

**MINUTES OF THE  
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**

Wednesday, September 18, 2013 – 9:00 a.m. – Room 25 House Building

**Members Present:**

Sen. Daniel W. Thatcher, Senate Chair

Rep. R. Curt Webb, House Chair

Sen. Wayne A. Harper

Sen. Karen Mayne

Sen. Aaron Osmond

Rep. Jerry B. Anderson

Rep. Spencer J. Cox

Rep. Richard A. Greenwood

Rep. Craig Hall

Rep. Kay L. McIff

Rep. Jeremy A. Peterson

Rep. Jennifer M. Seelig

Rep. Earl D. Tanner

**Members Absent:**

President Wayne L. Niederhauser

Rep. Joel K. Briscoe

Rep. Melvin R. Brown

**Staff Present:**

Mr. Joseph T. Wade, Policy Analyst

Ms. Victoria Ashby, Associate General Counsel

Ms. Sara J. Thomas, 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](http://www.le.utah.gov).

**1. Committee Business**

Chair Thatcher called the meeting to order at 9:07 a.m.

**MOTION:** Sen. Osmond moved to approve the minutes of the July 17, 2013, meeting. The motion passed unanimously. Rep. Anderson, Rep. Seelig, and Rep. Tanner were absent for the vote.

**2. Nonconsensual Common Law Liens**

Rep. Webb introduced draft legislation "Wrongful Lien Amendments" (2014FL-0241/007). He outlined his concerns with sovereign citizen liens filed against public officials, citing a few examples of unreasonable liens filed in the state. He explained that the proposed legislation is similar to a Nebraska law that, among other things, requires the individual filing the lien to validate their claim in court within 14 days. He stated that Utah already has a Wrongful Liens Act and noted that this legislation would create a separate section of the law that deals specifically with these types of liens.

Rep. McIff stated his support for the approach the proposed legislation takes, noting the difficulty found in searching for a remedy against such liens being filed with no foundation.

Rep. Lee Perry spoke in support of the proposed legislation. He voiced concern from the Department of Corrections pertaining to the issue and noted that this approach would prevent the need to enhance criminal penalties.

Mr. Richard Maughan, Cochair, Legislative Committee, Utah Association of County Recorders, and Davis County Recorder, spoke in support of the proposed legislation. He advised the committee that the best protection against fraudulent liens is to place the timely burden of proof on the filer of the lien.

### **3. Eminent Domain – Negotiation Procedures**

Ms. Ashby reviewed current statute regarding notification requirements for political subdivisions as well as other entities seeking to file a condemnation action. She noted that a political subdivision must provide notification no later than 14 days prior to a vote to condemn, whereas other entities that might not require a vote must provide notification 30 days before filing a condemnation action. Ms. Ashby then responded to questions from the committee.

Rep. Lee Perry introduced Mr. Brent Bateman, Utah Office of the Property Rights Ombudsman, to report on the progress of the working group of eminent domain stakeholders.

Mr. Bateman presented the committee with changes suggested by the working group to Utah Code, Section 78B-6-505. The recommended changes concerned notification requirements for condemners prior to filing a condemnation action. He responded to questions from the committee regarding exigent circumstances as well as the different notification requirements for government and nongovernment entities.

### **4. Assessment Area Act – Current Usage**

Mr. Wade provided an overview of assessment areas. He reviewed current statute as well as requests sent to the Utah League of Cities and Towns and the Utah Association of Special Districts. He explained that each organization was asked to administer a questionnaire to their respective members and report their findings to the committee.

Mr. Lincoln Shurtz, Director, Legislative Affairs, Utah League of Cities and Towns, distributed and presented the results of the questionnaire. He stated that an assessment area is not a new taxing entity, but rather a financing tool for property owners within an assessment area.

Mr. LeGrand Bitter, Executive Director, Utah Association of Special Districts, distributed and presented the results of the questionnaire. He noted that an assessment area can be an effective tool to local districts, however it is not used frequently.

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Committee discussion with Mr. Shurtz and Mr. Bitter followed regarding the usefulness of assessment areas and the significance of the data collected by the questionnaire.

Mr. Royce Van Tassell, Vice President, Utah Taxpayers Association, noted his uneasiness with certain political subdivision-wide assessments resembling a property tax without the same truth in taxation requirements. He responded to questions from the committee.

Chair Thatcher expressed concern that not enough municipalities responded to the questionnaire. Mr. Shurtz stated that the Utah League of Cities and Towns could solicit individual responses from specific municipalities at the committee's request.

Mr. Shurtz acknowledged Mr. Van Tassell's concern regarding political subdivision-wide assessment areas. He stated that the purpose behind what the assessment is being used for as well as the way in which it is being assessed should be considered.

## **5. Local Government General Fund Amendments**

Ms. Ashby introduced draft legislation "Local Government General Fund Amendments" (2014FL-0192/003). She explained that the proposed legislation clarifies that the use of the term 'general fund' in the county code and the municipal code does not refer to the state general fund, but rather to general funds set up and used by local governments. She went on to review highlighted provisions of the proposed legislation and responded to questions from the committee.

**MOTION:** Sen. Osmond moved to adopt draft legislation "Local Government General Fund Amendments" (2014FL-0192/003) as a committee bill. The motion passed unanimously. Rep. Webb, Sen. Harper, Sen. Mayne, and Rep. McIff were absent for the vote.

## **6. Other Items / Future Meeting Planning / Adjourn**

**MOTION:** Rep. Peterson moved to adjourn the meeting. The motion passed unanimously. Rep. Webb, Sen. Harper, Sen. Mayne, and Rep. McIff were absent for the vote.

Chair Thatcher adjourned the meeting at 10:30 a.m.