

**MINUTES OF THE
SPECIAL DISTRICTS SUBCOMMITTEE OF THE
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**
Tuesday, November 14, 2000 - 9:00 a.m. - Room 403 State Capitol

Members Present:

Sen. R. Mont Evans, Co-chair
Rep. Joseph G. Murray, Co-chair
Rep. Eli H. Anderson
Rep. Marda Dillree

Staff Present:

Mr. Joseph Wade,
Research Analyst
Mr. Robert H. Rees,
Associate General Counsel
Ms. Joy L. Miller,
Legislative Secretary

Members Excused:

Rep. David L. Gladwell

Members Absent:

Sen. Scott N. Howell
Rep. Loretta Baca

Note: A list of others present and a copy of materials distributed at the meeting are on file in the Office of Legislative Research and General Counsel.

1. **Call to Order** - Chairman Murray called the meeting to order at 9:10 a.m.
2. **Review of Draft Legislation** - Mr. Rees reviewed draft legislation titled, "Special District and Local District Amendments" (11-09-00 DRAFT 2001FL-0237/005). Mr. Rees reviewed the withdrawal process which requires a notice and public hearing. After the hearing, the board of trustees may adopt a resolution either rejecting or approving the proposed withdrawal. A board of trustees may not adopt a resolution withdrawing an area from the local district unless certain determinations are made. Any rejection must include an explanation for that action. A resolution may also impose reasonable terms and conditions to be met before withdrawal may occur. Mr. Rees indicated that within ten days after adopting a resolution approving a withdrawal, the board of trustees must file a written notice of the withdrawal. Each notice will be accompanied by a map showing the boundaries of the local district after withdrawal, prepared and certified by a licensed surveyor. Mr. Rees reviewed the proposed judicial review process. A court may overturn the board of trustees' decision if the court finds the board's decision to be arbitrary and capricious.

MOTION: Rep. Dillree moved to amend the bill as follows: on line 473 after "arbitrary" delete "and" and insert "or." The motion passed unanimously.

Mr. Rees discussed the dissolution provisions. He reviewed the definitions of active versus inactive districts and the process that each must follow to initiate dissolution. A signer of a petition to dissolve may withdraw any time up to 30 days after the public hearing. Petition

certification and public hearing are the same as in previous drafts. Notice of public hearing and of dissolution are to be published in a newspaper of general circulation within the local district proposed to be dissolved and post notice of the public hearing and of the proposed dissolution in at least four conspicuous places within the local district proposed to be dissolved.

MOTION: Rep. Dillree moved to return to the original language which required that the certification process take place in the Lieutenant Governor's Office. Notice of the certification is to be sent by the district board to the State Auditor's Office. The motion passed unanimously.

MOTION: Rep. Anderson moved to approve the minutes of October 23, 2000. The motion passed unanimously.

Mr. Fred Finlinson, Callister, Nebeker and McCullough, indicated the legislation raises practical problems with where the public hearings are to be held. If a location is not specified, the entity would probably hold the meeting in their district offices.

MOTION: Sen. Evans moved to require that if the district is contained within a single county, the public hearing would be held as close as practical to the area affected or in the district office. If it is a multi-county district, the hearing must be held within the county where the property affected is located. The motion passed unanimously.

Mr. Finlinson referred to the mapping requirements. It is putting an unnecessary burden on the districts to require that the maps be prepared and certified by a licensed surveyor. Maps can be obtained from less costly sources that would be adequate for the county recorder.

Mr. Terrel Grimley, Utah Association of Special Districts, agreed that the requirement for a licensed surveyor is an added cost that he did not think was warranted. He noted when they certify annexations or withdrawals in their district to the county, it is done with the tax ID number. They create a map showing the parcels in question that contains the tax identification number on it.

Mr. Paul Ashton, White City Water Improvement District, commented that a map sufficient for the purposes of the county recorder would be adequate.

Mr. Mike Mazuran, Mazuran & Hayes, stressed the importance of accurately identifying the area affected. He suggested that rather than requiring a map of the entire district, a map of the area affected be done.

MOTION: Sen. Evans moved to amend the bill as follows: Line 298 delete "a" and insert

“an accurate” and on Lines 299 and 300 delete “prepared and certified by a licensed surveyor”. The language should be made consistent throughout the bill. The motion passed unanimously.

MOTION: Sen. Evans moved to require that the map be acceptable for the purposes of the county recorder. The map should show the boundaries of the area affected by the action rather than the entire area. The motion passed unanimously.

Ms. Kathryn Pett, Utah Transit Authority, (UTA) pointed out that UTA is unlike other districts in that they are funded by sales tax. She expressed concern that having property owners in so much control of the process is not reflective of the funding source or the constituency that UTA serves. She proposed there be a greater nexus drawn between the method of funding and the vote. Ms. Pett stated it is important that any newly annexed area be taxed consistent with the tax already imposed in the district.

MOTION: Sen. Evans moved to create a special section in the bill concerning transit districts. As long as they are not collecting property tax, they shall use registered voters as a way of qualifying for a district. This provision would be applied to the withdrawal, dissolution, and annexation provisions. The motion passed unanimously.

Mr. Mark Anderson, Utah Association of Special Districts indicated there were several areas in the legislation he would like to address. He referred to the annexation petition process. He stated that value rather than geographic area would be the better standard.

MOTION: Sen. Evans moved to add that the annexation petition represent 10 percent of the value of the property that is proposed to be annexed. This language would be consistent throughout the bill. The motion passed unanimously.

Mr. Anderson pointed out that the metropolitan water districts have indicated they would like to have a process included that would allow a district, which depends upon a limited resource, to opt out at an early stage of the entire annexation process.

Ms. Pett stated it is imperative to allow the board of trustees to set the terms and conditions up front before people are allowed to vote.

MOTION: Sen. Evans moved to insert language in Section 17B-2-505 to allow district boards to have the opportunity to deny petitions for annexations based on a standard of ability to provide the service. The denial would not take place until after the public hearing. He indicated staff and the representatives of special districts will finalize the language. The motion passed unanimously.

Mr. Anderson referred to the petition requirements. A signer of a petition may withdraw, or once withdrawn, reinstate the signer's signature at any time before the filing of the petition. He said it was the consensus of his working group that that is too early in the process. He suggested that a time certain be set.

MOTION: Sen. Evans moved to add language to Section 17B-2-504 setting the time limit at the beginning of the public hearing. The language should be made consistent throughout the bill. The motion passed unanimously.

Mr. Anderson discussed the notice of public hearing provisions. He said much concern has been raised over the cost of the notice provisions. A mailed notice for a proposed large annexation costs a great deal of money.

MOTION: Rep. Dillree moved to require in Section 17B-2-507 either a mailing notice to property owners or registered voters, whichever is appropriate. The motion passed unanimously.

Mr. Anderson stated if protests are filed and there has to be an election, the board should have the ability at that time to determine, if there is significant opposition, that the election be stopped rather than waste resources on a costly election.

MOTION: Sen. Evans moved to allow the board of trustees, in Section 17B-508, the opportunity to stop the election after the protest period if the board has initiated the annexation. The motion passed unanimously.

Mr. Anderson suggested that a special or general election rather than an election be the language in Subsection 17B-2-508(3)(a).

MOTION: Sen. Evans moved to amend the bill as follows: on line 156 insert "special or general" before "election." The motion passed unanimously.

Ms. Pett discussed language in Section 17B-2-510 which states that upon the board filing the required notices, the annexation is complete. She stressed the importance of clarifying that upon the conclusion of the annexation, the newly annexed area shall be subject to taxation for the purposes of the district.

MOTION: Sen. Evans moved to add language to lines 196 and 197 that when annexation is complete, the newly annexed area shall be subject to taxation. The motion passed unanimously.

Mr. Grimley discussed the language concerning the filing of a written notice of annexation. Currently they only file that notice with the clerk and the county assessor.

MOTION: Sen. Evans moved to delete “and the clerk” from line 192. That change would be made consistent throughout the bill. The motion passed unanimously.

The subcommittee discussed other areas of concern. The language on lines 412 and 413 which states the board may not adopt a resolution withdrawing an area from a local district if it would result in a breach or default by the local district or adversely affect the ability of the local district to make payments or perform any other material obligation. Ms. Pett felt this language was not strong enough for the financial markets.

Mr. Finlinson stated it is important to have a provision that deals with the UTA sales tax concern in the language that starts after line 425.

Sen. Evans suggested that the language proposed by Mr. Finlinson be added after line 425.

Mr. Anderson said it should be clarified that if not all issues are satisfied under Subsection 17B-2-604(b), but reasonable terms and conditions can be imposed that take care of the problem, the process is not stopped. He indicated that on line 421, they would suggest changing “and” to “or.”

Mr. Anderson stated with respect to annexations there is a streamlined process. If a petition is signed by 67 percent, it is not required to go through the notice and public hearing process. He questioned if something similar to that process could be adopted for withdrawals.

Due to lack of time the review of the draft bill will be continued at the next meeting.

MOTION: Sen. Evans moved to adjourn. The motion passed unanimously. Chair Murray adjourned the meeting at 12:05 p.m.

