

## Special Act Special Taxing Districts' Use of Absentee Ballots

By: Julia Singer Bansal, Associate Analyst  
November 2, 2017 | 2017-R-0252

### Issue

Can special act special taxing districts responsible for maintaining lakes implement absentee ballot 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 absentee ballot 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 absentee ballot voting. (No statutory districts have the authority to implement absentee ballot 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 § 7-326](#) (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 Absentee Ballot Voting**

Special taxing districts can only implement absentee ballot voting if they are authorized to do so by their governing documents. Some special act districts have this authority, but no statutory districts do. 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 beach and lake association taxing districts to determine whether they authorize districts to permit voting by absentee ballot. We also searched acts that were passed or amended by the legislature between 1991 and 2017 for references to absentee voting. We identified only two district charters that permit voting by absentee ballot: [Cornfield Point Association](#) and [Giants Neck Beach Association](#). In both cases, the legislature amended the district's charter to authorize it to amend its bylaws to permit voting by absentee ballot. These amendments passed in 2009 ([SA 09-13, § 15](#)) and 2015 ([SA 15-1, § 18](#)), respectively.

### ***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 absentee ballot 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 voting by absentee ballot. The applicable statutes, [CGS § 7-324 et seq.](#), do not refer to voting by absentee ballot, only to voting at in-person meetings. Thus, it appears that a special act district seeking to implement voting by absentee ballot 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