

**MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION**
Friday, February 8, 2008 – 12:00 p.m. – Room W110 House Building

Members Present:

Mr. Kevin J. Worthen, Chair
Judge Jon M. Memmott, Vice-Chair
Sen. Mike Dmitrich
President John L. Valentine
Rep. Sheryl L. Allen
Rep. Ronda Rudd Menlove
Dr. Michael Petersen
Mr. Robin L. Riggs
Mr. Roger Tew

Members Absent:

Sen. Peter Knudson
Mr. Byron L. Harward
Mr. Kirk Jowers
Ms. Kristine Strachan

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Mr. Robert H. Rees, Associate General Counsel
Ms. Amanda Majers, 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 Worthen called the meeting to order at 12:15 p.m.

MOTION: Mr. Tew moved to approve the minutes of the October 11 and November 15, 2007 meetings. The motion passed unanimously with President Valentine absent for the vote.

2. Review of Constitutional Amendments Proposed for Consideration During the 2008 General Session of the Utah Legislature

Sen. Curtis S. Bramble discussed S.J.R. 5, "Joint Resolution Amending Legislative Apportionment," which was distributed to the Commission prior to the meeting. Sen. Bramble explained that the amendment would clarify that the division of the state into districts must occur no later than the next annual general session following the receipt of the results of the United States enumeration, rather than at the session next following the enumeration. Sen. Bramble informed the Commission that S.J.R. 5 was presented on the floor of the Senate and passed with no known opposition.

Rep. David Clark distributed and discussed H.J.R. 12, "Joint Resolution Amending the Utah Constitution - Stock Subscriptions," which authorizes the state to subscribe to stock with funds in the permanent State School Fund and funds derived from federal land grants, except as limited by statute. Rep. Clark stated that H.J.R. 12 would authorize institutional trust funds to use the same investment tools as the state retirement fund.

Mr. Edward T. Alter, State Treasurer, spoke in favor of H.J.R. 12 when he stated that the institutional trust funds already invest in common stocks and bonds, but the constitution currently restricts these trust funds from participating in private equity or venture capital investments. Mr. Alter explained that the purpose of H.J.R. 12 is to allow state school funds and institutional trust funds to invest in these areas by eliminating language referencing subscription of stock in the

constitution. He argued that since the state, through the Capital Investment Fund, already invests in venture capital, long-term trust funds should also be allowed to increase their portfolio yield by investing in this investment category.

Judge Memmott requested that Rep. Clark ensure that the term "stock" was broad enough language to guarantee that the constitution would only have to be amended once to allow institutional trust funds to invest in venture capital.

Judge Memmott asked about the language prohibiting the subscription to both stock and bonds in H.J.R. 12, and inquired whether Rep. Clark intends to allow only the subscription to stock and to omit the category of bonds altogether.

Ms. Betsy Ross, State Treasurer's Office, stated that she would look into addressing Judge Memmott's point as to whether Rep. Clark would need to add language to allow investment in bonds.

MOTION: Dr. Petersen moved to pass out S.J.R. 5, "Joint Resolution Amending Legislative Apportionment," with a favorable recommendation. The motion passed unanimously with Sen. Dmitrich and President Valentine absent for the vote.

MOTION: Mr. Riggs moved to pass out H.J.R. 12, "Joint Resolution Amending the Utah Constitution - Stock Subscriptions," with a favorable recommendation. The motion passed unanimously with Sen. Dmitrich and President Valentine absent for the vote.

MOTION: Rep. Allen moved to appoint Lisa Watts Baskin as a member of the Utah Constitutional Revision Commission. The motion passed unanimously with President Valentine absent for the vote.

Rep. Gage Froerer distributed and discussed H.J.R. 14, "Joint Resolution Amending Residential Property Assessment Provisions," which would allow the Legislature to provide a method of valuing residential real property other than fair market value to address issues like acquisition value and help to the elderly.

Mr. Tew contended that the alternative options to fair market value represent huge changes that should be considered in their entirety before changing the constitution, because some options may reward certain groups and leave out others. He further commented that the Commission has studied this issue in the past and has concluded that the fair market premise is most likely the best approach to valuing residential real property.

Rep. Froerer responded that if the public does not approve the amendment to allow the Legislature to consider other options for valuating residential real property then the Legislature

would abide by that decision; however, he contended that H.J.R. 14 merely allows the Legislature to look at other options but does not require a change.

Rep. Allen stated that she does not feel comfortable supporting H.J.R. 14 without more deliberation and further comparison with other states to better understand the amendment.

Rep. Menlove stated that the Legislature does not need to enact H.J.R. 14 to study other options. Rep. Froerer replied that enacting H.J.R. 14 would expedite the process so that certain statutes could go into effect before 2010.

Chair Worthen stated the need to think through the ramifications of H.J.R. 14 before proceeding.

President Valentine inquired whether there are related statutory provisions being considered in conjunction with H.J.R. 14.

Rep. Froerer responded that there is legislation that would need the constitutional amendment to pass before being considered.

President Valentine noted his objection to going forward with a constitutional amendment without presenting it to the voters with the related statutory provisions that would accompany the amendment, and without a more comprehensive study of the outcome.

Judge Memmott cautioned that by changing such a complex section certain provisions of the constitution may end up competing with one another, unless the change is thoroughly studied to avoid creating more uncertainty and litigation.

MOTION: Rep. Allen moved that the Commission move to the next agenda item. The motion passed unanimously.

The Commission discussed S.J.R. 10, "Joint Resolution Amending Constitution Regarding Taxes of the Elderly," which was distributed to the Commission prior to the meeting. Sen. Dmitrich informed the Commission that there was opposition to the bill when it was presented in committee because it requires further study.

Mr. Tew stated that there is already a provision in the constitution dealing with the indigent, and questioned whether mere age should be a criterion for tax relief or whether relief should be based more on circumstance.

The Commission discussed H.J.R. 9, "Resolution Amending Property Tax Provision," which was distributed to the Commission prior to the meeting. Mr. Tew stated that H.J.R. 9 is very similar to S.J.R. 10 and would also require further study.

Judge Memmott stated that the property tax issue is unique because most provisions are in the constitution to ensure that the provisions cannot be changed easily by the Legislature.

Rep. Neil A. Hansen distributed and discussed H.J.R. 15, "Joint Resolution Amending Legislative Article," which would require that legislators be paid an annual salary and prohibit them from receiving anything of value from a registered lobbyist, excluding campaign contributions. Rep. Hansen explained that legislators should receive an annual salary to eliminate the perception that legislators' political positions are influenced by gifts from lobbyists, and to compensate legislators for time spent outside of session dealing with constituent concerns.

Mr. Tew pointed out that there is nothing in the current constitution prohibiting the Legislature from receiving an annual salary.

Dr. Petersen explained that the concept of prohibiting legislators from receiving anything of value from a registered lobbyist, as provided on lines 44 - 47 in H.J.R. 15, "Joint Resolution Amending Legislative Article," may be appropriate language for statute, rather than in the constitution.

Rep. Allen suggested that it may be easier to address the issue through a change in statute rather than a constitutional change.

Rep. Menlove suggested taking this issue to the Legislature first to be addressed internally.

Judge Memmott stated that Article VI, Section 9, refers to "salaries" not "per diem," and may even have anticipated that the Compensation Commission would recommend annual salaries.

3. Other Business / Adjourn

Chair Worthen scheduled the next meeting of the Commission for May 8, 2008, and adjourned the meeting at 1:24 p.m.