

(The Commission met on December 1, 2010, but did not approve the minutes due to lack of a quorum.)

**MINUTES OF THE
STATE WATER DEVELOPMENT COMMISSION**

Monday, December 14, 2009 – 4:00 p.m. – Room 445 State Capitol

Members Present:

Rep. Patrick L. Painter, House Chair
Sen. Dennis E. Stowell, Senate Chair
Sen. Gene Davis
Sen. David P. Hinkins
Sen. Scott K. Jenkins
Rep. Susan Duckworth
Rep. Ben C. Ferry
Rep. Kerry W. Gibson
Rep. James R. Gowans
Rep. Michael E. Noel
Commissioner Leonard Blackham
Christine Finlinson (Representing
 Don Christiansen)
Mr. Tage Flint
Mr. Chris Fullmer
Mr. Dallin Jensen

Mr. Darrell Mensel
Mr. Mike Mower
Mr. Warren Peterson
Mr. Michael Styler

Members Absent:

Mr. Larry Anhder
Mr. Brad Hancock
Ms. Amanda Smith
Mr. Ron Thompson
Mr. David Ure

Staff Present:

Brian Allred, Policy Analyst
Christopher R. Parker, Associate General Counsel
Joy L. Miller, Legislative Secretary

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

1. Commission Business

Chair Stowell called the meeting to order at 4:10 p.m. Mr. Hancock was excused from the meeting.

MOTION: Rep. Gibson moved to approve the minutes of the September 24, 2009 meeting. The motion passed unanimously. Sen. Davis, Rep. Ferry, and Mr. Styler were absent for the vote.

2. Discussion of Potential Canal Safety Legislation

Rep. Fred Hunsaker discussed 2010 General Session draft legislation, "Water Conveyance Facilities Safety Act" (version 7), which was distributed to the Commission. He explained that the bill provides for the creation of a management plan for certain water conveyance facilities and allows the Division of Water Resources to make rules concerning management plans for these facilities. Rep. Hunsaker responded to questions from the Commission.

MOTION: Rep. Gibson moved to pass the legislation as a commission bill with a favorable recommendation and with the following amendments:

On page 13, line 339 - after "industrial" insert "use,"

On page 13, line 382 - after "each" delete "the"

The motion passed unanimously. Rep. Noel was absent for the vote.

3. Draft Legislation, "Property Tax Exemption for Water Facilities"

4. Joint Legislation, "Joint Resolution on Property Tax Exemption for Water Facilities"

Rep. Painter discussed 2010 General Session draft legislation, "Property Tax Exemption for Water

Facilities" and 2010 General Session draft legislation, "Joint Resolution on Property Tax Exemption for Water Facilities," which were included in the supplemental mailing packet. He noted that the pieces of legislation propose to change both the statute and the constitution to modify provisions relating to certain property tax exemptions associated with water.

MOTION: Rep. Gibson moved to pass both pieces of legislation with a favorable recommendation. The motion passed unanimously. Sen. Davis and Commissioner Blackham were absent for the vote.

Sen. Stowell turned the chair over to Rep. Painter.

5. Draft Legislation, "Land Exchange Distribution Account Amendments"

Sen. Stowell discussed 2010 General Session draft legislation, "Land Exchange Distribution Account Amendments," which was included in the supplemental mailing packet. He explained that the bill modifies the distribution of monies from the account. He noted that the bill received a favorable recommendation from the Natural Resources, Agriculture, and Environment Interim Committee.

MOTION: Rep. Ferry moved to adopt the legislation with a favorable recommendation. The motion passed unanimously. Sen. Davis and Commissioner Blackham were absent for the vote.

6. Draft Legislation, "Local District Amendments"

Sen. Stowell addressed 2010 General Session draft legislation, "Local District Amendments," which was included in the supplemental mailing packet. He explained that the bill would allow the creation of a local district to develop and execute a groundwater management plan in cooperation with the state engineer. The bill also received a favorable recommendation from the Natural Resources, Agriculture, and Environment Interim Committee.

MOTION: Mr. Jensen moved to adopt the legislation as a commission bill. The motion passed unanimously. Sen. Davis and Commissioner Blackham were absent for the vote.

Rep. Painter turned the chair over to Sen. Stowell.

7. Draft Legislation, "Water Banking"

Rep. Draxler discussed 2010 General Session draft legislation, "Water Banking" (version 5), which was distributed to the Commission. He explained that the bill provides for the creation of a water management authority, which may manage certain water rights in an area governed by a groundwater management plan.

Mr. Bob Fotheringham, Cache County, explained that the water would not be physically stored, but the owner's right would be maintained.

Rep. Draxler and Mr. Fotheringham responded to questions and concerns from the Commission regarding the effect water banking would have on water quality, whether a state policy outlining the criteria would be established, and the possible mixing of surface rights with groundwater rights.

Mr. Kent Jones, State Engineer, expressed support for the concept of water banking.

MOTION: Mr. Peterson moved to endorse the concept of water banking consistent with state appropriation doctrine, including the doctrine of beneficial use; basinwide planning principles; and the "Local Districts Amendments" legislation which the Commission previously recommended, but not as a recommendation of the "Water Banking" legislation. The Commission voted on the motion which passed unanimously. Sen. Davis, Rep. Gibson, and Commissioner Blackham were absent for the vote.

Rep. Draxler agreed to continue to work on the concept now that water banking is endorsed.

8. Draft Legislation, "Rainwater Harvesting"

Sen. Jenkins discussed 2010 General Session draft legislation, "Rainwater Harvesting," which was included in the supplemental mailing packet. He explained that the bill provides for the collection and use of precipitation without obtaining a water right under certain conditions. Sen. Jenkins responded to questions from the Commission.

Mr. Jones explained that waters in the state belong to the state. He noted that state law would require individuals wanting to harvest rainwater to go through an application process to obtain that right. Mr. Jones said he favored a resolution for people to be able to use rainwater. He suggested that an online application could be established.

MOTION: Rep. Painter moved to pass the bill with a favorable recommendation. The motion passed with Rep. Ferry voting in opposition. Sen. Davis, Rep. Gibson, and Commissioner Blackham were absent for the vote.

9. Department of Natural Resources Water Rights Study

Due to lack of time, this item was not discussed.

10. Other Business / Adjourn

MOTION: Rep. Painter moved to adjourn. The motion passed unanimously.

Chair Stowell adjourned the meeting at 6:40 p.m.