

**MINUTES OF THE
SPECIAL DISTRICTS SUBCOMMITTEE OF THE
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**
Tuesday, October 1, 2002 – 8:30 a.m. – Room 414/416 State Capitol

Members Present:

Rep. David N. Cox
Rep. Scott Daniels
Rep. David L. Hogue
Rep. Joseph G. Murray

Staff Present:

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

Members Excused:

Sen. David L. Gladwell, Chair

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary, Joy Miller, at 538-1032.

1. Committee Business

Rep. Murray called the meeting to order at 8:55 a.m. Sen. Gladwell was excused from the meeting.

2. Repeal of Part 15, Airport Authorities

Mr. Wade gave a brief history of Title 17A, Chapter 2, Part 15. He said these provisions were created in 1983 and have not had many changes since being enacted.

Ms. Jodi Howick, City (Salt Lake City Attorney's Office), indicated that the City does not have a position on the issue. The Salt Lake Airport is a department of City government and is created under Title 2 of the Salt Lake City code. She explained that to be organized under the state statute would require hearings and notices. Ms. Howick said that she was not aware of any airports that have been organized under the statute.

Mr. MacRay Curtis, Utah State Auditor's Office, commented that all local governments are required to file audit reports and budgets with the auditor's office. Independent CPA's that audit the local governments are aware that any local government is required to file with the auditor's office. County auditors are also well trained on that point. Mr. Curtis said that in searching their records, they found only one airport that was created under interlocal agreement. There are no airports they are aware of that are created under Part 15. He said they have no recommendation regarding the repeal of Part 15.

3. Status of Rewrite of Title 17A, Special Districts

Mr. Rees gave a brief statutory history of special districts. In 1998, the Legislature began a process of rewriting Title 17A. There are three independent special districts that have not yet been dealt with in the rewrite. What remains to be done is a rewrite of the dependent special districts into Title 17B. He distributed a list of options for subcommittee action. These options include repealing Part 15, Airport Authorities, and Part 17, Hazardous Waste Facilities Management. Another option is to continue the rewrite of provisions relating to taxing authority, board appointment or election and powers and duties, and district powers and status. Mr. Rees explained that special service districts are a type of independent special district. In reaction to court decisions regarding legislation, in 1974 the Utah Constitution was

amended to authorize the Legislature to enable local governments to create special service districts. Mr. Rees explained that a special service district in the 1990 recodification was classified as an independent district primarily because statutorily it could be established as a separate legal and political entity. However, in the Utah Constitution it states that the special service district is to be governed by the governing authority of the county, city, or town that created it.

Mr. Curtis distributed a handout "Summary of All Special Purpose Local Governments." He stated there are a total of 467 local government entities in Utah that include 119 special service districts.

4. Repeal of Part 17, Hazardous Waste Facilities Management

Mr. Wade stated Title 17A, Chapter 2, Part 17 was first enacted in 1981. In 1990, the provisions were moved into another part of the code without any substantive changes.

Mr. Brent Bradford, DEQ (Department of Environmental Quality), stated the statute was created for a reason and may be prudent to leave it in place and possibly consider expanding it at some point. He said the Hazardous Waste Facilities Management was designed to be a statewide authority and may be more appropriately located in Title 19 since Title 17B deals with local issues.

Mr. Dennis Downs, DEQ, explained that in 1976, the federal government passed the Resource Conservation and Recovery Act which is the national hazardous waste law. In 1980, Utah passed equivalent legislation to allow the state to assume authority to manage hazardous waste regulations within the state. The statute was created as a safety net so that if private or commercial hazardous waste disposal companies were not able to or did not handle the waste being generated by industry in the state, there would be an option for the state to create the authority to have a state-controlled facility to provide the service. Mr. Downs said the act has never been implemented because there has been commercial hazardous waste disposal companies in the state that have taken care of those kinds of wastes generated in Utah. He recommended that the statute be maintained.

MOTION: Rep. Daniels moved to renumber the hazardous waste provisions and put them in the part of the Utah Code that more appropriately reflects the subject matter. Refinements should be dealt with by the committee that administers those aspects of the code. The motion passed unanimously.

MOTION: Rep. Cox moved to repeal Title 17A, Chapter 2, Part 15, Airport Authorities. The motion passed unanimously.

Mr. Rees suggested that the date needs to be extended on the moratorium for creating local districts until Title 17B is complete.

MOTION: Rep. Hogue moved to extend the date on the moratorium for creating local districts an additional three years. The motion passed unanimously.

Mr. Jan Furner, UASD (Utah Association of Special Districts), indicated his support for extending the

date.

MOTION: Rep. Daniels moved to have the extension as a separate piece of legislation. The motion passed unanimously.

5. Special Service Districts

Mr. Mark Anderson, UASD, commented that special service districts were intended to be different. He said the uniform procedures for creating an independent special district are extremely difficult. He said there was a perception among some legislators that there was a proliferation of special districts and the legislation was intended to slow down the process. The attitude toward special service districts was different. They are ultimately under the control of the municipality or county that created them. That is why the procedure for creating a special service district was not changed. Mr. Anderson pointed out that a special service district can't impose taxes without an election of the people. There are checks and balances that exist with respect to a special service district that may be lacking with other independent special districts. He stated the UASD views special service districts as being in between dependent and independent special districts. UASD would recommend that the creation process for special service districts remain in tact.

Rep. Daniels asked if it would be possible to establish a special service district that included the entire unincorporated Salt Lake County.

Mr. Pat Casaday, Sandy City, indicated that a special service district for fire was formed involving all the unincorporated areas of Salt Lake County. He noted that the problem that may arise from such a special service district is if cities desire to annex an area of the unincorporated county, it would be difficult for those involved to opt out of the special service district.

Mr. Rees pointed out that special service districts have a constitutional provision which governs them. Whatever the Legislature does has to be consistent with the constitution. The constitution does not mandate how they are to be created. He said putting special service district provisions into Title 17B may require more than simply renumbering.

The subcommittee discussed its options for future discussion.

Mr. Fred Finlinson, attorney, pointed out that after much discussion with the UASD and the water coalition, it was determined that the issue of bonding was secondary to the issue of whether or not special districts would be able to retain taxing authority. Recommendations will be made to the Legislature in November which will probably support the continuation of the sales tax for transportation and water. Other recommendations may include not interfering with the taxing authority.

The subcommittee determined to continue discussion of special service districts at the next meeting.

6. Next Subcommittee Meeting

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The next meeting of the subcommittee is scheduled for October 15 at 8:30 a.m.

7. Other Items / Adjourn

MOTION: Rep. Hogue moved to adjourn the meeting. The motion passed unanimously. Rep. Murray adjourned the meeting at 10:55 a.m.