

DEDICATED INFRASTRUCTURE DISTRICT ACT

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE**General Description:**

This bill enacts the Dedicated Infrastructure District Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Dedicated Infrastructure District Act;
- ▶ defines terms;
- ▶ establishes objectives and requirements for the creation of a dedicated infrastructure district to finance the costs of certain infrastructure and improvements;
- ▶ provides for the membership of the board of trustees of a dedicated infrastructure district;
- ▶ establishes requirements for the charter governing a dedicated infrastructure district;
- ▶ requires a dedicated infrastructure district to engage certain professional support;
- ▶ allows a dedicated infrastructure district to issue bonds and levy taxes with certain limitations;
- ▶ allows an individual to contest a tax or fee imposed by a dedicated infrastructure district or to contest the creation of a dedicated infrastructure district; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-102, as last amended by Laws of Utah 2021, Chapter 314

ENACTS:

17D-4a-101, Utah Code Annotated 1953

17D-4a-102, Utah Code Annotated 1953

17D-4a-201, Utah Code Annotated 1953

17D-4a-202, Utah Code Annotated 1953

17D-4a-203, Utah Code Annotated 1953

17D-4a-204, Utah Code Annotated 1953

17D-4a-205, Utah Code Annotated 1953

17D-4a-206, Utah Code Annotated 1953

17D-4a-301, Utah Code Annotated 1953

17D-4a-302, Utah Code Annotated 1953

17D-4a-303, Utah Code Annotated 1953

17D-4a-304, Utah Code Annotated 1953

17D-4a-305, Utah Code Annotated 1953

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

Section 1. Section **17B-1-102** is amended to read:

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 local district":

(a) means a local district that is not a specialized local district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local 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 local 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 local 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 local 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 local 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 local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local 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 local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local 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) "Irrigation district" means a local 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) "Local 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 set forth 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.

(14) "Metropolitan water district" means a local 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.

(15) "Mosquito abatement district" means a local 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.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city, town, or metro township.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(20) "Political subdivision" means a county, city, town, metro township, local 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.

(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.

(22) "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.

(23) "Public transit district" means a local 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.

(24) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the local 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.

(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.

(26) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

(27) "Service area" means a local 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.

(28) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

(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.

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

(31) "Specialized local district" means a local 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, or a dedicated infrastructure district.

(32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(33) "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) "Unincorporated" means not included within a municipality.

(35) "Water conservancy district" means a local 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) "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 local district.

Section 2. Section **17D-4a-101** is enacted to read:

CHAPTER 4a. DEDICATED INFRASTRUCTURE DISTRICT ACT

Part 1. General Provisions

17D-4a-101. Definitions.

As used in this chapter:

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

(2) "Charter" means the document governing a dedicated infrastructure district that is filed with the lieutenant governor's office, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and this

chapter.

(3) "Dedicated infrastructure district" means a district created under this chapter.

(4) "Infrastructure and improvements" includes:

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

(b) streets, roads, curbs, gutters, sidewalks, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, rail and transit improvements, and parks, trails, community centers, courts, fields, and other recreational facilities; and

(c) the improvements, facilities, or property for which bonds are authorized under Section 11-14-103.

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

(i) that is directly payable from and secured by ad valorem property taxes that are levied within the entire dedicated infrastructure district boundary or within one or more tax areas within the dedicated infrastructure district:

(A) by a dedicated infrastructure district that issues the bond; and

(B) on taxable property within the district or tax areas;

(ii) that is a general obligation of the dedicated infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4a-303 for any fiscal year, except as provided in Subsection 17D-4a-301(9).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(6) "Surface property owner" means an owner of the surface rights of real property.

(7) "Tax area" means a tax area, as that term is defined in Section 59-2-102, that is created within a dedicated infrastructure district.

Section 3. Section 17D-4a-102 is enacted to read:

17D-4a-102. Provisions applicable to dedicated infrastructure districts.

(1) Each dedicated infrastructure district is governed by and has the powers stated in:

(a) this chapter; and

(b) Title 17B, Chapter 1, Provisions Applicable to All Local Districts.

(2) This chapter applies only to a dedicated infrastructure district.

(3) A dedicated infrastructure district is:

(a) a body corporate and politic with perpetual succession;

(b) a quasi-municipal corporation; and

(c) a political subdivision of the state.

(4) A dedicated infrastructure district may sue and be sued.

(5) Except as modified or exempted by this chapter, a dedicated infrastructure district is, to the same extent as if the dedicated infrastructure district were a local district, subject to the provisions in:

(a) Title 17B, Chapter 1, Provisions Applicable to All Local Districts;

(b) Title 20A, Election Code; and

(c) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(6) If a provision of this chapter conflicts with any other statutory provision, the provision of this chapter controls.

(7) The annexation of an unincorporated area by a municipality or the adjustment of a boundary share by more than one municipality does not affect the boundaries of a dedicated infrastructure district.

(8) A dedicated infrastructure district shall constitute a local entity and the board shall constitute a governing body for purposes of Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

Section 4. Section **17D-4a-201** is enacted to read:

Part 2. Purposes, Creation, Governance, and Powers of a Dedicated Infrastructure District

17D-4a-201. Purposes.

A dedicated infrastructure district may be created in accordance with this chapter for the following purposes:

(1) to finance the costs of infrastructure and improvements;

(2) to maintain and operate infrastructure and improvements if the infrastructure or improvements are not transferred or dedicated to another political subdivision or public or private utility because no political subdivision has agreed to provide the service in or near the

dedicated infrastructure district, except for electricity distribution;

(3) to lower the cost of infrastructure and improvements and increase the supply of available building lots;

(4) if development within the dedicated infrastructure district has housing, to increasing the supply and achieving greater economies of scale to make some or all of the housing units more affordable; and

(5) to encourage economic development, including commercial and industrial development.

Section 5. Section **17D-4a-202** is enacted to read:

17D-4a-202. Creation -- Annexation or withdrawal of property.

(1) A dedicated infrastructure district may not be created unless:

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

(b) the estimated cost for constructing the infrastructure and improvements is \$2,000,000 or more; and

(c) the proposal to create the dedicated infrastructure district includes:

(i) a minimum proposed development of 50,000 or more square feet of non-residential development;

(ii) a minimum proposed development of 100 equivalent residential units or more; or

(iii) a minimum estimated appraised valuation of the proposed development upon completion of \$50,000,000 or more.

(2) The first board described in the charter shall file with the lieutenant governor:

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

(b) a copy of an approved final local entity plat, as defined in Section [67-1a-6.5](#);

(c) a copy of the petition required under Subsection (1)(a) together with a title report, preliminary title report, or county record demonstrating property ownership; and

(d) a certificate of the first board described in the charter certifying that the petition required under Subsection (1)(a) has been obtained and that the requirements of Subsections (1)(b) and (c) are anticipated to be met with respect to the proposed development.

307 (3) The dedicated infrastructure district is created by the state upon the issuance of a
308 certificate of incorporation by the lieutenant governor's office under Section [67-1a-6.5](#).

309 (4) Title 17B does not apply to the creation of a dedicated infrastructure district or an
310 annexation or withdrawal of property from a dedicated infrastructure district.

311 (5) (a) An area outside of the boundaries of a dedicated infrastructure district may be
312 annexed into the dedicated infrastructure district if the following requirements are met:

313 (i) adoption of a resolution of the board approving of the annexation; and

314 (ii) written consent of 100% of the surface property owners within the area proposed
315 for annexation.

316 (b) Within 60 days of meeting the requirements of Subsection (5)(a), the board shall
317 file with the lieutenant governor:

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

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

321 (6) (a) Property may be withdrawn from a dedicated infrastructure district if the
322 following requirements are met:

323 (i) (A) adoption of a resolution of the board approving of the withdrawal; and

324 (B) written consent of 100% of the surface property owners within the area proposed to
325 be withdrawn; or

326 (ii) (A) adoption of a resolution of the board approving of the withdrawal; and

327 (B) the charter or documents authorizing bonds permit withdrawal or a property upon
328 payment of any fees or assessments that the dedicated infrastructure district imposes upon such
329 area proposed to be withdrawn in full.

330 (b) If any bonds that the dedicated infrastructure district issues are allocable to the area
331 to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains
332 subject to any taxes, fees, or assessments that the dedicated infrastructure district imposes until
333 the bonds or any associated refunding bonds are paid, unless other provisions are made within
334 the documents authorizing such bonds for the allocation of such indebtedness.

335 (c) Within 60 days of meeting the requirements of Subsection (6)(a), the board shall
336 file with the lieutenant governor:

337 (i) a copy of a notice of impending boundary action, as defined in Section [67-1a-6.5](#),

that meets the requirements of Subsection [67-1a-6.5](#)(3); and

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

(7) For purposes of certification under Section [67-1a-6.5](#), with respect to a dedicated infrastructure district:

(a) prior to the lieutenant governor's issuance of a certificate of incorporation under Section [67-1a-6.5](#), any requirement of signature or approval by the approving authority may be approved or signed by members of the proposed board of the dedicated infrastructure district; and

(b) after the issuance of a certificate of incorporation under Section [67-1a-6.5](#), the dedicated infrastructure district constitutes the approving authority.

(8) The lieutenant governor's office may charge reasonable fees relating to the review and issuance of a certificate under Section [67-1a-6.5](#) in relation to a dedicated infrastructure district.

(9) The boundaries of a dedicated infrastructure district may not overlap with the boundaries of another dedicated infrastructure district if doing so would allow a dedicated infrastructure district to charge an aggregate property tax exceeding the limit described in Subsection [17D-4a-303](#)(1).

(10) (a) A dedicated infrastructure district is a separate and distinct political subdivision, separate and distinct from the municipality and county within which the dedicated infrastructure district is located.

(b) Any financial burden of a dedicated infrastructure district:

(i) is borne solely by the dedicated infrastructure district; and

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

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

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

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

(d) (i) Subject to Subsection (9)(d)(ii), a dedicated infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any fee or assessment the dedicated infrastructure district imposes.

(ii) A dedicated infrastructure district shall undertake any enforcement action under Subsection (9)(d)(i) in accordance with Title 11, Chapter 42, Assessment Area Act.

Section 6. Section **17D-4a-203** is enacted to read:

17D-4a-203. Dedicated infrastructure district board -- Charter.

(1) The board of a dedicated infrastructure district shall consist of either three or five members, as designated in the charter, and shall be appointed in accordance with the charter.

(2) (a) For the members of the initial board, two of the members in a three member board and three members in a five member board shall serve an initial six-year term and the other members of the initial board shall serve an initial four-year term.

(b) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the dedicated infrastructure district if:

(i) 75% or less of any residential units planned for construction within the dedicated infrastructure district are occupied;

(ii) no qualified candidate files to be considered for appointment to the board; or

(iii) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(5).

(b) Except under the circumstances described in Subsection (3)(a), the residency requirement in Subsection 17B-1-302 is applicable to any board member elected for a board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the dedicated infrastructure district may not serve as a board member unless the individual is:

(i) a surface property owner or an agent or officer of a surface property owner within the boundaries of the dedicated infrastructure district; and

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

(d) For a dedicated infrastructure district that is not anticipated to have permanent residents or is anticipated to be composed primarily of nonresidential property, the charter may allow for the board to continue to be appointed from owners of land or agents or officers of land within the boundaries.

(e) A dedicated infrastructure district's charter may allow for a property owner to be

400 appointed as a board member, or the property owner's agent or officer, in proportion to the
401 property owner's ownership of taxable value within a dedicated infrastructure district.

402 (4) (a) A charter may provide for a transition from appointment under Subsection (1) to
403 a method of election by registered voters based upon milestones or events that the charter
404 identifies, including a milestone for each individual board position providing that when the
405 milestone is reached, the registered voters of the dedicated infrastructure district elect a
406 member of the board in place of an appointed member at the next municipal general election
407 for the board position.

408 (b) Regardless of whether a board member is elected under Subsection (4)(a), the
409 position of each remaining board member shall continue to be appointed under Subsection (1)
410 until the member's board position surpasses the density milestone described in the charter.

411 (5) A dedicated infrastructure district may not compensate a board member for the
412 member's service on the board under Section 17B-1-307 unless the board member is a resident
413 within the boundaries of the dedicated infrastructure district.

414 (6) A charter shall:

415 (a) include a boundary description and a map of the dedicated infrastructure district;

416 (b) state the number of board members of the dedicated infrastructure district;

417 (c) establish any applicable property tax levy rate limit for the dedicated infrastructure
418 district;

419 (d) establish any applicable limitation on the principal amount of indebtedness for the
420 dedicated infrastructure district; and

421 (e) include other information that the dedicated infrastructure district or the property
422 owner determines to be necessary or advisable.

423 (7) (a) Except as provided in Subsection (7)(b), the board may amend a charter by
424 adopting a resolution that approves the amended charter.

425 (b) Notwithstanding Subsection (7)(a), any amendment to a property tax levy rate
426 limitation requires the consent of:

427 (i) 100% of the surface property owners within the boundaries of the dedicated
428 infrastructure district; and

429 (ii) 100% of the registered voters, if any, within the boundaries of the dedicated
430 infrastructure district.

431 (8) A board member is not in violation of Section 67-16-9 if the board member:

432 (a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8
433 and files the disclosure with the dedicated infrastructure district:

434 (i) before any appointment or election; and

435 (ii) upon any significant change in the business relationship; and

436 (b) conducts the affairs of the dedicated infrastructure district in accordance with this
437 title and any parameters described in the charter.

438 (9) Notwithstanding any other provision of law, the charter governs the number,
439 appointment, and terms of board members of a dedicated infrastructure district.

440 Section 7. Section 17D-4a-204 is enacted to read:

441 **17D-4a-204. Dedicated infrastructure district powers.**

442 A dedicated infrastructure district shall have all of the authority conferred upon a local
443 district under Section 17B-1-103, and in addition a dedicated infrastructure district may:

444 (1) issue negotiable bonds or other debt instruments to pay all or part of the costs of
445 acquiring, acquiring an interest in, improving, or extending any infrastructure and
446 improvements, including:

447 (a) all or part of the costs of infrastructure and improvements in one or more
448 assessment areas created by the dedicated infrastructure district, as governed by Title 11,
449 Chapter 42, Assessment Area Act, and Title 11, Chapter 42a, Commercial Property Assessed
450 Clean Energy Act, and other related costs;

451 (b) all or part of the costs of infrastructure and improvements in one or more tax areas
452 created by the dedicated infrastructure district, as provided in this chapter;

453 (c) infrastructure and improvements related to the provision of housing, particularly in
454 an effort to increase the supply of housing; and

455 (d) capital costs related to public transportation;

456 (2) enter into an interlocal agreement in accordance with Title 11, Chapter 13,
457 Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers
458 of the dedicated infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal
459 Cooperation Act;

460 (3) acquire completed or partially completed improvements for fair market value as
461 reasonably determined by:

462 (a) the board; or

463 (b) an engineer that a dedicated infrastructure district employs to provide the value;

464 (4) operate and maintain public infrastructure and improvements the district acquires or
465 finances and use fees, assessments, or taxes to pay for the operation and maintenance of those
466 public infrastructure and improvements; and

467 (5) dedicate infrastructure and improvements to another public entity if that public
468 entity maintains the infrastructure and improvements.

469 Section 8. Section **17D-4a-205** is enacted to read:

470 **17D-4a-205. Relation to other entities.**

471 (1) Notwithstanding the creation of a dedicated infrastructure district, any public entity,
472 as applicable, retains all of the entity's authority over all zoning, planning, design specifications
473 and approvals, and permitting within the dedicated infrastructure district.

474 (2) The inclusion of property within the boundaries of a dedicated infrastructure district
475 does not preclude the inclusion of the property within any other local district.

476 (3) (a) All infrastructure that is connected to another public entity's system:

477 (i) shall be dedicated to the public entity and belongs to that public entity, regardless of
478 inclusion within the boundaries of a dedicated infrastructure district, unless the dedicated
479 infrastructure district and the public entity otherwise agree; and

480 (ii) shall comply with the design, inspection requirements, and other standards of the
481 public entity.

482 (b) A dedicated infrastructure district shall convey or transfer the infrastructure
483 described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no
484 cost to the public entity.

485 (4) (a) A land use authority under Title 10, Chapter 9a, Municipal Land Use,
486 Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development,
487 and Management Act, may not discriminate against or use the existence of a dedicated
488 infrastructure district in any evaluation or decisions regarding any land use application or land
489 use applicant.

490 (b) The existence of a dedicated infrastructure district is irrelevant to any land use
491 decision under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,
492 or Title 17, Chapter 27a, County Land Use, Development, and Management Act.

(c) A municipality, county, or other political subdivision may not discriminate against or use the existence of a dedicated infrastructure district in accepting any public infrastructure or improvement financed by a dedicated infrastructure district so long as the infrastructure or improvement meets the legal standards that are applicable to any other infrastructure or improvement the municipality, county, or other political subdivision accepts from developments that are not financed by a dedicated infrastructure district.

(d) A municipality, county, or other political subdivision may not discriminate against a municipal financial advisor, counsel, underwriter, or other professional who assists a dedicated infrastructure district when the dedicated infrastructure district decides on who to use for such services.

(e) An individual's assistance to a dedicated infrastructure district under Section 17D-4a-206 is irrelevant to the dedicated infrastructure district's decision as to who to use for those services.

Section 9. Section **17D-4a-206** is enacted to read:

17D-4a-206. Professional support and transparency.

(1) Prior to issuance of any bonds, as set forth in this chapter, the board shall engage:

(a) a municipal advisor registered with the United States Securities and Exchange Commission;

(b) a nationally-recognized bond counsel; and

(c) an attorney licensed in Utah to act as issuer's counsel who has familiarity with the laws that govern the operations of political subdivisions, including:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A municipal advisor engaged in connection with the issuance of bonds shall deliver a certificate that the interest rate borne by such bonds reflects a reasonable market rate as of the date of issuance.

(3) A dedicated infrastructure district may not pay:

(a) an amount in excess of five percent for services relating to construction management of the infrastructure and improvements; and

(b) a development fee amount in excess of five percent for infrastructure and

524 improvements.

525 Section 10. Section **17D-4a-301** is enacted to read:

526 **Part 3. Bond Issuance, Fee Collection, and Property Tax Levy Authority for a Dedicated**
527 **Infrastructure District**

528 **17D-4a-301. Dedicated infrastructure district bonds.**

529 (1) Subject to the provisions of this section, a dedicated infrastructure district may
530 issue negotiable bonds or other debt instruments for the purposes described in Section
531 17D-4a-203, as provided in, as applicable:

532 (a) Title 11, Chapter 14, Local Government Bonding Act;

533 (b) Title 11, Chapter 27, Utah Refunding Bond Act;

534 (c) Title 11, Chapter 42, Assessment Area Act;

535 (d) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; and

536 (e) this section.

537 (2) For any financing obtained pursuant to Title 11, Chapter 42, Assessment Area Act,
538 for infrastructure and improvements in an assessment area that contains single-family
539 dwelling or lots intended to be sold to individuals, the assessments applicable to the
540 single-family dwelling or lot shall be paid in full prior to the issuance of a certificate of
541 occupancy for that lot.

542 (3) A dedicated infrastructure district bond:

543 (a) shall mature within 40 years of the date of issuance; and

544 (b) except for bonds issued under Title 11, Chapter 42a, Commercial Property
545 Assessed Clean Energy Act, may not be secured by any infrastructure and improvement paid
546 for by the dedicated infrastructure district.

547 (4) (a) A dedicated infrastructure district may issue a limited tax bond, in the same
548 manner as a general obligation bond:

549 (i) with the consent of 100% of surface property owners within the boundaries of the
550 dedicated infrastructure district, if the property tax is levied on the entire dedicated
551 infrastructure district, or a tax area, if the tax is only levied in the tax area and 100% of the
552 registered voters, if any, within the boundaries of the proposed dedicated infrastructure district;
553 or

554 (ii) upon approval of a majority of the registered voters within the boundaries of the

dedicated infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (4)(a) is subject to a limitation, if any, on the principal amount of indebtedness as described in the charter.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the dedicated infrastructure district may only issue limited tax bonds in denominations of not less than \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a dedicated infrastructure district may convert a limited tax bond described in Subsection (4)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the dedicated infrastructure district does not exceed 15% of the fair market value of taxable property in the dedicated infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the dedicated infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (4)(a):

(A) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond upon meeting the requirements of this Subsection (4)(d);

(B) is considered valid for a period of 10 years if the board adopts a resolution or ordinance finding that the consent has been obtained and records a notice of the consent and the amount of bonds which may be issued on property within the dedicated infrastructure district; and

(C) is subject to the tolling provisions of Section [11-14-301](#).

(e) A dedicated infrastructure district that levies a property tax for payment of debt service on a limited tax bond and related administrative expenses issued under this section is not required to comply with the notice and hearing requirements of Section [59-2-919](#) unless the

rate exceeds the rate established in:

(i) Section [17D-4a-303](#), except as provided in Subsection (9);

(ii) the charter; or

(iii) the documents relating to the issuance of the limited tax bond.

(5) (a) Subject to Subsection (5)(b), a mill levy may not be imposed for the repayment of a series of bonds after a period that exceeds:

(i) for a dedicated infrastructure district anticipated to contain residential property, 40 years from the first date of imposition of the mill levy for such bond; and

(ii) for a dedicated infrastructure district not anticipated to contain residential property, 50 years from the first date of imposition of the mill levy for such bond.

(b) A charter may further decrease, but not increase, the time limits described in Subsection (5)(a).

(6) A dedicated infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(7) The board may, by resolution, delegate to one or more officers of the dedicated infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section [11-14-302](#), approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

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

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(8) (a) Any person may contest the legality of the issuance of a dedicated infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection [11-14-316](#)(2).

(b) After the 30-day period described in Subsection (8)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(9) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a dedicated infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the dedicated infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (9)(a) may exceed the limit described in Section [17D-4a-303](#).

(c) The dedicated infrastructure district may charge the rate increase described in Subsection (9)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

(10) As part of the issuance of bonds, the board shall provide a notice recorded on all property in the dedicated infrastructure district that is subject to a property tax or assessment imposed by the dedicated infrastructure district, identifying:

(a) the dedicated infrastructure district name and contact information;

(b) the property tax, if any; and

(c) the assessment, if any.

Section 11. Section **17D-4a-302** is enacted to read:

17D-4a-302. Fees.

In addition to the fees permitted under Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a dedicated infrastructure district may charge a fee or other charge for an administrative service that the dedicated infrastructure district provides, to pay some or all of the dedicated infrastructure district's:

(1) costs of acquiring, improving, or extending infrastructure and improvements; or

(2) costs associated with the enforcement of a legal remedy.

Section 12. Section **17D-4a-303** is enacted to read:

17D-4a-303. Limits on dedicated infrastructure district property tax levy -- Notice requirements.

(1) (a) The property tax levy of a dedicated infrastructure district, for all purposes other than operations and maintenance of infrastructure and improvements retained by the specialized infrastructure district, including payment of debt service on limited tax bonds and

administrative expenses, may not exceed .006 per dollar of taxable value of taxable property in the district.

(b) The property tax levy of a dedicated infrastructure district, for operations and maintenance of infrastructure and improvements may not exceed .001 per dollar of taxable value of taxable property in the district, provided that such levy shall be based on actual, reasonable costs of such operations and maintenance.

(2) The limitations described in Subsection (1) do not apply to the levy by the dedicated infrastructure district to pay principal of and interest on a general obligation bond that the dedicated infrastructure district issues.

(3) (a) Within 30 days after the day on which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, the board shall record a notice with the recorder of the county in which property within the dedicated infrastructure district is located.

(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the dedicated infrastructure district;

(ii) state that a copy of the charter is on file with the dedicated infrastructure district;

(iii) state that the dedicated infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the dedicated infrastructure district may levy.

(c) If the board fails to comply with the requirements of Subsection (3)(a):

(i) the failure does not invalidate the creation of the dedicated infrastructure district or any bonds issued; and

(ii) the dedicated infrastructure district may not levy taxes or collect assessments until the requirements of Subsection (3)(a) are met.

Section 13. Section 17D-4a-304 is enacted to read:

17D-4a-304. Property tax penalty for nonpayment.

In the event of nonpayment of any tax, fee, or charge that a dedicated infrastructure district imposes, the dedicated infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Section 14. Section 17D-4a-305 is enacted to read:

17D-4a-305. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee or any proceeding to create a dedicated infrastructure district, levy a tax, or impose a fee may bring a civil action against the dedicated infrastructure district or the lieutenant governor's office to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) shall bring the action in the district court with jurisdiction in the county in which the dedicated infrastructure district is located; and

(b) may not bring the action against or serve a summons relating to the action on the dedicated infrastructure district more than 30 days after the effective date of:

(i) the creation of the dedicated infrastructure district, if the challenge is to the creation of the dedicated infrastructure district; or

(ii) the tax or fee, if the challenge is to a tax or fee.

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

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a dedicated infrastructure district, levy a tax, or impose a fee; or

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

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a dedicated infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a dedicated infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal

710 charges against or the prosecution of a party for the misuse of funds.