

**MINUTES OF THE
LEGISLATIVE MANAGEMENT COMMITTEE**
Wednesday, June 20, 2012 – 5:00 p.m. – Room 445 State Capitol

Members Present:

Speaker Rebecca D. Lockhart, Chair
President Michael G. Waddoups, Vice Chair
Sen. Scott K. Jenkins
Sen. Patricia W. Jones
Sen. Benjamin M. McAdams
Sen. Karen W. Morgan
Sen. Wayne L. Niederhauser
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Rep. Brian S. King
Rep. David Litvack
Rep. Ronda Rudd Menlove
Rep. Christine F. Watkins

Members Absent:

Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Jennifer M. Seelig

Staff Present:

Mr. Michael E. Christensen, Director
Mr. John L. Fellows, General Counsel
Ms. Phalin L. Flowers, Administrative Assistant

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 Lockhart called the meeting to order at 5:53 p.m. Sen. Knudson, Sen. Romero, and Rep. Seelig were excused from the meeting.

2. Discussion Regarding Filing an Amicus Brief on Behalf of the Utah State Legislature

Pres. Waddoups introduced the issue and asked Mr. Fellows to give some background information on it.

Mr. Fellows explained that Utahns for Ethical Government (UEG) filed a petition in August of 2009 to include an initiative on the 2010 ballot, but the statute on elections was ambiguous on the issue of deadlines because it said signatures were due April 15 of the year before the election, while also stating that parties had one year to gather signatures. He said the Legislature's position was that April 15 was the hard deadline for an initiative to qualify for the ballot in 2010. UEG disagreed and felt that they had a year to gather the signatures for the 2010 ballot. There was also a question about whether electronic signatures could be counted toward the required number of signatures, and both issues ended up in litigation. Mr. Fellows said that the Third District Court recently ruled that electronic signatures could not be counted as signatures to add an initiative to a ballot; however, the judge ruled that UEG did have one year to collect signatures for their initiative, rather than the hard deadline of April 15. Mr. Fellows said the statute seemed to require that if there were not enough signatures by the deadline, an entirely new petition would have to be filed for the next election and the gathering and collecting of signatures would have to start over. He said the ruling will likely be appealed by both parties to the Supreme Court. Mr. Fellows explained that the purpose of this meeting was to discuss whether to authorize the Office of Legislative Research and General Counsel (OLRGC) to file an amicus brief on behalf of the Legislature to argue the intent of the Legislature before the Supreme Court.

Pres. Waddoups said that in his meetings with the Lt. Governor, the Lt. Governor pointed out that he needs time to print and distribute ballots, but that if the ruling stands, groups will be able to file their petition on November 10 of the year before an election and have the following year to gather signatures. He said the Lt. Governor would never have time to print and distribute ballots in those circumstances. Pres. Waddoups also said that more important is the original intent of the Legislature, which he believes is that groups would submit petitions and gather signatures in a timely manner for the business of the state to run smoothly.

MOTION: Pres. Waddoups moved to authorize OLRGC to file an amicus brief on behalf of the Legislature on this issue.

Sen. McAdams asked about recent court action on the inspection of petitions and whether that action would affect any action on this issue. Mr. Fellows explained that the recent action on the inspection of petitions was separate litigation and would have no affect on the outcome of this issue.

Sen. Jones asked what the process of filing an amicus brief would entail. Mr. Fellows explained that, if the court allowed OLRGC to submit an amicus brief and make arguments before the court, it would give the Legislature the opportunity to explain its intent in more detail.

Sen. Morgan asked what the outcome would be without filing an amicus brief. Mr. Fellows said that the policies of the Legislative Management Committee allow OLRGC to defend the Legislature against any litigation, but that the Legislative Management Committee can also authorize OLRGC to take part in other legal action if the Legislature has an interest in the action.

Sen. McAdams voiced concern over OLRGC arguing the intent of the Legislature. He said the Legislature that enacted the statute in 2009 is not the same Legislature as today, and that the current Legislature might not know what the 2009 Legislature intended.

Rep. King noted that he believes that it is appropriate for the Legislature to take part in legal action when it concerns the day-to-day issues of the Legislature, such as litigation about single subject rules. He voiced his concern about taking part in litigation that does not affect the day-to-day process of the Legislature and said he believes this issue falls in the latter category.

The motion passed with Sen. McAdams, Sen. Morgan, and Rep. King voting in opposition.

3. Other Items / Adjourn

MOTION: Pres. Waddoups moved to adjourn the meeting. The motion passed unanimously.

Chair Lockhart adjourned the meeting at 6:15 p.m.