

Senator Terry R. Spencer proposes the following substitute bill:

1 **LOCAL GOVERNMENT OFFICIALS AMENDMENTS**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Mike Thompson**

5 **This act modifies the Municipal Code and the County Code by allowing municipalities and**
6 **counties to compel the attendance of officials at meetings. The act also amends the**
7 **Municipal Officers' and Employees' Ethics Act by enacting a provision prohibiting the**
8 **improper use of a municipal officer's position to initiate or maintain a cause of action.**

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

10 AMENDS:

11 **10-3-505**, as enacted by Chapter 48, Laws of Utah 1977

12 **17-53-206**, as renumbered and amended by Chapter 133, Laws of Utah 2000

13 ENACTS:

14 **10-3-1313**, Utah Code Annotated 1953

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

16 Section 1. Section **10-3-505** is amended to read:

17 **10-3-505. Attendance.**

18 The governing body shall have the power to compel the attendance of its own members at
19 its meetings and provide such penalties as it [~~deems~~] considers necessary for the failure to comply
20 therewith.

21 Section 2. Section **10-3-1313** is enacted to read:

22 **10-3-1313. Improper use of official position to initiate or maintain cause of action.**

23 (1) It is a violation of this part for any elected officer or appointed officer to initiate or
24 maintain any cause of action in any court of competent jurisdiction by using that officer's official
25 capacity in name or substance, or by using any property, personnel, or services of the municipality



26 in so doing, without the advice and consent of the legislative body of that municipality.

27 (2) A municipality may bring an action against any elected officer or appointed officer for
28 a violation of the provisions of Subsection (1) by any or all of the following means:

29 (a) instituting an injunction, mandamus, or any other appropriate action;

30 (b) assessing to the officer, any costs incurred in pursuing an action to stop or prevent the
31 violation of Subsection (1) by that officer;

32 (c) imposing any fine, or seeking any other civil remedy in law or equity against the officer
33 who has violated Subsection (1); or

34 (d) recovering the costs or value of any property, personnel, or services used by the officer
35 in filing or maintaining the cause of action in violation of Subsection (1).

36 (3) In order to seek a remedy under Subsection (2), a municipality need only establish that
37 the elected officer or appointed officer, without the advice and consent of the legislative body of
38 the municipality, used:

39 (a) that officer's title to file an action in any court of competent jurisdiction; or

40 (b) municipal property, personnel, or resources to file, maintain, or support an action in
41 any court of competent jurisdiction.

42 Section 3. Section **17-53-206** is amended to read:

43 **17-53-206. Meetings to comply with open meetings law -- Records and minutes --**
44 **Attendance.**

45 (1) Each meeting of the county legislative body shall comply with Title 52, Chapter 4,
46 Open and Public Meetings.

47 (2) The chair and clerk of the county legislative body shall sign the records and minutes
48 of the county legislative body.

49 (3) The county legislative body shall have the power to compel the attendance of its own
50 members at its meetings and provide such penalties as it considers necessary for the failure to
51 comply therewith.