

Basic Utility Leadership Training

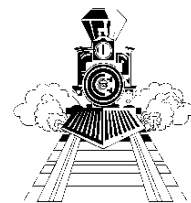


The Training Station

Tennessee Association of Utility Districts

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Utility Commissioner's and Manager's Handbook



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Preface

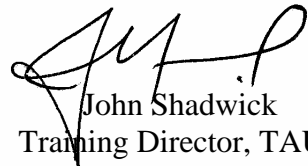
This work was developed for the benefit of Tennessee's utility commissioners and managers. Its intended to provide essential, basic information for governing and managing utilities. It could not have been completed without the assistance of the following people.

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NOTICE TO READERS

The Commissioners and Managers Checklist is offered to TAUD members for general reference use only. This manual is NOT intended for legal use, as TAUD does not provide legal advice.

This publication is provided for general education purposes for utility districts only. Utilities operated by cities or other entities are specifically addressed in other sections of the codified law.

Please note that there are many other laws and regulations that affect utility districts which are not included in this publication.

Changes to the state laws that are covered in the Commissioners and Managers Checklist are made with regularity. You should consult the latest edition of the Tennessee Code Annotated for the currently enforceable law. The Code is available in many public and university libraries.

Board Responsibilities and Role

Responsibilities

Notes

By statute, all powers for establishing and operating a utility district are vested in the majority of the members of the board of commissioners. Because its members are essentially unpaid “volunteers”, it is neither prudent nor possible for them to try and operate the utility. It is necessary that the board delegate most of its powers to a chief executive officer [7-82-308(b)]. This chief executive officer then delegates tasks and powers to the utility’s staff.

It is important to note that while the board delegates authority to the chief executive office and holds them responsible for the results, the board can never delegate its own responsibility for the operations and well being of the utility. The same is true for authority and responsibility passed from the chief executive officer to staff.

Board Repsonsibilities

The overarching principle for utility board members is that they serve in a fiduciary relationship with current and future utility customers.

Fiduciary is derived from the the Latin *fiducia*, meaning "trust." A *fiduciary* is a person who has the power and obligation to act for another under circumstances which require

- total trust,
- good faith, and
- honesty.

A *fiduciary* is anyone who undertakes to assist someone who places complete confidence and trust in that person or company.

A *fiduciary* is held to a standard of conduct and trust above that of a stranger or of a casual business person. He/she/it must avoid "self-dealing" or "conflicts of interests" in which the potential benefit to the fiduciary is in conflict with what is best for the person who trusts him/her/it. The beneficiary must be primary, and absolute candor is required of the fiduciary. ¹

¹ law.com Dictionary.

Responsibilities

Board Responsibilities and Duties

Notes

The board is responsible for the operations and wellbeing of the utility. It is responsible for everything that does and does not get done. The board is responsible for the results.

To achieve the desired results the Board focuses on setting the vision and direction for the utility. To keep itself from being encumbered with the day to day operations, the board adopts policies to govern how certain recurring situations are handled. The Board hires a chief executive officer to deal with the day to operations (means) of the utility so that they are free to deal with the results (ends).

The chief responsibility of the board is to govern.

Main Entry: gov·ern

Function: verb

Etymology: Middle English, from Old French gouverner, from Latin gubernare to steer, govern, from Greek kybernan

transitive senses

1 a : to exercise continuous sovereign authority over; especially : to control and direct the making and administration of policy in b : to rule without sovereign power and usually without having the authority to determine basic policy

2 a : to control, direct, or strongly influence the actions and conduct of b : to exert a determining or guiding influence in or over <income must govern expenditure> c : to hold in check :

3: to prevail or have decisive influence:

4: to exercise authority²

¹ Merriam Webster On-Line Dictionary.

Responsibilities

Board Job Products

Notes

The most important Board “job products”¹ are:

- Operating as a “trust” on behalf of existing and future customers; “fulfill its fiduciary responsibilities; guard the utility against undue risk, determine priorities, generally direct organizational activity;”
- Hiring a chief executive officer and establishing an effective working relationship with them.
- “Explicit governing policies;” and,
- “Assurance of executive performance.”

Duties and Responsibilities

The Board Governs Through Policies

Notes

To effectively free itself to govern and not manage the utility, the Board should establish policies that focus on results, and policies that reasonably limit what the chief executive officer can and cannot do. These policies free the Board to focus on its roles and duties, and provide objective criteria against which to evaluate the utility's growth and the chief executive officer's performance.

“Ends” policies and “Executive Limitation Policies,” once established, provide these benefits²:

1. Saves Board time;
2. Saves staff time;
3. Judgment of performance is objective, not subjective; and,
4. The Board's judgments are more credible when made against pre-established, objective criteria.

To monitor performance, the Board needs to gather information. There is a danger here. The Board may need certain information to function, but information gathering should not deteriorate into “meddling.” Information the Board wants can be divided into three categories. These are identified in the table on the next page.³

Board Governance Principles

Principle 1—The board’s first duty is to the utility district (its current and future customers).

Notes

Principle 2—The board represents its “owners”, exercising a duty of care for its current and future customers.

Principle 3—The board is responsible for setting the ethical framework for utility staff, defining and nurturing the board’s fundamental values.

Principle 4—The board must continuously focus on the utility’s reason for being (mission, purpose, goals and objectives).

Principle 5—The board is responsible for setting the utility’s strategic direction, priorities and performance criteria.

Principle 6—Sound governance provides protection for the utility, the board and its directors against fraud, illegal practices and poor performance by its own members and its staff.

Principle 7—The board has a responsibility to identify risks and ensure that strategies to minimize or mitigate them are put in place.

Principle 8—The board determines policy parameters for the utility, rather than implementing them.

Principle 9—The board focuses on continuous improvement for itself and individual commissioners.

Principle 10—The chairperson is the first among equals, fulfilling the role of servant leader to the board.

Board/Chief Executive Officer Relationship

The most important task for the Board is hiring a chief executive officer and establishing an effective working relationship with them. A second important task is to recognize that the Board and chief executive officer have separate and distinct roles and responsibilities, and that these roles and responsibilities should always remain separate and distinct.

For the Board to honor this distinction in board/chief staff officer function requires discipline. To do so requires the Board to focus on its responsibility (results) and allow the chief executive officer to focus on his/her responsibilities (means).

Notes

Board/Executive Officer Relationship Principles

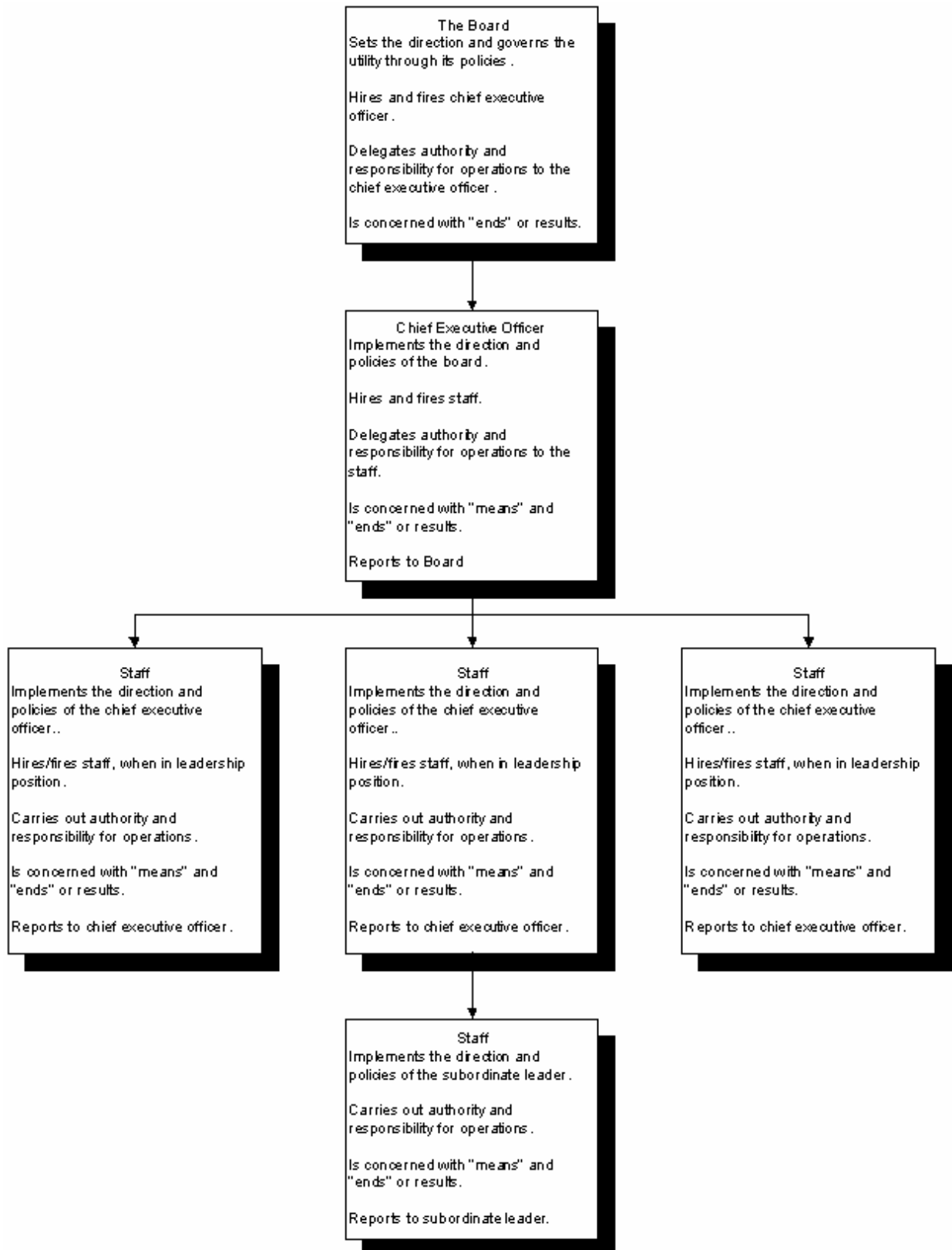
Principle 1—The Board-General Manager relationship is a partnership that is approached in the spirit of mutual respect and support for the interdependent but separate roles.

Principle 2—The General Manager is the Board's sole direct employ in whom is vested accountability for the operational organization.

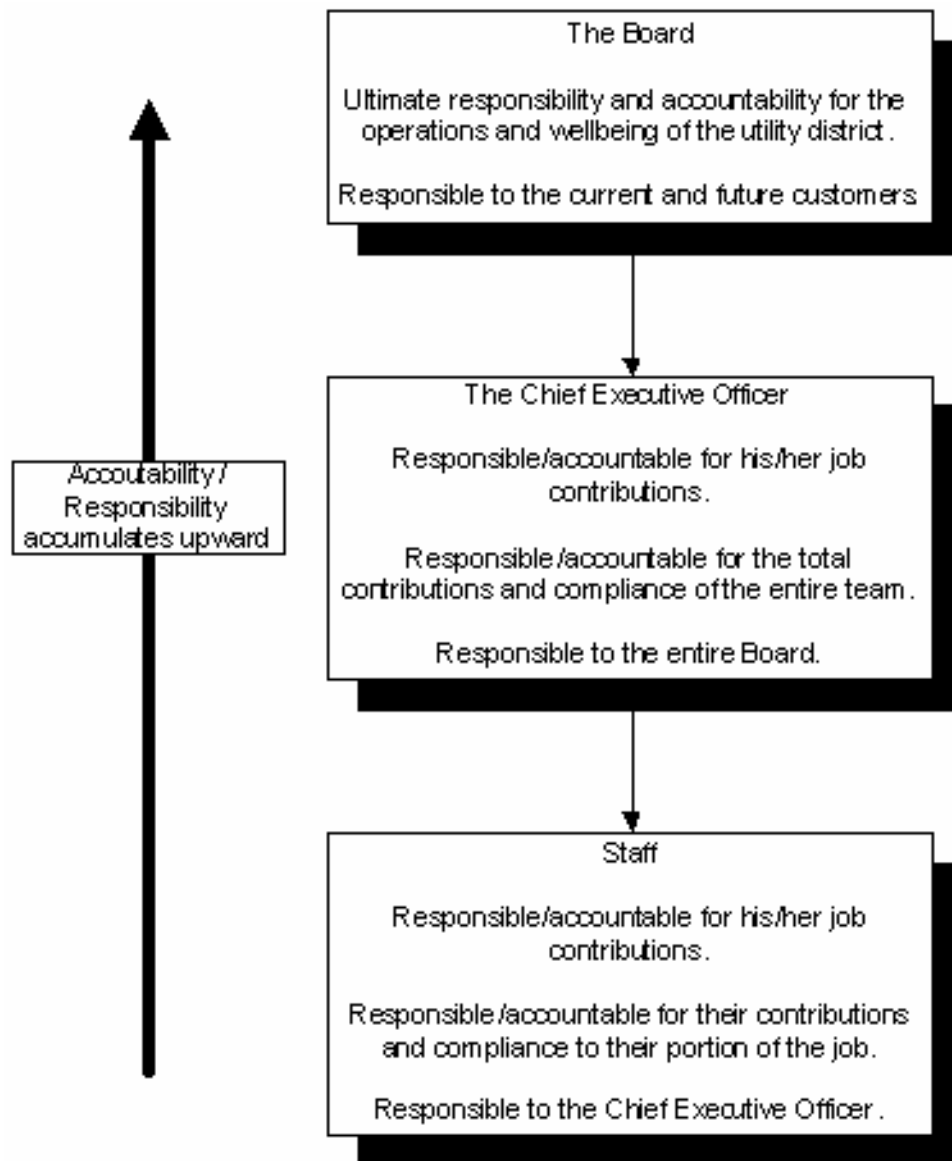
Principle 3—The Board should direct, not manage, the General Manager by providing clearly defined outcomes to be achieved (Ends Policies) and policy parameters (Delegation Policies, Executive Limitation Policies) within which the General Manager must remain.

Principle 4—The Board's delegation to the General Manager must be absolutely clear.

Board/Chief Executive Officer Relationship

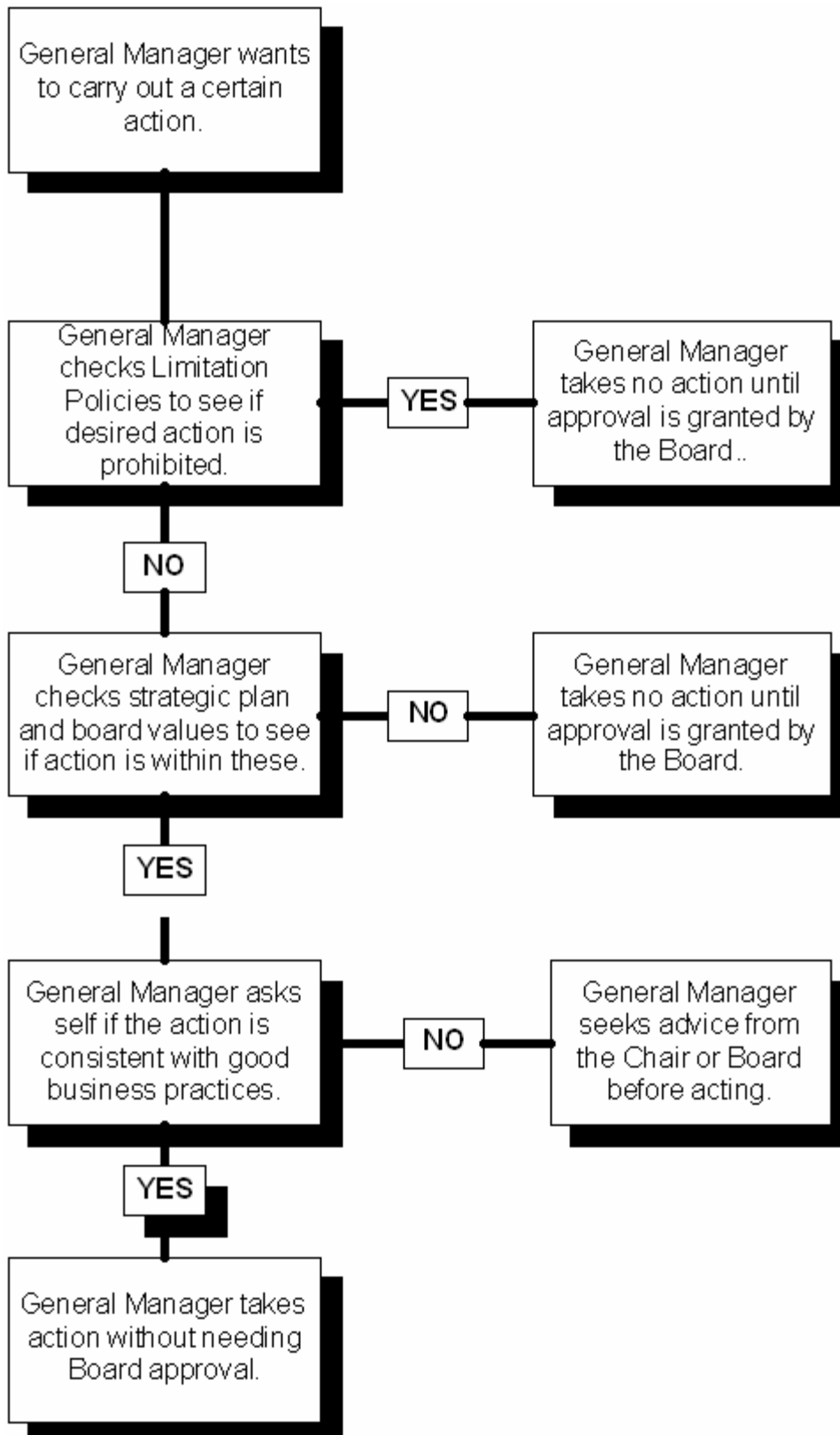


Accountability



Taken from **Boards That Make a Difference**
John Carver, Jossey-Bass Publishers, San Francisco, 1990.

General Manager Decision-Making Flow Chart



Performance Monitoring

Information	Performance Measurement	Direction
Information for Decision-making	Non-judgmental Performance-measuring is incidental to the purpose.	Looks to future
Monitoring Information	Judgmental Intentionally measures performance.	Looks to past
Incidental Information	Not for monitoring or decision-making. No criteria against which to evaluate. DANGER—Can develop into meddling.	Looks to present at best

Commissioner Basics

Boards and Commissioners

Boards

Notes

Utility districts are **governed** by a **Board of Commissioners**.

The powers of each district shall be vested in and exercised by a majority of the members of the board of commissioners of the district. No individual commissioner has any power. The minority of board members has no power.

Govern—1. to control the actions or behavior of; 2. to make and administer public policy for a political unit; 3. exercise sovereign authority in. From the latin gubernare—to steer.

Board—An organized body of administrators. A board governs through its policies and plans.

Political Unit—Under Tennessee law, utility districts are a form of municipal government or public corporation, having the power of perpetual succession, but without any power to levy or collect taxes. Charges for services authorized herein shall not be construed as taxes.

A Board does not manage or engage in the day to operations of the utility district. The Board sets direction and policy, the general manager implements the Boards direction and policies, staff carries out the boards direction and policy under the direction of the general manager.

Commissioner—A person authorized by a commission to perform certain duties. Commissioners are persons appointed to act on behalf of the customers, current and future, of the utility district.

Commission—The act of committing or giving authority to carry out a particular task or duty, or granting certain powers; an entrusting.

Boards and Commissioners

Notes

The relationship between the utility customers and commissioners is that of a trust. In legal terms, a commissioner is a fiduciary.

Fiduciary is a person (or a utility district board) who has the power and obligation to act for another (often called the beneficiary) under circumstances which require total trust, good faith and honesty. The beneficiaries of the actions of a board are its customers. Board members are not to benefit from their decisions.

Commissioners

To be a commissioner, you must meet these qualifications.

- Be a resident of or own real property within the utility district;
- Be correctly appointed;
- Take an oath of office.

With one exception, commissioners do not have to be customers of the district. Certain water utility districts in Lawrence county, commissioners must reside in the district and be a customer of the district.

Selection or Replacement of Commissioners

Every district should make sure that when a commissioner's term expires, he or she is re-elected or a new commissioner is appointed.

Notes

No commissioner is a permanent member of a utility district's board. Each commissioner must be properly replaced or reappointed at the end of his or her term.

One method is to *keep a note taped to the minute book listing the names of all current commissioners and the dates of expiration of the term* of each so that the manager or board secretary can remind the commissioners when it is necessary to take action.

If you are uncertain when a commissioner's term expires, the expiration date is simply four (4) years to the day from the date that he took his oath of office at the expiration of the term of his predecessor.

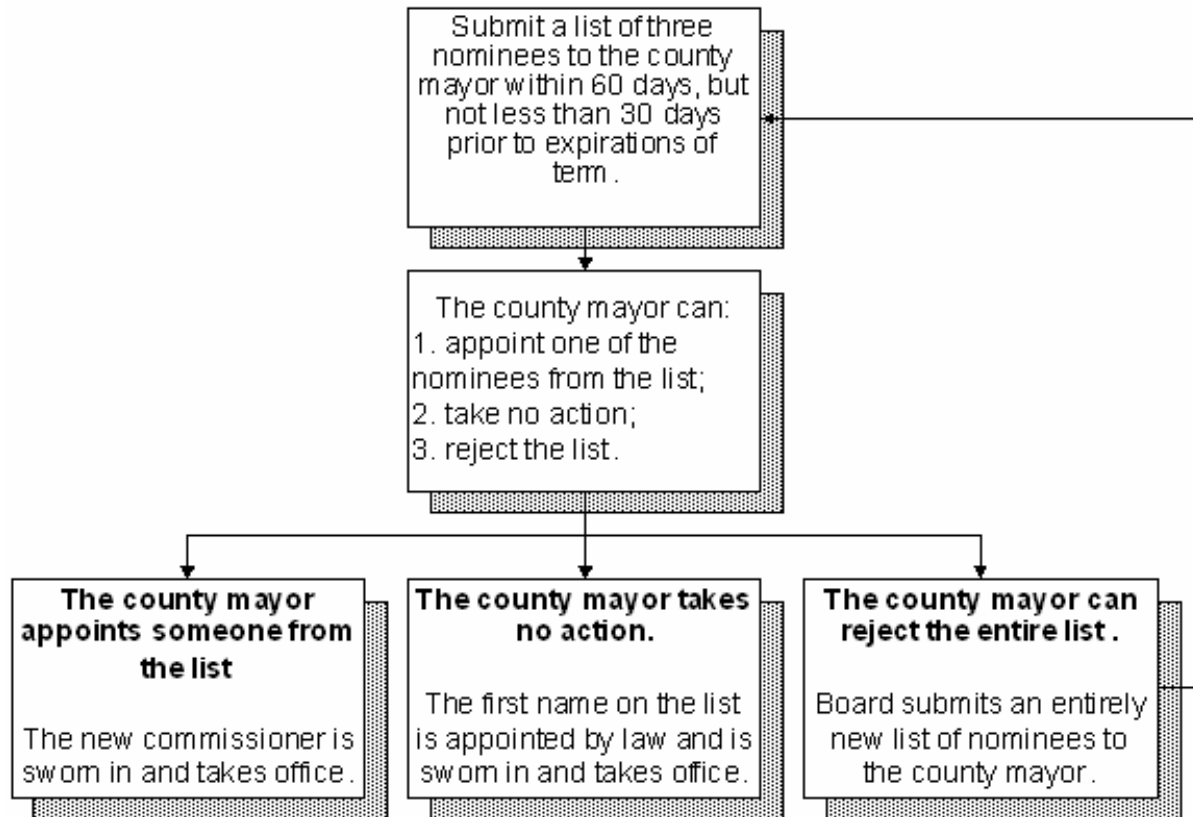
Methods of Replacement of Commissioners

For utility districts in existence on or before May 6, 2004, there are usually three (3) ways to replace or re-elect commissioners whose terms have expired.

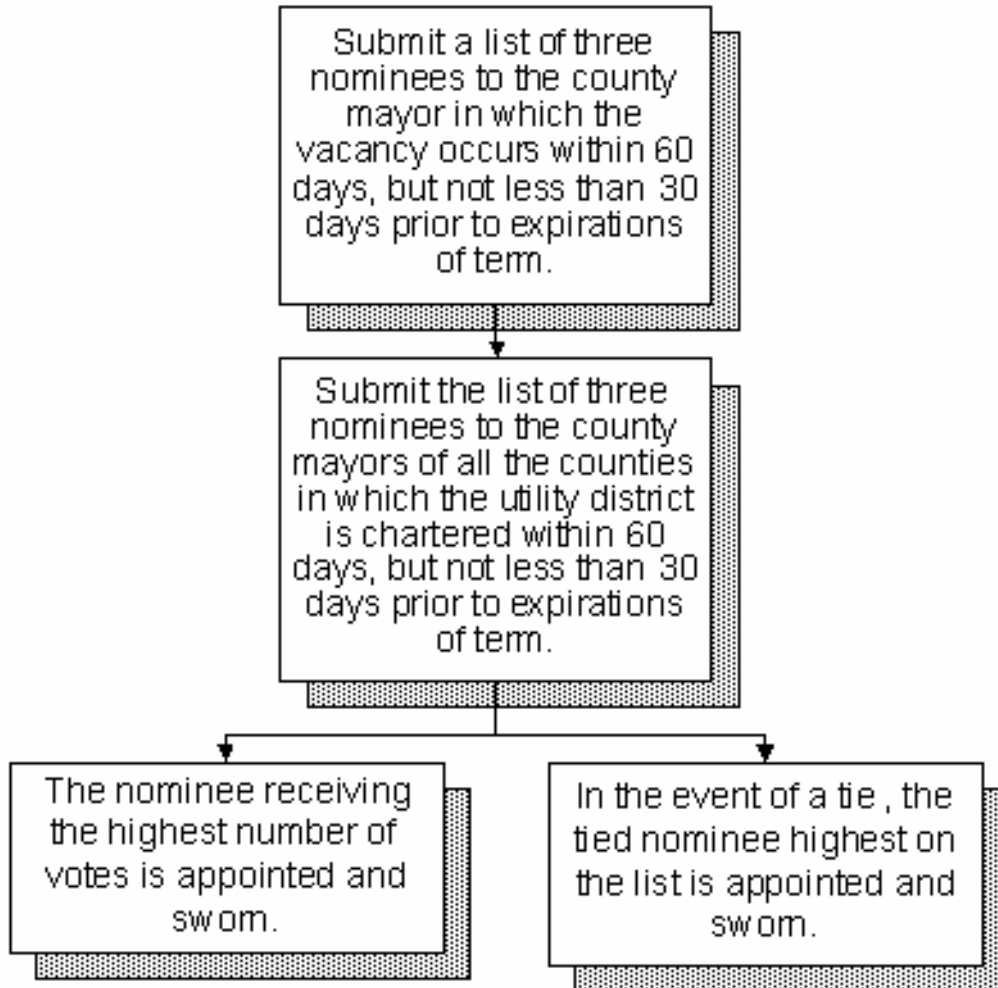
1. By vote of the remaining two (2) commissioners; or,
2. Selection by the respective county mayor from a list of nominees supplied by the board of Commissioners (selection by the Probate Judge in Davidson County);
or,
3. Election by the utility district's customers.

You must determine which rule applies to your district and follow the correct procedure.

Uniform Procedure for Appointment by County Mayor—Single County UD



Uniform Procedure for Appointment by County Mayor—Multi-County UDs



Selection or Replacement of Commissioners

Multi-County Districts—Vacancies on the Board

Notes

If a commissioner, other than a commissioner at large, ceases to reside in the county from which the commissioner was elected, that office shall become vacant.

In the districts listed below, any vacancy in the board is to be filled by the remaining commissioners by electing a resident of the county from which the commissioner's predecessor was appointed or elected.

- (1) Any natural gas utility district
- (2) All water utility districts having less than 1,000 subscribers
- (3) utility districts in the following counties:
 - Loudon
 - Monroe
 - Polk
 - Roane

A commissioner-at-large may be elected from any county in the district.

Oath of Office

Upon being duly appointed to serve on the Board of Commissioners of a utility district, each newly appointed, elected, reappointed, or re-elected commissioner shall make an Oath, both verbally and in writing. An example for a commissioner's oath of office is given below.

Notes

The taking of this oath should be reflected by a written oath which is:

1. Kept with the utility district meeting minutes;
2. If a district is a multi-county district, the oath must also be filed with the Tennessee Secretary of State.

Oath of Office—Utility District Commissioners

STATE OF TENNESSEE, COUNTY OF _____

Having been duly selected as a member of the Board of Commissioners of the _____ (name of utility district), and in compliance with Article 10, Section 1 of the Constitution of the State of Tennessee, and Tennessee Code Annotated, Section 8-18-107, I do solemnly swear that I will support the Constitution of Tennessee and of the United States, and that I will perform with fidelity the duties of office to which I have been selected and which I am about to assume.

Commissioner Name (type or print)

Commissioner Signature

Sworn to and subscribed before me this
the ____ day of _____, 19 ____.

Notary Public

My Commission Expires: _____

Commissioner Compensation

Commissioner or Employees Not to Receive Special Benefits

Notes

Employees or commissioners are prohibited from receiving any money, goods or services resulting from the installation of water service or the sale of utility materials.

!!!WARNING!!!

- Do NOT pay commissioners without first adopting a resolution allowing for the members of the Board of Commissioners to be paid.
- Do NOT provide special favors for commissioners, such as free services or reduced bills for those services.
- Do NOT make or allow a utility employee to do work on a commissioner's or anybody else's property or business on district time or using district equipment.
- Do NOT provide commissioners with the services of the district at no charge or at a reduced rate.
- Do NOT allow a commissioner any other consideration regarding paying for services that you would not allow (as a matter of written policy) any other user, such as late payment for charges without penalty; cut-off and restoration of service without paying appropriate penalties and fees.

The members of the board shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments.

- Limitations on commissioner pay are based on the size and location of the utility district.
- Commissioners may not receive per diem payments if they do not attend the meetings.
- The table on the next page shows **MAXIMUM** payment. Commissioners may not receive ANY other payment, such as Christmas bonuses.

Commissioner Compensation

Districts serving 500 or fewer users	\$50 per meeting - up to \$600 per year
Districts serving more than 500 users	\$100 per meeting - up to \$1,200 per year
Districts in Hamilton County - WITH LESS THAN 3,000 METERS	\$100 per meeting - up to \$1,200 per year
Districts in Hamilton County - WITH MORE THAN 3,000 METERS	\$250 per meeting - up to \$3,000 per year
Non financially distressed gas utility districts	\$500 per meeting - up to \$6,000 per year
Districts in Blount County - WITH LESS THAN 3,000 METERS	\$100 per meeting - up to \$1,200 per year
Districts in Blount County - WITH MORE THAN 3,000 METERS	\$150 per meeting - up to \$1,800 per year
Districts in Knox and Davidson Counties WITH LESS THAN 5,000 METERS.	\$100 per meeting - up to \$1,200 per year
Districts in Knox and Davidson Counties WITH 5,000 METERS OR MORE.	\$350 per meeting - up to \$4,200 per year

Commissioner Compensation

Insurance

Notes

In addition to the per diem for meetings, a board can provide its commissioners any group medical or life insurance coverage *as provided to other employees* of the district;

Payments for such medical or life insurance coverage cannot exceed the per person cost of the district's group medical or life insurance coverage of its employees.

WARNING!

- **Do NOT** provide *any* insurance coverage for commissioners which is not provided for other employees of the district.
- **Do NOT** provide *better* insurance coverage for commissioners than is provided to other employees of the district.
- **Do NOT** pay higher premiums for a commissioner's insurance coverage when they have their own policies.

Purchasing Insurance & Other Professional Services

Utility Districts have considered that sound and prudent business practices do not require the taking of bids for insurance, and until administrative or legal opinion have been rendered, bidding procedures will not be used for the acquisition of insurance coverage.

Contracts by local governments including utility districts for legal services, fiscal agent, financial advisor or advisory services, educational consultant services and similar services by professional persons or groups are not required to be competitively bid.

Commissioner Compensation

Travel and Out-of-Pocket Expenses

Notes

The board of commissioners must . . .

- (1) enact a written policy governing travel and out-of-pocket expenses;
- (2) prescribe the forms on which the expenses are reported;
- (3) determine which expenses are reimbursable.

The state Division of Municipal Audit has approved a sample policy (available from TAUD) that you can adopt and keep on file.

If you choose to adopt your own policy or change the sample policy in any way, you must submit a copy of it to the Division of Municipal Audit.

Warning!

Do NOT reimburse commissioners for expenses without having adopted a policy to allow for it.

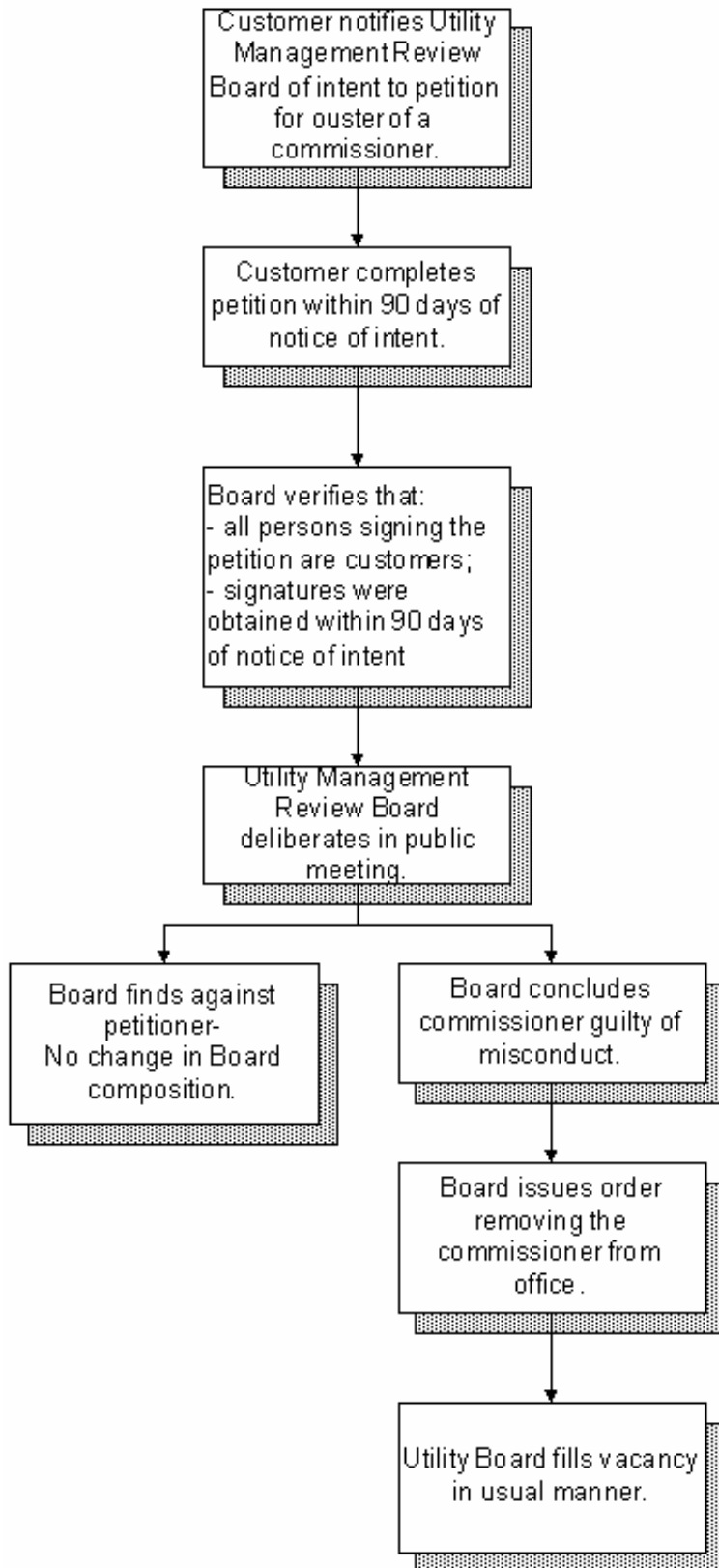
Do NOT authorize reimbursement for out-of-pocket and travel expenses without stating the basis for reimbursement in the district's travel policy.

Do NOT reimburse a commissioner for expenses unless the proper forms and records are submitted with the claim.

Do NOT put entertainment and refreshment charges on your reimbursement requests.

Ouster of Commissioners

Notes



Commissioner Liability

Commissioners have complete and absolute immunity from suit arising from the conduct of the affairs of the utility unless a commissioner's conduct is willful, wanton or grossly negligent. However, commissioners may be sued in other types of actions applicable to public officials such as ousters suits, actions to compel to perform their mandatory duties, and similar actions. Commissioners may be sued under the federal civil rights acts, but they enjoy a qualified immunity from these types of suits. This qualified immunity prevents any person from suing a commissioner individually so long as the commissioner's actions do not violate a clearly established statutory constitutional rule which the commissioner should have known.

Notes

Board Meetings

Public Meetings

Notes

Public Meetings

All meetings of the board of commissioners of utility districts are public meetings and must be conducted in accordance with the Sunshine Law.

A meeting is “. . . the convening of a governing body or a public body for which a quorum is required in order to make a decision or deliberate towards a decision on any matter.”

A governing body is “. . . the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.”

A meeting does not include any on-site inspection of any project or program.

Informal get-togethers and work sessions by commissioners are **highly suspect**. The business of the utility must be open to the customers.

Frequency

The board of commissioners must meet at least once each quarter.

More frequent meetings may be desirable or necessary.

Except for the required quarterly meetings, regularly scheduled meetings can be cancelled, with adequate notice, if there is no business to conduct.

Meeting Notice

Notes

Notice of Regular Meetings

Reasonable (or adequate) notice is interpreted differently, but the following may be used as a guide:

Normal or routine meetings of the board of commissioners where nothing extraordinary is planned to take place — 5 days notice, printed or written on bill.

It is not necessary to publish the agenda.

The guiding principal for scheduling board meetings is to make the accessible to the public, understanding that any day or hour selected will exclude some of your customers from attending the meetings.

WARNING!

Placing a meeting notice on the front door of the utility is not, by itself, adequate public notice of any type of utility meeting.

Meetings with Controversial Agenda Items

Meetings where the board plans to adopt new rules or regulations, raise rates, issue debt, or do anything else that someone might be expected to attack legally should be advertised in any newspapers distributed throughout the district's area. The utility should give a minimum of 5 days notice, published in a newspaper with proof of publication placed in the files of the utility district. If your utility serves more than one county, notices must be published in newspapers that cover the entire service area.

Public Meetings

Notice of Special Meetings

Notes

Notice of special meetings must be publicized in the areas served by the utility. Notices in newspapers are essential.

The utility should give a minimum of 5 days notice, published in a newspaper with proof of publication placed in the files of the utility district.

The agenda should be published, containing only the issue with which the board will consider.

Conducting Meeting

Officers

By statute, utility district boards have two officers, President and Secretary. These officers serve a one-year term and must be elected at its first meeting and the first meeting of each calendar thereafter.

It is the duty of the board president to maintain order and insure that the board meeting is conducted properly and peaceably.

The secretary must keep a record of all proceedings of the commission which shall be available for inspection as other public records, and shall be custodian of all official records of the district.

A Quorum Must Be Present

A **quorum** is the number (as a majority) of officers or members of a body that when duly assembled is legally competent to transact business.

Number of Commissioners	Quorum
3	2
5	3
7	4

Notes

Minutes

Notes

It is vital that the minutes of the meeting be recorded completely and accurately. The Board secretary is responsible for the accuracy and security of the Board's minutes and records.

WARNING!

If it's not in the minutes, it wasn't done!

Minutes are public records and open to inspection by the public.

A citizen in Memphis has as much right to view the records of a Knoxville utility as does a Knoxville resident. Seek the advice of your attorney before refusing to allow someone to view utility records.

WARNING!

The minutes are important historical and legal records. **DO NOT** allow anyone to remove official utility documents from the utility office unless they have a court order to do so. This includes utility employees and commissioners.

Contents

Minutes need not record every detail of the meetings and deliberations. As a minimum, the minutes should contain:

- the board members present;
- all motions, proposals and resolutions;
- the outcome of any votes taken; and,
- A record of individual votes in the event of a roll call vote.

Votes

Votes

All votes taken by the commissioners at board meetings will be by:

- Public Vote;
- Public Ballot; or,
- Public Roll Call.

A public vote means vocally expressed “ayes” and “nays.”

**No secret votes, ballots or roll call votes
are allowed!**

Improper Actions

Any action taken at a meeting in violation of this part shall be void and of no effect

Notes

Notes

Budgets

Budget Requirements

Notes

Budget—An _____ of income and expenses for a specified period.

Requirements – for any utility with debt adopt balanced annual operating budget which...

- identifies all anticipated district _____ by source;
- identifies all anticipated _____ by type of expense;
- shall be based upon _____ operating results; and,
- and, reasonably anticipated future operations.
- The budget as adopted shall be submitted to the state _____ of _____ finance for review.

The state director of local finance shall furnish the utility district a report on such review, which report shall be published once in a newspaper of general circulation in the county of the principal office of the utility district, and any other counties which it serves, during the week following its receipt.

Recurring Revenues

Notes

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____

Include only _____ revenues
in your budget.

Carefully scrutinize _____ revenues
before including them.

Expenses

Notes

All projected expenses.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

The Good Utility District
 SCHEDULE OF REVENUES/EXPENDITURES
 BUDGET FOR THE YEAR ENDING DECEMBER 30, 2005

	Actual FY 2003 from audit	Estimated FY 2004	Budget FY 2005 2%
<i>Operating Revenue</i>			
Metered Water Sales - Retail	\$ 560,026	\$ 672,225	\$ 678,947
Subtotal	\$ 560,026	\$ 672,225	\$ 678,947
<i>Other Revenue</i>			
Interest Earned	\$ 4,531	\$ 4,600	\$ 4,692
Tap fees	\$ 17,000	\$ 20,790	\$ 21,206
Miscellaneous Charges	\$ 24,094	\$ 25,000	\$ 25,500
Sale fix assets	-	-	-
Subtotal	\$ 45,625	\$ 50,390	\$ 51,398
TOTAL REVENUE	\$ 605,651	\$ 722,615	\$ 730,345
<i>Expenses</i>			
Water purchased	\$ 329,346	\$ 327,544	\$ 334,095
Salaries	\$ 123,134	\$ 126,828	\$ 129,365
Maint & repairs	\$ 38,677	\$ 39,837	\$ 40,634
Utilities	\$ 3,596	\$ 3,704	\$ 3,778
Insurance	\$ 10,630	\$ 14,118	\$ 8,000
Meter reading	\$ 16,022	\$ 16,503	\$ 16,833
Billing	\$ 6,009	\$ 6,189	\$ 6,313
Office supplies	\$ 5,338	\$ 5,498	\$ 5,608
Legal and Acc.	\$ 2,452	\$ 3,400	\$ 3,468
Leak Detection & Professional Services	-	\$ 11,000	\$ 10,000
Commissioners fee	\$ 3,500	\$ 3,600	\$ 3,600
Taxes & Licenses	\$ 9,415	\$ 9,697	\$ 9,891
Interest Expense on Bonds (1)	\$ 29,290	\$ 27,636	\$ 25,993
Depreciation	\$ 64,938	\$ 72,000	\$ 80,000
Testing	\$ 1,174	\$ 3,600	\$ 3,672
Vehicle exp	\$ 7,729	\$ 8,000	\$ 8,160
Bad debts	\$ 6,703	\$ 2,500	\$ 2,550
Dues and seminars	\$ 8,361	\$ 8,612	\$ 8,784
Misc	\$ 753	\$ 776	\$ 791
TOTAL EXPENSES	\$ 667,067	\$ 691,042	\$ 701,535
Decrease in Net Assets	\$ (61,416)	\$ 31,573	\$ 28,810
Net assets 12/31/04	\$ 1,466,250	\$ 1,497,823	\$ 1,526,633
Cash/Liquid Investments 12/30	\$ 249,161	\$ 298,000	\$ 330,980
Principal Payment on Bonds (1)	\$ 31,263	\$ 31,266	\$ 32,859

(1) These numbers are based on actual payments to date or debt service schedules and not calculated via formulas

Water Customers 1999 2053 2131

The above budget was adopted at the regular board meeting of the Good Utility District held at the district office on December 1, 2004

 President

 Vic-President

 Sec/Tres.

Audits

Audits

Notes

The commissioners of a utility district must have an annual audit of its books and records prepared.

The commissioners of a utility district must have an annual audit of its books and records prepared.

The audit must be prepared by either:

- (1) a Certified Public Accountant;
- (2) a Public Accountant; or,
- (3) the Department of Municipal Audit.

Should a utility district fail or refuse to have an annual audit prepared, the comptroller is authorized to appoint someone to perform the audit and to charge the cost of the audit to the utility district.

A copy of the audit must be filed with:

- (1) the county mayor in the county or counties in which the district is located;
- (2) the Office of the Comptroller. (Failure to file a copy of the audit with the comptroller's office is a Class C misdemeanor.)
- (3) the utility district files, for inspection by any citizen of the state.

Comptroller of the Treasury

The comptroller is authorized to:

- Prepare a uniform accounting manual;
- Develop rules and regulations to insure that books and records are kept properly;
- Modify the audit requirements for a utility district whose activities are not sufficient to justify the expense of a complete audit;
- direct the Department of Audit to make an audit or financial review of the books and records of the district.

Notes

All utility districts, except gas utility districts and water utility districts in Polk, Loudon, Monroe, Roane counties, are to use the uniform accounting manual prepared by the Comptroller

For all gas utility districts and all utility districts in Polk, Loudon, Monroe and Roane counties, the comptroller of the treasury has promulgated necessary rules and regulations to assure that the books and records are kept in accordance with generally accepted accounting procedures and that audit standards prescribed by the comptroller of the treasury are met.

Publishing Financial Information

Notes

Utility district management should instruct its public accountant that he is required to do the following:

- (1) Make full audit of the books and prepare an annual statement of audit for filing with . . .
 - (a) the district;
 - (b) any financial institution that might be entitled to it under a bond resolution;
 - (c) the county mayor; and,
 - (d) the State Comptroller.

The audit is to be completed in time for publication within 90 days of the end of the fiscal year. The Financial Statement is to contain the following information:

- (a) the district's financial condition;
- (b) its year's earnings;
- (c) its rates; and,
- (d) the method of arriving at those rates.

Internal audits are to be performed in accordance with standards established by the Comptroller of the Treasury.

Financially Distressed Utility Districts

Financially distressed utility districts are subject to supervision by the Utility Management Review Board. A financially distressed utility district is one which:

- Has a net loss in three consecutive years; or,
- Has a deficit retained earnings; or
- Is in default on any indebtedness.

Notes

Natural gas utility districts and water utility districts in Polk, Loudon, Monroe, Roane and Rutherford counties are not subject to supervision by the Utility Management Review Board.

Rates

Rates, Fees, Tolls and Charges

A utility district's board of commissioners is to adopt and collect reasonable rates, fees, tolls, or charges for the utility's:

- Services;
- Facilities; and,
- Commodities.

Notes

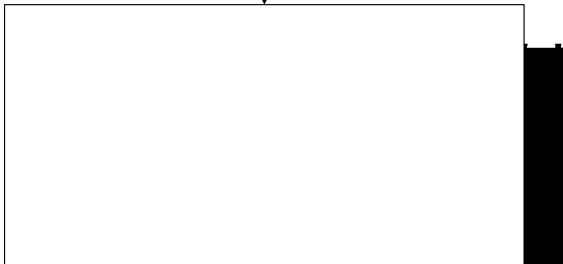
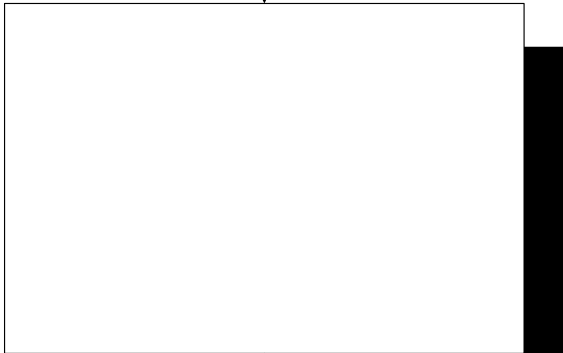
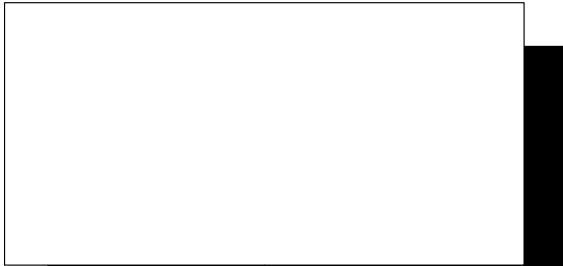
A utility district's board of commissioners is to revise its rates, fees, tolls and charges from time to time to make certain the utility is self-supporting. The utility's rates, fees, tolls and charges must be at least sufficient to:

- Provide for all operations and maintenance expenses;
- Provide for reserves; and,
- Pay all bonds and interest, including reserves.

These requirements do not apply to gas utility districts, or utility districts in Polk, Loudon, Monroe or Roane counties.

Protest of Rates, Fees, Tolls and Charges

Notes



Consumer files rates protest
within 30 days after Financial
Statement is published.

Within 15 days of end of this
period, board notifies
protestants of hearing date.

Hearing date can be no more
than 60 days after notifying
protestants

Utility Management Review Board

UMRB—Purpose and Composition

Notes

The Utility Management Review Board was created to advise utility district boards of commissioners in the area of utility management.

The UMRB has authority over all utility districts established pursuant to this chapter or by any public or private act.

For purposes of this part, "utility district" includes agencies, authorities or instrumentalities of government created by public or private act having the authority to administer a water or wastewater facility, other than those agencies, authorities or instrumentalities of government electing pursuant to §68-221-1006(a) or §68-221-1206(a) to come under the jurisdiction of the water and wastewater financing board.

UMRB—Purpose and Composition

Composition

Notes

The Utility Management Review Board is composed of nine members:

- the Commissioner of the Department of Environment and Conservation, or his designee;
- the Comptroller of the Treasury, or his designee;
- four experienced utility district managers; and,
- three experienced utility district commissioners.

Appointments

The governor is to consult the Tennessee Association of Utility Districts concerning qualified candidates for appointment to the board.

Terms

Members are appointed to four-year terms.

Officers

The board is to elect a chairman from among its members every two years, and any other officers it deems necessary.

UMRB—Relevant Powers

The Utility Management Review Board has the power and authority to:

Notes

Give technical assistance to utility districts on request.

Review utility district board decisions on request by customers or the or general public.

When a board of commissioners fails to:

- Adopt rules and regulations required by §7-82-402(b);
- Consider and resolve consumer complaints in accordance with the utility's rules and regulations; or,
- Establish an alternate mechanism for considering and resolving complaints.

the Utility Management Review Board can establish an alternate mechanism for considering and resolving complaints.

UMRB—Relevant Powers

Receive and render a decision based on these evidences of actions by a board of commissioners:

Notes

- Affadavit evidence;
- Minutes;
- Transcripts;
- Other evidence.

The UMRB can hold an open hearing if deemed necessary.

The UMRB can take all proper or convenient actions necessary to carry out its purposes.

The UMRB can:

- Compel attendance of witnesses;
- Compel production of evidence;
- Administer oaths;
- Take testimony.

UMRB—Relevant Powers

Conduct a hearing to determine whether a utility district commissioner should be removed from office and a new member elected.

Notes

Conduct a hearing to determine whether a utility district , using a method other than appointment by the county mayor, should be required to fill vacancies under the uniform method prescribed by §7-82-307(a)(4) and (5).

Promulgate rules deemed necessary requiring training for utility district commissioners.

UMRB—Financially Distressed Utility Districts

The Comptroller of the Treasury can file copies of audited financial statements of financially distressed utility districts with the Utility Management Review Board.

Notes

Financially distressed utility districts are those which:

- Fail to charge rates and fees sufficient to provide for all expenses of operation and maintenance of the system or systems, including reserves, and pay when due all bonds and interest, including reserves; or,
- Fail to pay outstanding debt; or,
- Has a negative in net assets for a period of three years; or,
- Has a deficit total net assets

The Utility Management Review Board will hold a public hearing in the district, and may set a rate structure to be adopted by the utility district which will cause the utility district to:

- Charge rates and fees sufficient to provide for all expenses of operation and maintenance of the system or systems, including reserves, and pay when due all bonds and interest, including reserves;
- Pay outstanding debt;
- Have a positive retained earnings.

UMRB—Financially Distressed Utility Districts

The Utility Management Review Board can compel the utility district, through the appropriate chancery court, to adopt the rate structure prescribed by the UMRB, or take other remedial actions the court deems necessary.

Notes

UMRB—Financially Distressed Utility Districts—Consolidation

The Utility Management Review Board can undertake a study to determine if consolidation with another utility district, municipal or county water system is the best means to restore financial stability to a financially distressed utility district.

Notes

If the Utility Management Review Board determines consolidation is in the best interest of the distressed utility district's customers, it can negotiate, under the supervision of chancery court to accomplish the consolidation.

UMRB—Financially Distressed Utility Districts

Notes

The Utility Management Review Board can mitigate any negative financial impact of consolidation on utility district by develop a plan of payments to be made from the Utility District Revitalization Fund.

These payments can include (in the amount which cannot be reasonably recovered from the distressed utility's customers or other assets):

- Increased administrative costs associated with the consolidation;
- Amounts necessary to cure default on indebtedness;
- Amounts necessary to renovate and repair facilities to the level necessary to serve customers; and,
- Other necessary payments.

UMRB—Financially Distressed Utility Districts

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Notes

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- Increased administrative costs associated with the consolidation;
- Amounts necessary to cure default on indebtedness;
- Amounts necessary to renovate and repair facilities to the level necessary to serve customers; and,
- Other necessary payments.

These payments can be waived if they are determined to be unduly burdensome and financially detrimental to the customers of the consolidated utilities.

These payments will be returned to the Utility District Revitalization Fund.

UMRB—Compliance Investigations

The Utility Management Review Board is authorized to investigate a public water systems of utility districts:

to determine the financial, technical and managerial capacity of the system to comply with state and federal acts; and, to require appropriate actions to correct deficiencies.

These actions include, but are not limited to changes in:

- Ownership;
- Management;
- Accounting;
- Rates;
- Maintenance;
- Consolidation;
- Alternative water supply; or
- other procedures.

Notes

UMRB—Compliance Investigations

The utility management review board also may approve or disapprove such corrections as a condition for any public water system of a utility district to receive financial assistance from the Tennessee Local Development Authority under §68-221-1206(a)(3).

Notes

Decision-Making

Decision Making Process

1. Define the problem.

The decision-making process begins by clearly identifying the problem

Barriers to defining the problem.

1. _____

2. _____

Solving the problem requires attacking the problem, not an alternate problem or symptom.

2. Information gathering ...

1. _____

2. _____

3. Assess Information ...

1. _____

2. _____

Notes

3. _____

4. Decision Making ...

1. _____

2. _____

5. Take Action ...

1. _____

2. _____

3. _____

4. _____

6. Review ...

Notes

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Goal Setting

Goal Setting Errors

Notes

1. Stating goals in the _____.
2. Lack of _____ in stating goals.
3. Failure to set _____ when dealing with multiple goals.
4. Failure to _____ down goals.
5. Setting operational goals to _____.
6. Setting _____ goals instead of performance goals.
7. Setting outcome goals based on rewards of achieving something.

Goal Setting

1. Set _____ goals.
2. Set _____ goals.
3. Don't set goals too _____.
4. Don't set goals too _____.
5. Take _____ into account.
6. _____ the goals you have set.
7. _____ your goals as needed.

Thinking Your Goals Through

Notes

Ask your self these questions to help focus on the sub-goals needed to achieve the main goal.

- What _____ are needed to achieve this goal?
- What _____ and _____ knowledge are needed?
- What _____, _____, or _____ is needed?
- What are the needed _____?
- What are the _____ that can block progress?
- What _____ am I making?
- Is there a _____ way of doing things?

