

**MINUTES OF THE
GOVERNMENT OPERATIONS INTERIM COMMITTEE**

Wednesday, October 19, 2005 – 9:00 a.m. – Room W130 House Building

Members Present:

Rep. Douglas G. Aagard, House Chair
Sen. Parley Hellewell, Senate Chair
Sen. Lyle W. Hillyard
Rep. Roger E. Barrus
Rep. DeMar "Bud" Bowman
Rep. Craig W. Buttars
Rep. Tim M. Cosgrove
Rep. Glenn A. Donnelson
Rep. Neal B. Hendrickson
Rep. Eric K. Hutchings
Rep. Mark W. Walker
Rep. Mark A. Wheatley

Members Absent:

Sen. Dan R. Eastman
Sen. Brent H. Goodfellow
Rep. Janice M. Fisher
Rep. John G. Mathis
Rep. Patrick L. Painter

Staff Present:

Mr. Benjamin N. Christensen, Policy Analyst
Mr. Eric N. Weeks, Associate General Counsel
Ms. Cassandra N. Bauman, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Hellewell called the meeting to order at 9:15 a.m. Rep. Fisher and Rep. Painter were excused from the meeting.

MOTION: Rep. Bowman moved to approve the minutes of the September 21, 2005 meeting. The motion passed unanimously with Rep. Barrus absent for the vote.

2. Electronic Meeting Provisions

Sen. Hillyard stated that the legislation was requested by joint leadership of the House and Senate to address the issues of using electronic meetings from a practical stand point.

Mr. Christensen reviewed the draft legislation "Electronic Meeting Amendments" as distributed prior to the meeting. He explained that the legislation requires a public body to adopt rules governing the use of electronic meetings prior to using them. The bill also provides options for public entities to consider when establishing electronic meetings.

Mr. Chuck Eddy, Director, Citizens Advocate Corporation, expressed concern that there is no provision in the legislation to require a recording of electronic meetings. He stated that the legislation should also make those recordings available to the public.

The Committee discussed including the requirement for recording meetings in "Electronic Meeting Amendments."

Mr. Daryl Hutt, Citizens Advocate Corporation, indicated that public meetings need to be recorded and expressed concern for the scarcity of debate detailed in the written minutes.

MOTION: Sen. Hillyard moved to adopt "Electronic Meeting Amendments" as a committee bill. The motion passed with Rep. Wheatley voting in opposition and Rep. Barrus absent for the vote.

3. Open and Public Meetings Act

Mr. Christensen explained "Revisions to Open and Public Meetings Law." He stated that the legislation requires both an audio recording and written minutes in all open meetings.

Rep. Donnelson indicated that the legislation will address the public perception that a public body can hide actions or discussion through not having any way to determine the accuracy of written minutes.

Mr. Karl Hendrickson, General Counsel, Utah Association of Counties, spoke in favor of the legislation as good practice. He expressed concern for the language deleted from lines 140–141, indicating that it should be reinstated.

Mr. Eddy expressed concern that written minutes may not accurately reflect what was said in a meeting and that a recording should be kept to reconcile the written minutes.

Mr. Lincoln Shurtz, Utah League of Cities and Towns, indicated that legislation should specify whether the written minutes or the recording should be maintained as the official record of what happened in the meeting.

The Committee discussed the use of written minutes as an official record in determining legal cases determined by lines 140–141 of the legislation.

Ms. M. Gay Taylor, General Counsel, Office of Legislative Research and General Counsel stated that the House and Senate Journals are the official records of the proceedings on the floor during session, while a recording of floor debates is maintained as a secondary source.

Rep. Wayne Harper explained draft legislation "Open Meetings Law Amendments" and indicated that it was amended from the previous version presented to the Committee in its September meeting in an attempt to address issues that were raised by the Committee. He suggested moving the language that specifies penalties for closed meeting violations from the "Revisions to Open and Public Meetings Law" to "Open Meetings Law Amendments." He distributed an amendment.

Mr. Christensen explained that the amendment to "Revisions to Open and Public Meetings Law" should delete lines 27, 39, and 147–152 and essentially move those into Rep. Harper's bill titled "Open Meetings Law Amendments."

Mr. Christensen explained "Open and Public Meetings Act Revisions," indicating that the legislation is to update, clarify, and recodify the Act.

Ms. Malinda Okerland, Romney Institute, questioned whether the legislation addresses tampering with a recording to make it incomprehensible. Mr. Weeks indicated that the legislation does not specifically

address that issue. Ms. Taylor indicated that intentionally tampering with a recording would be criminal and have a penalty elsewhere in statute.

MOTION: Rep. Hutchings moved to amend "Revisions to Open and Public Meetings Law" such that lines 140–141 read "but [~~only~~] written minutes shall be the primary evidence of the official action taken at [~~such~~] the meeting." The motion passed unanimously.

MOTION: Rep. Donnelson moved to amend by deleting lines 27, 39, and 147 to 152 and to adopt "Revisions to Open and Public Meetings Law" as amended, as a committee bill. The motion passed unanimously.

MOTION: Rep. Donnelson moved to amend "Open Meetings Law Amendments" as follows:

1. On line 20, delete "and" and insert
"► provides penalties for violating closed meeting provisions; and"
2. On line 33, after line 33 insert "Enacts 52-4-12, Utah Code Annotated 1953"
3. On line 191, after line 191 insert
"Section 8. Section 52-4-12 is enacted to read:
52-4-12. Penalties for closed meeting violations.
In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor."

The motion passed unanimously with Rep. Buttars absent for the vote.

MOTION: Rep. Donnelson moved to adopt "Open Meetings Law Amendments," as amended, as a committee bill. The motion passed unanimously with Rep. Buttars absent for the vote.

MOTION: Rep. Aagard moved to adopt "Open and Public Meetings Act Revisions" as a committee bill. The motion passed unanimously with Rep. Buttars absent for the vote.

4. Election Code Changes

Mr. Weeks indicated that some of the legislation proposing changes to the election code have been discussed in previous meetings. He explained the changes made to "Common Polling Places Amendments" as discussed in the September meeting. He distributed an amendment to the legislation.

Mr. Scott Hogenson, Chair, Clerk's Legislative Policy Committee, explained the purpose of the amendment.

MOTION: Rep. Aagard moved to amend "Common Polling Places Amendments" as follows:

1. On line 9, after line 9 insert
"► increases from 1,000 to 2,000 the maximum number of active voters allowed for a voting precinct;"
2. On line 38, delete "1,000" and insert "2,000"

3. On line 40, delete "1,000" and insert "2,000"

The motion passed unanimously with Rep. Buttars absent for the vote.

MOTION: Rep. Aagard moved to adopt "Common Polling Places Amendments" as a committee bill. The motion passed unanimously with Rep. Buttars and Rep. Hutchings absent for the vote.

Mr. Weeks explained "Early Voting" as distributed prior to the meeting. He distributed and explained an amendment to "Early Voting."

MOTION: Rep. Aagard moved to amend "Early Voting" as follows:

1. On line 17, after "satellite registration" insert
", in-person registration at the office of the county clerk,"
2. On line 18, after line 18 insert
"► provides that voters who register using satellite registration or who register at the office of the county clerk less than 30 days before a pending election are entitled to vote on election day but not by using early voting;"
3. On line 399, delete "Section 20A-2-203 and" and insert "Sections 20A-2-201 and 20A-2-203 and in"
4. On line 535, delete "the voter registration deadline" and insert "the last day of satellite registration as provided in Section 20A-2-203"
5. On line 534, delete "If" and insert "Except as provided in Subsection (3), if"
6. On line 541, after line 541 insert
"(3) If a registration form is submitted in person at the office of the county clerk during the period beginning on the date after the voter registration deadline and ending on the last day of satellite registration as provided in Section 20A-2-203, the county clerk shall:
(a) accept registration forms from all persons who present themselves for registration at the clerk's office during designated office hours if those persons, on voting day, will be legally qualified and entitled to vote in a voting precinct in the county; and
(b) inform them that:
(i) they will be registered to vote in the pending election; and
(ii) for the pending election, they must vote on election day and will not be eligible to vote using early voting under Chapter 3, Part 6, Early Voting because they registered too late."
7. On line 607, delete "shall be eligible to vote" and insert ";
(a) shall be eligible to vote in the pending election on election day; and
(b) shall not be eligible to vote in the pending election"

The motion passed unanimously with Rep. Buttars absent for the vote.

MOTION: Rep. Aagard moved to adopt "Early Voting," as amended, as a committee bill. The motion passed unanimously with Rep. Buttars absent for the vote.

Mr. Weeks explained "Provisional Ballot Amendments" as distributed prior to the meeting. He explained that the legislation was drafted to comply with the "Help America Vote Act."

MOTION: Rep. Donnelson moved to adopt "Provisional Ballot Amendments" as a committee bill. The motion passed with Rep. Buttars absent for the vote.

Mr. Weeks explained that "Election Code Revisions" as distributed prior to the meeting is intended to cleanup and clarify language in the code.

MOTION: Rep. Aagard moved to adopt "Election Code Revisions" as a committee bill. The motion passed unanimously with Rep. Buttars absent for the vote.

5. Other Items / Adjourn

MOTION: Rep. Donnelson moved to adjourn the meeting. The motion passed unanimously.

Chair Hellewell adjourned the meeting at 11:02 a.m.