

**UTAH ASSOCIATION OF SPECIAL DISTRICTS**  
**2020 Legislative Issues**

▪ **Move the Public Infrastructure District Act from Title 17B, Chapter 2a, Part 12 to a new Chapter (Chapter 4) of Title 17D of the Utah Code:** Portions of Title 17B, Chapter 1 will be incorporated by reference into the relocated Public Infrastructure District Act, similar to Utah Code Ann. § 17D-1-106 (which applies to special service districts). Senator McCay, who sponsored H. B. 74 (the original Public Infrastructure District Act), may be contacted as a possible sponsor.

▪ **Place a moratorium on the creation of new basic local districts:** Very few basic local districts have been created and, with the advent of the Public Infrastructure District Act, there is no apparent need for more developer driven basic local districts. A moratorium could be patterned after the fire protection district creation moratorium stated in Utah Code Ann. § 17B-2a-302. New Utah Code Ann. § 17B-1-1403 could declare simply: “No new basic local district may be created.”

▪ **Closed Meeting Amendments:** We will work with the Media Coalition and other stakeholders to create a consensus Bill that will allow public body meetings to be closed, in limited circumstances, to allow the public body’s attorney to advise the body. This is a continuation of our effort in 2019 (H.B. 74 sponsored by Rep. Handy).

▪ **Protection of Personal/Non-Governmental Communications:** It has been suggested that the definition of a “record” in the Government Records Access and Management Act (“GRAMA”) be modified to give local officials the privilege that Legislators now enjoy by making a communication not a record unless it is dealing with the public’s business or is made in the local official’s capacity as a local governmental official or employee. GRAMA already includes a similar provision: “(b) ‘Record’ does not mean: (i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity: (A) in a capacity other than the employee’s or officer’s governmental capacity; or (B) that is unrelated to the conduct of the public’s business”. Utah Code Ann. § 63G-2-103(22)(b). Is the current law sufficient?

▪ **Relieve small districts from a legal notice publication requirement:** Increase the annual operating budget exemption applicable to legal notice publication requirements for local districts and special service districts from \$250,000 to \$500,000 in Utah Code Ann. § 45-1-101(6), (8) and (9). An annual operating budget cutoff of \$1,000,000 has been proposed as an alternative to \$500,000.

▪ **Modify Utah Code Ann. § 20A-1-512, which governs midterm vacancies on local district boards:** Two modifications have been suggested. First, allow the local district to post the vacancy notice on the local district’s website as an alternative to newspaper publication by inserting the following language at the beginning of Utah Code Ann. § 20A-1-512(1)(b)(i)(A): “posting the notice in a conspicuous location on a website maintained by the local district or,” followed by the current newspaper publication requirement. The second modification is to address filling a midterm vacancy on a multi-county water conservancy district Board of Trustees by adding a new Subsection to Utah Code Ann. § 20A-1-512(1): “(d) Whenever a vacancy occurs on the board of a water conservancy district that is located in more than a single county, the water conservancy district board shall give

written notice of the vacancy to the legislative body or bodies that originally nominated the person vacating the position, and the vacancy will be filled as provided in Subsection 17B-2a-1005(2)(c).”

- **Repeal Utah Code Ann. § 17B-1-112, which requires district contact information to be published in a telephone directory:** With the dramatic decline in the importance and availability of local telephone directories; and with the advent of the local government and limited purpose entity registry maintained by the Lieutenant Governor (Utah Code Ann. § 67-1a-15) and the statutory requirement that the website of every county must include a listing of local governmental entities (Utah Code Ann. § 17-15-32) which will include far more detailed information than any telephone directory; Section 17B-1-112 is an irrelevant requirement without a logical justification.

- **Correct unintended consequences of Utah Code Ann. § 11-55-103, which ties the receipt by a Board member of per diem and travel expenses to rules adopted by the Division of Finance:** The Division of Finance makes travel and expense rules for State travelers on the basis of a mileage allowance and the reimbursement of other travel expenses. “The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.” Utah Code Ann. § 63A-3-107(4). It is not practical or feasible for a district to go to the Director of the Division of Finance seeking an exception to a State travel expense rule. Two alternative approaches have been suggested: (a) Induce the Director of the Division of Finance to adopt a rule that will be applicable to any political subdivision of the State, including all local districts and special service districts; or (b) Modify the law to give discretion to the political subdivision by renumbering Subsection 11-55-103(3) as (4) and adopting new Subsection (3): “(3) The governing body of a political subdivision may adopt per diem and travel expense rules specifying an exception to a travel expense rule adopted by the Division of Finance or making an exception to a travel expense rule when justified in writing by the chief executive officer of the political subdivision to meet special circumstances encountered in official attendance at a conference, convention, meeting or other official business, as determined by the chief executive officer of the political subdivision, which expense rules will have the same status, for the political subdivision, as a rule adopted under Subsection 63A-3-107(4).”

- **Extend local district annexation timelines to accommodate the time necessary to obtain a final local entity plat and enable the local district board sufficient time to complete an orderly annexation process:** The thirty-day limitation periods stated in Utah Code Ann. § 17B-1-414 should be extended to at least sixty, if not ninety, days.

- **Records maintenance, information, and reporting requirements applicable to governmental nonprofit entities are unduly strict and burdensome and should be lightened or removed:** These requirements are found in Title 16, Chapter 6a, Part 16 of the Utah Code. The requirements are particularly difficult for water companies and water user associations. This issue is much broader than local and special service districts and should be approached as part of a larger coalition.