

(Draft - Awaiting Formal Approval)
**MINUTES OF THE
GOVERNMENT OPERATIONS and POLITICAL SUBDIVISIONS
INTERIM COMMITTEE**

Wednesday, October 20, 2010 – 2:00 p.m. – Room 30 House Building

Members

Sen. Peter C. Knudson, Senate Chair
Rep. Craig A. Frank, House Cochair
Rep. Fred Hunsaker, House Cochair
Sen. Jon J. Greiner
Sen. Benjamin M. McAdams
Sen. Ralph Okerlund
Sen. Jerry W. Stevenson
Rep. Douglas C. Aagard
Rep. Sheryl L. Allen
Rep. Ron Bigelow
Rep. Jim Bird
Rep. Rebecca Chavez-Houck
Rep. Ben C. Ferry
Rep. Janice M. Fisher
Rep. Neal B. Hendrickson

Rep. Jennifer M. Seelig
Rep. Curt R. Webb
Rep. Larry B. Wiley

Members Absent:

Rep. Kerry W. Gibson
Rep. Keith Grover
Rep. John G. Mathis

Staff Present:

Mr. Benjamin N. Christensen, Policy Analyst
Mr. Joseph Wade, Policy Analyst
Ms. Emily R. Brown, Associate General Counsel
Ms. Victoria S. Ashby, Associate General Counsel
Ms. Wendy Bangerter, 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. Committee Business

Chair Hunsaker called the meeting to order at 2:20 p.m.

MOTION: Sen. Knudson moved to approve the minutes of the September 15, 2010 meeting. The motion passed unanimously. Rep. Aagard, Rep. Ferry, and Rep. Seelig were absent for the vote.

2. Fee-Based Services by the Department of Administrative Services - Update

Ms. Kimberly K. Hood, Executive Director, Department of Administrative Services (DAS), thanked the Legislature for its support in passing 2010 General Session, H.B. 402, "Department of Administrative Services Modifications." She stated that DAS continues to look for opportunities to expand the internal service fund model. She distributed "Department of Administrative Services, Services Elevated."

Mr. Kent Dee Beers, Director, Division of Purchasing and General Services, DAS, reported that cities, counties, state agencies, school districts, higher education, and local governments all purchase through cooperative contracts managed by the Division of Purchasing, giving them all better pricing and quality goods. He noted that state purchasing is doing all the work for all those entities free of charge. As the size of the cooperative has grown, it has become more difficult to manage, especially with declining staff. He demonstrated the rise in costs to those entities if the state purchasing cooperative were dissolved or if agencies had to hire someone to do the work currently handled by the Division of Purchasing. The Division recommended that a small administrative fee be applied to all state contracts to cover the costs of managing the cooperative contracting. He distributed "Utah's Public Purchasing Cooperative and Administrative Fees."

Mr. Gregg Buxton, Director, Division of Facilities Construction and Management, DAS, gave a slide presentation showing state funded and non-state funded projects. He noted that most contracts come through non-state-funded projects. The Division proposes that it begin in July to charge a fee for non-state funded projects to cover managerial costs. He reported that rates presented to the rate committee to this effect were approved unanimously.

Mr. John C. Reidhead, Director, Division of Finance, DAS, stated that the Division of Finance would like to have the option to pay vendors with credit cards. He noted that using a credit card could generate rebates to help support operations for the Division of Finance.

3. Utah Procurement Code Revisions - Update

Mr. Beers reported to the Committee on the progress being made to update Utah's Procurement Code (Code). He distributed and reviewed a document comparing the current Code, based on a 1979 model, with the 2000 American Bar Association model, codes from other states, and edits from the Office of the Attorney General. He stated their plan to complete work by March or April for review. He commented on out-of-date policies and policy questions that have need to be changed or updated in the Code.

Mr. Alan S. Bachman, Assistant Attorney General, Office of the Attorney General, answered questions from the Committee. He stated that fiscal conservatism is driving efforts to update the Code.

4. Sale of State Property Approval Process

Mr. Buxton distributed Administrative Rule, Section R23-22-7 and noted that beginning October 22, 2010, the Legislative Management Committee (LMC) will be removed as the approval authority for the sale of real property with an estimated value of \$500,000 or more or that is of historical significance. The Division of Facilities Construction and Management (DFCM) is seeking guidance as to who should approve real property sales of that nature. DFCM proposes that it continue to report to the State Building Board for small transactions and to the LMC and, possibly the full Legislature, for higher valued properties.

Ms. Brown described the State Settlement Agreement Act and stated that the governor's office reviews the proposed settlement and then the LMC reviews and makes recommendations for larger settlements. If the transaction is over \$1 million, the governor's office reviews it and LMC reviews it and makes recommendations to the full Legislature for its approval. She noted that another option might be to send it to an appropriate appropriations committee.

Mr. Bachman proposed that the State Building Board approve sales valued at less than \$500,000. If the property is valued higher than \$500,000 or if the property is of historical significance, the LMC should review the sale and involve the full Legislature as deemed prudent.

MOTION: Rep. Ferry moved that the chairs work with staff to draft a bill that would provide an approval process for the sale of state property similar to the process in the State Settlement Agreement Act. The motion passed unanimously. Sen. Okerlund, Sen. Stevenson, Rep. Bigelow, and Rep. Wiley were absent for the vote.

5. Bonding Requirements for State Officials

Rep. Ryan D. Wilcox distributed "Bonding for State Officers and Employees" and explained that certain state officials are required to be covered by a surety bond of a set amount, usually in the \$5,000 to \$30,000 range. The state covers officials and other state employees, who are not required to be bonded, by a State Risk Management Policy of \$10 million in case the employee's actions or inactions result in a claim. This coverage is not available for officials who are required by statute to have a separate bond. As a result, these "bonded" officials are covered by far lesser amounts than a state employee.

Ms. Tani Pack Downing, Director, Division of Risk Management, DAS, explained if a bonding requirement is in statute and a person is bonded, insurance coverage will not be available to them. She explained the need to review the Utah Code and determine which state officials and school district treasurers need to have the bonding requirement removed and that the removal should be kept to those entities that would normally be covered by risk management.

MOTION: Sen. Knudson moved to direct staff to draft a new bill to address bonding requirements for state, school district, and charter school officers and employees who need to have a bonding requirement removed. The motion passed unanimously. Sen. Okerlund, Sen. Stevenson, Rep. Bigelow, Rep. Webb, and Rep. Wiley were absent for the vote.

6. Per Diem and Travel Expenses for Government Boards (Draft Legislation)

Mr. Christensen explained 2011 General Session draft legislation, "Per Diem and Travel Modifications" (2011FL-0080/006), previously distributed to the Committee, which standardizes language describing per diem and travel expenses for members of certain boards and clarifies primary per diem and travel expense language. The draft bill is a follow-up to committee work from the 2008 and 2009 interims on the project throughout the Utah Code.

Mr. Reidhead stated that the bill still requires a certification of available funds by the Division of Finance. He proposed that the executive director of a branch, department, or agency or the executive director's designee have the authority to approve out-of-state travel without involving the Division of Finance for certifying available funds. He explained that because the budget is already set, the executive directors know how much of their funds they can approve for travel and per diem.

MOTION: Rep. Frank moved to amend 2011 General Session draft legislation, "Per Diem and Travel Modifications" (2011FL-0080/006), as follows:

On line 317, delete "₂"

On line 318, delete "(A)"

On line 321, bracket and delete "; and" and insert "₂"

Delete line 323

The motion passed unanimously. Sen. Stevenson, Rep. Allen, Rep. Webb, and Rep. Wiley were absent for the vote.

MOTION: Rep. Frank moved to adopt 2011 General Session draft legislation, " Per Diem and Travel Modifications," (2011FL-0080/006) as a committee bill. The motion passed unanimously. Sen. Stevenson, Rep. Allen, Rep. Webb, and Rep. Wiley were absent for the vote.

7. Local Election Amendments (Draft Legislation)

Ms. Ashby explained 2011 General Session draft legislation, "Local Election Amendments" (2011FL-0081/001) previously distributed to the Committee. The bill allows a municipality or local district to cancel an election if there are no propositions on the ballot and the candidates are unopposed after the write-in period has expired. It also clarifies some definitions and provides for notice of cancellation of the election.

Mr. Mark J. Thomas, Elections Director, Office of the Lieutenant Governor, explained that since elections are expensive for municipalities and local districts, it could benefit the local entity if, on a rare occasion under the terms provided in the bill, it had the option to cancel an election.

MOTION: Sen. Okerlund moved to adopt 2011 General Session draft legislation, "Local Election Amendments" (2011FL-0081/001), as a committee bill with the understanding that Ms. Ashby will research any legal problems that might exist with the Right to Vote Act.

SUBSTITUTE MOTION: Rep. Bigelow moved to adopt 2011 General Session draft legislation, "Local Election Amendments" (2011FL-0081/001) as a committee bill, but to place it on the November agenda to allow continued discussion if desired by the Committee. The motion passed unanimously. Sen. Stevenson, Rep. Allen, Rep. Webb, and Rep. Wiley were absent for the vote.

8. Other Items / Adjourn

MOTION: Sen. Knudson moved to adjourn the meeting. The motion passed unanimously. Sen. Stevenson, Rep. Allen, Rep. Webb, and Rep. Wiley were absent for the vote.

Chair Hunsaker adjourned the meeting at 4:28 p.m.