

Special Act Special Taxing Districts' Use of Proxy Voting

By: Julia Singer Bansal, Associate Analyst
July 23, 2018 | 2018-R-0189

Issue

Can special act special taxing districts responsible for maintaining lakes implement proxy voting, and if so, under what authority?

The Office of Legislative Research is not authorized to provide legal opinions or legal advice, and the following should not be construed as such.

Summary

All special taxing districts, like municipalities, are “creatures of the state.” They cannot, by unilateral action, enlarge a grant of power from the legislature (see *Baker v. Norwalk*, 152 Conn. 312 (1965)). Thus, a special act special taxing district must have authority to implement proxy voting before doing so (whether a lake district or not). It appears that such authority exists only for certain special act districts: those with a charter (i.e., the district’s special act legislation) that specifically authorizes proxy voting. (No statutory districts have the authority to implement proxy voting.)

Special Taxing Districts

A special act special taxing district is different from a special taxing district that was formed under the statutory procedure. Special taxing districts created by special act of the legislature can exercise any powers granted in that act (i.e., their charter). Those established under the statutory process can perform any of the functions enumerated in CGS §§ 7-324 & 7-326 (e.g., extinguishing fires, maintaining beaches) but have only the powers specified in statute.

Many of the state’s special taxing districts were originally created by special acts of the legislature (i.e., special act districts). But since the mid-1900s, most special taxing districts have been established locally, pursuant to the statutory process (i.e., statutory districts; see [CGS § 7-324 et seq.](#)).

For additional information, see [OLR Report 2011-R-0347](#).

Authority to Implement Proxy Voting

Special taxing districts can only allow proxy voting if they are authorized to do so by their governing documents. Some special act districts have this authority. As explained below, special taxing districts that do not have this authority must seek legislation to obtain it.

Special Act Districts' Existing Authority

We reviewed the special act charters of several special taxing districts to determine whether any authorize proxy voting. We found several examples of district charters allowing proxy voting:

- The Old Colony Beach Club Association's [charter](#) was amended in 2017 to allow voters to vote by proxy (*"To the extent lawful, any person entitled to attend and vote at a members meeting may establish his/her presence and cast his/her vote by proxy..."*)
- The Sachem's Head Association's [charter](#) authorizes voters to vote by proxy (*"Any member of the Association, whether or not a natural person, may designate one or two persons eighteen years or over to cast votes or hold office on such person's behalf."*)
- The Civic Association of Short Beach's [charter](#) requires association members who are not Connecticut electors to select an elector to vote on their behalf, if they want to exercise their right to vote (*"All natural persons over eighteen years of age owning a fee property interest in a dwelling within said limits shall be members of said association and entitled to vote in any meeting of such members if an elector of the state of Connecticut. Any member not an elector of this state may appoint such an elector, in writing, on a form prescribed by the executive board, to vote for said member."*)

Feasibility of Amending Charter to Provide Authorization

Special act districts can only amend their charters with the legislature's assistance (via a special act) or pursuant to a statutory procedure under which they convert their special act charters into home rule charters (see *Background*). But special act districts cannot amend their charters to grant themselves powers beyond those granted by the statutes to statutory districts ([CGS § 7-328a\(a\)](#)).

To determine whether a special act lake district could adopt proxy voting if it converted its special act charter into a home rule charter, we reviewed Connecticut statutes to determine if they permit statutory districts to allow proxy voting. The applicable statutes, [CGS § 7-324 et seq.](#), do not refer to proxy voting, only to voting at in-person meetings. Thus, it appears that a special act district seeking to implement proxy voting must seek a legislative charter change.

Background

Amending a Special Act Charter

Home Rule Action. A special act district operating under a special act charter must convert its charter into a home rule charter before it can amend it on its own using the same statutory procedure municipalities must use to adopt and amend their home rule charters.

[OLR Report 2017-R-0117](#) describes this process. But districts that adopt a home rule charter cannot amend such charters to grant themselves powers beyond those granted by the statutes to statutory districts ([CGS § 7-328a\(a\)](#)).

Special Act Legislation. For the legislature to amend a special act charter on a district's behalf, the affected district must follow the procedure outlined in [CGS § 2-14](#) to request the amendment. Among other things, this procedure requires the district clerk to file a copy of the request with the secretary of the state, at least 10 days before the start of a legislative session in which such legislation will be considered.

JSB:bs