

**MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION**
Friday, July 14, 2000 - 9:00 a.m. - Room 405 - State Capitol

Members Present:

Mr. Alan L. Sullivan, Chair
Dr. Jean B. White, Vice Chair
Speaker Martin R. Stephens
Rep. Afton B. Bradshaw
Sen. Mike Dmitrich
Rep. David M. Jones
Mr. Morris Linton
Sen. Howard C. Nielson
Mr. Robin Riggs
Mr. Richard V. Strong
Prof. Kevin Worthen

Members Absent:

Mr. Dallin W. Jensen
Mr. W. Craig Jones

Members Excused:

Justice Christine Durham

Staff Present:

Mr. Robert H. Rees,
Associate General Counsel
Ms. Audrey Wendel,
Legislative Secretary

Note: A list of others present and a copy of handouts distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Chair Sullivan called the meeting to order at 9:08 a.m.

MOTION: Sen. Dmitrich moved to approve the revised minutes of the May 12, 2000 meeting. The motion passed unanimously with Sen. Nielson and Rep. Jones absent for the vote.

2. Article XIII, Revenue and Taxation - Chair Sullivan expressed concern with the lack of clarity of Article XIII. He referred to the draft on page 5 of the packet, "Article XIII: Revenue and Taxation," and discussed the drafts that have been prepared to simplify and clarify the article. He explained that two of the article's fourteen sections have been repealed, Section 4 on the assessment of mines and Section 7 on the taxation of tangible property for general state purposes. Chair Sullivan then identified several organizational errors, underscoring that the language is in need of clarification. The entire article, he argued, needs to be simplified in order to make the article more accessible and understandable. He explained that the challenge for the commission will to be to accomplish this task without making any substantive changes to the language.

Mr. Robert H. Rees, Associate General Counsel, Distributed a handout titled, "Comparison of Draft Article XIII with Current Constitutional Provisions," from which he made his presentation. He compared draft language with current language and pointed out specific issues that need to be resolved before additional drafting is completed.

Chair Sullivan invited Mr. Roger Tew, Attorney, and former Tax Commissioner; Mr. Bruce Johnson, Tax Commissioner; and Mr. Brian Tarbot, Assistant Attorney General, assigned to the Tax Commission, to respond to a few questions.

Chair Sullivan asked what each thought of the concept of clarifying and revising Article XIII of the Utah Constitution.

Mr. Tew explained that the provisions of Article XIII contain the most divisive issues in the constitution. Having said that, he indicated that he deems it appropriate for the Commission to address this constitutional issue. Mr. Johnson explained that this study process is a very appropriate project, and Mr. Tarbot pointed out that although the goals are favorable, the process of revision may be impractical. He added that it may be worthwhile to simplify and clarify the language rather than revise it.

Chair Sullivan asked whether it is politically possible to clarify Article XIII.

Mr. Tew explained that although the successful completion of the project may be difficult to organize and accomplish, it could be done. Mr. Johnson noted that if the interested parties are involved from the beginning the project would stand a fair chance of succeeding. Mr. Tarbot said that the project would take a great deal of effort and one might question whether the amount of effort required is worth the result of simply clarifying the language. If one is going to expend such effort, he said, it might be worth considering whether some substantive changes are in order.

Chair Sullivan asked the participants to critique the new draft and to make suggestions concerning how the Commission should proceed.

Mr. Tew told the commission that interested parties need to be kept apprised of the commission's intentions. He pointed out that litigation will likely occur under the provisions of a new draft. As a consequence, the commission may consider documenting its intent that no substantive changes are intended so that the new language may be understood by all to be a clarification rather than a substantive change. In this regard it may be worthwhile to include the commission's intent before the Legislature, in its Journals, and in such documents as the Voter Information Pamphlet. Mr. Johnson said that the people of Utah would receive a long-term benefit from an easily understood taxation article. Mr. Tarbot agreed, noting that these issues do and will continue to impact the lives of the people of Utah and that the issues deserve careful consideration.

Mr. Riggs suggested that if the trouble spots can be avoided, this study process may have a favorable turnout in terms of a clarified tax article. Mr. Linton suggested that a draft be prepared to stimulate comments. Mr. Worthen agreed.

Mr. Tew suggested that the commission prepare for a draft to go before the Legislature during the 2002 General Session. Chair Sullivan invited all interested parties to participate in the study process by providing comments on the commission's work which, he said, would be

distributed within the next week to ten days.

3. Subcommittee Recommendation Regarding Vacancy - Chair Sullivan explained the process with which the commission member was selected. He said that all the individuals who previously applied for the position were contacted, and the position was widely advertised. After the subcommittee reviewed the applicants, it recommends Byron Harward.

MOTION: Speaker Stephens moved to approve the recommendation of Byron Harward. The motion passed unanimously.

4. Other Business

Chair Sullivan explained that he had made a presentation to the Utah State Bar concerning the open courts provision. This provision, he said, is very interesting, and suggested that the commission may have an interest in some of the issues. The commission agreed to hear background information on Article I, Section 11 from Chair Sullivan at a future meeting.

The next meeting is scheduled for Friday, August 11, 2000 at 9:00 a.m. in room 405.

5. Adjournment -

MOTION: The meeting was adjourned at 11:38 a.m.

