

**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 authorizes the board to establish rules to govern appeals from the board of examiners to the legislative body of the county or city. The act authorizes counties and cities to pay claims presented to the board of examiners and approved by the legislative body.**

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



26 17-43-106, Utah Code Annotated 1953

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

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

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

30 **10-3-1401. City board of examiners -- Members -- Officers -- Meetings -- Records**  
31 **-- Rules.**

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

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

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

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

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

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

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

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

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

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

52 Section 3. Section 10-3-1403 is enacted to read:

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

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

57 the board.

58 (2) Any member of the board may:

59 (a) administer oaths;

60 (b) examine witnesses; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87 (4) The board may adjourn a meeting under Subsection (1) from time to time until the

88 board has completed its work of examining and adjusting the claim.

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

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

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

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

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

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

103 (4) The board may establish rules to govern any appeal from a board decision to the  
104 city legislative body.

105 (5) A city may pay a claim presented to the city board of examiners under this part and  
106 approved by the city legislative body.

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

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

109 **17-43-101. County board of examiners -- Members -- Officers -- Meetings --**  
110 **Records -- Rules.**

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

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

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

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

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

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

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

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

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

133 **17-43-102. Powers of board of examiners -- Claim to be first considered by board**  
134 **of examiners.**

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

138 (2) No claim against the county for the payment of which specifically designated funds  
139 are required to be allocated by the county legislative body may be passed upon by the county  
140 legislative body without having been considered and acted upon by the county board of  
141 examiners.

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

143 **17-43-103. Issuance of subpoenas -- Administering oaths, examining witnesses,**  
144 **and taking depositions -- Witness fees.**

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

148 (2) Any member of the board may:

149 (a) administer oaths;

150 (b) examine witnesses; and

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

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

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

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

158 **17-43-104. Presenting claim to board of examiners -- Statement showing facts of**  
159 **claim -- Abstract of claims.**

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

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

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

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

168 **17-43-105. Board meetings to consider claims -- Notice -- Adjournment from time**  
169 **to time.**

170 (1) The board of examiners shall meet as needed to consider claims presented under  
171 Section 17-43-104.

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

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

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

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

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

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

180 **17-43-106. Board findings and recommendations on claim -- Report to county**

181 legislative body -- Publishing abstract of claims -- Limit on reconsidering claims --  
182 Appeal.

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

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

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

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

193 (4) The board may establish rules to govern any appeal from a board decision to the  
194 county legislative body.

195 (5) A county may pay a claim presented to the county board of examiners under this  
196 part and approved by the county legislative body.