

**MINUTES OF THE
GOVERNMENT OPERATIONS INTERIM COMMITTEE**
Wednesday, July 16, 2014 – 2:46 p.m. – Room 20 House Building

Members Present:

Sen. Margaret Dayton, Senate Chair
Rep. Jack R. Draxler, House Chair
Sen. Jim Dabakis
Sen. Scott K. Jenkins
Sen. Kevin T. Van Tassell
Rep. Janice M. Fisher
Rep. Keith Grover
Rep. Ken Ivory
Rep. Brian S. King
Rep. John G. Mathis
Rep. Michael E. Noel
Rep. Lee B. Perry

Rep. Kraig Powell
Rep. Douglas V. Sagers

Members Absent:

Sen. Lyle W. Hillyard

Staff Present:

Mr. Brian J. Bean, Policy Analyst
Mr. Thomas R. Vaughn, Associate General
Counsel
Ms. Anna M. Allen, 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 Dayton called the meeting to order at 2:46 p.m.

MOTION: Rep. Draxler moved to approve the minutes of the June 18, 2014, meeting. The motion passed unanimously with Sen. Van Tassell, Rep. Grover, and Rep. Powell absent for the vote.

2. Legislative Audit Review

Ms. Leah Blevins, Office of the Legislative Auditor General, distributed "A Review of Allegations Concerning the Math Textbook Procurement" and gave a presentation of the same title. Ms. Blevins described the procurement process by which the Utah State Office of Education sought a content developer to write a new math textbook in 2012. She stated that the University of Utah and Brigham Young University submitted bids to write the textbook, and the University of Utah was awarded the contract. Ms. Blevins then described the various allegations that the Office of the Legislative Auditor General investigated regarding the procurement process. She concluded by summarizing the findings of the audit. Ms. Blevins responded to questions from the committee.

Dr. David Wright, Professor of Mathematics, Brigham Young University, discussed, on his own behalf, his concerns with the procurement of the new math textbooks. Dr. Wright offered recommendations on how to avoid potential conflicts of interest and similar problems in the future. Committee discussion followed.

Rep. Draxler commented on how this particular procurement has been reviewed by various entities and seems to have been handled properly within the current statute. He suggested that, as many of Dr. Wright's concerns regarding the procurement were specifically concerns about the evaluation committee, the committee should consider further reviewing the procurement process itself.

Mr. John Schaff, Legislative Auditor General, spoke about how the Office of the Legislative Auditor General determines whether a conflict of interest exists, but, in this particular case, there was no predetermined criteria, so the office had to make its own determination based on the information and materials provided. Mr. Schaff stated that upon review, the office found that there was not clear evidence that a conflict of interest existed.

Mr. Vaughn stated that the term "conflict of interest" is not defined in the Utah Procurement Code and that the term is rarely defined when used throughout the code. He stated that although the Legislature has chosen not to define the term in the Utah Procurement Code in the past, moving forward, the committee could consider defining the term narrowly or broadly.

Mr. Kent Beers, Chief Procurement Officer, Department of Administrative Services, Division of Purchasing and General Services, talked about how the division defines "conflict of interest." He stated that in a field such as mathematics, there are a limited number of experts to be considered for an evaluation board, and, thus, these experts may have professional, working relationships with one another. Mr. Beers continued to say that according to the definition of "conflict of interest" used by the Division of State Purchasing, the relationships between the individuals involved in this particular textbook procurement would not have constituted a conflict of interest. He further described that if these individuals had had a financial relationship, or if someone had benefitted financially from the situation, then a conflict of interest would have existed.

Ms. Brenda Hales, Deputy Superintendent, Instructional Services, Utah State Office of Education, responded to accusations made by Dr. Wright against employees of the Utah State Office of Education related to the procurement process.

Ms. Sydney Dixon, Director, Teaching and Learning, Utah State Office of Education, clarified a conflict of interest that Dr. Wright alleged during his public comment.

3. Initiative and Referendum Petitions

Mr. Mark Thomas, Director of Elections, Office of the Lieutenant Governor, discussed initiatives and referendum petitions. Mr. Thomas gave a brief definition of each term and explained that initiatives and referendum petitions allow a legislative body to better understand how citizens feel about certain issues. He stated that there needs to be a mechanism to allow a sponsor to officially withdraw an initiative or a referendum. He also talked about working with sponsors during the initiative and referendum process so sponsors can address any issues or problems before it is too late in the process to make changes and the initiative or referendum can no longer move forward.

Mr. Roger Tew, Utah League of Cities and Towns, discussed the need for a broader look at initiative and referendum laws in local government. He stated that a main concern regarding initiative and referendum petitions is that budgetary matters are now subject to referendum, however, current laws do not work well with this budgetary component.

4. Regional Solicitations

Mr. Beers distributed "Policies and Procedures." Mr. Beers discussed the division's purpose and policy for issuing regional solicitations. He also briefly talked about contracts that are already in place that have been solicited on a regional basis, as well as contracts that are going to be considered.

Rep. Jon Cox commended Mr. Beers for his work. Rep. Cox also talked about how procurement is important to the state and said that in some instances, the state can save money through regional solicitations.

Mr. Eric Heaps, the Public Group, commented on the organization's working relationship with the state in the past. Mr. Heaps gave background information on the Public Group and expressed concern regarding whether the state is looking at local businesses with transparency. He also questioned whether the state procurement office considers appropriate criteria when conducting evaluations.

5. Draft Legislation "Water Law – Forfeiture Exemptions"

Chair Dayton relinquished the chair to Rep. Draxler. Sen. Dayton introduced draft legislation "Water Law – Forfeiture Exemptions" (2015FL-0187/004).

Mr. Kent Jones, State Engineer, Director, Division of Water Rights, discussed the draft legislation in more detail. Mr. Jones described how the legislation deals with change applications that come before the state engineer. He stated that the legislation modifies provisions relating to the abandonment or forfeiture of water rights. Mr. Jones responded to questions from the committee.

MOTION: Rep. Noel moved that the committee adopt draft legislation "Water Law – Forfeiture Exemptions" as a committee bill. The motion passed unanimously with Sen. Jenkins and Rep. King absent for the vote.

Chair Draxler relinquished the chair to Sen. Dayton.

6. Other Items/Adjourn

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

Chair Dayton adjourned the meeting at 4:31 p.m.