

**MINUTES OF THE  
SPECIAL DISTRICTS SUBCOMMITTEE OF THE  
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**

Wednesday, August 22, 2001 - 1:00 p.m. - Room 414/416 State Capitol

**Members Present:**

Sen. David L. Gladwell, Chair  
Rep. David N. Cox  
Rep. Scott Daniels  
Rep. David L. Hogue  
Rep. Joseph G. Murray

**Staff Present:**

Mr. Joseph Wade,  
Research Analyst  
Mr. Keith M. Woodwell,  
Associate General Counsel  
Ms. Joy L. Miller,  
Legislative Secretary

Note: A list of others present and handouts distributed are on file in the Office of Legislative Research and General Counsel.

**1. Welcome and Committee Business**

Chair Gladwell called the committee to order at 1:20 p.m. He asked members of the subcommittee, staff, and others in attendance to introduce themselves.

**2. Overview and Statutory History of Special Districts**

Mr. Wade distributed a handout "Special Districts" to the subcommittee. He explained that special districts are established by governmental entities to provide a certain service to a specified geographic area. They can be used as a financing vehicle for providing services. Some special districts are separate entities and others are subunits of a county, city, or town. Mr. Wade reviewed a list of reasons why special districts have been created and discussed the difference between independent and dependent special districts. He stated there are 414 independent special districts in the state. Mr. Wade reviewed the statutory history of special districts. In 1990, special districts were codified under Title 17A. In 1997, the Special Districts Subcommittee developed uniform creation procedures. In 1999, the subcommittee developed uniform governing body provisions. In 2000, the subcommittee developed uniform annexation and dissolution provisions. Mr. Wade reviewed the policy statements adopted by the 1997 Special Districts Subcommittee and discussed the template that was created to approach recodification. He reviewed the approach to the conceptual reorganization which is outlined in the mailing packet. With each issue considered, each area of the template would be reviewed and moved into Title 17B. Mr. Wade explained that some types of special districts don't have provisions for withdrawal. He distributed handouts "Summary of Taxation Provisions for Specified Independent Special Districts" and "Summary of Debt/Bonding Provisions for Specified Independent Special Districts." He noted there is quite a variance in these provisions.

Chair Gladwell highlighted some of the policy statements the subcommittee has relied upon such as uniformity, general purpose government priority, and voter/property owner approval.

### **3. Review Recodification Template**

Chair Gladwell said there are a few areas of the template that have not been fully covered. Last year the subcommittee discussed withdrawal and a model was developed. However, many issues were raised during the general session concerning the withdrawal procedures and they were taken out of the proposed legislation for further study.

### **4. Lessons Learned from the Process for Municipal Withdrawal**

Mr. Brian Cannell, attorney with Hillyard, Anderson, & Olsen, said they have been involved in representing landowners as well as municipalities in the disconnection (withdrawal) process. He gave examples and cited many issues that were raised in the process. Their initial concerns pertained to the establishment of the commission and how to get the commissioners appointed. The statute refers to the court appointing them. However, it was hard to get qualified persons to take on that role without pay or compensation. Mr. Cannell said the statute also requires a kind of administrative process prior to the actual court hearing. Section 10-2-505(1) is discretionary whether a court hearing is held. He said there is no provision which states the judge could rule on his own motion based on the findings of the commissioners that no further hearing was required. Mr. Cannell explained problems they have encountered when representing a municipality concerning costs. Section 10-2-509 requires that each party pay its own witnesses and that the petitioners pay for all other costs. The statute is not clear as to what all other costs could include.

Mr. Cannell indicated enforcement and the subsequent penalty was also a concern. Section 10-2-510 deals with boundary adjustment procedures after a court has gone through a process of ordering the property to be disconnected. However, boundary adjustments still have to be dealt with by a boundary commission. This became an issue because of a disconnection in his area. Technically the disconnected area does not have an adjoining municipal boundary, but an adjoining county boundary. He explained Section 10-2-419 deals with municipalities and not county boundaries. That raises a question of whether or not additional action must be taken to put the boundary commission on notice of what those boundary changes are.

### **5. Review Special District Withdrawal Draft Language**

Mr. Woodwell discussed the legislative language regarding withdrawal which was pulled from S.B. 23 during the last general session. He noted the withdrawal process may be initiated by petition by the owners of the real property affected or by a resolution adopted by the board of trustees of the local district in which the area proposed to be withdrawn is located. He outlined the requirements of the petition. Once a petition is filed, it must go before the board of trustees

for the special district for review and certification. Mr. Woodwell reviewed the public hearing requirements. He pointed out that in the case of a petition, a public hearing is optional. If the board is initiating the withdrawal, a public hearing is required. Notice of the hearing is also addressed. The legislation outlines some of the requirements for rejecting or approving the petition for withdrawal and provides for continuation of a tax levy after withdrawal to pay for the area's proportionate share of district bonds. Notice of withdrawal and an accurate map or legal description of the boundaries of the area being withdrawn must be given to the State Tax Commission and the assessor and recorder of each county in which any part of the withdrawn area is located. If the withdrawal petition is felt to be unfairly rejected, there is a process whereby judicial review can be sought for the decision of the board of trustees.

Mr. Craig Moody, Sandy City, pointed out that Section 17A-2-340 already addresses the process for withdrawal from a water district. Rather than the board making the decision, it allows the constituents to be able to vote on the withdrawal.

Mr. Terel Grimley, Weber-Box Elder Conservancy District, commented that sometimes irrigation districts that petition for withdrawal under the existing code can be approved or rejected by the board. The board in the past has rejected them because they are looking at the long-term impact. Under the irrigation code, the board can approve the withdrawal but the irrigation district has to pay all indebtedness incurred prior to the withdrawal. Mr. Grimley said it makes sense to go through the procedure and have very strict guidelines.

Mr. Mark Anderson, Utah Association of Special Districts, suggested the subcommittee consider administrative, election, and judicial templates. He said one of the overriding principles that should be kept in mind is that what is being developed is a one size fits all approach to withdrawal. Section 17A-2-340 does not adequately take into consideration the remainder of the district. Special districts do a very good job of filling and meeting a specific need. Mr. Anderson said situations such as have occurred between White City and Sandy City are the exception. Districts and municipalities generally work well together. Mr. Anderson said uniform withdrawal legislation should be workable and fair for everyone. The legislation must not be unduly burdensome.

Mr. Moody indicated that not all situations will have the agreement of both parties. There will be some adversarial situations. A uniform law must contain enough elements that will encompass all the situations that will be encountered. He said the public will should not be thwarted and a fair and equitable solution should be found. Mr. Moody gave a brief background on the White City Water Improvement District creation and the current situation between it and Sandy City.

Mr. Craig Peterson, CAP Consulting, requested the subcommittee consider the between the various and types of districts. He asked that time be taken to recognize the potential consequences of a single withdrawal procedure. It is important to find a way to continue to work together with all parties to craft legislation that addresses both sides and the anomalies that have been allowed to develop.

Mr. Paul Ashton, White City Water Improvement District, gave a detailed explanation on the formation of the district and the events that have led to the current situation between the district and Sandy City. He stated a great deal of effort went into the proposed legislation. It is not an easy process. Mr. Ashton stated the proposed legislation addresses the fact that withdrawal will go forward unless it affects the viability of the remaining entity.

Chair Gladwell stated there was some wisdom in what was done last year. He urged the members to carefully review the legislation prior to the next meeting. He requested staff to prepare a comparison of the three alternative approaches to withdrawal. After the withdrawal issue has been resolved, the subcommittee could review other issues that remain such as bonding, debt limits, and taxation limits.

#### **6. Review and Finalize Proposed Meeting Dates**

Chair Gladwell reviewed the proposed meeting dates as outlined in the mailing packet. The next meeting of the subcommittee was scheduled for Tuesday, September 18 at 1:00 p.m.

**MOTION:** Rep. Hogue moved to adjourn. The motion passed unanimously. Chair Gladwell adjourned the meeting at 3:25 p.m.