

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Wednesday, December 12, 2007 – 9:00 a.m. – Room W125 House Building

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Ben C. Ferry, House Chair  
Sen. Mike Dmitrich  
Sen. Mark B. Madsen  
Sen. Michael G. Waddoups  
Rep. James R. Gowans  
Rep. Carol Spackman Moss

**Members Excused:**

Rep. Kory M. Holdaway  
Rep. Merlynn T. Newbold

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, 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.leg.utah.gov](http://www.leg.utah.gov).

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:25 a.m.

**MOTION:** Rep. Moss moved to approve the minutes of the November 27, 2007 meeting. The motion passed unanimously.

**2. 2008 General Session draft legislation, "Impact of Administrative Rules on Small Businesses"**

Staff distributed 2008 General Session draft legislation, "Impact of Administrative Rules on Small Businesses," sponsored by Rep. Steve Clark.

Mr. Jim Henderson, Regional Advocate, U.S. Small Business Administration, distributed and reviewed "Fact Sheet: State Regulatory Flexibility Model Legislation Initiative, 2007 Legislative Activity," "State Model Legislation Victories in Six States," "Judicial Review and State Regulatory Flexibility Laws," "Small Business Regulatory Flexibility," "Frequently Asked Questions," and "Changes to 'Impact of Administrative Rules on Small Businesses.'"

Mr. Ken Hansen, Director, Division of Administrative Rules, addressed the legislation and responded to questions from the Committee.

Sen. Madsen expressed concern with the bill as drafted and said he would like to provide input on a new bill draft.

Rep. Clark stated he would work with staff to incorporate the proposed changes into the draft legislation and present it at the next meeting. The Committee agreed to Rep. Clark's request.

**3. R865-6F-28 and R865-91-37, Enterprise Zone Corporate Franchise and Individual Income Taxes – Bulletin, December 1, 2007, pp. 71-73**

Sen. Stephenson introduced the issue.

Mr. Steve Young, Attorney, Holme Roberts and Owen LLP, asked that the Committee request the Utah State Tax Commission to amend the rules so that all equipment purchased and used by an oil and gas service company that is based within an enterprise zone is entitled to investment tax credits, regardless of whether the equipment is operated inside or outside the enterprise zone.

Mr. Bart Morrill, CPA, spoke to the issue and commented on the impact of the proposed rules on some companies he represents.

Commissioner D'Arcy Dixon Pignanelli, Utah State Tax Commission, said the Commission is withdrawing the rule, and that the Commission believes the issue of mobile equipment may be best addressed by the Legislature through legislation.

Mr. Les Prall, Governor's Office of Economic Development, said he would ask former senator Beverly Evans, who is now an employee of the Governor's Office of Economic Development, to clarify the intent of the statutory language that she sponsored.

**MOTION:** Sen. Madsen moved that it is the sense of the Committee that the Tax Commission can narrowly construe the tax credit in a way that allows businesses to claim the credit on mobile equipment that is based in an enterprise zone but is used outside the zone and then returned.

Sen. Waddoups said he would prefer to clarify the intent of statutory language through legislation, not encourage the Commission to draft another rule.

**SUBSTITUTE MOTION:** Rep. Ferry moved that the Committee give direction to the Tax Commission to draft a new rule or draft legislation to be considered by the Committee in January.

The Committee discussed the two motions. The Substitute motion was withdrawn.

The Committee voted on Sen. Madsen's original motion which passed unanimously. Sen. Dmitrich was absent for the vote.

**MOTION:** Rep. Ferry moved that the Committee requests that the Tax Commission draft a new rule or draft legislation regarding eligibility for the tax credit, to be considered by the Committee in its January meeting. The motion passed unanimously with Sen. Dmitrich absent for the vote.

#### **4. Committee Business**

Sen. Stephenson relinquished the chair to Rep. Ferry.

Staff distributed "Options for Amending Subsection 53A-2-208(4)." Rep. Ferry asked the Committee to review the handout and contact staff or Rep. Ferry with any comments members may have in preparation for the January 9, 2008 meeting.

The next meeting will be on January 9, 2008 at 9:00 a.m.

#### **5. Adjourn**

Chair Ferry adjourned the meeting at 11:34 a.m.