

**Senator James M. Evans** proposes the following substitute bill:

**LOCAL GOVERNMENT BOARDS OF EXAMINERS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: James M. Evans**

**This act modifies provisions relating to Counties and the Utah Municipal Code to establish county and city boards of examiners. The act provides for board membership, powers, meetings, and procedures. The act authorizes the filing of a claim with the board of examiners and establishes procedures for considering and reporting on a claim. The act provides for limits on the kinds of claims that can be considered by the board. The act provides for an appeal from the board of examiners to the legislative body of the county or city.**

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

ENACTS:

**10-3-1401**, Utah Code Annotated 1953

**10-3-1402**, Utah Code Annotated 1953

**10-3-1403**, Utah Code Annotated 1953

**10-3-1404**, Utah Code Annotated 1953

**10-3-1405**, Utah Code Annotated 1953

**10-3-1406**, Utah Code Annotated 1953

**17-43-101**, Utah Code Annotated 1953

**17-43-102**, Utah Code Annotated 1953

**17-43-103**, Utah Code Annotated 1953

**17-43-104**, Utah Code Annotated 1953

**17-43-105**, Utah Code Annotated 1953

**17-43-106**, Utah Code Annotated 1953

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

27 Section 1. Section **10-3-1401** is enacted to read:

28 **Part 14. City Board of Examiners**

29 **10-3-1401. City board of examiners -- Members -- Officers -- Meetings -- Records**

30 **-- Rules.**

31 (1) (a) The mayor and two members of the legislative body of a city, chosen by the  
32 legislative body, shall constitute a city board of examiners.

33 (b) (i) The mayor shall be the president of the board of examiners and shall designate  
34 one of the two legislative body members as the secretary of the board.

35 (ii) In the absence of either the president or secretary, an officer pro tempore may be  
36 elected from the members of the board.

37 (2) A meeting of the board of examiners shall be held upon the call of the president or  
38 any two members of the board.

39 (3) The board shall keep a record of all its proceedings. Any member of the board may  
40 have the member's dissent to the action of a majority of the board entered upon the record.

41 (4) The board may establish rules, not inconsistent with law, to govern its proceedings.

42 Section 2. Section **10-3-1402** is enacted to read:

43 **10-3-1402. Powers of board of examiners -- Claim to be first considered by board**  
44 **of examiners.**

45 (1) A city board of examiners may examine all claims against the city for the payment  
46 of which the city has not provided funds or the settlement of which is not otherwise provided  
47 for by law.

48 (2) No claim against the city for the payment of which specifically designated funds are  
49 required to be allocated by the city legislative body may be passed upon by the city legislative  
50 body without having been considered and acted upon by the city board of examiners.

51 Section 3. Section **10-3-1403** is enacted to read:

52 **10-3-1403. Issuance of subpoenas -- Administering oaths, examining witnesses,**  
53 **and taking depositions -- Witness fees.**

54 (1) The president of the board may issue subpoenas and compel the attendance of  
55 witnesses and the production of books, papers, and things before the board or any member of  
56 the board.

57 (2) Any member of the board may:

58 (a) administer oaths;

59 (b) examine witnesses; and

60 (c) take depositions to be used before the board.

61 (3) (a) Within the city's budget constraints, the board may allow a reasonable fee to a  
62 witness subpoenaed before the board to testify against a claim pending before the board, but  
63 may not allow a fee to a witness who has appeared in behalf of a claimant.

64 (b) A fee under Subsection (3)(a) may not exceed the fee allowed by law to a witness  
65 in a civil case.

66 Section 4. Section **10-3-1404** is enacted to read:

67 **10-3-1404. Presenting claim to board of examiners -- Statement showing facts of**  
68 **claim -- Abstract of claims.**

69 (1) A person with a claim against the city for the payment of which the city has not  
70 provided funds or the settlement of which is not otherwise provided for by law may present the  
71 claim to the city board of examiners.

72 (2) Each claim presented to the board of examiners under Subsection (1) shall be  
73 accompanied by a statement showing the facts constituting the claim.

74 (3) Before the board of examiners may act upon a claim, an abstract of claims shall be  
75 entered upon the minutes of the board.

76 Section 5. Section **10-3-1405** is enacted to read:

77 **10-3-1405. Board meetings to consider claims -- Notice -- Adjournment from time**  
78 **to time.**

79 (1) The board of examiners shall meet as needed to consider claims presented under  
80 Section 10-3-1404.

81 (2) The board shall cause notice of each meeting under Subsection (1) to be published  
82 in a newspaper of general circulation within the city.

83 (3) At a meeting under Subsection (1), the board:

84 (a) shall examine and adjust claims presented under Section 10-3-1404; and

85 (b) may hear evidence in support of or against the claims.

86 (4) The board may adjourn a meeting under Subsection (1) from time to time until the  
87 board has completed its work of examining and adjusting the claim.

88 Section 6. Section **10-3-1406** is enacted to read:

89 **10-3-1406. Board findings and recommendations on claim -- Report to city**  
90 **legislative body -- Publishing abstract of claims -- Limit on reconsidering claims --**  
91 **Appeal.**

92 (1) After examining and adjusting a claim under Section 10-3-1405, the board of  
93 examiners shall report to the city legislative body the board's factual findings and  
94 recommendations concerning the claim.

95 (2) In making a recommendation under Subsection (1), the board may state and use any  
96 official or personal knowledge that any member of the board has regarding the claim.

97 (3) (a) The board shall report to the city legislative body under Subsection (1) each  
98 claim for which the city would be liable except for governmental immunity, whether the board  
99 recommends approval or disapproval of the claim.

100 (b) The board may not pass upon or send to the city legislative body a claim for which  
101 the city would not be liable even without governmental immunity.

102 (4) At least 30 days before presenting the board's findings and recommendations to the  
103 city legislative body, the board shall cause a brief abstract of the claims rejected and  
104 recommended to be published in a newspaper of general circulation within the city.

105 (5) The board of examiners may not reconsider for a third time a claim that has  
106 previously been rejected by the board or by the city legislative body unless the claimant  
107 presents facts or reasons to the board that would in an action between private parties furnish  
108 sufficient ground for granting a new trial.

109 (6) (a) A person whose claim has been rejected by the board may appeal from the  
110 board's decision to the city legislative body by filing with the board a notice of appeal within 30  
111 days after the board's decision.

112 (b) Upon receipt of a notice of appeal under Subsection (6)(a), the board shall transmit  
113 to the city legislative body:

114 (i) the notice of appeal;

115 (ii) all papers accompanying the notice of appeal; and

116 (iii) a statement of the evidence taken by the board.

117 Section 7. Section **17-43-101** is enacted to read:

118 **CHAPTER 43. COUNTY BOARD OF EXAMINERS**

119 17-43-101. County board of examiners -- Members -- Officers -- Meetings --  
120 Records -- Rules.

121 (1) (a) (i) In a county operating under the county executive-council form of government  
122 under Section 17-52-504, the county executive, one member of the county legislative body,  
123 chosen by the legislative body, and the county attorney shall constitute a county board of  
124 examiners.

125 (ii) In a county operating under a form of government other than a county  
126 executive-council form under Section 17-52-504, two members of the county legislative body,  
127 chosen by the legislative body, and the county attorney shall constitute a county board of  
128 examiners.

129 (b) (i) (A) For a board of examiners under Subsection (1)(a)(i), the county executive  
130 shall be the president of the board of examiners and the county legislative body member shall  
131 be the secretary of the board.

132 (B) For a board of examiners under Subsection (1)(a)(ii), one of the county legislative  
133 body members, designated by the legislative body, shall be the president of the board of  
134 examiners and the county attorney shall be the secretary.

135 (ii) In the absence of either the president or secretary, an officer pro tempore may be  
136 elected from the members of the board.

137 (2) A meeting of the board of examiners shall be held upon the call of the president or  
138 any two members of the board.

139 (3) The board shall keep a record of all its proceedings. Any member of the board may  
140 have the member's dissent to the action of a majority of the board entered upon the record.

141 (4) The board may establish rules, not inconsistent with law, to govern its proceedings.

142 Section 8. Section **17-43-102** is enacted to read:

143 **17-43-102. Powers of board of examiners -- Claim to be first considered by board**  
144 **of examiners.**

145 (1) A county board of examiners may examine all claims against the county for the  
146 payment of which the county has not provided funds or the settlement of which is not  
147 otherwise provided for by law.

148 (2) No claim against the county for the payment of which specifically designated funds  
149 are required to be allocated by the county legislative body may be passed upon by the county

150 legislative body without having been considered and acted upon by the county board of  
151 examiners.

152 Section 9. Section **17-43-103** is enacted to read:

153 **17-43-103. Issuance of subpoenas -- Administering oaths, examining witnesses,**  
154 **and taking depositions -- Witness fees.**

155 (1) The president of the board may issue subpoenas and compel the attendance of  
156 witnesses and the production of books, papers, and things before the board or any member of  
157 the board.

158 (2) Any member of the board may:

159 (a) administer oaths;

160 (b) examine witnesses; and

161 (c) take depositions to be used before the board.

162 (3) (a) Within the county's budget constraints, the board may allow a reasonable fee to  
163 a witness subpoenaed before the board to testify against a claim pending before the board, but  
164 may not allow a fee to a witness who has appeared in behalf of a claimant.

165 (b) A fee under Subsection (3)(a) may not exceed the fee allowed by law to a witness  
166 in a civil case.

167 Section 10. Section **17-43-104** is enacted to read:

168 **17-43-104. Presenting claim to board of examiners -- Statement showing facts of**  
169 **claim -- Abstract of claims.**

170 (1) A person with a claim against the county for the payment of which the county has  
171 not provided funds or the settlement of which is not otherwise provided for by law may present  
172 the claim to the county board of examiners.

173 (2) Each claim presented to the board of examiners under Subsection (1) shall be  
174 accompanied by a statement showing the facts constituting the claim.

175 (3) Before the board of examiners may act upon a claim, an abstract of claims shall be  
176 entered upon the minutes of the board.

177 Section 11. Section **17-43-105** is enacted to read:

178 **17-43-105. Board meetings to consider claims -- Notice -- Adjournment from time**  
179 **to time.**

180 (1) The board of examiners shall meet as needed to consider claims presented under

181 Section 17-43-104.

182 (2) The board shall cause notice of each meeting under Subsection (1) to be published  
183 in a newspaper of general circulation within the county.

184 (3) At a meeting under Subsection (1), the board:

185 (a) shall examine and adjust claims presented under Section 17-43-104; and

186 (b) may hear evidence in support of or against the claims.

187 (4) The board may adjourn a meeting under Subsection (1) from time to time until the  
188 board has completed its work of examining and adjusting the claim.

189 Section 12. Section **17-43-106** is enacted to read:

190 **17-43-106. Board findings and recommendations on claim -- Report to county**  
191 **legislative body -- Publishing abstract of claims -- Limit on reconsidering claims --**  
192 **Appeal.**

193 (1) After examining and adjusting a claim under Section 17-43-105, the board of  
194 examiners shall report to the county legislative body the board's factual findings and  
195 recommendations concerning the claim.

196 (2) In making a recommendation under Subsection (1), the board may state and use any  
197 official or personal knowledge that any member of the board has regarding the claim.

198 (3) (a) The board shall report to the county legislative body under Subsection (1) each  
199 claim for which the county would be liable except for governmental immunity, whether the  
200 board recommends approval or disapproval of the claim.

201 (b) The board may not pass upon or send to the county legislative body a claim for  
202 which the county would not be liable even without governmental immunity.

203 (4) At least 30 days before presenting the board's findings and recommendations to the  
204 county legislative body, the board shall cause a brief abstract of the claims rejected and  
205 recommended to be published in a newspaper of general circulation within the county.

206 (5) The board of examiners may not reconsider for a third time a claim that has  
207 previously been rejected by the board or by the county legislative body unless the claimant  
208 presents facts or reasons to the board that would in an action between private parties furnish  
209 sufficient ground for granting a new trial.

210 (6) (a) A person whose claim has been rejected by the board may appeal from the  
211 board's decision to the county legislative body by filing with the board a notice of appeal within

212 30 days after the board's decision.

213 (b) Upon receipt of a notice of appeal under Subsection (6)(a), the board shall transmit  
214 to the county legislative body:

215 (i) the notice of appeal;

216 (ii) all papers accompanying the notice of appeal; and

217 (iii) a statement of the evidence taken by the board.