

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Tuesday, September 26, 2000 - 9:00 a.m. - Room 305 State Capitol

**Members Present:**

Sen. Howard A. Stephenson,  
Senate Chair  
Rep. David Ure,  
House Chair  
Sen. Mike Dmitrich  
Sen. L. Alma "Al" Mansell  
Sen. Howard C. Nielson  
Rep. Judy A. Buffmire  
Rep. James R. Gowans  
Rep. Martin R. Stephens  
Rep. John E. Swallow

**Members Excused:**

Sen. Eddie "Ed" P. Mayne

**Staff Present:**

Mr. Arthur L. Hunsaker,  
Research Analyst  
Ms. Esther D. Chelsea-McCarty,  
Associate General Counsel  
Ms. Audrey Wendel,  
Legislative Secretary

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

**1. Call to Order and Approval of September 12, 2000 Minutes** - Chair Stephenson called the meeting to order at 9:10 a.m.

**MOTION:** Rep. Buffmire moved to approve the minutes of the September 12, 2000 meeting. The motion passed unanimously with Reps. Swallow and Ure and Sens. Mansell and Nielson absent for the vote.

**2. R884-24P-42 Farmland Assessment Audits and Personal Property Audits Pursuant to Utah Code Ann. Subsection 59-2-508(2), and Section 59-2-705 (Existing Rule - Sen. Stephenson)** - Mr. Haven Barlow, Property Owner, addressed the committee. Mr. Doug Richins, Property Owner, said he had a similar experience as Mr. Barlow's.

Rep. Stephens asked for a copy of the statute that permits the rule in question. Copies of Section 59-2-515 were produced and distributed.

Ms. Pam Hendrickson, Utah State Tax Commission, addressed the committee. She was accompanied by Mr. Denny Lytle, Deputy Director, Property Tax Division, Utah State Tax Commission. Ms. Hendrickson explained that they do not believe that this rule takes away the authority from the counties. She said that this is the first time a situation of this kind has been brought to their attention. Committee discussion followed.

Mr. Gerald Hess, Deputy County Attorney, Davis County, and Ms. Carol Buckley, Davis County Assessor, addressed the committee. Ms. Buckley said there was no doubt in her mind that the property did not qualify. Mr. Hess reviewed the position of the county. He said they determined that since the Tax Commission put the rule in place, and concluded that Mr. Barlow's property no longer qualified under the rule, the Tax Commission should be the ones to enforce it.

Sen. Stephenson asked how R884-24P-42(B) says the County Board of Equalization cannot alter the audit without first submitting changes to the tax commission. Mr. Hess explained that the rule has been interpreted correctly, but the county's decision was to remain in compliance with the rule and let the Tax Commission make the final decision.

Rep. Ure asked how the problem can be solved in the future so that other constituents don't get caught between two governmental entities.

Rep. Swallow said that when the word "Assessor" was placed in the rule, it didn't intend to refer to the Board of Equalization and therefore the county seems to be passing the decision on to the state. The county has the power to make the decision and they chose to pass it on. Mr. Hess said he doesn't think the county had the authority to address the decision.

Rep. Stephens asked if the county board chose to move the issue to the Tax Commission since the county board knew the individuals involved. Mr. Hess said that this is not an uncommon occurrence.

**MOTION:** Rep. Ure. moved that a letter stating the opinions expressed by committee members on the issue be sent to the County Board of Equalization. Committee discussion followed. Rep. Buffmire, Rep. Stephens and Rep. Swallow expressed their opposition with the motion. Rep. Ure withdrew the motion.

Mr. Barlow said the rule's intent has been clarified, and said his problem is that he has to wait until the Tax Commission can hear his case in January. The county board could hear it much sooner. He suggested the Tax Commission emphasize with counties that they play a crucial role in the process and urge them to go forward with the cases that come before them.

**MOTION:** Sen. Dmitrich moved that the committee move to the next agenda item. The motion passed unanimously with Rep. Ure absent for the vote.

**3. R156-55b-102 Definitions (Existing Rule) (Sen. Mansell) -** Mr. Arnold Christensen, Electrical Contractor, summarized his concern with the rule and its relationship to the statutes. He said that the rule supercedes the statute and should be overturned. He added that he and Sen. Mansell met with department representatives and agreed to work together to come up with some language everyone can agree on and Sen. Mansell would then prepare a bill to run the agreed-upon language. Committee discussion followed.

Rep. Buffmire encouraged Mr. Christensen and the department to get together and work out a solution.

Gary Bowen, Director, Division of Occupational and Professional Licensing, provided

background on the rule. He said that since the rule has been so difficult to enforce, they have not enforced it. He asked that they be permitted to conduct some rule-writing and come back to the committee at a later date.

Rep. Stephens asked Mr. Bowen if he feels the rule is in compliance with the law or not. Mr. Bowen said that he has one attorney who says it is in compliance and the other attorney says it is not in compliance.

**MOTION:** Rep. Stephens moved to have the definition of: “in or out of the immediate presence of the supervising person” in R156-55b-102, placed on the sunset bill. Committee discussion followed.

Mr. Clyde Rydalch, Chair, State Licensing Board, and Electrical Contractor, said that there is an issue with the statute that needs to be solved. He described a situation in which the proper personnel were not doing the work, and the work was not being inspected.

Sen. Mansell said that citation power was granted so that these kinds of problems could be resolved.

Sen. Dmitrich spoke in favor of the motion.

Rep. Buffmire spoke in opposition to the motion and suggested the committee urge the two involved parties to get together and resolve the issues.

Rep. Swallow spoke in favor of the motion and thanked the director for his integrity in not enforcing a rule he feels is not based on statute.

Wayne Holman, Supervisor, Division of Occupational and Professional Licensing, pointed out the difficulty in enforcing this law, since workers at the site typically say that the supervisor is either getting parts or getting drinks.

The motion passed with Rep. Buffmire voting in opposition

**4. Committee Business** - Future committee meetings scheduled for October 10, and October 24, 2000.

**5. Adjourn**

**MOTION:** Rep. Swallow moved to adjourn the meeting at 11:03. The motion passed unanimously.

