4), a resident within:
  - (i) the boundaries of the special district; and
- (ii) if applicable, the boundaries of the division of the special district from which the member is elected or appointed.
  - (2) (a) As used in this Subsection (2):
- (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 special district;
  - (B) that receives service from the special 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.
- (b) If over 50% of the residences within a special district that receive service from the special 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:
  - (i) that receives, or intends to receive, service from the district; and
- (ii) that is located within the special district and, if applicable, the division from which the member is elected.
  - (3) (a) [For] Subsection (3)(b) applies to a board of trustees member in:
  - (i) a basic special district[, or in];

- (ii) any other type of special 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[7]; or
  - (iii) an infrastructure financing district.
- (b) For a board of trustees member in a special district listed in Subsection (3)(a), the board of trustees may replace the requirement under Subsection (1)(b) [may be replaced by] with the requirement that the member be:
  - (i) a resident within the boundaries of the special district; or
  - (ii) an owner of land, or an agent or officer of the owner of land, that:
  - (A) is located within the special district [that]; and
  - (B) receives, or [intends] is expected to receive, service from the district.
- (4) A board member of an infrastructure financing district is not required to be a resident within the boundary of the infrastructure financing district if:
  - (a) all owners of surface property within the district waive the residency requirement;
  - (b) the district boundary does not include any residents; or
- (c) (i) in the case of an appointed board position, no qualified individual timely files to be considered for appointment to the board; or
- (ii) in the case of an elected board position, no qualified individual files a declaration of candidacy for the board position under Subsection 17B-1-306(5).
- [(b)] (5) 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)] (6) Notwithstanding Subsection (1)(b) and except as provided in Subsection [(3)(d)] (7), the county legislative body may appoint to the special 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:
- $[\frac{1}{2}]$  (a) the county legislative body satisfies the procedures to fill a vacancy described in:
- [(A)] (i) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

- [(B)] (ii) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);
- [(ii)] (b) fewer qualified candidates timely file to be considered for appointment to the special district board than are necessary to fill the board;
- [(iii)] (c) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and
- [(iv)] (d) the county legislative body appoints a member of the body to the special district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:
  - [(A)] (i) elected at large by the voters of the county;
- [(B)] (ii) elected from a division of the county that includes more than 50% of the geographic area of the special district; or
- [(C)] (iii) if the special 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 special district in which there is a board vacancy.
- [(d)] (7) If it is necessary to reconstitute the board of trustees of a special 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 special district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).
- [(4)] (8) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a special 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 special district has more than nine members, the number of members may be odd or even.
- [(5)] (9) For a newly created special district, the number of members of the initial board of trustees shall be the number specified:
- (a) for a special district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), [or] (c), or (d), in the petition; or

- (b) for a special district whose creation was initiated by a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f), in the resolution.
- [(6)] (10) (a) For an existing special 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)] (10)(a) may:
  - (i) violate Subsection [(4)] (8); or
  - (ii) serve to shorten the term of any member of the board.

Section  $\frac{24}{26}$ . Section 17B-1-303 is amended to read:

## 17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

- (1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.
- (b) The term of each member of the initial board of trustees of a newly created special district begins:
  - (i) upon appointment, for an appointed member; and
- (ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.
- (c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):
  - (i) begins on the later of the following:
  - (A) the date on which the Senate consents to the appointment; or
  - (B) the expiration date of the prior term; and
- (ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).
- (d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.
- (e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

- (2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that:
- (A) approximately half the members of the initial board of trustees of an infrastructure financing district, as designated in the governing document, shall serve a six-year term so that the term of approximately half the board members expires every two years; and
- (B) for any other special district, approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.
- (ii) If the terms of members of the initial board of trustees of a newly created special district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:
- (A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and
  - (B) the requirement under Subsection (2)(a)(i) that terms be four years.
- (iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.
- (iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.
- (b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.
- (c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), [or] (3), (4), (5), (6), or (7), or if the member's term expires without a duly elected or appointed successor:
  - (i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and
- (ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

- (3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.
- (ii) A judge, county clerk, notary public, or the special district clerk may administer an oath of office.
- (b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the special district.
- (c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.
  - (4) A board of trustees member may serve any number of terms.
- (5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.
- (b) When the number of members of a board of trustees increases in accordance with Subsection [17B-1-302(6)] 17B-1-302(10), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.
  - (6) (a) As used in this Subsection (6):
  - (i) "Appointed official" means a person who:
- (A) is appointed as a member of a special district board of trustees by a county or municipality that is entitled to appoint a member to the board; and
  - (B) holds an elected position with the appointing county or municipality.
- (ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.
- (b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:
- (i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and
  - (ii) the appointing entity submits a written request to the board to declare the vacancy.
- (c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.
  - (7) (a) A member of a board of trustees shall obtain a fidelity bond or obtain theft or

crime insurance for the faithful performance of the member's duties, in the amount and with the sureties or with an insurance company that the board of trustees prescribes.

- (b) The special district:
- (i) may assist the board of trustees in obtaining a fidelity bond or obtaining theft or crime insurance as a group or for members individually; and
- (ii) shall pay the cost of each fidelity bond or insurance coverage required under this Subsection (7).
- (8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(14).
- (b) When the number of members of a board of trustees increases in accordance with Subsection [17B-1-302(6)] 17B-1-302(10), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):
- (i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and
  - (ii) the initial term of a new board member position may be less than two or four years.
  - (9) (a) A special district shall:
- (i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the special district's board of trustees;
  - (ii) update the information described in Subsection (9)(a)(i) when:
  - (A) the membership of the board of trustees changes; or
  - (B) a member of the board of trustees' phone number or email address changes; and
- (iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.
- (b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the special district.

Section  $\frac{25}{27}$ . Section 17B-1-306.5 is amended to read:

#### 17B-1-306.5. Dividing a special district into divisions.

(1) Subject to Subsection (3), the board of trustees of a special district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the special district, or the portion of the special district represented by elected board of trustees members,

into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

- (2) Subject to Subsection (3), the appointing authority of a special district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the special district, or the portion of the special district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.
- (3) Before dividing a special district into divisions or before changing the boundaries of divisions already established, the board of trustees under Subsection (1), or the appointing authority, under Subsection (2), shall:
  - (a) prepare a proposal that describes the boundaries of the proposed divisions; and
- (b) hold a public hearing at which any interested person may appear and speak for or against the proposal.
- (4) (a) The board of trustees or the appointing authority shall review the division boundaries at least every 10 years.
- (b) Except for changes in the divisions necessitated by annexations to or withdrawals from the special district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.
- (c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or (2).
- (5) (a) Notwithstanding Subsections (1) through (4), after the creation of an infrastructure financing district the board of trustees may divide the infrastructure financing district into divisions, as provided in the petition to create the infrastructure financing district under Subsection 17B-1-205(1)(m), so that some or all board members represent a division rather than the district at large.
- (b) No more frequently than every four years, the board of an infrastructure financing district may modify division boundaries to ensure that each division has as nearly as possible the same number of registered voters.
- (c) In dividing an infrastructure financing district into divisions or in modifying division boundaries, the board shall consider the anticipated future number of registered voters within divisions based on proposed development within the divisions.

Section  $\frac{26}{28}$ . Section 17B-1-403 is amended to read:

17B-1-403. Initiation of annexation process -- Petition and resolution.

- (1) Except as provided in Sections 17B-1-415, 17B-1-416, and 17B-1-417, the process to annex an area to a special district may be initiated by[:] a petition, as provided in Subsection (2), or a resolution, as provided in Subsection (3).
- ## (2) (a) [(i) for] #(2) (a) For a district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector and subject to Subsection [(2)] (4), the process to annex an area to the special district is initiated by a petition signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation[; or].
- (b) For an infrastructure financing district, the process to annex an area to the infrastructure financing district is initiated by a petition signed by 100% of the owners of all surface property within the area proposed for annexation that is within the designated expansion area, as defined in Section 17B-2a-1301.
- (c) [(ii) for] {(c) }For all other districts {[:]}, the process to annex an area to the special district may be initiated by {
  - $\rightarrow$ [:(A)] $\longleftrightarrow$  a petition signed by:
    - $[\underbrace{(1)}]$  (i) the owners of private real property that:
    - [(Aa)] (A) is located within the area proposed to be annexed;
- [(Bb)] (B) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and
- [(Ce)] (C) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; [or]
- [(H)] (ii) the owner of all the publicly owned real property, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government; or
- [(B)] (iii) [a petition signed by] registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing

of the petition[;].

- [(b)] (3) The process to annex an area to a special district may be initiated by:
- (a) a resolution adopted by the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the area proposed to be annexed; or
- [(c)] (b) a resolution adopted by the board of trustees of the proposed annexing special district if, for at least 12 consecutive months immediately preceding adoption of the resolution, the special district has provided:
  - (i) retail service to the area; or
- (ii) a wholesale service to a provider of the same service that has provided that service on a retail basis to the area.
- [(2)] (4) If an association representing all acre-feet of water allotted to the land that is proposed to be annexed to a special district signs a petition under Subsection [(1)(a)(i)] (2)(a), pursuant to a proper exercise of authority as provided in the bylaws or other rules governing the association, the petition shall be considered to have been signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation, even though less than all of the owners within the association consented to the association signing the petition.
- [(3)] (5) Each petition <u>under Subsection (2)</u> and resolution under Subsection [(1)] (3) shall:
  - (a) describe the area proposed to be annexed; and
  - (b) be accompanied by a map of the boundaries of the area proposed to be annexed.
- [(4)] (6) The legislative body of each county and municipality that adopts a resolution under Subsection [(1)(b)] (3) shall, within five days after adopting the resolution, mail or deliver a copy of the resolution to the board of trustees of the proposed annexing special district.

Section  $\frac{27}{29}$ . Section 17B-1-404 is amended to read:

#### 17B-1-404. Petition requirements.

- (1) Each petition under Subsection  $[\frac{17B-1-403(1)(a)}{17B-1-403(2)}]$  shall:
- (a) indicate the typed or printed name and current residence address of each person signing the petition;
  - (b) separately group signatures by county and municipality, so that all signatures of the

owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the area proposed for annexation are grouped separately;

- (c) if it is a petition under Subsection [17B-1-403(1)(a)(i) or (ii)(A)] 17B-1-403(2)(a) or (2)(c)(i) or (ii), indicate the address of the property as to which the owner is signing the petition;
- (d) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each;
  - (e) be filed with the board of trustees of the proposed annexing special district; and
- (f) for a petition under Subsection [17B-1-403(1)(a)(i)] 17B-1-403(2)(a), state the proposed method of supplying water to the area proposed to be annexed.
- (2) By submitting a written withdrawal or reinstatement with the board of trustees of the proposed annexing special district, a signer of a petition may withdraw, or once withdrawn, reinstate the signer's signature at any time:
  - (a) (i) before the public hearing under Section 17B-1-409 is held; or
- [(b)] (ii) if a hearing is not held because of Subsection 17B-1-413(1) or because no hearing is requested under Subsection 17B-1-413(2)(a)(ii)(B), until 20 days after the special district provides notice under Subsection 17B-1-413(2)(a)(i)[-]; or
- (b) for an infrastructure financing district, before the board of trustees adopts a resolution approving the annexation.

Section  $\frac{(28)30}{30}$ . Section 17B-1-405 is amended to read:

#### 17B-1-405. Petition certification.

- (1) Within 30 days after the filing of a petition under Subsection [17B-1-403(1)(a)(i) or (ii)] 17B-1-403(2) or within the time that the special district and each petition sponsor designate by written agreement, the board of trustees of the proposed annexing special district shall:
- (a) with the assistance of officers of the county in which the area proposed to be annexed is located from whom the board requests assistance, determine whether the petition meets the requirements of Subsection [17B-1-403(1)(a)(i) or (ii)] 17B-1-403(2)(a), (b), or (c), as the case may be, Subsection [17B-1-403(3)] 17B-1-403(5), and Subsection 17B-1-404(1); and

- (b) (i) if the board determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or
- (ii) if the board determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.
- (2) (a) If the board rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.
- (b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).
- (3) The board shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Section  $\frac{(29)}{31}$ . Section 17B-1-405.5 is enacted to read:

<u>17B-1-405.5.</u> Provisions not applicable to infrastructure financing district annexation.

Sections 17B-1-406, 17B-1-407, 17B-1-408, 17B-1-409, 17B-1-410, 17B-1-411, 17B-1-412, and 17B-1-413 do not apply to a proposed annexation to an infrastructure financing district.

#### Section 32. Section 17B-1-406 is amended to read:

#### 17B-1-406. Notice to county and municipality -- Exception.

- (1) Except as provided in Subsection (2), within 10 days after certifying a petition under Subsection 17B-1-405(1)(b) the board of trustees of the proposed annexing special district shall mail or deliver a written notice of the proposed annexation, with a copy of the certification and a copy of the petition, to the legislative body of each:
- (a) county in whose unincorporated area any part of the area proposed for annexation is located; and
  - (b) municipality in which any part of the area proposed for annexation is located.
  - (2) The board is not required to send a notice under Subsection (1) to:
- (a) a county or municipality that does not provide the service proposed to be provided by the special district; or

- (b) a county or municipality whose legislative body has adopted an ordinance or resolution waiving the notice requirement as to:
  - (i) the proposed annexing special district; or
  - (ii) the service that the proposed annexing special district provides.
- (3) For purposes of this section, an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of the filing of a petition under Subsection [17B-1-403(1)(a)] 17B-1-403(2)(a) or (c) and an area included within a municipality's annexation policy plan under Section 10-2-401.5 shall be considered to be part of that municipality.

#### Section 33. Section 17B-1-407 is amended to read:

# 17B-1-407. Notice of intent to consider providing service -- Public hearing requirements.

- (1) (a) If the legislative body of a county or municipality whose applicable area is proposed to be annexed to a special district in a petition under Subsection [17B-1-403(1)(a)] 17B-1-403(2)(a) or (c) intends to consider having the county or municipality, respectively, provide to the applicable area the service that the proposed annexing special district provides, the legislative body shall, within 30 days after receiving the notice under Subsection 17B-1-406(1), mail or deliver a written notice to the board of trustees of the proposed annexing special district indicating that intent.
- (b) (i) A notice of intent under Subsection (1)(a) suspends the special district's annexation proceeding as to the applicable area of the county or municipality that submits the notice of intent until the county or municipality:
- (A) adopts a resolution under Subsection 17B-1-408(1) declining to provide the service proposed to be provided by the proposed annexing special district; or
- (B) is considered under Subsection 17B-1-408(2) or (3) to have declined to provide the service.
- (ii) The suspension of an annexation proceeding under Subsection (1)(b)(i) as to an applicable area does not prevent the special district from continuing to pursue the annexation proceeding with respect to other applicable areas for which no notice of intent was submitted.
- (c) If a legislative body does not mail or deliver a notice of intent within the time required under Subsection (1)(a), the legislative body shall be considered to have declined to

provide the service.

- (2) Each legislative body that mails or delivers a notice under Subsection (1)(a) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the area proposed for annexation need travel an unreasonable distance to attend a public hearing.
  - (3) Each public hearing under Subsection (2) shall be held:
  - (a) no later than 45 days after the legislative body sends notice under Subsection (1);
  - (b) except as provided in Subsections (6) and (7), within the applicable area; and
  - (c) for the purpose of allowing public input on:
  - (i) whether the service is needed in the area proposed for annexation;
- (ii) whether the service should be provided by the county or municipality or the proposed annexing special district; and
- (iii) all other matters relating to the issue of providing the service or the proposed annexation.
- (4) A quorum of the legislative body of each county or municipal legislative body holding a public hearing under this section shall be present throughout each hearing held by that county or municipal legislative body.
- (5) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.
- (6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (3)(b), are met as to each hearing.
- (7) Notwithstanding Subsection (3)(b), a county or municipal legislative body may hold a public hearing or set of public hearings outside the applicable area if:
  - (a) there is no reasonable place to hold a public hearing within the applicable area; and
- (b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.
- (8) Before holding a public hearing or set of public hearings under this section, the legislative body of each county or municipality that receives a request for service shall provide notice of the hearing or set of hearings as provided in Section 17B-1-211.

Section 34. Section 17B-1-408 is amended to read:

#### 17B-1-408. Resolution indicating whether the requested service will be provided.

- (1) Within 30 days after the last hearing required under Section 17B-1-407 is held, the legislative body of each county and municipality that sent a notice of intent under Subsection 17B-1-407(1) shall adopt a resolution indicating whether the county or municipality will provide to the area proposed for annexation within its boundaries the service proposed to be provided by the proposed annexing special district.
- (2) If the county or municipal legislative body fails to adopt a resolution within the time provided under Subsection (1), the county or municipality shall be considered to have declined to provide the service.
- (3) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service but the county or municipality does not, within 120 days after the adoption of that resolution, take substantial measures to provide the service, the county or municipality shall be considered to have declined to provide the service.
- (4) Each county or municipality whose legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service shall diligently proceed to take all measures necessary to provide the service.
- (5) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service and the county or municipality takes substantial measures within the time provided in Subsection (3) to provide the service, the special district's annexation proceeding as to the applicable area of that county or municipality is terminated and that applicable area is considered deleted from the area proposed to be annexed in a petition under Subsection [17B-1-403(1)(a)] 17B-1-403(2)(a) or (c).

#### Section 35. Section 17B-1-409 is amended to read:

#### 17B-1-409. Public hearing on proposed annexation.

(1) Except as provided in Sections 17B-1-413 and 17B-1-415, the board of trustees of each special district that certifies a petition that was filed under Subsection

[17B-1-403(1)(a)(ii)(A) or (B)] 17B-1-403(2)(c), receives a resolution adopted under Subsection [17B-1-403(1)(b)] 17B-1-403(3)(a), or adopts a resolution under Subsection

[17B-1-403(1)(c)] 17B-1-403(3)(b) shall hold a public hearing on the proposed annexation and

provide notice of the hearing as provided in Section 17B-1-410.

- (2) Each public hearing under Subsection (1) shall be held:
- (a) within 45 days after:
- (i) if no notice to a county or municipal legislative body is required under Section 17B-1-406, petition certification under Section 17B-1-405; or
- (ii) if notice is required under Section 17B-1-406, but no notice of intent is submitted by the deadline:
- (A) expiration of the deadline under Subsection 17B-1-407(1) to submit a notice of intent; or
- (B) termination of a suspension of the annexation proceeding under Subsection 17B-1-407(1)(b);
  - (b) (i) for a special district located entirely within a single county:
  - (A) within or as close as practicable to the area proposed to be annexed; or
  - (B) at the special district office; or
  - (ii) for a special district located in more than one county:
  - (A) (I) within the county in which the area proposed to be annexed is located; and
  - (II) within or as close as practicable to the area proposed to be annexed; or
- (B) if the special district office is reasonably accessible to all residents within the area proposed to be annexed, at the special district office;
  - (c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.; and
  - (d) for the purpose of allowing:
- (i) the public to ask questions and obtain further information about the proposed annexation and issues raised by it; and
  - (ii) any interested person to address the board regarding the proposed annexation.
- (3) A quorum of the board of trustees of the proposed annexing special district shall be present throughout each public hearing held under this section.
- (4) (a) After holding a public hearing under this section or, if no hearing is held because of application of Subsection 17B-1-413(2)(a)(ii), after expiration of the time under Subsection 17B-1-413(2)(a)(ii)(B) for requesting a hearing, the board of trustees may by resolution deny the annexation and terminate the annexation procedure if:
  - (i) for a proposed annexation initiated by a petition under Subsection

 $[\frac{17B-1-403(1)(a)(i) \text{ or (ii)}}{17B-1-403(2)(a) \text{ or (c)}}$ , the board determines that:

- (A) it is not feasible for the special district to provide service to the area proposed to be annexed; or
- (B) annexing the area proposed to be annexed would be inequitable to the owners of real property or residents already within the special district; or
- (ii) for a proposed annexation initiated by resolution under Subsection [17B-1-403(1)(b) or (c)] 17B-1-403(3)(a) or (b), the board determines not to pursue annexation.
- (b) In each resolution adopted under Subsection (4)(a), the board shall set forth its reasons for denying the annexation.

#### Section 36. Section 17B-1-411 is amended to read:

#### 17B-1-411. Modifications to area proposed for annexation -- Limitations.

- (1) (a) Subject to Subsections (2), (3), (4), and (5), a board of trustees may, within 30 days after the public hearing under Section 17B-1-409, or, if no public hearing is held, within 30 days after the board provides notice under Subsection 17B-1-413(2)(a)(i), modify the area proposed for annexation to include land not previously included in that area or to exclude land from that area if the modification enhances the feasibility of the proposed annexation.
- (b) A modification under Subsection (1)(a) may consist of the exclusion of all the land within an applicable area if:
  - (i) the entire area proposed to be annexed consists of more than that applicable area;
- (ii) sufficient protests under Section 17B-1-412 are filed with respect to that applicable area that an election would have been required under Subsection 17B-1-412(3) if that applicable area were the entire area proposed to be annexed; and
  - (iii) the other requirements of Subsection (1)(a) are met.
- (2) A board of trustees may not add property under Subsection (1) to the area proposed for annexation without the consent of the owner of that property.
- (3) Except as provided in Subsection (1)(b), a modification under Subsection (1) may not avoid the requirement for an election under Subsection 17B-1-412(3) if, before the modification, the election was required because of protests filed under Section 17B-1-412.
- (4) If the annexation is proposed by a petition under Subsection [17B-1-403(1)(a)(ii)(A) or (B)] 17B-1-403(2)(c), a modification may not be made unless the

requirements of Subsection [17B-1-403(1)(a)(ii)(A) or (B)] 17B-1-403(2)(c) are met after the modification as to the area proposed to be annexed.

- (5) If the petition meets the requirements of Subsection 17B-1-413(1) before a modification under this section but fails to meet those requirements after modification:
- (a) the special district board shall give notice as provided in Section 17B-1-410 and hold a public hearing as provided in Section 17B-1-409 on the proposed annexation; and
- (b) the petition shall be considered in all respects as one that does not meet the requirements of Subsection 17B-1-413(1).

#### Section 37. Section 17B-1-413 is amended to read:

# 17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

- (1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:
  - (a) if the process to annex an area to a special district was initiated by:
  - (i) a petition under Subsection [17B-1-403(1)(a)(i)] 17B-1-403(2)(a);
- (ii) a petition under Subsection [17B-1-403(1)(a)(ii)(A)] 17B-1-403(2)(c)(i) or (ii) that was signed by the owners of private real property that:
  - (A) is located within the area proposed to be annexed;
- (B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and
- (C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or
- (iii) a petition under Subsection [17B-1-403(1)(a)(ii)(B)] 17B-1-403(2)(c)(iii) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;
  - (b) to an annexation under Section 17B-1-415; or
  - (c) to a boundary adjustment under Section 17B-1-417.
- (2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the special district board:

- (i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and
- (ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and
- (B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the special district provides notice under Subsection (2)(a)(i), to the special district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.
  - (b) The notice required under Subsections (2)(a)(i) and (ii) shall:
  - (i) be given:
- (A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or
- (II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and
- (B) by providing notice, as a class A notice under Section 63G-30-102, for the area proposed to be annexed, through the day of the public hearing; and
- (ii) contain a brief explanation of the proposed annexation and include the name of the special district, the service provided by the special district, a description or map of the area proposed to be annexed, a special district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).
- (c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section  $\{30\}$  38. Section 17B-1-414 is amended to read:

- 17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.
- (1) (a) Subject to Subsection (1)(b), the special district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 90 days after:

- (i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;
  - (ii) for a petition that meets the requirements of Subsection 17B-1-413(1):
- (A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or
- (B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing[-]; or
- (iii) for a proposed annexation to an infrastructure financing district, the board's certification of the annexation petition under Section 17B-1-405.
- (b) If the special district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.
- (2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:
- (A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and
  - (B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.
- (ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:
- (A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and
- (B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a special district under Section 17B-1-416.
- (b) For an automatic annexation to a special district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the special district is being automatically annexed to the special district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2,

#### Part 4, Annexation.

- (c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:
- (i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:
  - (A) the original:
  - (I) notice of an impending boundary action;
  - (II) certificate of annexation; and
  - (III) approved final local entity plat; and
  - (B) a certified copy of the annexation resolution; or
  - (ii) if the annexed area is located within the boundaries of more than a single county:
  - (A) submit to the recorder of one of those counties:
  - (I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and
  - (II) a certified copy of the annexation resolution; and
  - (B) submit to the recorder of each other county:
- (I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and
  - (II) a certified copy of the annexation resolution.
- (3) (a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a special district:
  - (i) created to provide fire protection, paramedic, and emergency services; and
- (ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).
  - (b) An annexation under this part is complete and becomes effective:
- (i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or
- (B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or
- (ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.
  - (c) (i) The effective date of a special district annexation for purposes of assessing

property within the annexed area is governed by Section 59-2-305.5.

- (ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a special district may not:
  - (A) levy or collect a property tax on property within the annexed area;
  - (B) levy or collect an assessment on property within the annexed area; or
  - (C) charge or collect a fee for service provided to property within the annexed area.
  - (iii) Subsection (3)(c)(ii)(C):
- (A) may not be construed to limit a special district's ability before annexation to charge and collect a fee for service provided to property that is outside the special district's boundary; and
- (B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the special district's annexation, with respect to a fee that the special district was charging for service provided to property within the annexed area immediately before the area was annexed to the special district.

Section  $\frac{31}{39}$ . Section 17B-1-504 is amended to read:

#### 17B-1-504. Initiation of withdrawal process -- Notice of petition.

- (1) Except as provided in Section 17B-1-505, the process to withdraw an area from a special district may be initiated:
- (a) for a special district funded predominantly by revenues from property taxes or service charges other than those based upon acre-feet of water:
  - (i) by a petition signed by the owners of private real property that:
  - (A) is located within the area proposed to be withdrawn;
- (B) covers at least 51% of the total private land within the area proposed to be withdrawn; and
- (C) is equal in taxable value to at least 51% of the taxable value of all private real property within the area proposed to be withdrawn;
- (ii) by a petition signed by registered voters residing within the area proposed to be withdrawn equal in number to at least 67% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;
- (iii) by a resolution adopted by the board of trustees of the special district in which the area proposed to be withdrawn is located, which:

- (A) states the reasons for withdrawal; and
- (B) is accompanied by a general description of the area proposed to be withdrawn; or
- (iv) by a resolution to file a petition with the special district to withdraw from the special district all or a specified portion of the area within a municipality or county, adopted by the governing body of a municipality that has within its boundaries an area located within the boundaries of a special district, or by the governing body of a county that has within its boundaries an area located within the boundaries of a special district that is located in more than one county, which petition of the governing body shall be filed with the board of trustees only if a written request to petition the board of trustees to withdraw an area from the special district has been filed with the governing body of the municipality, or county, and the request has been signed by registered voters residing within the boundaries of the area proposed for withdrawal equal in number to at least 51% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;
- (b) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector:
  - (i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or
- (ii) by a petition signed by the owners of at least 67% of the acre-feet of water allotted to the land proposed to be withdrawn; [or]
- (c) for a special district funded predominantly by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water:
  - (i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or
- (ii) by a petition signed by the registered voters residing within the entire area proposed to be withdrawn, which area shall be comprised of an entire unincorporated area within the special district or an entire municipality within a special district, or a combination thereof, equal in number to at least 67% of the number of votes cast within the entire area proposed to be withdrawn for the office of governor at the last regular general election before the filing of the petition[:]; or
- (d) for an infrastructure financing district, by a petition signed by 100% of the owners of all surface property within the area proposed to be withdrawn.
- (2) (a) Prior to soliciting any signatures on a petition under Subsection (1), the sponsors of the petition shall:

- [(a)] (i) notify the special district board with which the petition is intended to be filed that the sponsors will be soliciting signatures for a petition; and
  - [(b)] (ii) mail a copy of the petition to the special district board.
- (b) Subsection (2)(a) does not apply to a petition to withdraw an area from an infrastructure financing district.

Section  $\frac{32}{40}$ . Section 17B-1-506 is amended to read:

#### 17B-1-506. Withdrawal petition requirements.

- (1) Each petition under Section 17B-1-504 shall:
- (a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;
- (b) separately group signatures by municipality and, in the case of unincorporated areas, by county;
- (c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;
- (d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;
  - (e) state the reasons for withdrawal; and
- (f) when the petition is filed with the special district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.
- (2) (a) The special district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the special district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the special district within 90 days of receipt. Until funds to cover the expenses are delivered to the special district, the district will have no obligation to proceed with the withdrawal and the time limits on the

district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

- (b) If there is no agreement between the board of trustees of the special district and the contact sponsor on the amount of expenses that will necessarily be incurred by the special district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (3) (a) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written statement requesting withdrawal or reinstatement with the board of trustees of the special district in which the area proposed to be withdrawn is located.
- (b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).
- (c) As applicable and using the procedures described in Subsection 20A-1-1003(3), the county clerk shall assist the board of trustees to determine whether to remove or reinstate a registered voter's signature after the voter submits a timely, valid statement described in Subsection (3)(a).
- (4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the special district, the board of trustees of the special district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the special district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the special district under Subsection 17B-1-504(1)(a)(iv).
  - (5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless

specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

- (b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.
- (c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.
- (6) Subsections (2), (3), (4), and (5) do not apply to a petition seeking the withdrawal of an area from an infrastructure financing district.

Section <del>(33)</del>41. Section **17B-1-511** is amended to read:

# 17B-1-511. Continuation of tax levy or assessment after withdrawal to pay for proportionate share of district bonds.

- (1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be taxable by the special district:
- (a) for the purpose of paying the withdrawn area's just proportion of the special district's general obligation bonds or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the special district, other than those bonds treated as revenue bonds under Subsection 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and
- (b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-1-510(5)(i).
- (2) For a special district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, property within the withdrawn area shall continue to be taxable by the special district for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the special district incurred prior to the date the petition was filed.
- (3) An area withdrawn from an infrastructure financing district remains subject to any taxes, fees, and assessments imposed by the infrastructure financing district until obligations

allocable to the withdrawn area are paid.

[(3)] (4) Except as provided in Subsections (1) [and], (2), and (3), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the special district.

Section  $\frac{34}{42}$ . Section 17B-1-1001 is amended to read:

#### 17B-1-1001. Provisions applicable to property tax levy.

- (1) Each special district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.
  - (2) As used in this section:
- (a) "Appointed board of trustees" means a board of trustees of a special district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.
- (b) "Elected board of trustees" means a board of trustees of a special district that consists entirely of members who are elected to the board of trustees in accordance with Subsection (4), Section 17B-1-306, or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.
- (3) (a) For a taxable year beginning on or after January 1, 2018, a special district may not levy or collect property tax revenue that exceeds the certified tax rate unless:
- (i) to the extent that the revenue from the property tax was pledged before January 1,2018, the special district pledges the property tax revenue to pay for bonds or other obligations of the special district; or
  - (ii) the proposed tax or increase in the property tax rate has been approved by:
  - (A) an elected board of trustees;
  - (B) subject to Subsection (3)(b), an appointed board of trustees;
- (C) a majority of the registered voters within the special district who vote in an election held for that purpose on a date specified in Section 20A-1-204;
  - (D) the legislative body of the appointing authority; or
  - (E) the legislative body of:

- (I) a majority of the municipalities partially or completely included within the boundary of the specified special district; or
- (II) the county in which the specified special district is located, if the county has some or all of its unincorporated area included within the boundary of the specified special district.
- (b) For a special district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the special district may impose a property tax levy that exceeds the certified tax rate.
- (4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts, and subject to Subsection (4)(b), members of the board of trustees of a special district shall be elected, if:
- (i) two-thirds of all members of the board of trustees of the special district vote in favor of changing to an elected board of trustees; and
- (ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board of trustees.
- (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.
  - (5) Subsections (2), (3), and (4) do not apply to:
  - (a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;
  - (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or
  - (c) a special district in which:
  - (i) the board of trustees consists solely of:
  - (A) land owners or the land owners' agents; or
- (B) as described in Subsection [<del>17B-1-302(3)</del>] <u>17B-1-302(3)</u>, (5), (6), or (7), land owners or the land owners' agents or officers; and
  - (ii) there are no residents within the special district at the time a property tax is levied.
- (6) An infrastructure financing district may not pledge or otherwise use any property tax revenue for the payment of bonds.

Section  $\frac{35}{43}$ . Section 17B-1-1002 is amended to read:

#### 17B-1-1002. Limit on special district property tax levy -- Exclusions.

(1) The rate at which a special district levies a property tax for district operation and

maintenance expenses on the taxable value of taxable property within the district may not exceed:

- (a) .0008, for a basic special district;
- (b) .0004, for a cemetery maintenance district;
- (c) .0004, for a drainage district;
- (d) .0008, for a fire protection district;
- (e) .0008, for an improvement district;
- (f) .0005, for a metropolitan water district;
- (g) .0004, for a mosquito abatement district;
- (h) .0004, for a public transit district;
- (i) (i) .0023, for a service area that:
- (A) is located in a county of the first or second class; and
- (B) (I) provides fire protection, paramedic, and emergency services; or
- (II) subject to Subsection (3), provides law enforcement services; or
- (ii) .0014, for each other service area;
- (j) the rates provided in Section 17B-2a-1006, for a water conservancy district; [or]
- (k) .0008 for a municipal services district[-]; or
- (1) .0004 for an infrastructure financing district.
- (2) Property taxes levied by a special district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:
- (a) levied under Section 17B-1-1103 by a special district, other than a water conservancy district, to pay principal of and interest on general obligation bonds issued by the district;
  - (b) levied to pay debt and interest owed to the United States; or
- (c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.
- (3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

- (a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or
  - (b) any other generally assessed fee for law enforcement services.

Section <del>{36}44</del>. Section **17B-1-1302** is amended to read:

#### 17B-1-1302. Special district dissolution.

- (1) A special district may be dissolved as provided in this part.
- (2) No later than 180 days after the payment of all debt of an infrastructure financing district, the board of trustees of the infrastructure financing district shall adopt a resolution to dissolve the infrastructure financing district.

Section  $\frac{(37)}{45}$ . Section 17B-1-1303 is amended to read:

#### 17B-1-1303. Initiation of dissolution process.

The process to dissolve a special district may be initiated by:

- (1) for an inactive special district:
- (a) (i) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of 25% of the acre-feet of water allotted to the land within the special district; or
  - (ii) for all other districts:
  - (A) a petition signed by the owners of private real property that:
  - (I) is located within the special district proposed to be dissolved;
  - (II) covers at least 25% of the private land area within the special district; and
- (III) is equal in assessed value to at least 25% of the assessed value of all private real property within the special district; or
- (B) a petition signed by registered voters residing within the special district proposed to be dissolved equal in number to at least 25% of the number of votes cast in the district for the office of governor at the last regular general election before the filing of the petition; or
  - (b) a resolution adopted by the administrative body; [and]
  - (2) for an active special district, a petition signed by:
- (a) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, the owners of 33% of the acre-feet of water allotted to the land within the special district;
  - (b) for a special district created to acquire or assess a groundwater right for the

development and execution of a groundwater management plan in coordination with the state engineer in accordance with Section 73-5-15, the owners of groundwater rights that:

- (i) are diverted within the district; and
- (ii) cover at least 33% of the total amount of groundwater diverted in accordance with the groundwater rights within the district as a whole; or
  - (c) for all other districts:
  - (i) the owners of private real property that:
  - (A) is located within the special district proposed to be dissolved;
  - (B) covers at least 33% of the private land area within the special district; and
- (C) is equal in assessed value to at least 25% of the assessed value of all private real property within the special district; or
- (ii) 33% of registered voters residing within the special district proposed to be dissolved[:]; or
  - (3) for an infrastructure financing district, a resolution adopted by the board of trustees. Section \(\frac{438}{46}\). Section \(\frac{17B-1-1310}{46}\) is amended to read:

# 17B-1-1310. Notice to lieutenant governor -- Recording requirements -- Distribution of remaining assets.

- (1) (a) [The] Within the time specified in Subsection (1)(b), an administrative body[5] shall file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3)[5].
- [(a)] (b) The administrative body shall file a notice of an impending boundary action under Subsection (1)(a) within 30 days after the day on which, as applicable:
- (i) the administrative body adopts a resolution approving the dissolution of an inactive special district; [or]
- [(b)] (ii) [within 30 days after the day on which] { (ii) } a majority of the voters within an active special district approve the dissolution of the special district in an election described in Subsection 17B-1-1309(2)[-]; or
- (iii) for an infrastructure financing district, the administrative body adopts a resolution to dissolve the infrastructure financing district.
- (2) Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, the administrative body shall:

- (a) if the special district was located within the boundary of a single county, submit to the recorder of that county:
  - (i) the original:
  - (A) notice of an impending boundary action; and
  - (B) certificate of dissolution; and
- (ii) a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); or
- (b) if the special district was located within the boundaries of more than a single county:
  - (i) submit to the recorder of one of those counties:
- (A) the original notice of an impending boundary action and certificate of dissolution; and
- (B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); and
  - (ii) submit to the recorder of each other county:
- (A) a certified copy of the notice of an impending boundary action and certificate of dissolution; and
- (B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1).
- (3) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the special district is dissolved.
- (4) (a) After the dissolution of a special district under this part, the administrative body shall use any assets of the special district remaining after paying all debts and other obligations of the special district to pay costs associated with the dissolution process.
- (b) If the administrative body is not the board of trustees of the dissolved special district, the administrative body shall pay any costs of the dissolution process remaining after exhausting the remaining assets of the special district as described in Subsection (4)(a).
- (c) If the administrative body is the board of trustees of the dissolved special district, each entity that has committed to provide a service that the dissolved special district previously provided, as described in Subsection 17B-1-1308(2)(b), shall pay, in the same proportion that the services the entity commits to provide bear to all of the services the special district

provided, any costs of the dissolution process remaining after exhausting the remaining assets of the dissolved special district described in Subsection (4)(a).

- (5) (a) The administrative body shall distribute any assets of the special district that remain after the payment of debts, obligations, and costs under Subsection (4) in the following order of priority:
- (i) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the real property owners in the dissolved special district, proportionately to those real property owners;
- (ii) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the recipients of a service that the dissolved special district provided, proportionately to those recipients; and
- (iii) subject to Subsection (6), to each entity that has committed to provide a service that the dissolved special district previously provided, as described in Subsection [17B-1-1309(1)(b)(ii)] 17B-1-1308(2)(b)(i), in the same proportion that the services the entity commits to provide bear to all of the services the special district provided.
- (6) An entity that receives cash reserves of the dissolved special district under Subsection (5)(a)(iii) may not use the cash reserves:
  - (a) in any way other than for the purpose the special district originally intended; or
- (b) in any area other than within the area that the dissolved special district previously served.

Section  $\frac{39}{47}$ . Section 17B-1-1402 is amended to read:

#### 17B-1-1402. Board of trustees of a basic special district.

- (1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f), and except as provided in Subsection (2), the members of a board of trustees of a basic special district may be:
  - (a) (i) elected by registered voters; or
  - (ii) appointed by the responsible body, as defined in Section 17B-1-201; or
- (b) if the area of the special district contains less than one residential dwelling unit per 50 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners of real property within the special district based on:
  - (i) the amount of acreage owned by property owners;

- (ii) the assessed value of property owned by property owners; or
- (iii) water rights:
- (A) relating to the real property within the special district;
- (B) that the real property owner:
- (I) owns; or
- (II) has transferred to the special district.
- (2) As specified in a groundwater right owner petition under Subsection 17B-1-203(1)(c) or a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f), the members of a board of trustees of a basic special district created to manage groundwater rights the district acquires or assesses under Section 17B-1-202 shall be:
- (a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that are diverted within the special district;
  - (b) appointed by the responsible body, as defined in Section 17B-1-201; or
  - (c) elected or appointed as provided in Subsection (3).
- (3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under Subsection [17B-1-203(1)(d) or (e)] 17B-1-203(1)(e) or (f) may provide for a transition from one or more methods of election or appointment under Subsection (1) or (2) to one or more other methods of election or appointment based upon milestones or events that the petition or resolution identifies.

Section  $\frac{40}{48}$ . Section 17B-2a-404 is amended to read:

## 17B-2a-404. Improvement district board of trustees.

- (1) As used in this section:
- (a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.
  - (b) "County member" means a member of a board of trustees of a county district.
- (c) "Electric district" means an improvement district that was created for the purpose of providing electric service.
- (d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.
- (e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

- (f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.
  - (g) "Remaining area" means the area of a regular district that:
  - (i) is outside the boundaries of an included municipality; and
- (ii) includes the area of an included municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.
- (h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.
  - (2) The legislative body of the municipality included within a municipal district may:
- (a) elect, at the time of the creation of the district, to be the board of trustees of the district; and
  - (b) adopt at any time a resolution providing for:
  - (i) the election of board of trustees members, as provided in Section 17B-1-306; or
  - (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.
- (3) (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:
- (i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1);
  - (ii) adopt at any time a resolution providing for:
  - (A) the election of board of trustees members, as provided in Section 17B-1-306; or
- (B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and
- (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.
- (b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:
  - (i) more than 35% of the residences within a county district that receive service from

the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);

- (ii) the board of trustees are appointed by the legislative body of the county; and
- (iii) there are at least two appointed board members who meet the requirements of Subsections 17B-1-302(1), (2), [and] (3), (5), (6), and (7), except that a member of the legislative body of the county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).
- (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:
  - (a) the elected board has ceased to function;
- (b) the terms of all of the elected board members have expired without the board having called an election; or
- (c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.
- (5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.
- (ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).
- (b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.
- (6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:
- (a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;
  - (b) the district holds an election to approve the district's issuance of bonds;
- (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

- (d) (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and
- (ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.
- (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:
  - (a) the number of included municipalities within the district, if:
- (i) the number of included municipalities is greater than nine or is an odd number that is not greater than nine; and
  - (ii) the district does not include a remaining area;
- (b) the number of included municipalities plus one, if the number of included municipalities within the district is an even number that is less than nine; and
  - (c) the number of included municipalities plus two, if:
  - (i) the number of included municipalities is an odd number that is less than nine; and
  - (ii) the district includes a remaining area.
- (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.
- (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:
- (i) the population of the remaining area is less than 5% of the total district population; or
- (ii) (A) the population of the remaining area is less than 50% of the total district population; and
  - (B) the majority of the members of the board of trustees are remaining area members.
- (c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.
  - (9) If the election of remaining area or county members of the board of trustees is

required because of a bond election, as provided in Subsection (6)(b):

- (a) a person may file a declaration of candidacy if:
- (i) the person resides within:
- (A) the remaining area, for a regular district; or
- (B) the county district, for a county district; and
- (ii) otherwise qualifies as a candidate;
- (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
  - (c) the election shall otherwise be governed by Title 20A, Election Code.
- (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric district.
  - (ii) Subsections (2) through (9) do not apply to an electric district.
- (b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.
- (c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.
- (d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.
- (e) The board of trustees of an electric district may be elected from geographic divisions within the district.
- (f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section  $\frac{41}{4}$ 49. Section 17B-2a-405 is amended to read:

## 17B-2a-405. Board of trustees of certain sewer improvement districts.

- (1) As used in this section:
- (a) "Jurisdictional boundaries" means:
- (i) for a qualified county, the boundaries that include:
- (A) the area of the unincorporated part of the county that is included within a sewer improvement district; and

- (B) the area of each nonappointing municipality that is included within the sewer improvement district; and
- (ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.
  - (b) "Nonappointing municipality" means a municipality that:
  - (i) is partly included within a sewer improvement district; and
  - (ii) is not a qualified municipality.
  - (c) "Qualified county" means a county:
- (i) some or all of whose unincorporated area is included within a sewer improvement district; or
  - (ii) which includes within its boundaries a nonappointing municipality.
- (d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).
- (e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:
- (i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and
  - (ii) more than half of:
  - (A) the municipality's land area; or
  - (B) the assessed value of all private real property within the municipality.
- (f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).
  - (g) "Sewer improvement district" means an improvement district that:
  - (i) provides sewage collection, treatment, and disposal service; and
- (ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.
- (2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.
- (b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a

time when there is no vacancy on the board.

- (3) (a) The board of trustees of each sewer improvement district shall consist of:
- (i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and
  - (ii) at least one person but not more than three persons appointed by:
- (A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or
  - (B) the county legislative body, for each other qualified county.
- (b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.
- (4) Notwithstanding Subsection [17B-1-302(4)] 17B-1-302(8), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).
- (5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.
- (6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).
- (7) (a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.
- (b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.
- (8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Section  $\frac{42}{50}$ . Section 17B-2a-407 is amended to read:

### 17B-2a-407. Nonfunctioning improvement district -- Replacing board of trustees.

- (1) As used in this section:
- (a) "Applicable certificate" means the same as that term is defined in Subsection 67-1a-6.5(1)(a).
  - (b) (i) "Non-functioning improvement district" means an improvement district:
- (A) for which the lieutenant governor issues an applicable certificate on or after July 1, 2022, but before October 15, 2023;
- (B) for which the legislative body of a county elected to be the board of trustees of the district under Subsection 17B-2a-404(3)(a); and
- (C) (I) for which the responsible body has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, complied with the recording requirements described in Subsection 17B-1-215(2); or
- (II) whose board of trustees has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, held a meeting as the board of trustees of the improvement district, that was noticed and held in accordance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.
- (ii) "Non-functioning improvement district" does not include an improvement district that has emerged from non-functioning status under Subsection (6)(c)(ii).
- (2) (a) The board of trustees of a non-functioning improvement district may not, after the 100-day period described in Subsection (1)(b)(i)(C)(I), take any action as the board of trustees or on behalf of the non-functioning improvement district.
  - (b) Any action taken in violation of Subsection (2)(a) is void.
- (3) (a) An owner of land located within the boundaries of a non-functioning improvement district may file with the lieutenant governor a request to replace the board of trustees with a new board of trustees.
- (b) A new board of trustees described in Subsection (3)(a) shall comprise three individuals who are:
  - (i) owners of land located within the boundaries of the improvement district; or
  - (ii) agents of owners of land located within the boundaries of the improvement district.
  - (4) A request described in Subsection (3) shall include:

- (a) the name and mailing address of the land owner who files the request;
- (b) the name of the improvement district;
- (c) a copy of the applicable certificate for the improvement district;
- (d) written consent to the request from each owner of land located within the boundaries of the improvement district; and
- (e) the names and mailing addresses of three individuals who will serve as the board of trustees of the improvement district until a new board of trustees is organized under Subsection (9).
- (5) Within 14 days after the day on which the lieutenant governor receives a request described in Subsections (3) and (4), the lieutenant governor shall:
  - (a) determine whether:
  - (i) the district is a non-functioning improvement district;
  - (ii) the request complies with Subsection (4); and
- (b) if the lieutenant governor determines that the requirements described in Subsection (5)(a) are met, grant the request by issuing a certificate of replacement described in Subsection (6).
  - (6) A certificate of replacement shall:
  - (a) state the name of the improvement district;
  - (b) reference the applicable certificate for the improvement district;
  - (c) declare that, upon issuance of the certificate:
- (i) the existing board of trustees for the improvement district is dissolved and replaced by an interim board of trustees consisting of the three individuals described in Subsection (4)(e); and
- (ii) the improvement district is removed from nonfunctioning status and is, beginning at that point in time, a functioning improvement district.
- (7) The interim board of trustees described in Subsection (6)(c)(i) shall record, in the recorder's office for a county in which all or a portion of the improvement district exists:
  - (a) the original of the certificate of replacement; and
  - (b) the original or a copy of:
  - (i) the items described in Subsections 17B-1-215(2)(a)(i)(A), (B), and (C); and
  - (ii) if applicable, a copy of each resolution adopted under Subsection 17B-1-213(5).

- (8) Until a new board of trustees is organized under Subsection (9):
- (a) the interim board of trustees has the full authority of a board of trustees of an improvement district; and
  - (b) a majority of the owners of land in the improvement district:
- (i) may appoint an individual described in Subsection (3)(b) to fill a vacancy on the interim board of trustees; and
- (ii) shall file written notification of the appointment of an individual described in Subsection (8)(b)(i) with the lieutenant governor.
- (9) Within 90 days after the day on which at least 20 persons own land within the improvement district, the interim board of trustees described in Subsection (6)(c)(i) shall dissolve and be replaced by a board of trustees described in Subsections 17B-1-302(1) through [(3)(a)] (3), except that:
- (a) the board of trustees shall comprise three members, appointed by the lieutenant governor, who are owners of property in the district, agents of an owner of property in the district, or residents of the district;
- (b) Subsections [<del>17B-1-302(3)(c) through (6)</del>] <u>17B-1-302(6) through (10)</u> and Section 17B-2a-404 do not apply to the improvement district; and
- (c) a member of the legislative body of the county may not serve as a member of the board of trustees.

Section  $\frac{43}{51}$ . Section 17B-2a-604 is amended to read:

#### 17B-2a-604. Metropolitan water district board of trustees.

- (1) Members of the board of trustees of a metropolitan water district shall be:
- (a) elected in accordance with:
- (i) the petition or resolution that initiated the process of creating the metropolitan water district; and
  - (ii) Section 17B-1-306;
  - (b) appointed in accordance with Subsection (2); or
  - (c) elected under Subsection (3)(a).
- (2) (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.
  - (b) If a district contains the area of a single municipality:

- (i) the legislative body of that municipality shall appoint each member of the board of trustees; and
- (ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.
- (c) If a district contains some or all of the retail water service area of more than one municipality:
- (i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);
- (ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:
- (A) by agreement between the metropolitan water district and the municipalities, subject to Subsection [17B-1-302(4)] 17B-1-302(8); or
  - (B) as provided in Chapter 1, Part 3, Board of Trustees; and
  - (iii) at least one member shall be appointed by each municipality.
- (d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.
- (3) (a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):
- (i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and
- (ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.
- (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.
  - (4) A member of the board of trustees of a metropolitan water district shall be:
  - (a) a registered voter;
  - (b) a property taxpayer; and
  - (c) a resident of:
  - (i) the metropolitan water district; and
  - (ii) the retail water service area of the municipality that:

- (A) elects the member; or
- (B) the member is appointed to represent.
- (5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).
- (b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.
- (6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.
- (7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Section  $\frac{44}{52}$ . Section 17B-2a-704 is amended to read:

### 17B-2a-704. Mosquito abatement district board of trustees.

- (1) (a) Notwithstanding Subsection [<del>17B-1-302(4)</del>] 17B-1-302(8):
- (i) the board of trustees of a mosquito abatement district consists of no less than five members appointed in accordance with this section; and
- (ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.
- (b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:
  - (i) the board of trustees consists of five members; and
- (ii) the legislative body of that municipality shall appoint all five members of the board.
- (2) Except as provided in Subsection (1), the legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:
  - (a) the county may appoint one member if:
- (i) (A) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district; and

- (B) Subsection (2)(b) does not apply; or
- (ii) (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and
  - (B) Subsection (1)(b) does not apply; or
- (b) subject to Subsection (3), the county may appoint up to and including three members if:
- (i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and
  - (ii) a municipality appoints at least four members of the board of trustees.
- (3) A county may not appoint a member in accordance with Subsection (2)(b) who resides within a municipality that may appoint a member to the board of trustees.
- (4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.
  - (5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):
- (a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and
- (b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, the county legislative body shall appoint all of the members of the board.
  - (6) Each board of trustees member is appointed in accordance with Section 17B-1-304.
- (7) The applicable appointing authority shall fill each vacancy on a mosquito abatement district board of trustees in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, in accordance with Section 20A-1-512.

Section  $\frac{45}{53}$ . Section 17B-2a-905 is amended to read:

### 17B-2a-905. Service area board of trustees.

- (1) (a) Except as provided in Subsection (2), (3), or (4):
- (i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated

the process of creating the service area:

- (A) consist of the county legislative body;
- (B) be appointed, as provided in Section 17B-1-304; or
- (C) be elected, as provided in Section 17B-1-306;
- (ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and
- (iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:
  - (A) the service area is not entirely within the unincorporated area of a single county;
- (B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or
  - (C) an election is held to authorize the service area's issuance of bonds.
- (b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:
  - (i) board members shall be elected in conjunction with the bond election;
  - (ii) the board of trustees shall:
- (A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and
- (B) provide a ballot for the election of board members separate from the bond ballot; and
- (iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.
  - (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:
  - (i) the service area was created to provide:
  - (A) fire protection, paramedic, and emergency services; or
  - (B) law enforcement service;
- (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

- (iii) the service area is not a service area described in Subsection (3).
- (b) (i) Each county with unincorporated area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint up to three members to the board of trustees.
- (ii) Each municipality with an area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later service area annexation or municipal incorporation or annexation, shall appoint one member to the board of trustees, unless the area of the municipality is withdrawn from the service area.
- (iii) Each member that a county or municipality appoints under Subsection (2)(b)(i) or(ii) shall be an elected official of the appointing county or municipality, respectively.
- (c) Notwithstanding Subsection [17B-1-302(4)] 17B-1-302(8), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).
- (3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:
- (i) the service area was created to provide fire protection, paramedic, and emergency services;
- (ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and
- (iii) each municipality with an area that is included within the service area or county with unincorporated area, whether in whole or in part, that is included within a service area is a party to an agreement:
- (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with all the other municipalities or counties with an area that is included in the service area;
  - (B) to provide the services described in Subsection (3)(a)(i); and
- (C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection [17B-1-203(1)(d)] 17B-1-203(1)(e).
- (b) (i) Each county with unincorporated area, whether in whole or in part, that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of

trustees.

- (ii) Each municipality with an area that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.
- (iii) Each member that a county or municipality appoints under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.
  - (iv) A vote by a member of the board of trustees may be weighted or proportional.
- (c) Notwithstanding Subsection [17B-1-302(4)] 17B-1-302(8), the number of members of a board of trustees of a service area described in Subsection (3)(a) is the number resulting from the application of Subsection (3)(b).
  - (4) (a) This Subsection (4) applies to a service area if:
- (i) the service area provides a service to a municipality in accordance with an agreement between the service area and the municipality in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
  - (ii) the municipality is not included within the service area's boundary;
- (iii) the governing body of the municipality petitions the service area to request authority to appoint one member of the board of trustees of the service area; and
  - (iv) the service area board of trustees approves the petition.
- (b) The governing body of a municipality described in Subsection (4)(a) may appoint a member of a service area board of trustees as follows:
  - (i) the governing body shall make the appointment in accordance with:
  - (A) Section 17B-1-304; or
  - (B) to fill a mid-term vacancy, Subsection 20A-1-512(1);
- (ii) the governing body may not appoint an individual who is not a registered voter residing within the municipality;
- (iii) the district boundary requirement in Subsection 17B-1-302(1) does not apply to the governing body's appointee;
- (iv) the governing body and the service area board of trustees may not shorten the term of office of any member of the board due to the governing body's appointment;
- (v) notwithstanding Subsection [<del>17B-1-302(4)</del>] <u>17B-1-302(8)</u>, the number of members of the board of trustees of a service area described in Subsection (4)(a) may be odd or even;

and

- (vi) if the number of members of a service area board of trustees is odd before the governing body's appointment, the member that the governing body appoints may replace a member whose term is expiring or who otherwise leaves a vacancy on the board or, if no expiring term or vacancy exists:
- (A) the number of board members may temporarily be even, including the member that the governing body appoints, until an expiring term or vacancy exists that restores the board membership to an odd number; and
- (B) no appointing authority may fill the expiring term or vacancy that restores the board membership to an odd number.
- (c) (i) The service area board of trustees may rescind the approval described in Subsection (4)(a) at any time.
- (ii) If the service area board of trustees rescinds the approval described in Subsection (4)(a) during the term of a board member that the governing body appointed, the appointee shall remain on the board for the remainder of the appointee's term.

Section  $\frac{46}{54}$ . Section 17B-2a-1301 is enacted to read:

### Part 13. Infrastructure Financing District

#### 17B-2a-1301. Definitions.

As used in this part:

- (1) "Assessment bond" means the same as that term is defined in Section 11-42-102.
- (2) "Board" means the board of trustees of an infrastructure financing district.
- (3) "Designated expansion area" means an area that is:
- (a) outside and contiguous to the original district boundary; and
- (b) designated and described in a governing document as an area that may be subject to future annexation to the infrastructure financing district.
  - (4) "Governing document" means a document described in Section 17B-2a-1303.
- (5) "Original district boundary" means the boundary of an infrastructure financing district as described in the approved final local entity plat, as defined in Section 67-1a-6.5.
- (6) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:
  - (i) benefit the public; and

- (ii) (A) are or will be owned by a public entity or a utility; or
- (B) are publicly maintained or operated by a public entity.
- (b) "Public infrastructure and improvements" includes:
- (i) facilities, lines, or systems that provide:
- (A) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;
- (B) streets, roads, curb, gutter, sidewalk, solid waste facilities, parking facilities, or public transportation facilities; and
  - (C) green space, parks, trails, recreational amenities, or other similar facilities.
- (c) "Public infrastructure and improvements" does not include any infrastructure, improvements, facilities, or buildings owned or to be owned by a private person, including a homeowner association.
- (<del>{6}</del><u>7</u>) "Residential district" means an infrastructure financing district that contains or is projected to contain owner-occupied residential units within the boundary of the infrastructure financing district.

Section  $\frac{47}{55}$ . Section 17B-2a-1302 is enacted to read:

<u>17B-2a-1302.</u> Provisions applicable to infrastructure financing district -- Exceptions -- Conflicting provisions -- Contract for administrative services.

- (1) (a) An infrastructure financing district is governed by and has the powers stated in:
- (i) this part; and
- (ii) Chapter 1, Provisions Applicable to All Special Districts, except as provided in Subsection (1)(b).
- (\financing district may issue bonds only as provided in Title 11, Chapter 42, Assessment Area Act, subject to Subsection (1)(b)(i)(B), and Title 11, Chapter 42a, Commercial Property

  Assessed Clean Energy Act.
- (\frac{1B}{1D}) To the extent that the provisions of Title 11, Chapter 42, Assessment Area Act, apply to the use of funds from an assessment or an assessment bond for infrastructure operation and maintenance costs or for the cost of conducting economic promotion activities, those provisions do not apply to an infrastructure financing district.
  - (<del>{C}</del>c) Before a county or municipality's final inspection required for the issuance of a

certificate of occupancy {to an owner-occupied} for a residential unit that is subject to an assessment levied by an infrastructure financing district under Title 11, Chapter 42,

Assessment Area Act, the infrastructure financing district shall ensure that the assessment allocable to that unit is paid in full and that any assessment lien on that unit is satisfied and released.

- (<del>{ii}</del><u>3</u>) Notwithstanding Subsection 17B-1-103(2)(h), an infrastructure financing district may not exercise the power of eminent domain.
  - $(\frac{12}{4})$  This part applies only to an infrastructure financing district.
- (3)5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.
- ({4}6) An infrastructure financing district may contract with another governmental entity for the other governmental entity to provide administrative services to the infrastructure financing district.

Section  $\frac{48}{56}$ . Section 17B-2a-1303 is enacted to read:

### 17B-2a-1303. Governing document.

- (1) The sponsors of a petition filed under Subsection 17B-1-203(1)(d) to create an infrastructure financing district may include with the petition a governing document.
- (2) A governing document may contain provisions for the governance of the infrastructure financing district, consistent with this part, including:
- (i) a provision for a transition from an appointed board position}, { whether at large or for a division, to an elected board position, based upon milestones or events that the governing document identifies;
- (ii) milestones or events that will guide the board in considering modifications to division boundaries to ensure that each division has as nearly as possible the same number of registered voters;
- (b) a provision allowing a property owner within the infrastructure financing district to make recommendations, in proportion to the amount of the owner's property in relation to all property within the infrastructure financing district, for individuals to serve as appointed board members; and
  - (c) any other provisions or information that petition sponsors or the board considers

necessary or advisable for the governance of the infrastructure financing district.

- (3) A governing document shall:
- (a) include a description of infrastructure that the infrastructure financing district will provide funding for;
- (b) include, for a residential district, a provision for a transition from an appointment board position, whether at large or for a division, to an elected board position, based upon milestones or events that the government document identifies;
- (tb)c) if applicable, include a copy of a development agreement that has been executed relating to infrastructure to be developed within the boundary of the infrastructure financing district and for which the infrastructure financing district anticipates providing funding; and (tc)d) if applicable, describe a designated expansion area.
- (4) (a) An area may not be designated as a designated expansion area unless the area is contiguous to the original district boundary.
- (b) An area may not be annexed to an infrastructure financing district unless the area is within the designated expansion area that is described in a governing document that is included and submitted with the petition to create the infrastructure financing district.

Section  $\frac{49}{57}$ . Section 17B-2a-1304 is enacted to read:

#### 17B-2a-1304. Board of trustees -- Conflict of interest -- Compensation.

- (1) A board member with a personal investment described in Section 67-16-9 is not in violation of Section 67-16-9 if:
- (a) before beginning service as a board member, the board member complies with the disclosure requirements of Section 67-16-7, as though that section applied to the board member's ownership of a personal investment described in Section 67-16-9; and
  - (b) during the board member's service, the board member complies with:
- (i) the disclosure requirements of Section 67-16-7, as provided in Subsection (1)(a), upon any significant change in the board member's personal investment; and
  - (ii) applicable requirements of this part and the governing document.
- (2) An infrastructure financing district may not compensate a board member for the member's service on the board unless the board member is a resident within the boundary of the infrastructure financing district.

Section  $\frac{50}{58}$ . Section 17B-2a-1305 is enacted to read:

### 17B-2a-1305. Relationship with other local entities.

- (1) The applicability of local land use regulations under Title 10, Chapter 9a,

  Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County

  Land Use, Development, and Management Act, is not affected by:
  - (a) the creation or operation of an infrastructure financing district; or
- (b) the infrastructure financing district's provision of funding for the development of infrastructure within the infrastructure financing district boundary.
  - (2) The boundary of an infrastructure financing district is not affected by:
  - (a) a municipality's annexation of an unincorporated area of a county; or
  - (b) the adjustment of a boundary shared by more than one municipality.
- (3) A debt, obligation, or other financial burden of an infrastructure financing district, including any liability of or claim or judgment against an infrastructure financing district:
  - (a) is borne solely by the infrastructure financing district; and
- (b) is not the debt, obligation, or other financial burden of any other political subdivision of the state or of the state.
- (4) (a) Nothing in this part affects the requirement for infrastructure for which an infrastructure financing district provides funding to comply with all applicable standards and design, inspection, and other requirements of the county or municipality with jurisdiction over the infrastructure.
- (b) Upon the completion of infrastructure for which an infrastructure financing district has provided funding, the infrastructure shall be conveyed to the county { or }, municipality, or special district with jurisdiction over the infrastructure, at no cost to the county { or }, municipality, or special district.

Section  $\frac{\{51\}}{59}$ . Section 17B-2a-1306 is enacted to read:

### 17B-2a-1306. Contesting an infrastructure financing district action.

- (1) As used in this section:
- (a) "Contestable action" means:
- (i) the creation of an infrastructure financing district or any part of the process to create an infrastructure financing district;
- (ii) a property tax levied by an infrastructure financing district or any part of the process to levy the tax; or

- (iii) a fee imposed by an infrastructure financing district or any part of the process to impose the fee.
  - (b) "Effective date" means:
- (i) with respect to the creation of an infrastructure financing district, the date of the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;
- (ii) with respect to a property tax levied by an infrastructure financing district, the date of the board's adoption of a resolution levying the tax; and
- (iii) for a fee imposed by an infrastructure financing district, the date of the board's adoption of a resolution imposing the fee.
- (2) (a) A person may file a court action to contest the legality or validity of a contestable action.
- (b) A court action under Subsection (2)(a) is the exclusive remedy for a person to contest the legality or validity of a contestable action.
- (3) A person may not bring an action under Subsection (2) or serve a summons relating to the action more than 30 days after the effective date of the contestable action.
  - (4) After the expiration of the 30-day period stated in Subsection (3):
- (a) a contestable action becomes incontestable against any person who has not brought an action and served a summons within the time specified in Subsection (3); and
  - (b) a person may not bring an action to:
- (i) enjoin an infrastructure financing district from levying and collecting a property tax or imposing and collecting a fee that the infrastructure financing district levies or imposes; or
  - (ii) attack or question in any way the legality or validity of a contestable action.
- (5) (a) This section does not affect a claim for a misuse of funds against the infrastructure financing district or an officer or employee of the infrastructure financing district.
- (b) A person may not seek relief for a claimed misuse of funds described in Subsection (5)(a) except for injunctive relief.
- (c) The limitation under Subsection (5)(b) does not affect the filing or prosecution of criminal charges for the misuse of infrastructure financing district funds.

Section 60. Section 17B-2a-1307 is enacted to read:

17B-2a-1307. Reporting requirements.

(1) An infrastructure financing district shall submit an annual report, as provided in

### this section, to:

- (a) the state auditor; and
- (b) the clerk or recorder of each municipality in which the infrastructure financing district is located.
  - (2) A report required under Subsection (1) shall:
  - (a) be filed no later than May 31 of each year; and
  - (b) report, for the preceding calendar year:
- (i) if applicable, the amount of property tax revenue the infrastructure financing district received;
- (ii) the amount of money the infrastructure financing district received from assessments levied in an assessment area designated under Title 11, Chapter 42, Assessment Area Act;
- (iii) the outstanding principal of any assessment bonds issued or other debt incurred by the infrastructure financing district;
- (iv) the amount spent for site improvement or site preparation costs, the installation of public infrastructure and improvements, and administrative costs;
  - (v) any boundary change of the infrastructure financing district; and
- (vi) the number of residential housing units constructed within the infrastructure financing district.

Section  $\frac{52}{61}$ . Section 20A-1-512 is amended to read:

#### 20A-1-512. Midterm vacancies on local district boards -- Notice.

- (1) (a) When a vacancy occurs on any special district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:
  - (i) the special district board, if the person vacating the position was elected; or
- (ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.
- (b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the special district board or appointing authority shall:
- (i) give public notice of the vacancy for at least two weeks before the special district board or appointing authority meets to fill the vacancy by publishing the notice, as a class A

notice under Section 63G-30-102, for the special district; and

- (ii) identify, in the notice:
- (A) the date, time, and place of the meeting where the vacancy will be filled;
- (B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and
  - (C) any submission deadline.
  - (c) An appointing authority is not subject to Subsection (1)(b) if:
- (i) (A) the appointing authority appoints one of the appointing authority's own members; and
  - [(ii)] (B) that member meets all applicable statutory board member qualifications[-]; or
- (ii) the vacancy is on the board of trustees of an infrastructure financing district with no residents within the district's boundary.
- (d) When a vacancy occurs on the board of a water conservancy district located in more than one county:
- (i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;
- (ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and
- (iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).
- (2) If, 90 days after a vacancy occurs, the special district board [fails] has failed to appoint an individual to complete an elected board member's term [within 90 days, the legislative body of the county or municipality that created the special district shall fill], the vacancy shall be filled:
- (a) in accordance with the procedure for a special district described in Subsection (1)(b)[<del>-</del>]; and
  - (b) by, as applicable:
  - (i) the legislative body of the county or municipality that created the special district; or
- (ii) for a vacancy on a board of trustees of an infrastructure financing district, the legislative body of the county whose unincorporated area contains or the municipality whose

boundary contains more of the area within the infrastructure financing district than is contained within the unincorporated area of any other county or within the boundary of any other municipality.

Section  $\frac{53}{62}$ . 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 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;
- (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 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;
  - (b) (i) during the course of the electronic meeting, the chair:
- (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 special district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;
  - (ii) the board of trustees' 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)] 17B-1-302(3)(b)(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);
- (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 63. Section 67-1a-6.5 is amended to read:

- <u>67-1a-6.5.</u> Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.
  - (1) As used in this section:
  - (a) "Applicable certificate" means:
- (i) for the impending incorporation of a city, town, special district, conservation district, or incorporation of a special district from a reorganized special service district, a certificate of incorporation;
- (ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;
- (iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;
- (iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;
- (v) for the impending consolidation of multiple local entities, a certificate of consolidation;
- (vi) for the impending division of a local entity into multiple local entities, a certificate of division;
- (vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and
  - (viii) for the impending dissolution of a local entity, a certificate of dissolution.
- (b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

- (c) "Approving authority" has the same meaning as defined in Section 17-23-20.
- (d) "Boundary action" has the same meaning as defined in Section 17-23-20.
- (e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.
- (f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.
  - (g) "Conservation district" has the same meaning as defined in Section 17D-3-102.
  - (h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.
- (i) "Local entity" means a county, city, town, school district, special district, community reinvestment agency, special service district, conservation district, or interlocal entity.
- (j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.
  - (k) "Special district" means the same as that term is defined in Section 17B-1-102.
- (1) "Special service district" means the same as that term is defined in Section 17D-1-102.
- (2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:
  - (a) (i) issue the applicable certificate, if:
- (A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and
- (B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;
  - (ii) send the applicable certificate to the local entity's approving authority;
- (iii) return the original of the approved final local entity plat to the local entity's approving authority;
  - (iv) send a copy of the applicable certificate and approved final local entity plat to:
  - (A) the State Tax Commission;
  - (B) the center; and
- (C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

- (v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:
  - (A) the incorporation or creation of a new local entity;
  - (B) the consolidation of multiple local entities;
  - (C) the division of a local entity into multiple local entities; or
  - (D) the dissolution of a local entity; or
- (b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:
- (A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or
  - (B) the notice of an impending boundary action is:
  - (I) not accompanied by an approved final local entity plat; or
- (II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and
- (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.
  - (3) Each notice of an impending boundary action shall:
  - (a) be directed to the lieutenant governor;
- (b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;
  - (c) describe the type of boundary action for which an applicable certificate is sought;
- (d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and
- (e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or
- (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.
  - (4) The lieutenant governor may require the approving authority to submit a paper or

electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

- (5) (a) The lieutenant governor shall:
- (i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;
- (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;
- (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and
- (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.
- (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).
- (6) The lieutenant governor's issuance of a certificate of creation for an infrastructure financing district constitutes the state's approval of the creation of the infrastructure financing district.

Section  $\{54\}$ 64. Effective date.

This bill takes effect on May 1, 2024.