

Representative John E. Swallow proposes to substitute the following bill:

SPECIAL DISTRICTS AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO SPECIAL DISTRICTS; ENCOURAGING NEWLY ELECTED OR APPOINTED BOARD OR GOVERNING BODY MEMBERS TO COMPLETE TRAINING; AUTHORIZING THE STATE AUDITOR TO DEVELOP TRAINING CURRICULUM AND TO PROVIDE TRAINING; AUTHORIZING PER DIEM COMPENSATION OF BOARD OR GOVERNING BODY MEMBERS WHO COMPLETE TRAINING; MODIFYING THE COMPOSITION OF THE BOARD OF TRUSTEES OF A COUNTY IMPROVEMENT DISTRICT UNDER CERTAIN CIRCUMSTANCES; MODIFYING THE ALLOWABLE AMOUNT OF COMPENSATION FOR TRUSTEES OF COUNTY IMPROVEMENT DISTRICTS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-305, as last amended by Chapter 340, Laws of Utah 1995

h ~~[17A-2-308, as last amended by Chapter 17, Laws of Utah 1997]~~ h

ENACTS:

17A-2-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17A-2-102** is enacted to read:

17A-2-102. Training h ~~[required]~~ h **for board members.**

(1) Each member of a board or governing body of an independent special district, elected or appointed on or after May 3, 1999, should, within one year after taking office, complete the training described in Subsection (2).

(2) In conjunction with the Utah Association of Special Districts, the state auditor shall:

(a) develop a training curriculum for the members of independent special district boards or governing bodies; and

(b) with the assistance of other state offices and departments the state auditor considers appropriate and at times and locations established by the state auditor, carry out the training of members of independent special district boards or governing bodies.

(3) (a) An independent special district board or governing body may compensate each member of the board or governing body up to \$100 per day for each day of training described in Subsection (2) that the member completes.

(b) The per diem amount authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board or governing body may not pay compensation under Subsection (3)(a) to any board or governing body member more than once in any consecutive two-year period.

(4) The state auditor shall issue a certificate of completion to each board or governing body member that completes the training described in Subsection (2).

Section 2. Section **17A-2-305** is amended to read:

17A-2-305. Board of trustees -- Creation -- Appointment and election of members -- Qualifications -- Terms.

(1) (a) Except as provided in Subsection (3) the governing body of each district created under this part, except a district that has boundaries that coincide with the boundaries of an incorporated municipality, shall consist of a board of trustees created as provided in this subsection.

(b) (i) Whenever a district is created that does not include property within the boundaries of an incorporated municipality, the county legislative body of the initiating county may, in the initial resolution creating the district, declare that the county legislative body of that county act as the trustees of the district.

(ii) When the county legislative body of the county is designated as the trustees of the district, they may:

(A) exercise all the powers, authority, and responsibility vested in the trustees under this chapter; and

(B) use any existing county offices, officers, or employees for the purposes of the district.

(iii) The county legislative body shall charge the district a reasonable amount for the services rendered to the district by the county officers, offices, and employees, other than the county legislative body, to the county treasurer for the general fund of the county.

(c) (i) At any time after creation of any district under the provisions of this subsection, the county legislative body of the initiating county may by resolution determine that the interests of the district would be best served by the appointment of a board of trustees.

(ii) The trustees shall be appointed by the county legislative body according to the procedures and requirements of [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures.

(d) The county legislative body shall hold an election for trustees as provided in Title [~~17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures, when:

(i) a petition requesting an election for trustees is filed with the county legislative body at least 30 days before the date set for a bond election or 90 days before the date set for the November municipal elections; and

(ii) the petition is signed by at least 10% of the people eligible to vote on a bond issue in any district created under this part.

(2) In the resolution creating the district, the county legislative body of the initiating county may appoint a board of trustees according to the procedures and requirements of [~~Title 17A,~~] Chapter 1, Part 3, Special District Board Selection Procedures, to serve until the election and qualification of the successors as provided in this part.

(3) (a) If the district is created for the purpose of providing electric service, the requirements of this subsection supersede any contrary provision in this part.

(i) The initial board of trustees may be appointed by the county legislative body until the election and qualification of successors as provided in this subsection.

(ii) The board of trustees shall subsequently be elected by the persons using electricity within the district.

(iii) In addition to the qualifications enumerated in this section, each member of the board of trustees shall be a resident of the district and a user of electricity from the district.

(iv) The board of trustees may be elected according to geographic areas within the district.

(v) A municipality within the district is not entitled to automatic representation on the board of trustees.

(b) All proceedings that have taken place in connection with the organization of the board of trustees of an electric service district are considered valid and binding despite any failure to comply with the provisions of this section if the electric service district was created or purported to be created under this part before April 28, 1986.

(c) The county legislative body of the initiating county may, in the initial resolution creating an electric service district, set the boundaries of the geographic areas which each trustee will represent and the number of members who may serve on the board of trustees.

(d) The board of trustees may not consist of less than three or more than nine members.

(4) (a) (i) Each incorporated municipality that is contained entirely within, but does not coincide with, the boundaries of the district may request the county legislative body to appoint to the board one member who is a resident of the municipality.

(ii) The legislative body of the municipality shall appoint that member by following the procedures and requirements of ~~[Title 17A,]~~ Chapter 1, Part 3, Special District Board Selection Procedures.

(iii) (A) If two or more incorporated municipalities are entitled to representation on the board of trustees, the number of members of the board of trustees shall be increased to the lowest odd number greater than the number of those municipalities ~~[so that there is always at least one member of the board of trustees residing in the district but outside the corporate limits of any incorporated municipality having the right to appoint a member to the board of trustees].~~

(B) Except as provided in Subsection (4)(a)(iii)(C), the members of the board of trustees who are not appointed from a municipality under Subsections (4)(a)(i) and (ii) shall reside within the district but outside the boundaries of each municipality that has the right to appoint a member to the board of trustees.

(C) Notwithstanding Subsection (4)(a)(iii)(B), if the population in the unincorporated part of the district is less than 5% of the total district population, the members of the board of trustees who are not appointed from a municipality under Subsections (4)(a)(i) and (ii) shall be chosen from the district at large.

(b) (i) If the boundaries of the newly created district coincide with the boundaries of an incorporated municipality, the legislative body of the municipality shall be the board of trustees for the district.

(ii) When the municipal legislative body serves as the board of trustees:

(A) they shall maintain separate minutes, accounts, and other records of the affairs of the district;

(B) they may use the existing facilities and personnel of the municipality to administer district affairs;

(C) their terms coincide with their terms as officials of those municipalities; and

(D) they represent the district at large.

(c) If there is no elected board of trustees for the unincorporated county at the time of the first bond election, election of members of the board of trustees who are not appointed as representatives of municipalities shall be held at the time the bond election is held.

(d) Candidates for election to the board of trustees shall be taxpayers and qualified voters in the district.

(e) ~~[Any]~~ Subject to Subsection (4)(a)(iii)(C), h ~~[an owner of real property]~~ A REGISTERED VOTER ~~h~~ in the district

outside of an incorporated municipality that has the right to appoint a member to the board of trustees may file a signed statement announcing ~~[that he is]~~ as a candidate to be one of the first elected trustees of the district with the county clerk within 30 days after the board of trustees has entered an order calling the bond election, but not less than 15 days before the election.

(f) The board of trustees, in calling the bond election, shall provide a separate ballot, if required, that contains the names of the candidates and blanks in which the voters may write in additional names.

(g) Each voter at the election may vote for three persons, or a lesser number qualified to represent the area outside the corporate limits of any incorporated municipality that has the right to appoint a member to the board of trustees, if some members of the board of trustees of the improvement district are appointed by a municipality or incorporated area.

(h) The three persons, or a lesser number qualified as provided in this section, receiving the highest number of votes at the election are members of the board of trustees, together with those members appointed by an incorporated municipality.

(i) As a member of the board of trustees, each representative may vote on all questions, orders, resolutions, and ordinances coming before the board.

(j) (i) The members of the first board of trustees shall serve for two and four year terms from the first Monday of the next January following the first election held in the district.

(ii) Initial terms shall be selected by lot, and shall be apportioned so that, as nearly as

possible, 1/2 of the board will serve for two years and 1/2 for four years.

(k) After the first election, except for appointments made to fill unexpired terms, the term of each member shall be four years and until his successor is elected and qualified.

(l) In voting on the election of trustees, all qualified voters in the district outside the corporate limits of any incorporated municipality that has the right to appoint a member to the board of trustees may vote.

(m) Following the election or appointment of the first trustees, any elected trustee shall be elected according to the procedures and requirements of [Title 17A,] Chapter 1, Part 3, Special District Board Selection Procedures.

(n) Each trustee shall:

(i) take office on the first Monday of the January after his election;

(ii) take the oath of office; and

(iii) give the bond required by law for members of the county legislative body.

(o) The trustees initially appointed shall:

(i) meet immediately after their appointment;

(ii) qualify as trustees;

(iii) elect one of their members as chairman; and

(iv) appoint a clerk and a treasurer.

h [Section 3. ~~Section 17A-2-308 is amended to read:~~

~~17A-2-308. Board of trustees -- Powers and duties -- Compensation -- Meetings -- Budget.~~

~~(1) (a) Except for the levy of taxes, and for the powers and duties expressly vested in the county legislative body in this part, the board of trustees shall exercise all powers and duties in the operation of the properties of the district as are ordinarily exercised by the governing body of a political subdivision.~~

~~(b) The board of trustees shall:~~

~~(i) fix its domicile;~~

~~(ii) set a regular meeting time;~~

~~(iii) select and have an official seal made; and~~

~~(iv) either require all officers and employees who are charged with the handling of any district funds to provide surety bonds or provide a blanket surety bond to cover all those officers] h~~

181 ~~h [and employees:~~

182 ~~—— (c) The board of trustees may:~~

183 ~~—— (i) adopt regulations and bylaws for the orderly operation of the district;~~

184 ~~—— (ii) employ agents and employees for the operation of the properties of the district;~~

185 ~~—— (iii) sue and be sued;~~

186 ~~—— (iv) enter into all contracts for the benefit of the district; and~~

187 ~~—— (v) generally do all things and perform or cause to be performed all acts that are necessary~~
188 ~~or desirable in the conduct of its affairs and in the operation of the properties of the district.~~

189 ~~—— (2) (a) (i) Except as provided in Subsection (b), [each] a trustee [shall] may receive total~~
190 ~~compensation of:~~

191 ~~—— (A) for a district serving up to 5,000 sewer or water connections, not more than \$2,500 per~~
192 ~~year[, as];~~

193 ~~—— (B) for a district serving over 5,000 but not more than 20,000 sewer or water connections,~~
194 ~~not more than \$3,500 per year; and~~

195 ~~—— (C) for a district serving over 20,000 sewer or water connections, not more than \$5,000~~
196 ~~per year.~~

197 ~~—— (ii) Subject to Subsection (2)(a)(i), the amount of compensation to be paid to each trustee~~
198 ~~shall be determined by the board of trustees.~~

199 ~~—— (b) When the county legislative body acts as the board of trustees, they may not receive~~
200 ~~any compensation:~~

201 ~~—— (c) The district shall reimburse the trustees for actual and necessary traveling and other~~
202 ~~expenses incurred in the performance of their duties:~~

203 ~~—— (3) (a) At any meeting of the board, [the presence of the trustees entitled to cast] a majority~~
204 ~~of [all votes entitled to be cast by the entire] the board of trustees is necessary for a quorum:~~

205 ~~—— (b) All meetings of the board are public.~~

206 ~~—— (c) The clerk shall keep a proper record of all proceedings of the board, which is open to~~
207 ~~public inspection:~~

208 ~~—— (d) The accounts of the district are subject to periodic audits provided by law for the~~
209 ~~auditing of county accounts:~~

210 ~~—— (4) The board of trustees shall annually prepare and adopt a budget by following the~~
211 ~~procedures and requirements of Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for] h~~

212 **h [Special Districts Act.] h**