



OFFICE OF THE
STATE AUDITOR

January 14, 2022

Kent Leavitt, Chair
South Summit Fire Protection District
P.O. Box 1030
Kamas, UT 84036

Dear Mr. Leavitt:

The Office of the State Auditor (Office) has reviewed the South Summit Fire Protection District's (District) compliance with certain requirements in *Utah Code* in response to citizen concerns about the District's practice of allowing District board members to also receive compensation for firefighter duties.

As indicated in our previous letter dated November 2, 2021, unless certain exceptions apply, *Utah Code* 17B-1-311 prohibits an elected or appointed board member of a local district from being employed by the district, whether as an employee or under contract. Likewise, the statute prohibits a person employed by the district, whether as an employee or under contract, from serving on the board. We disagree with multiple points raised in Mr. Ames' letter of response regarding the District's compliance with *Utah Code* 17B-1-311.

1. *Utah Code* 17B-1-311(3)(a) does not allow a board member to also be compensated for work performed as an employee. The subsection simply notes that a district is not in violation if they report board member compensation for income tax reporting purposes as if the board member was an employee.
2. Mr. Ames stated that *Utah Code* 17B-1-311 was not effective until May 5, 2021. However, a brief review shows that this section has existed for at least 9 years as subsection (3) was enacted by 2013 Senate Bill 200.
3. In addition, subsection (3)(b) clearly states that total board member compensation must meet the \$5,000 per year limit outlined in *Utah Code* 17B-1-307, which includes pay and other compensation, such as group insurance coverage. For fiscal years 2019 and 2020, District board members received compensation in their role as firefighters as shown in the table below. We note that fiscal year 2021 data was not available on transparent.utah.gov at the time of our review.

Board Member	FY2019	FY2020
Kent Leavitt, Chair	\$23,725.99	\$23,538.49
Craig Fry	\$9,417.51	\$9,343.08
John Moon	\$843.28	\$836.62
Jackson Coleman		\$10,395.59

Therefore, the District is not compliant with *Utah Code* 17B-1-311 and 17B-1-307. Each board member who also performs firefighting duties must decide the role in which they will serve the District and make the necessary adjustments to ensure compliance with *Utah Code* 17B-1-311 and 17B-1-307. The board members have the following options:

- Serve as a board member, earning a maximum total compensation of \$5,000 per year, and may volunteer as an *uncompensated* firefighter, **or**
- Work as a compensated firefighter but must step down as a board member.

Please submit a response within 30 days detailing each board member's decision and how the District will ensure compliance with *Utah Code* 17B-1-311 and 17B-1-307.

We appreciate your service to the citizens in your community. Please direct your correspondence and any questions to Leslie Larsen at 801-808-0379 or leslielarsen@utah.gov.

Sincerely,

A handwritten signature in cursive script that reads "J Dougall". The signature is written in black ink and is positioned above a horizontal blue line.

J Dougall (Jan 14, 2022 09:10 MST)

John Dougall
State Auditor



2750 Rasmussen Rd., Suite H201, Park City, UT 84098

Tel: (435) 214-0303 / Fax: (435) 216-9393

Bames@AmesFirm.com

February 25, 2022

Leslie Larsen, CPA, CFE
Special Projects Audit Supervisor
Office of the State Auditor
State of Utah
Via Email: leslielarsen@utah.gov

Dear Ms. Larsen,

Please accept this correspondence in response to the State Auditor's ("State") January 14, 2022, letter to South Summit Fire Protection District ("SSFPD").

The SSFPD Board of Commissioners ("Board") met to discuss the State's stated position regarding SSFPD's compliance with Utah Code 17B-1-311. The Board has decided to undertake the process of replacing the current members of the Board with new Board members who are not also volunteer fire fighters for SSFPD.

As the current Board members were all duly elected by the citizens residing within the SSFPD boundaries through a free and fair election, the process of replacing the Board members is something that must follow proper procedure including Utah Code 20A-1-512. This will require a short period of patience on the part of the State. Currently the Board is comprised of three members. For many practical reasons, the Board members cannot all resign at once. Beginning with the Board meeting to be held in March 2022, SSFPD will begin replacing the current Board members over the next several months. The process of replacing all three current members of the Board will be completed no later than June 30, 2022. On or before that date the Board of the SSFPD will be fully comprised of members who are not also volunteer firefighters. This will satisfy the concerns of the State.

Please contact me if you require additional information or have questions regarding this response on behalf of SSFPD. I trust the above plan of action satisfies the inquiry of the State and

this matter will be closed. Please confirm with me the status of your inquiry following your review of this response.

Sincerely,

AMES & AMES, LLP

Byron L. Ames

Byron L. Ames
Managing Partner

Cc: Kent Leavitt, SSFPD Fire Marshall: SSFD@allwest.net



OFFICE OF THE
STATE AUDITOR

November 2, 2021

Kent Leavitt, Chair
South Summit Fire Protection District Commission
P.O. Box 1030
Kamas, UT 84036

Dear Mr. Leavitt:

The Office of the State Auditor offers a hotline, through which it receives complaints about actions with financial implications of state and local governments and suggestions for improvements in the efficiency of those governments. In order to respond to these complaints and suggestions, the Office of the State Auditor must gather information from the involved parties.

We have received a complaint alleging that the South Summit Fire Protection District (District) board of commissioners is comprised of District employees. *Utah Code 17B-1-311* prohibits a person who is employed by a local district, whether as an employee or under contract, from serving on the board of that local district unless certain exceptions apply.

Please respond with any information you may have about the above-stated complaint in writing, including any documentation that would support your statement. The Office of the State Auditor will consider your response, along with information gathered from other pertinent sources, and will determine whether to proceed with a further investigation or close the case. Your statement will be integral in making this determination.

Please return your response within 10 days from the date of this letter. If you have any questions, or require an extension, please feel free to contact me.

Sincerely,

Leslie Larsen, CPA, CFE
Special Projects Audit Supervisor
leslielarsen@utah.gov
801-808-0379



2750 Rasmussen Rd., Suite H201, Park City, UT 84098

Tel: (435) 214-0303 / Fax: (435) 216-9393

Bames@AmesFirm.com

November 24, 2021

Leslie Larsen, CPA, CFE
Special Projects Audit Supervisor
Office of the State Auditor
State of Utah

Via Email: leslielarsen@utah.gov

Dear Ms. Larsen,

I represent the South Summit Fire Protection District (“SSFPD”). SSFPD forwarded me your November 2, 2021, correspondence regarding a complaint received by your office alleging that SSFPD is operating in violation of Utah Code 17B-1-311; specifically, it is alleged that the SSFPD Board of Commissioners are also “district employees.”

As you know, Utah Code 17B-1-311 was not effective until the middle of this year on 5/5/2021. Therefore, this code section did not apply to SSFPD prior to that date. The specific language of that section reads:

17B-1-311. Board member prohibited from district employment -- Exception.

- (1) No elected or appointed member of the board of trustees of a local district may, while serving on the board, be employed by the district, whether as an employee or under a contract.
- (2) No person employed by a local district, whether as an employee or under a contract, may serve on the board of that local district.
- (3) A local district is not in violation of a prohibition described in Subsection (1) or (2) if the local district:
 - (a) treats a member of a board of trustees as an employee for income tax purposes; and
 - (b) complies with the compensation limits of Section [17B-1-307](#) for purposes of that member.

- (4) This section does not apply to a local district if:
- (a) fewer than 3,000 people in the state live within 40 miles of the local district's boundaries or primary place of employment, measured over all weather public roads; and
 - (b) with respect to the employment of a board of trustees member under Subsection [\(1\)](#):
 - (i) the job opening has had reasonable public notice; and
 - (ii) the person employed is the best qualified candidate for the position.
- (5) This section does not apply to a board of trustees of a large public transit district as described in [Chapter 2a, Part 8, Public Transit District Act](#).

While Subsections (1) and (2) of this code section specifically state that an elected member of a board of commissioners cannot also be employed as an employee of the district while serving on the board, the majority of the language in this section outlines the exceptions to the rule set forth in Subsections (1) and (2).

To determine whether this code section applies to the SSFPD Board of Commissioners, and whether one of the enumerated exceptions applies as well, certain facts must be established. First, the SSFPD Board of Commissioners are elected. Second, the elected SSFPD Board of Commissioners is made up of individuals who also serve as volunteer firefighters for the SSFPD. These two facts alone would appear to put the SSFPD in violation of this code section as alleged. However, the rest of the code must be assessed to determine if one of the exceptions applies to SSFPD.

The exception outlined in Subsection (4) of this code does not apply to the SSFPD. Despite the fact that the SSFPD serves an extremely rural population, there are more than 3,000 people living within 40 miles of the district's boundaries. Notwithstanding this, the reality is that there is no one else who is qualified or willing to serve on the SSFPD elected Board of Commissioners who is not already serving as a volunteer firefighter for the district. There is a very limited pool of qualified individuals for any of these roles within the SSFPD boundaries.

The exception outlined in Subsection (3) of this code applies to the SSFPD. This Subsection states that the SSFPD is not in violation of this code if the members of the board are treated as employees for income tax purposes, and they are not compensated at a rate greater than \$5,000 per year (see Utah Code 17B-1-307).

Effective a few years ago, SSFPD volunteer firefighters are paid a small stipend for time they spend in training and at fire call outs. The small stipend paid to all SSFPD volunteer firefighters is treated as employment income by the SSFPD and taxed accordingly. At the time the stipend was offered to the volunteer firefighters, there was not a separate payment for the Board of Commissioners for time spent during their separate board meetings and serving as board members. Keep in mind that the subject code section was not in place at the time of the creation of the small stipend for the firefighters. At the regularly scheduled meeting of the Board of Commissioners this month, the board members discussed the issue of an additional small stipend

payment for the board members for the time spent by the board for their monthly meeting and any additional board duties. This was in response to this new Utah code section that did not previously apply to the SSFPD and its board members. At that meeting the SSFPD Board voted to provide a small stipend to the members of the elected Board of Commissioners. The amount of the stipend is for two (2) hours per month at the hourly rate of \$20/hour or \$40/month. This small stipend is also taxed as income just like the small stipend paid to all firefighters in SSFPD.

These facts establish that the elected members of the SSFPD Board of Commissioners, though also serving as volunteer firefighters for the district, are treated as employees for income tax purposes and are compensated in an amount in compliance with the code. Accordingly, as explicitly outlined in 17B-1-311(3)(a) and (b), the SSFPD is *“not in violation of a prohibition described in Subsection (1) or (2).”*

Please contact me if you require additional information or have questions regarding this response on behalf of SSFPD. I trust the above information satisfies the inquiry of your office and this matter can be closed. Please confirm with me the status of your inquiry following your review of this response. Thank you!

Sincerely,

AMES & AMES, LLP

Byron L. Ames

Byron L. Ames
Managing Partner

Cc: Kent Leavitt, SSFPD Fire Marshall: SSFD@allwest.net

FY 2020 Compensation data from Transparent Utah

		per salesforce
Row Labels	Sum of Net Amount	
Commission Chair/ FIRE FIGHTER	23,538.49	
Leavitt, Kent	23,538.49	board member
Commissioner/ FIRE FIGHTER	30,317.77	
Coleman, Jackson	10,395.59	board member
Fry, Craig	9,343.08	board member
Sanderson, Michael	10,579.10	board member
Finance	10,195.66	
Harris, Marla	4,922.52	
Holbrook, SheaLee	5,273.14	clerk
FIRE CHIEF	30,630.81	
Anderson, Scott	30,630.81	board member
FIRE FIGHTER	147,351.89	
Atkinson, Brandon	9,148.77	
Atkinson, Janet	1,581.46	
Bello-Castro, Juventino	7,205.67	
Bone, Alyce	448.00	
Carter, Joseph	7,394.58	
Carter, Natalie	8,792.53	
Clegg, Dustin	188.92	
Crinch, Andy	8,420.10	
Fitzgerald, Rowdy	7,167.88	
Holbrook, John	9,294.50	
Larsen, Erik	8,927.47	
Leifson, Kolt	7,637.47	
Leifson, Larry	8,047.68	
Lewis, Tyler	8,943.66	
Louder, Tadd	8,916.67	
Maxfield, Derek	7,124.70	
Moon, Jerel	3,654.11	
Moon, John	836.62	board member
Nagle, Scott	8,063.87	
Sorenson, Darin	8,198.80	
Steed, Brett	9,882.83	
Wilde, Matthew	7,475.60	
Grand Total	242,034.62	

Anderson, Scott	30,630.81	board member	chief
Leavitt, Kent	23,538.49	board member	Commissioner/ FI
Sanderson, Michael	10,579.10	board member	Commissioner/ FI
Coleman, Jackson	10,395.59	board member	Commissioner/ FI
Steed, Brett	9,882.83		
Fry, Craig	9,343.08	board member	*Commissioner p
Holbrook, John	9,294.50		
Atkinson, Brandon	9,148.77		
Lewis, Tyler	8,943.66		
Larsen, Erik	8,927.47		
Louder, Tadd	8,916.67		
Carter, Natalie	8,792.53		
Crinch, Andy	8,420.10		
Sorenson, Darin	8,198.80		
Nagle, Scott	8,063.87		
Leifson, Larry	8,047.68		
Leifson, Kolt	7,637.47		
Wilde, Matthew	7,475.60		
Carter, Joseph	7,394.58		
Bello-Castro, Juventino	7,205.67		
Fitzgerald, Rowdy	7,167.88		
Maxfield, Derek	7,124.70		
Holbrook, SheaLee	5,273.14	clerk	
Harris, Marla	4,922.52		
Moon, Jerel	3,654.11		
Atkinson, Janet	1,581.46		
Moon, John	836.62	board member	
Bone, Alyce	448.00		
Clegg, Dustin	188.92		

IRE FIGHTER *Commission Chair per 10/20/21 minutes

IRE FIGHTER

IRE FIGHTER *Commissioner per 10/20/21 min In 2020, Park City Fire Service District (\$7k) and Sandy (\$8

er 10/20/21 minutes

3k wage + \$31k benefits

FY19	Total Comp.&	FY20
Kent Leavitt, Chair	\$ 23,725.99	Kent Leavitt, Chair*
Craig Fry, Commissioner	\$ 9,417.51	Craig Fry, Commissioner
John Moon, Commissioner	\$ 843.28	Jackson Coleman, Commissioner*

4-year term

*Elected/Re-elected Nov 2019

Re-elected Nov 2021

& I used total compensation since UCA 17B-1-307(1) states that the amount that the local district pays included as part of the member's compensation for purposes of Subsection (1)(b), which is the Subsect

Total Comp.&	FY21	Total Comp.&
\$ 23,538.49	Kent Leavitt, Chair	Not yet
\$ 9,343.08	Craig Fry, Commissioner	on Transparency
\$ 10,395.59	Jackson Coleman, Commissioner	

to provide a member with coverage under a group insurance plan shall be
tion that states compensation may not exceed \$5,000/year

FY22 to date

Total Comp.&

Kent Leavitt, Chair

Craig Fry, Commissioner#

Jackson Coleman, Commissioner

Not yet

on Transparency

FY 2019 Compensation per transparency

Sum of Net Amount	Column Labels		
Row Labels	Employee Benefits	Employee Compensation	Grand Total
Anderson, Scott	2,499.81	28,375.00	30,874.81
Atkinson, Brandon	746.65	8,475.00	9,221.65
Atkinson, Janet	129.06	1,465.00	1,594.06
Bello-Castro, Juventino	588.07	6,675.00	7,263.07
Bone, Alyce	36.57	415.00	451.57
Carter, Joseph	603.48	6,850.00	7,453.48
Carter, Natalie	717.57	8,145.00	8,862.57
Clegg, Dustin	15.42	175.00	190.42
Coleman, Jackson	848.40	9,630.00	10,478.40
Crinch, Andy	687.17	7,800.00	8,487.17
Fitzgerald, Rowdy	584.98	6,640.00	7,224.98
Fry, Craig	762.51	8,655.00	9,417.51
Harris, Marla	401.73	4,560.00	4,961.73
Holbrook, John	758.54	8,610.00	9,368.54
Holbrook, SheaLee	430.34	4,884.80	5,315.14
Larsen, Erik	728.58	8,270.00	8,998.58
Leavitt, Kent	1,920.99	21,805.00	23,725.99
Leifson, Kolt	623.31	7,075.00	7,698.31
Leifson, Larry	656.79	7,455.00	8,111.79
Lewis, Tyler	729.90	8,285.00	9,014.90
Louder, Tadd	727.70	8,260.00	8,987.70
Maxfield, Derek	581.45	6,600.00	7,181.45
Moon, Jerel	298.22	3,385.00	3,683.22
Moon, John	68.28	775.00	843.28
Nagle, Scott	658.11	7,470.00	8,128.11
Sanderson, Michael	863.37	9,800.00	10,663.37
Sorenson, Darin	669.11	7,595.00	8,264.11
Steed, Brett	806.55	9,155.00	9,961.55
Wilde, Matthew	610.15	6,925.00	7,535.15
Grand Total	19,752.81	224,209.80	243,962.61

position per salesforce
fire chief, board

position per 10/20/21 minutes

board

Commissioner

board

Commissioner

clerk

board

Commission Chair

board

board