

**MINUTES OF THE
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**
Wednesday, October 17, 2012 – 2:00 p.m. – Room 450 State Capitol

Members Present:

Sen. Casey O. Anderson, Senate Chair
Rep. R. Curt Webb, House Chair
Sen. Scott K. Jenkins
Sen. Karen Mayne
Rep. Stewart Barlow
Rep. Jack R. Draxler
Rep. Rebecca P. Edwards
Rep. Brian S. King
Rep. Jeremy A. Peterson
Rep. Keven J. Stratton
Rep. Mark A. Wheatley

Members Absent:

Rep. David G. Butterfield

Staff Present:

Mr. Joseph Wade, Policy Analyst
Ms. Victoria Ashby, Associate General Counsel
Ms. Samantha Coombs, 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 Anderson called the meeting to order at 2:22 p.m.

MOTION: Rep. Webb moved to approve the minutes of the September 19, 2012, meeting. The motion passed unanimously. Sen. Jenkins, Rep. Edwards, and Rep. King were absent for the vote.

Ms. Patricia Smith-Mansfield, State Archivist, Division of Archives and Records Service, reviewed the report “Records Ombudsman.” Ms. Smith-Mansfield explained that the position of the records ombudsman was created to provide assistance to the public and those in government trying to access government records. She reported that having a records ombudsman has proven to be successful and that from April 10, 2012, until August 31, 2012, the ombudsman provided 490 total consultations.

Ms. Rosemary Cundiff, Records Ombudsman, Division of Archives and Records Service, explained that the creation of the role of the records ombudsman revealed that there was an overwhelming need to assist the public and government employees in accessing government records. Ms. Cundiff confirmed that the archives division provides an understanding of and familiarity with the records to the records ombudsman, and as a result helps provide better support and access for those trying to access these records.

2. County Recorder Authority to Reject a Wrongful Document

Rep. Webb presented draft legislation “Wrongful Documents” (2013FL-0147/018) and explained that the draft had evolved from its original intent to address wrongful filings. Rep. Webb explained that the legislation modifies provisions relating to documents submitted for recording which are claimed to establish invalid liens. He also said that the legislation applies to documents submitted for recording liens, which improperly purport to release or extinguish a lawful lien, interest, or reflect or establish a

claim or obligation against a person. Finally, it provides for joint and several liability for those who prepare, sign, or submit a wrongful document.

Chair Anderson inquired about training or certification available for recorders so they can feel confident about their expertise to reject a wrongful document.

Ms. Debbie Ames, Rich County Recorder, Legislative Cochair, Utah Association of County Recorders, explained that under the current statute it is very rare that a recorder will reject a document. Ms. Ames explained that the bill will improve and expedite the process through the courts to have a document recorded if it has been rejected, or to nullify and void a wrongful document that was recorded. She responded that recorders receive in-house training on an ongoing basis to increase awareness and expertise for examining documents.

MOTION: Rep. Webb moved to adopt draft legislation “Wrongful Documents” as a committee bill. The motion passed unanimously. Rep. King was absent for the vote.

3. Government Competition with Private Enterprise

Mr. Royce Van Tassell, Vice President, Utah Taxpayers Association, distributed a diagram to the committee illustrating goods and services grouped under certain conditions to help determine what should be provided by the public or private sector. He explained the principle of exclusion in determining if a good or service is something the private sector can provide. Mr. Van Tassell gave a report about privatization of services that government already provides. He also discussed criteria that could be used to evaluate whether government or the private sector should provide certain services.

The committee discussed the role of the Privatization Policy Board and the challenges confronting the board due to a lack of funding and authority. The committee also explored options for the Legislature regarding government competition with private enterprise.

Sen. Mayne agreed that goods and services should be examined on a case-by-case basis to determine what could be privatized, but cautioned that while privatization may increase efficiency and profit, it often happens at the expense of the public good and labor.

Sen. Jenkins explained that it becomes difficult for the private sector to compete with government when government provides itself with advantages not available to the private sector. He indicated that part of the problem is a constitutional issue, because the government is exempt from property and sales tax for equipment and facilities it owns.

Mr. Robin Riggs, Utah Privatization Policy Board, confirmed that the board does not have the staff, expertise, or funding to complete the comprehensive analysis necessary to determine where inefficiencies are located in government.

Rep. King inquired about what could be done to ensure a level playing field for small business to compete against entrenched players who would use government as a way to protect or provide themselves with advantages.

Minutes of the Political Subdivisions Interim Committee
October 17, 2012
Page 3

Chair Anderson suggested that the committee discuss essential versus nonessential services during future meetings.

4. Other Items / Adjourn

MOTION: Rep. Stratton moved to adjourn the meeting. The motion passed unanimously. Sen. Jenkins was absent for the vote.

Chair Anderson adjourned the meeting at 4:11 p.m.