

POLITICAL SUBDIVISION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to notice and protest requirements for an assessment area, local district, and special service district.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "adequate protest" for an assessment area;
- ▶ amends notice requirements for an assessment area;
- ▶ specifies a deadline for filing a protest to an assessment area;
- ▶ requires a governing body to consider a timely filed protest at a public meeting;
- ▶ amends notice requirements for a local district;
- ▶ amends the definition of "adequate protest" for a special service district;
- ▶ amends notice requirements for a special service district;
- ▶ amends the filing deadline for a protest to a special service district; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 11-42-102, as last amended by Laws of Utah 2011, Chapters 68 and 388
- 29 11-42-202, as last amended by Laws of Utah 2011, Chapter 68
- 30 11-42-203, as last amended by Laws of Utah 2009, Chapter 246
- 31 11-42-204, as enacted by Laws of Utah 2007, Chapter 329
- 32 11-42-206, as enacted by Laws of Utah 2007, Chapter 329
- 33 17B-1-211, as last amended by Laws of Utah 2011, Chapter 68
- 34 17B-1-213, as last amended by Laws of Utah 2011, Chapter 68
- 35 17B-1-214, as last amended by Laws of Utah 2012, Chapter 97
- 36 17B-1-215, as last amended by Laws of Utah 2011, Chapter 68
- 37 17D-1-102, as enacted by Laws of Utah 2008, Chapter 360
- 38 17D-1-205, as last amended by Laws of Utah 2009, Chapter 388
- 39 17D-1-206, as enacted by Laws of Utah 2008, Chapter 360

40

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

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

43 **11-42-102. Definitions.**

44 (1) (a) "Adequate protests" means [~~timely filed;~~] written protests [~~under Section~~
45 ~~11-42-203 that represent at least 50% of the frontage, area, taxable value, fair market value,~~
46 ~~lots, number of connections, or equivalent residential units of the property proposed to be~~
47 ~~assessed, according to the same assessment method by which the assessment is proposed to be~~
48 ~~levied, after eliminating~~];

49 (i) filed in accordance with Section 11-42-203; and

50 (ii) signed by the owners of private real property that:

51 (A) is located within the proposed assessment area;

52 (B) covers at least 25% of the total private land area within the proposed assessment
53 area; and

54 (C) is equal in value to at least 15% of the value of all private real property within the
55 proposed assessment area.

56 ~~(a)~~ (b) "Adequate protests" does not include written protests relating to:

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

58 ~~(ii)~~ (B) an improvement that has been deleted from the proposed improvements to be

59 provided to property within the proposed assessment area; and

60 [~~(b)~~] (ii) protests that have been withdrawn under Subsection 11-42-203(3).

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

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

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

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

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

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

74 (6) "Assessment method" means the method by which an assessment is levied against
75 property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of
76 connections, equivalent residential unit, any combination of these methods, or any other
77 method that equitably reflects the benefit received from the improvement.

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

80 (8) "Assessment resolution" means a resolution adopted by a local entity under Section
81 11-42-404 that levies an assessment on benefitted property within an assessment area.

82 (9) "Benefitted property" means property within an assessment area that directly or
83 indirectly benefits from improvements, operation and maintenance, or economic promotion
84 activities.

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

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

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

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

93 (14) "Contract price" means:

94 (a) the cost of acquiring an improvement, if the improvement is acquired; or

95 (b) the amount payable to one or more contractors for the design, engineering,
96 inspection, and construction of an improvement.

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

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

101 (17) "Economic promotion activities" means activities that promote economic growth
102 in a commercial area of a local entity, including:

103 (a) sponsoring festivals and markets;

104 (b) promoting business investment or activities;

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

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

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

111 (19) "Governing body" means:

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

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

114 (c) for a special service district:

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

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

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

121 (20) "Guaranty fund" means the fund established by a local entity under Section
122 11-42-701.

123 (21) "Improved property" means property proposed to be assessed within an
124 assessment area upon which a residential, commercial, or other building has been built.

125 (22) "Improvement":

126 (a) (i) means any publicly owned infrastructure, system, or other facility that:

127 (A) a local entity is authorized to provide; or

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

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

132 (A) can be conveniently installed at the same time as an infrastructure, system, or other
133 facility described in Subsection (22)(a)(i); and

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

136 (b) for a local district created to assess groundwater rights in accordance with Section
137 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific
138 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

139 (23) "Improvement revenues":

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

142 (b) does not include revenue from assessments.

143 (24) "Incidental refunding costs" means any costs of issuing refunding assessment
144 bonds and calling, retiring, or paying prior bonds, including:

145 (a) legal and accounting fees;

146 (b) charges of financial advisors, escrow agents, certified public accountant verification
147 entities, and trustees;

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

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

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

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

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

156 (25) "Installment payment date" means the date on which an installment payment of an
157 assessment is payable.

158 (26) "Interim warrant" means a warrant issued by a local entity under Section
159 11-42-601.

160 (27) "Jurisdictional boundaries" means:

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

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

163 (28) "Local district" means a local district under Title 17B, Limited Purpose Local
164 Government Entities - Local Districts.

165 (29) "Local entity" means a county, city, town, special service district, local district,
166 military installation development authority created in Section 63H-1-201, or other political
167 subdivision of the state.

168 (30) "Local entity obligations" means assessment bonds, refunding assessment bonds,
169 interim warrants, and bond anticipation notes issued by a local entity.

170 (31) "Mailing address" means:

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

173 (b) if the property is improved property:

174 (i) the property's street number; or

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

177 (32) "Net improvement revenues" means all improvement revenues that a local entity
178 has received since the last installment payment date, less all amounts payable by the local entity
179 from those improvement revenues for operation and maintenance costs.

180 (33) "Operation and maintenance costs":

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

183 under this chapter; and

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

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

191 (35) "Prior bonds" means the assessment bonds that are refunded in part or in whole by
192 refunding assessment bonds.

193 (36) "Prior assessment ordinance" means the ordinance levying the assessments from
194 which the prior bonds are payable.

195 (37) "Prior assessment resolution" means the resolution levying the assessments from
196 which the prior bonds are payable.

197 (38) "Project engineer" means the surveyor or engineer employed by or private
198 consulting engineer engaged by a local entity to perform the necessary engineering services for
199 and to supervise the construction or installation of the improvements.

200 (39) "Property" includes real property and any interest in real property, including water
201 rights and leasehold rights.

202 (40) "Property price" means the price at which a local entity purchases or acquires by
203 eminent domain property to make improvements in an assessment area.

204 (41) "Provide" or "providing," with reference to an improvement, includes the
205 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and
206 expansion of an improvement.

207 (42) "Public agency" means:

208 (a) the state or any agency, department, or division of the state; and

209 (b) a political subdivision of the state.

210 (43) "Reduced payment obligation" means the full obligation of an owner of property
211 within an assessment area to pay an assessment levied on the property after the assessment has
212 been reduced because of the issuance of refunding assessment bonds, as provided in Section
213 11-42-608.

214 (44) "Refunding assessment bonds" means assessment bonds that a local entity issues
215 under Section 11-42-607 to refund, in part or in whole, assessment bonds.

216 (45) "Reserve fund" means a fund established by a local entity under Section
217 11-42-702.

218 (46) "Service" means:

219 (a) water, sewer, storm drainage, garbage collection, library, recreation,
220 communications, or electric service;

221 (b) economic promotion activities; or

222 (c) any other service that a local entity is required or authorized to provide.

223 (47) "Special service district" has the same meaning as defined in Section 17D-1-102.

224 (48) "Unimproved property" means property upon which no residential, commercial, or
225 other building has been built.

226 (49) "Voluntary assessment area" means an assessment area that contains only property
227 whose owners have voluntarily consented to an assessment.

228 Section 2. Section **11-42-202** is amended to read:

229 **11-42-202. Requirements applicable to a notice of a proposed assessment area**
230 **designation.**

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

232 (a) state that the local entity proposes to:

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

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

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

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

241 (c) describe, in a general way, the improvements to be provided to the assessment area,
242 including:

243 (i) the general nature of the improvements; and

244 (ii) the general location of the improvements, by reference to streets or portions or

- 245 extensions of streets or by any other means that the governing body chooses that reasonably
246 describes the general location of the improvements;
- 247 (d) state the estimated cost of the improvements as determined by a project engineer;
- 248 (e) state that the local entity proposes to levy an assessment on benefitted property
249 within the assessment area to pay some or all of the cost of the improvements according to the
250 estimated direct and indirect benefits to the property from the improvements;
- 251 (f) state the assessment method by which the governing body proposes to levy the
252 assessment;
- 253 (g) state:
- 254 (i) ~~[the time within which]~~ the date described in Section 11-42-203 and the location at
255 which protests against designation of the proposed assessment area or of the proposed
256 improvements are required to be filed; and
- 257 (ii) the method by which the governing body will determine the number of protests
258 required to defeat the designation of the proposed assessment area or acquisition or
259 construction of the proposed improvements;
- 260 (h) state the date, time, and place of the public hearing required in Section 11-42-204;
- 261 (i) if the governing body elects to create and fund a reserve fund under Section
262 11-42-702, include a description of:
- 263 (i) how the reserve fund will be funded and replenished; and
- 264 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of
265 the bonds;
- 266 (j) if the governing body intends to designate a voluntary assessment area, include a
267 property owner consent form that:
- 268 (i) estimates the total assessment to be levied against the particular parcel of property;
- 269 (ii) describes any additional benefits that the governing body expects the assessed
270 property to receive from the improvements; and
- 271 (iii) designates the date and time by which the fully executed consent form is required
272 to be submitted to the governing body;
- 273 (k) if the local entity intends to levy an assessment to pay operation and maintenance
274 costs or for economic promotion activities, include:
- 275 (i) a description of the operation and maintenance costs or economic promotion

276 activities to be paid by assessments and the initial estimated annual assessment to be levied;

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

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

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

281 (B) current operation and maintenance costs;

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

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

286 (A) operation and maintenance costs; or

287 (B) economic promotion activities; and

288 (l) if the governing body intends to divide the proposed assessment area into zones
289 under Subsection 11-42-201(1)(b), include a description of the proposed zones.

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

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

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

296 (c) provisions for any improvements described in Subsection 11-42-102(22)(a)(ii).

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

298 (a) (i) (A) be published in a newspaper of general circulation within the local entity's
299 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at
300 least five but not more than 20 days before the [~~deadline for filing protests specified in the~~
301 ~~notice under Subsection (1)(g)] day of the hearing required in Section 11-42-204; or~~

302 (B) if there is no newspaper of general circulation within the local entity's jurisdictional
303 boundaries, be posted in at least three public places within the local entity's jurisdictional
304 boundaries at least 20 but not more than 35 days before the [~~deadline for filing protests~~
305 ~~specified in the notice under Subsection (1)(g)] day of the hearing required in Section
306 11-42-204; and~~

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

310 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of
311 the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed
312 assessment area at the property owner's mailing address.

313 Section 3. Section **11-42-203** is amended to read:

314 **11-42-203. Protests.**

315 (1) An owner of property that is proposed to be assessed within an assessment area
316 may, within [~~the time specified in the notice under Section 11-42-202~~] 60 days after the day of
317 the hearing described in Section 11-42-204, or, if there are multiple hearings, the final hearing,
318 file a written protest against:

- 319 (a) the designation of the assessment area;
- 320 (b) the inclusion of the owner's property in the proposed assessment area;
- 321 (c) the proposed improvements to be acquired or constructed; or
- 322 (d) any other aspect of the proposed designation of an assessment area.

323 (2) Each protest under Subsection (1)(a) shall describe or otherwise identify the
324 property owned by the person filing the protest.

325 (3) An owner may withdraw a protest at any time before the [~~conclusion of the hearing~~
326 ~~under Section 11-42-204~~] expiration of the 60-day period described in Subsection (1) by filing
327 a written withdrawal with the governing body.

328 (4) If the governing body intends to assess property within the proposed assessment
329 area by type of improvement or by zone, the governing body shall, in determining whether
330 adequate protests have been filed, aggregate the protests by the type of improvement or by
331 zone.

332 (5) The failure of an owner of property within the proposed assessment area to file a
333 timely written protest constitutes a waiver of any objection to:

- 334 (a) the designation of the assessment area;
- 335 (b) any improvement to be provided to property within the assessment area; and
- 336 (c) the inclusion of the owner's property within the assessment area.

337 Section 4. Section **11-42-204** is amended to read:

338 **11-42-204. Hearing.**

339 (1) On the date and at the time and place specified in the notice under Section
340 11-42-202, the governing body shall hold a public hearing.

341 (2) The governing body may continue the public hearing from time to time to a fixed
342 future date and time.

343 (3) At the public hearing, the governing body shall:

344 (a) hear all objections to the designation of the proposed assessment area or the
345 improvements proposed to be provided in the assessment area; and

346 (b) hear all persons desiring to be heard[~~;~~ and].

347 [~~(c) consider all protests filed under Section 11-42-203.~~]

348 (4) The governing body may make changes in:

349 (a) improvements proposed to be provided to the proposed assessment area; or

350 (b) the area or areas proposed to be included within the proposed assessment area.

351 Section 5. Section **11-42-206** is amended to read:

352 **11-42-206. Adoption of a resolution or ordinance regarding a proposed**
353 **assessment area -- Designation of an assessment area may not occur if adequate protests**
354 **filed -- Recording of resolution or ordinance and notice of proposed assessment.**

355 (1) (a) After holding a public hearing under Section 11-42-204 and considering protests
356 filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a
357 public meeting to adopt a resolution or ordinance:

358 [~~(a)~~] (i) abandoning the proposal to designate an assessment area; or

359 [~~(b)~~] (ii) designating an assessment area as described in the notice under Section
360 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

361 (b) In accordance with Section 11-42-203, the governing body:

362 (i) may not schedule the public meeting before the expiration of the 60-day protest
363 period; and

364 (ii) shall consider and report on any timely filed protests.

365 (2) If the notice under Section 11-42-202 indicates that the proposed assessment area is
366 a voluntary assessment area, the governing body shall:

367 (a) delete from the proposed assessment area all property whose owners have not
368 submitted an executed consent form consenting to inclusion of the owner's property in the

369 proposed assessment area; and

370 (b) determine whether to designate a voluntary assessment area, after considering:

371 (i) the amount of the proposed assessment to be levied on the property within the
372 voluntary assessment area; and

373 (ii) the benefits that property within the voluntary assessment area will receive from
374 improvements proposed to be financed by assessments on the property.

375 (3) If adequate protests have been filed, the governing body may not designate an
376 assessment area as described in the notice under Section 11-42-202.

377 (4) (a) If the governing body adopts a designation resolution or ordinance designating
378 an assessment area, the governing body shall, within 15 days after adopting the designation
379 resolution or ordinance:

380 (i) record the original or certified copy of the designation resolution or ordinance in the
381 office of the recorder of the county in which property within the assessment area is located; and

382 (ii) file with the recorder of the county in which property within the assessment area is
383 located a notice of proposed assessment that:

384 (A) states that the local entity has designated an assessment area; and

385 (B) lists, by legal description and tax identification number, the property proposed to
386 be assessed.

387 (b) A governing body's failure to comply with the requirements of Subsection (4)(a)
388 does not invalidate the designation of an assessment area.

389 (5) After the adoption of a designation resolution or ordinance under Subsection
390 (1)(~~b~~)(a), the local entity may begin providing the specified improvements.

391 Section 6. Section **17B-1-211** is amended to read:

392 **17B-1-211. Notice of public hearings -- Publication of resolution.**

393 (1) Before holding a public hearing or set of public hearings under Section 17B-1-210,
394 the legislative body of each county or municipality with which a request is filed or that adopts a
395 resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district
396 that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

397 (a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice
398 in a newspaper or combination of newspapers of general circulation within the applicable area
399 in accordance with Subsection (2); or

400 (B) if there is no newspaper or combination of newspapers of general circulation
401 within the applicable area, post notice in accordance with Subsection (2)[~~-(F)~~] at least one
402 notice per 1,000 population of that area[;] and [~~(H)~~] at places within the area that are most
403 likely to provide actual notice to residents of the area; and

404 (ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for
405 two weeks before the hearing or the first of the set of hearings; or

406 (b) mail a notice to each registered voter residing within and each owner of real
407 property located within the proposed local district.

408 (2) Each published notice under Subsection (1)(a)(i)(A) shall:

409 (a) be no less than 1/4 page in size, use type no smaller than 18 point, and be
410 surrounded by a 1/4-inch border;

411 (b) if possible, appear in a newspaper that is published at least one day per week;

412 (c) if possible, appear in a newspaper of general interest and readership in the area and
413 not of limited subject matter;

414 (d) be placed in a portion of the newspaper other than where legal notices and
415 classified advertisements appear; and

416 (e) be [~~run at least~~] published once each week for [~~two successive~~] four consecutive
417 weeks, with the final publication being no [~~less~~] fewer than [~~three~~] five and no more than [~~10~~]
418 20 days before the hearing or the first of the set of hearings.

419 (3) Each notice required under Subsection (1) shall:

420 (a) if the hearing or set of hearings is concerning a resolution:

421 (i) contain the entire text or an accurate summary of the resolution; and

422 (ii) state the deadline for filing a protest against the creation of the proposed local
423 district;

424 (b) clearly identify each governing body involved in the hearing or set of hearings;

425 (c) state the date, time, and place for the hearing or set of hearings and the purposes for
426 the hearing or set of hearings; and

427 (d) describe or include a map of the entire proposed local district.

428 (4) County or municipal legislative bodies may jointly provide the notice required
429 under this section if all the requirements of this section are met as to each notice.

430 Section 7. Section **17B-1-213** is amended to read:

431 **17B-1-213. Protest after adoption of resolution -- Adoption of resolution**
432 **approving creation for certain districts.**

433 (1) For purposes of this section, "adequate protests" means protests that are:

434 (a) filed with the county clerk, municipal clerk or recorder, or local district secretary or
435 clerk, as the case may be, within 60 days after the last public hearing required under Section
436 17B-1-210; and

437 (b) signed by:

438 (i) the owners of private real property that:

439 (A) is located within the proposed local district;

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

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

443 (ii) registered voters residing within the applicable area equal in number to at least 25%
444 of the number of votes cast in the applicable area for the office of governor at the last general
445 election prior to the adoption of the resolution.

446 (2) An owner may withdraw a protest at any time before the expiration of the 60-day
447 period described in Subsection (1)(a).

448 ~~(2)~~ (3) If adequate protests are filed, the governing body that adopted a resolution
449 under Subsection 17B-1-203(1)(d) or (e):

450 (a) may not:

451 (i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the
452 applicable area;

453 (ii) take any further action under the protested resolution to create a local district or
454 include the applicable area in a local district; or

455 (iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or
456 (e) proposing the creation of a local district including substantially the same area as the
457 applicable area and providing the same service as the proposed local district in the protested
458 resolution; and

459 (b) shall, within five days after receiving adequate protests, mail or deliver written
460 notification of the adequate protests to the responsible body.

461 ~~(3)~~ (4) Subsection ~~(2)~~ (3)(a) may not be construed to prevent an election from being

462 held for a proposed local district whose boundaries do not include an applicable area that is the
463 subject of adequate protests.

464 [~~(4)~~] (5) (a) If adequate protests are not filed with respect to a resolution proposing the
465 creation of a local district for which an election is not required under Subsection
466 17B-1-214(3)(d), (e), or (f), a resolution approving the creation of the local district may be
467 adopted by:

468 (i) (A) the legislative body of a county whose unincorporated area is included within
469 the proposed local district; and

470 (B) the legislative body of a municipality whose area is included within the proposed
471 local district; or

472 (ii) the board of trustees of the initiating local district.

473 (b) Each resolution adopted under Subsection [~~(4)~~] (5)(a) shall:

474 (i) describe the area included in the local district;

475 (ii) be accompanied by a map that shows the boundaries of the local district;

476 (iii) describe the service to be provided by the local district;

477 (iv) state the name of the local district; and

478 (v) provide a process for the appointment of the members of the initial board of
479 trustees.

480 Section 8. Section 17B-1-214 is amended to read:

481 **17B-1-214. Election -- Exceptions.**

482 (1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213[~~(2)~~](3)(a), an
483 election on the question of whether the local district should be created shall be held by:

484 (i) if the proposed local district is located entirely within a single county, the
485 responsible clerk; or

486 (ii) except as provided under Subsection (1)(b), if the proposed local district is located
487 within more than one county, the clerk of each county in which part of the proposed local
488 district is located, in cooperation with the responsible clerk.

489 (b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located
490 within more than one county and the only area of a county that is included within the proposed
491 local district is located within a single municipality, the election for that area shall be held by
492 the municipal clerk or recorder, in cooperation with the responsible clerk.

493 (2) Each election under Subsection (1) shall be held at the next special or regular
494 general election date that is:

495 (a) for an election pursuant to a property owner or registered voter petition, more than
496 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

497 (b) for an election pursuant to a resolution, more than 60 days after the latest hearing
498 required under Section 17B-1-210.

499 (3) The election requirement of Subsection (1) does not apply to:

500 (a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the
501 owners of private real property that:

502 (i) is located within the proposed local district;

503 (ii) covers at least 67% of the total private land area within the proposed local district
504 as a whole and within each applicable area; and

505 (iii) is equal in value to at least 50% of the value of all private real property within the
506 proposed local district as a whole and within each applicable area;

507 (b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of
508 registered voters residing within the proposed local district as a whole and within each
509 applicable area, equal in number to at least 67% of the number of votes cast in the proposed
510 local district as a whole and in each applicable area, respectively, for the office of governor at
511 the last general election prior to the filing of the petition;

512 (c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the
513 petition contains the signatures of the owners of groundwater rights that:

514 (i) are diverted within the proposed local district; and

515 (ii) cover at least 67% of the total amount of groundwater diverted in accordance with
516 groundwater rights within the proposed local district as a whole and within each applicable
517 area;

518 (d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003,
519 that proposes the creation of a local district to provide fire protection, paramedic, and
520 emergency services or law enforcement service, if the proposed local district includes a
521 majority of the unincorporated area of one or more counties;

522 (e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution
523 proposes the creation of a local district that has no registered voters within its boundaries; or

524 (f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010,
525 that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii).

526 (4) (a) If the proposed local district is located in more than one county, the responsible
527 clerk shall coordinate with the clerk of each other county and the clerk or recorder of each
528 municipality involved in an election under Subsection (1) so that the election is held on the
529 same date and in a consistent manner in each jurisdiction.

530 (b) The clerk of each county and the clerk or recorder of each municipality involved in
531 an election under Subsection (1) shall cooperate with the responsible clerk in holding the
532 election.

533 (c) Except as otherwise provided in this part, each election under Subsection (1) shall
534 be governed by Title 20A, Election Code.

535 Section 9. Section **17B-1-215** is amended to read:

536 **17B-1-215. Notice and plat to lieutenant governor -- Recording requirements --**
537 **Certificate of incorporation -- Local district incorporated as specialized local district or**
538 **basic local district -- Effective date.**

539 (1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file
540 with the lieutenant governor:

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

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

544 (b) The responsible body shall file the documents listed in Subsection (1)(a) with the
545 lieutenant governor within 10 days after:

546 (i) the canvass of an election under Section 17B-1-214, if a majority of those voting at
547 the election within the proposed local district as a whole vote in favor of the creation of a local
548 district;

549 (ii) certification of a petition as to which the election requirement of Subsection
550 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

551 (iii) adoption of a resolution, under Subsection 17B-1-213[~~(4)~~](5) approving the
552 creation of a local district for which an election was not required under Subsection
553 17B-1-214(3)(d), (e), or (f), by the legislative body of each county whose unincorporated area
554 is included within and the legislative body of each municipality whose area is included within

555 the proposed local district, or by the board of trustees of the initiating local district.

556 (2) Upon the lieutenant governor's issuance of a certificate of incorporation under
557 Section 67-1a-6.5, the responsible body shall:

558 (a) if the local district is located within the boundary of a single county, submit to the
559 recorder of that county:

560 (i) the original:

561 (A) notice of an impending boundary action;

562 (B) certificate of incorporation; and

563 (C) approved final local entity plat; and

564 (ii) if applicable, a certified copy of each resolution adopted under Subsection
565 17B-1-213~~(4)~~(5); or

566 (b) if the local district is located within the boundaries of more than a single county:

567 (i) submit to the recorder of one of those counties:

568 (A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

569 (B) if applicable, a certified copy of each resolution adopted under Subsection

570 17B-1-213~~(4)~~(5); and

571 (ii) submit to the recorder of each other county:

572 (A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C);

573 and

574 (B) if applicable, a certified copy of each resolution adopted under Subsection

575 17B-1-213~~(4)~~(5).

576 (3) The area of each local district consists of:

577 (a) if an election was held under Section 17B-1-214, the area of the new local district
578 as approved at the election;

579 (b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c),
580 the area of the proposed local district as described in the petition; or

581 (c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), or (f),
582 the area of the new local district as described in the resolution adopted under Subsection

583 17B-1-213~~(4)~~(5).

584 (4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under
585 Section 67-1a-6.5, the local district is created and incorporated as:

586 (i) the type of specialized local district that was specified in the petition under
587 Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e),
588 if the petition or resolution proposed the creation of a specialized local district; or

589 (ii) a basic local district, if the petition or resolution did not propose the creation of a
590 specialized local district.

591 (b) (i) The effective date of a local district's incorporation for purposes of assessing
592 property within the local district is governed by Section 59-2-305.5.

593 (ii) Until the documents listed in Subsection (2) are recorded in the office of the
594 recorder of each county in which the property is located, a newly incorporated local district
595 may not:

- 596 (A) levy or collect a property tax on property within the local district;
- 597 (B) levy or collect an assessment on property within the local district; or
- 598 (C) charge or collect a fee for service provided to property within the local district.

599 Section 10. Section **17D-1-102** is amended to read:

600 **17D-1-102. Definitions.**

601 As used in this chapter:

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

603 ~~[(a) owners of property within the applicable area representing more than 33% of the~~
604 ~~taxable value of all taxable property within the applicable area; or]~~

605 (a) the owners of private real property that:

- 606 (i) is located within the applicable area;
- 607 (ii) covers at least 25% of the total private land area within the applicable area; and
- 608 (iii) is equal in value to at least 15% of the value of all private real property within the
609 applicable area; or

610 (b) ~~[more than 33% of all]~~ registered voters residing within the applicable area equal in
611 number to at least 25% of the number of votes cast in the applicable area for the office of
612 governor at the last general election prior to the adoption of the resolution or filing of the
613 petition.

614 (2) "Applicable area" means:

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

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

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

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

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

627 (4) "General obligation bond":

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

630 (i) levied:

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

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

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

635 (b) does not include:

636 (i) a short-term bond;

637 (ii) a tax and revenue anticipation bond; or

638 (iii) a special assessment bond.

639 (5) "Governing body" means:

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

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

646 (6) "Guaranteed bonds" means bonds:

647 (a) issued by a special service district; and

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

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

651 (8) "Revenue bond":

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

655 (b) does not include:

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

658 (ii) a tax and revenue anticipation bond; or

659 (iii) a special assessment bond.

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

662 (10) "Special assessment bond" means a bond payable from special assessments.

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

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

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

667 (12) "Tax and revenue anticipation bond" means a bond:

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

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

672 Section 11. Section **17D-1-205** is amended to read:

673 **17D-1-205. Notice.**

674 (1) Each notice required under Subsection 17D-1-204(1) shall:

675 (a) state that:

676 (i) the legislative body has adopted a resolution stating its intent to create a special
677 service district; or

678 (ii) a petition has been filed proposing the creation of a special service district;

- 679 (b) describe the boundary of the proposed special service district;
- 680 (c) generally describe each service that the special service district is proposed to
681 provide;
- 682 (d) state that taxes may be levied annually upon all taxable property within the
683 proposed special service district;
- 684 (e) state that fees or charges may be imposed to pay for some or all of the services that
685 the special service district is proposed to provide;
- 686 (f) explain the process, requirements, and timetable for filing a protest against the
687 creation of the special service district or against a service that the special service district is
688 proposed to provide;
- 689 (g) designate a date, time, and place for a public hearing on the proposed creation of
690 the special service district; and
- 691 (h) except as provided in Subsection (2), be published:
- 692 (i) (A) [~~at least~~] once a week [~~during three~~] for four consecutive weeks;
- 693 (B) not [~~less~~] fewer than [~~21~~] five days [~~or~~] and no more than [~~35~~] 20 days before the
694 date of the public hearing required under Subsection 17D-1-204(2); and
- 695 (C) in a newspaper of general circulation in the county or municipality by which the
696 special service district is proposed to be created; and
- 697 (ii) in accordance with Section 45-1-101 for 35 days before the date of the public
698 hearing required under Subsection 17D-1-204(2).
- 699 (2) Notwithstanding Subsection (1)(h)(i), if the proposed special service district is
700 located entirely within a city of the third, fourth, or fifth class or a town that has no newspaper
701 of general circulation in the city or town, the legislative body of the city or town may provide
702 that the notice required under Subsection 17D-1-204(1) be given by posting the notice in at
703 least five public places in the city or town at least 21 days before the public hearing required
704 under Subsection 17D-1-204(2).
- 705 (3) The legislative body of the county or municipality by which the special service
706 district is proposed to be created may include in a notice under this section any other
707 information that the legislative body considers necessary or appropriate.

708 Section 12. Section **17D-1-206** is amended to read:

709 **17D-1-206. Protests.**

- 710 (1) An interested person may protest:
- 711 (a) the creation of a special service district; or
- 712 (b) a service that the special service district is proposed to provide.
- 713 (2) Each protest under Subsection (1) shall:
- 714 (a) be in writing;
- 715 (b) be submitted:
- 716 (i) to the legislative body of the county or municipality by which the special service
- 717 district is proposed to be created; and
- 718 (ii) no later than [~~15~~] 60 days after the public hearing required under Subsection
- 719 17D-1-204(2); and
- 720 (c) explain why the person is protesting.
- 721 (3) A person who submitted a written protest against the creation of a special service
- 722 district may withdraw the protest or, having withdrawn a protest, cancel the withdrawal, [~~until~~
- 723 ~~30~~] no later than 60 days after the public hearing required under Subsection 17D-1-204(2).
- 724 (4) The legislative body of a county or municipality may not adopt a resolution or
- 725 ordinance creating a special service district if adequate protests are filed with respect to the
- 726 creation of the special service district.
- 727 (5) The legislative body of a county or municipality may not adopt a resolution or
- 728 ordinance authorizing a special service district to provide a service if adequate protests are filed
- 729 with respect to that service.

Legislative Review Note
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Office of Legislative Research and General Counsel