

**MINUTES OF THE
LEGISLATIVE MANAGEMENT COMMITTEE**

November 18, 2003 – 3:00 p.m. – 303 State Capitol

Members Present:

President Al Mansell, Chair
Speaker Martin R. Stephens, Vice-Chair
Sen. Ron Allen
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Karen Hale
Sen. Peter C. Knudson
Sen. John L. Valentine
Sen. Michael G. Waddoups
Rep. Greg J. Curtis
Rep. Brent H. Goodfellow
Rep. Patricia W. Jones
Rep. Brad King
Rep. Karen W. Morgan
Rep. Michael R. Styler

Members Absent:

Rep. Jeff Alexander

Staff Present:

Mr. Michael E. Christensen, Director
Ms. M. Gay Taylor, General Counsel
Ms. Beverlee LeCheminant, Secretary

Note: A list of others present and a copy of materials can be found at <http://www.le.utah.gov>, or by contacting the Office of Legislative Research and General Counsel.

1. Committee Business

President Mansell called the meeting to order at 3:04 p.m.

MOTION: Sen. Knudson moved to approve the minutes of the October 14, 2003 meeting. The motion passed unanimously.

2. Legislative Process Committee Report

Rep. Ron Bigelow indicated that the Legislative Process Committee (LPC) has been discussing some options on how it could improve the effectiveness of the Legislature. He stated that LPC has developed four recommendations for LMC to consider. First, to change from the current one-day interim schedule to a two-day interim meeting schedule with the second day for appropriation subcommittee meetings. It is this recommendation that LPC felt the strongest about. Second, to change the General Session schedule as follows: to move the appropriation subcommittee meetings normally held on Friday to Thursday, and to move the Thursday afternoon standing committee meetings to Friday. This will allow legislators not involved in the standing committee meetings on Friday to either leave the hill, to hold other impromptu meetings, or to meet with constituents while, at the same time, not reducing the amount of time spent in meetings. Third, LPC had a presentation on “Legislating for Results” which has been tried in other states and LPC feels that there are some possibilities of this that may have a positive impact on the Legislature’s processes and would like to recommend this concept. Fourth, to provide additional training to standing committee chairs on committee procedures so meetings will run more effectively and smoothly.

MOTION: Rep. Morgan moved to adopt all four recommendations from the Legislative Process Committee.

SUBSTITUTE MOTION: Sen. Knudson moved to adopt the Legislative Process Committee's recommendation to switch the times of Thursday and Friday standing and appropriation subcommittee meetings so that Friday afternoon would be open for some legislators. The motion passed. Voting in the negative were Sen. Waddoups and Rep. Morgan.

Sen. Waddoups suggested that the LPC recommendation of training standing committee procedures be expanded to all chairs.

3. Settlement of Miners' Hospital Lawsuit

Mr. Barry Lawrence, Assistant Attorney General, said he is before the committee today seeking approval of the settlement of a case that has been pending for nearly a decade involving a hospital for disabled miners. He said that at the time of statehood, Congress granted certain lands to the state, the proceeds of which were to fund a hospital for disabled miners. The State Constitution incorporated those grants and stated that these lands would be held in trust for a hospital for disabled miners. From the time of statehood until 1957, it is unclear what happened to those trust funds. In 1957, the Legislature decided to entrust this trust to the University of Utah to build a rehabilitation center and to take care of the disabled miners there. From 1957 until today, the University of Utah has been the recipient of those trust funds and has constructed the rehabilitation center. In 1996, some disabled miners and the United Mine Workers Association filed this lawsuit claiming that this trust had not been handled as a trust. Over the course of the last eight or so years, they have been involved in litigation and the 10th Circuit Court of Appeals has ruled that this was, in fact, a trust. For the last year or so, they have been trying to negotiate a settlement of this case. He distributed a handout "Miners Hospital Lawsuit Summary of Terms of the Settlement" which highlights benefits provided to disabled miners; other benefits provided; and how attorneys fees are to be paid.

Sen. Waddoups asked if the settlement would bind all the miners in the state, if the state has had the court approve this case as a class action. Mr. Lawrence indicated that was part of the settlement order to be signed by the judge.

Sen. Dmitrich thanked Mr. Lawrence for the work the Office of the Attorney General has done on the settlement and the amount of dollars they have saved.

MOTION: Sen. Dmitrich moved to recommend that the Attorney General be approved to execute the Miners Hospital Settlement Agreement. The motion passed unanimously. Rep. Curtis and Rep. Styler were absent for the vote.

4. Department of Environmental Quality

Ms. Diane Nielson, Executive Director, Department of Environmental Quality (DEQ), gave a slide presentation of two different issues that relate to the same proposal. She indicated that the first issue is damage to Southwestern Jordan Valley Aquifer and a proposal that has been offered to the state trustee

for natural resource damages by Kennecott and the Jordan Valley Water Conservancy District to clean up that contamination and; 2) as part of that proposal, Jordan Valley Water Conservancy District has requested a discharge permit from the Board of Water Quality. Ms. Nielson distributed a fact sheet that was provided to the public and is posted on DEQ's web site for the public hearings on the natural resource damage proposal from Kennecott and Jordan Valley that have been ongoing since the first part of September and will conclude November 21. She also distributed a copy of selected slides from both the public hearing presentations and a presentation of the water quality issues to explain the discharge permit process.

Mr. Don Ostler, Water Quality Board, gave a brief overview of the discharge permit process, which is a responsibility of the Water Quality Board and the Division of Water Quality.

Rep. Goodfellow said that many of his constituents have expressed concern regarding the dumping in the Jordan River because the permit had already been issued and the property owners and duck clubs were not notified of the dumping. Rep. Goodfellow stated that it took 50 years to create this problem and it is going to take 40 years to clean it up and yet, in some cases, the public was only going to be given 30 days input in the hearing. He indicated that another concern is that there are 10 million birds that use the marshes along the Great Salt Lake which consist of 400 different species of birds and, in some cases, eight percent of the world population of birds so the decisions that are made affecting those marshes are very important and will affect generations to come. Rep. Goodfellow said that another concern he has is that the permit was issued to Jordan Valley and Jordan Valley will monitor the quality and quantity of water and he does not believe that this agency which does not have any accountability to the Legislature should be monitoring both the drinking water and the sludge that is being dumped into the Jordan River. He encouraged DEQ to do some studies and get some baseline data so that as it looks at the duck clubs and builds baseline data so it can monitor to see if the salinity is increasing, especially in some of the settling ponds.

Ms. Nielson said that DEQ will look closely at the comments that have been made and will consider the questions that have been raised. She stated that DEQ's objective is to find a solution that does not create problems for the wetlands. She noted that an appeal is in process and changes will be made in the permit, based on the additional information the department has received, before any discharge is allowed.

Mr. Wayne Lance, Lance Consulting Group, introduced a proposal from his group regarding groundwater contamination and Mr. Ronald Christensen, a civil water engineer, distributed and gave a brief synopsis of an alternative plan.

5. Revisions to Utah Legislature's Policies and Procedures for Handling Records Requests

Ms. Gay Taylor, General Counsel, reviewed some minor revisions to the Utah Legislature's Policies and Procedures for Handling Records Requests.

MOTION: Rep. Curtis moved to approve the recommended changes to the Utah Legislature's Policies and Procedures for Handling Records Requests. The motion passed unanimously.

6. Sunset Reviews

Ms. Taylor discussed the sunsets and repealers and indicated that last year LMC approved the list subject to the November interim committee action so if a section or chapter was extended by an interim committee, it would be included on the final sunset bill approved by LMC.

MOTION: Sen. Valentine moved to approve the sunset reviews as conducted by the interim committees and Representative Greg Curtis agreed to be the sponsor of the bill. The motion passed unanimously.

7. Update on Judicial Conduct Commission Litigation Concerning the Honorable Joseph W. Anderson

Ms. Taylor gave a report regarding the Judicial Conduct Commission litigation concerning the Honorable Judge Joseph Anderson. She distributed the two briefs that were filed pursuant to the motion by LMC that the Office of Legislative Research and General Counsel (OLRGC) get involved as an amicus in this case at the invitation of the Utah Supreme Court. She stated that on Friday, November 7th, the office filed an amicus brief and on Friday, November 14th, the Office filed a reply brief. She said that the case will be argued on Wednesday, November 19, with OLRGC presenting on behalf of the Legislature.

8. Reappointment of John Massey, Legislative Fiscal Analyst

MOTION: Sen. Knudson moved to approve the resolution reappointing John Massey for a six-year term as the Legislative Fiscal Analyst. The motion passed unanimously. Rep. Goodfellow and Rep. Styler were absent for the vote. Sen. Knudson agreed to sponsor the resolution.

9. Letter from Public Education Appropriations Subcommittee

Mr. Christensen reviewed a letter from the Public Education Appropriations Subcommittee requesting approval to hold a meeting during the last week of November.

MOTION: Sen. Valentine moved to approve a meeting of the Public Education Appropriations Subcommittee during the last week of November. The motion passed unanimously.

10. Request from Minority Affairs Subcommittee

Senator James Evans said he is before the committee for three reasons: 1) to request an affirmative vote for funding the Minority Affairs Subcommittee that has already met in September and October; 2) to give an update on the committee's conclusions; and 3) to encourage a ½ full-time equivalent position be added to the Division of Community and Economic Development to expand the outreach program with this pooled outreach to reach all departments and agencies.

MOTION: Sen. Valentine moved to approve the pay to legislative members of the Minority Affairs Subcommittee for attendance to two meetings even though the subcommittee had not been approved by LMC prior to the subcommittee meeting and to send a letter to the interim chairs reminding them that subcommittees need to be approved by LMC and that reimbursement cannot be expected for such

Legislative Management Committee

November 18, 2003

Page 5

subcommittee meetings without prior authorization.

Sen. Waddoups requested that the motion be divided.

The motion regarding the request to pay legislative members of the Minority Affairs Subcommittee for attendance of two meetings failed in the House. Voting in the negative were: Pres. Mansell, Sen.

Knudson, Sen. Morgan, Sen. Valentine, Sen. Waddoups, Speaker Stephens, Rep. Curtis, Rep.

Goodfellow, Rep. Jones, Rep. King, Rep. Morgan, and Rep. Styler.

The motion to send a letter to the interim chairs reminding them that subcommittees need to be preapproved by LMC if they are to expect funding passed unanimously.

11. Other Business

No other business was discussed.

12. Adjourn

MOTION: Sen. Knudson moved to adjourn. The motion passed unanimously.

President Mansell adjourned the meeting at 5:15 p.m.