

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Tuesday, October 24, 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. Eddie "Ed" P. Mayne
Sen. Howard C. Nielson
Rep. Judy A. Buffmire
Rep. James R. Gowans
Rep. Martin R. Stephens
Rep. John E. Swallow

Members Excused:

Sen. L. Alma "Al" Mansell

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** - Chair Stephenson called the meeting to order at 9:15 a.m.
2. **R430-6 Background Screening - Bulletin, May 1, 2000, p. 168 (Rep. Stephens)** - In its July 5 meeting, the committee unanimously passed a motion requesting the agency to examine the changes to the rule and report their progress to the committee. Iona Thraen, Director, Division of Health Systems Improvement, distributed a handout titled, "Utah Department of Health - Division of Health Systems Improvement, Bureau of Licensing - Administrative Rules Review Committee - October 24, 2000" from which she gave her presentation.

Sen. Stephenson relinquished the chair to Rep. Ure upon his arrival.

Rep. Stephens asked what sort of offenses are considered when performing background checks. Ms. Thraen said that they look primarily at offenses that are associated with children. Any non-child related criminal offenses are reviewed individually and a judgement call is made. Rep. Stephens asked if there is a way of setting a protocol. Mr. Doug Springmeyer, Attorney, Department of Health, said that protocol is being examined by other states. He said that the discretion is not in rule, but is being examined. Rep. Stephens asked if background checks are only performed for the last five years. Mr. Springmeyer said that five years is the protocol, but is not yet in rule. He said that they anticipate promulgating a rule, since this is an area of potential abuse.

Rep. Buffmire said that if there is any offense of a sexual or criminal nature, the applicant should be excluded, regardless of the five-year background check. Mr. Springmeyer said that sexual abuse is categorized as a felony and the five-year rule only applies to misdemeanors.

Rep. Stephens asked if there is a rule in place in case of an emergency situation. Ms.

Thraen said that they are working on language.

Rep. Stephens asked that staff provide the committee with a copy of the rule when it is finalized.

3. Sensitive Species: List of Species and Process for Listing (Sen. Nielson) - Sen. Nielson explained the issue. Mr. Alan Clark, Wildlife Section Chief, Division of Wildlife Resources, distributed a handout titled, "I. Legal Basis for Division of Wildlife Resources and Wildlife Board to Establish Sensitive Species List." He provided background on the division's efforts to prepare a rule that will recommend the listing of sensitive species.

Mr. John Davis, Attorney, Pruitt, Gushee & Bachtell, said that their industry is concerned that they have not been involved in the sensitive species designation process. He said that once sensitive species are designated, management activities are restricted on federal land. This has caused many concerns with developing oil and gas fields.

Mr. David Terry, Director, School of Institutional Trust Lands, said that they have been directly impacted by the decisions made by the Department of Wildlife Resources (DWR). Committee discussion followed.

MOTION: Sen. Nielson moved to encourage the department, both divisions, and the public to promulgate a rule that will clarify the intent of the sensitive species list, defined by area, as well as the rulemaking procedure. The motion passed unanimously with Rep. Stephens and Sen. Stephenson absent for the vote.

4. Committee Business

a. Approval of June 7, August 22, September 12, September 26, and October 10, 2000 minutes - Mr. Hunsaker indicated that due to his error, votes on four sets of minutes lacked a proper quorum. The committee also needed to vote on the current minutes (October 10).

MOTION: Rep. Buffmire moved to approve the minutes of the June 7, August 22, September 12, September 26, and October 10, 2000 meeting. The motion passed unanimously with Rep. Swallow absent for the vote.

b. Review of Committee Quorum Requirements - Mr. Hunsaker reviewed the Committee Quorum Requirements, as defined in statute.

c. Upcoming Committee Dates - The next meetings are scheduled for November 14 and November 28, at 9:00 in room 305.

d. Items for Next Meeting

Sen. Nielson asked staff to look into a letter from Rep. Nora Stephens expressing concern with R512-1 and R512-41.

Ms. Carrie Taylor, Defense Attorney, representing employers and insurance carriers, expressed concern with the negative impact R612-1-10, a proposed rule scheduled for publication November 1, will have on employers and insurance carriers. She added that it does not conform to statute.

Sen. Mayne said the rule was reviewed by an advisory committee and worked on for a year. Rep. Ure said the rule could be discussed in the next meeting.

Mr. Ken Hansen asked for time on the next agenda to discuss the Information Technology Commission bill that passed in the last commission meeting.

Sen. Nielson asked staff to look into rules based on some of his bills from the 2000 General Session.

5. Adjourn

MOTION: Sen. Dmitrich moved to adjourn the meeting at 11:05 a.m. The motion passed unanimously, with Rep. Stephens absent for the vote.

