

**MINUTES OF THE
LEGISLATIVE MANAGEMENT COMMITTEE**

November 13, 2001 – 3:00 p.m. – Room 303 State Capitol

Members Present:

President Al Mansell, Chair
Speaker Martin R. Stephens, Vice-chair
Sen. Ron Allen
Sen. Mike Dmitrich
Sen. Karen Hale
Sen. Peter C. Knudson
Sen. L. Steven Poulton
Sen. John L. Valentine
Rep. Patrice M. Arent
Rep. Ralph Becker
Rep. Jackie Biskupski
Rep. Greg J. Curtis
Rep. Brad King
Rep. Kevin S. Garn
Rep. David Ure

Members Absent:

Sen. Gene Davis

Staff Present:

Michael E. Christensen, Director
M. Gay Taylor, General Counsel
Beverlee LeCheminant, Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or contact the Office of Legislative Research and General Counsel.

1. Call to Order

Chair Mansell called the meeting to order at 3:28 p.m.

2. Approval of the September 11, 2001 Minutes

MOTION: Sen. Knudson moved to approve the minutes of the September 11, 2001 meeting. The motion passed unanimously.

3. Consideration of Settlement Agreement (November 13) between Utah Department of Natural Resources and U.S. Department of Interior

Mr. Art DuFault, Department (Department of Natural Resources), distributed a document containing information regarding the Settlement Agreement. He indicated that this is a long standing situation as it relates to the Bear River Migratory Bird Refuge. Mr. DuFault said that as the Department completed its Great Salt Lake Comprehensive Management Plan three years ago, one of the things that came to light was the reserved rights that the federal government wished to claim as it related to the Bear River Bird Refuge. Mr. Mike Quealy from the Office of the Attorney General began to negotiate the various situations and claims by the landowners adjacent to the existing refuge and the plans for an expanded boundary. By April of 2000, no resolution of the issues with the federal government had been accomplished and the Department notified the Secretary of Interior that it was going to file litigation for resolution of the issues.

The Department suggested that, rather than sorting out the various points of the law associated with sovereign lands and the meander line, that a settlement agreement be drawn up that would clear up the title questions, but would allow for compensation to the state. He said that the Department has a protracted negotiation with the federal government and that it feels it has reached a very favorable settlement for the state.

Mr. DuFault indicated that some of the benefits of the settlement to the state are: 1) it avoids the dispute over the true location of the unsurveyed meander line and, in conjunction, avoids the costs and uncertainty of litigation; 2) it allows the public trust doctrine benefits of the sovereign lands to continue on the existing refuge; 3) it allows the department to settle this within the refuge and not worry about future acquisition or complications; 4) it will allow the Department to avoid a confrontation with the private land owners; and 5) there will be no upset to the payment in lieu of taxes to the county.

Mr. DuFault noted that this approach will require federal legislation. The Secretary of Interior has agreed to the concept, has reviewed the document with the governor, and is prepared to enter into the agreement of redirecting the compensation for offset activities for recreation and the protection of other critical resource lands. Mr. DuFault stated that the Department would like the committee to approve and recommend to the Legislature that it also approve and authorize this transaction as well as the compensation coming to the state.

Mr. Paul Ashton, Attorney, Department of Natural Resources, noted that the \$3 million settlement payment to the state is a fair agreement and avoids costly and protracted litigation with no particular guarantee as to the outcome.

Speaker Stephens asked why more state lands are being sold to the federal government beyond those that are in the dispute. Mr. DuFault said that it would allow the Department to exercise its administrative responsibilities which it had previously been granted in other legislative action by the state. Those lands were dedicated to that specific use and will continue to serve the official wildlife service for the same values that the Department saw in them in its management planning.

Speaker Stephens indicated that he has a hard time supporting any agreement that is going to give more state land to the federal government.

Rep. Garn indicated that an issue he has with the Settlement Agreement is on page 4, paragraph 8. He noted his concern with the federal government taking state land and then telling the state how it has to spend the compensation it receives from the state lands. Speaker Stephens also asked why the state is not given the flexibility to decide where to put the money.

Mr. Doxey indicated that the state would be bound to use the money under the public trust doctrine, and that the Governor is basically supportive of the Settlement Agreement, and the federal government insisted on the money being distributed as outlined in the Settlement Agreement.

Mr. DuFault said there are certain parameters within which a state must manage the beds of sovereign lands which is basically what the public trust doctrine is about.

Sen. Knudson said there are private property owners that are outside of the Bear River Migratory Bird Refuge boundary, but still fall within that meandering line. He asked if their properties are still going to be in dispute as to whether they are owned by the state. Mr. Quealy noted that those private properties are included as part of the negotiated agreement.

Speaker Stephens asked why the Department didn't look at some land trades instead of acquisition. Mr. Thompson stated that the majority of the BLM public domain lands do not contain adequate offset properties in regard to the public trust doctrine.

MOTION: Rep. Curtis moved to amend the second sentence in paragraph 8 on page 4 of the Settlement Agreement to read: "The DNR shall use this payment for purposes consistent with the public trust doctrine," and to delete the other language in that sentence which provided greater restrictions on the state's use of the money.

Rep. Curtis indicated that the purpose of his motion was to address concerns with selling more land to the federal government and having them mandate how the state is to use the money.

The motion passed. Voting in the negative were Sen. Allen, Sen. Hale, and Sen. Dmitrich, Rep. Becker, Rep. Biskupski, and Rep. Arent.

MOTION: Sen. Valentine moved that the committee go on to the next item on the agenda as this item is a complicated issue and needs more discussion. The motion passed unanimously. Rep. Ure was absent for the vote.

4. Briefing Papers

A. Energy Policy Issues and Legislative Options - Ms. Patricia Owen gave a brief overview of the *Energy Policy Issues and Legislative Options* briefing paper. She gave some highlights of the electric market and discussed three legislative options: 1) rely on executive branch expertise and allow them to take the lead; 2) establish a legislatively developed energy policy; and 3) address specific problems, issue by issue, as they arise. Copies of the briefing paper were distributed to the committee members.

B. Tax Primer - Mr. Christensen distributed copies of the *Tax Primer* briefing paper to the committee members.

5. Lawsuits involving the Legislature -

A. Tommy D. Burleigh

Ms. Gay Taylor noted that the Legislature, the Board of Pardons, and the Attorney General have been sued by Tommy Burleigh, a prisoner at the Utah State Prison. She indicated that legislative general counsel's recommendation regarding this suit is for the Legislature to authorize the Attorney General to

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represent the Legislature's interest in this matter.

MOTION: Sen. Valentine moved that the LMC (Legislative Management Committee) approve a letter being sent to the Attorney General asking him to represent the Legislature in a lawsuit filed against it by Tommy D. Burleigh. The motion passed unanimously. Speaker Stephens, Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

B. Jason "K" Jensen

Ms. Taylor said the Jason Jensen lawsuit is against the Utah State Bar, the Utah Supreme Court, and the Legislature. She indicated that Mr. Jensen has never attended law school, but is insistent that he be given a license to practice law. He has now filed with the U.S. Supreme Court and legislative general counsel suggests that the Attorney General represent the Legislature's interests in this lawsuit.

MOTION: Rep. Arent moved that LMC approve a letter being sent to the Attorney General asking him to represent the Legislature in a lawsuit filed against it by Jason K. Jensen. The motion passed unanimously. Speaker Stephens, Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

6. Committee Issues

A. House and Senate Standing Committee Name Changes (Resolutions)

Mr. Christensen said that at the beginning of this interim, LMC made some changes to the names of the interim committees to enable them to function with changes in assignments. He stated that staff is asking for LMC's approval of two resolutions making these committee name changes consistent in the Legislature's rules.

MOTION: Rep. Curtis moved to approve the two resolutions (one for the House and one for the Senate) making changes in the names of standing committees to more closely parallel the interim committee subject areas. The motion passed unanimously. Speaker Stephens, Sen. Garn, Rep. Ure, and Rep. Biskupski were absent for the vote.

B. Interim Committee Name Changes

Mr. Christensen asked for LMC's approval of a bill which changes the interim committee names currently in statute to conform to changes in interim committee assignments made at the beginning of the interim.

MOTION: Rep. Arent moved that LMC approve the bill that changes the interim committee names to conform to changes in interim committee assignments. The motion passed unanimously. Speaker Stephens, Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

7. Sunset Review Final Report

Mr. Christensen reviewed the Sunset Act and Repealers report that was included in the committee members' mailing packets. He indicated that this report contains the actions by the interim committees on the sunset acts assigned to them.

8. Responsibility for Legislative Area of State Capitol -

Ms. Taylor said that current law assigns the governance of the area of the capitol that is reserved for the Legislature, to the Joint Legislative Operations Committee, which has not existed since the early 1970's.

She recommended that the Legislative Management Committee replace the Joint Legislative Operations Committee as the committee responsible for overseeing the legislative area of the state capitol.

MOTION: Sen. Valentine moved to approve the legislation that makes the Legislative Management Committee responsible for the legislative area of the state capitol. The motion passed unanimously. Speaker Stephens, Sen. Garn, and Rep. Biskupski were absent for the vote.

9. Schedule for 2002 General Session

A. Session Schedule

Mr. Christensen reviewed the Schedule for the 2002 General Session.

MOTION: Sen. Knudson moved that LMC adopt the Schedule for the 2002 General Session as presented. The motion passed unanimously. Speaker Stephens, Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

B. Consideration of Numbered Bills

Mr. Christensen noted that one way to make the two weeks of committee meetings prior to the beginning of the 2002 General Session as efficient as possible would be to have interim committees act on numbered bills only. This would allow the committees to be more productive so that when the session begins, the numbered bills would have been reviewed by these interim committees making them ready for floor action.

MOTION: Sen. Poulton moved that LMC approve staff's recommendation of only hearing numbered bills during the two weeks of interim committee meetings prior to the beginning of the session. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

C. Legislative Management Committee Authorization for Joint Rules Committee Meeting January 3 or 4, 2002

Mr. Christensen indicated that staff is recommending that a Joint Rules Committee meeting be held on January 3 or 4, 2002 for the purpose of assigning numbered bills out to the various interim committees to discuss in their meetings during the two weeks prior to the beginning of the session.

MOTION: Rep. King moved that LMC approve an additional meeting for the Joint Rules Committee to be held on January 3 or 4, 2002. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

D. Staff Schedule

Mr. Christensen gave the Committee an update on the work that is being done with regard to adjusting staff work schedules during the Olympic Games. He noted that the Executive Branch has indicated it will

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be working from 6:30 a.m. to 2:30 p.m. during the Olympic period. Mr. Christensen said that legislative staff will be working a 7:00 a.m. to 3:30 p.m. schedule and will be doing some telecommuting during that same period.

10. Reappointment of Wayne Welsh

Mr. Christensen stated that the Speaker and the President have both signed a letter recommending that Wayne Welsh be reappointed as the State Auditor. He indicated that the six-year appointment begins on February 1, 2002.

MOTION: Sen. Knudson moved that LMC approve a resolution reappointing Wayne Welsh as the Legislative Auditor General. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

11. Scheduling New Meetings

A. Work Meeting for Appropriations Subcommittee Chairs

Speaker Stephens noted that last year LMC authorized appropriations subcommittee chairs to have one additional work day with their fiscal analysts prior to the session. He indicated that this process worked well and he feels that there should be a similar process this year.

MOTION: Speaker Stephens moved to approve an additional days pay for all appropriation subcommittee chairs to meet with their fiscal analysts prior to the 2002 General Session. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

B. Public Education Appropriations Subcommittee - Additional Meeting (November 15)

Mr. Christensen reviewed a letter from the chairs of the Joint Public Education Appropriations Subcommittee requesting approval to hold a meeting on November 15, 2001.

MOTION: Speaker Stephens moved to authorize the Joint Public Education Appropriations Subcommittee's request for an additional meeting. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

12. Legislative Process Committee Recommendations

Mr. Christensen reviewed a letter from the chairs of the Legislative Process Committee asking for LMC's consideration of the resolution "Committee Notes on Bills," which revises joint rules by more precisely defining which committees qualify to have their recommendations printed on bills as committee notes.

MOTION: Rep. Arent moved that LMC endorse the "Committee Notes on Bills" resolution. The motion passed unanimously. Sen. Garn, Rep. Biskupski, and Rep. Ure were absent for the vote.

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Mr. Christensen indicated that the Legislative Process Committee also recommended the following for LMC's consideration: 1) the concept of a constitutional amendment permitting the Legislature to call itself into special session; and 2) proposed legislation that would amend Utah's statutes and constitution to authorize the Legislative Compensation Commission to make recommendations on the entire legislative compensation package, including expense reimbursements and benefits.

13. Review of Policies of the Legislative Management Committee, Appendix E, "Fees for Legislative Information"

A. Redistricting Committee Report - Mr. Christensen reminded the committee that it is responsible to approve the fees for legislative information. He indicated that the 2001 Redistricting Report and two briefing papers have been produced since those policy actions and an appropriate fee needs to be set on these reports. Staff's suggestion is to charge either \$20 or \$25 for a hard copy of the Redistricting Report, \$5.00 for the CD version, and \$5 each for the briefing papers.

B. Briefing Papers

MOTION: Rep. Garn moved to approve the following fees for reports published by the Office of Legislative Research and General Counsel: for the Redistricting Report: \$5 for CD and up to \$25 for hard copy which is free on the web site; and \$5 for each of the briefing papers. The motion passed unanimously. Rep. Biskupski and Rep. Ure were absent for the vote.

14. Broadcasting of Live Sessions

Rep. Becker distributed and discussed "Costs of Options for Publishing Audio on the Web."

MOTION: Rep. Becker moved that LMC approve, on a trial basis, the broadcasting of the 2002 General Session via the Legislature's web page.

MOTION: At the request of Sen. Valentine, Rep. Becker moved to amend his original motion to add language that gives legislators prioritization to be online on the system. The amended motion passed unanimously. Rep. Biskupski and Rep. Ure were absent for the vote.

15. Other Business

Chair Mansell noted that Section 20 in H.B. 155 from the 2001 General Session provided a legislative intent statement that officials from each county of the first class and from municipalities within each county of the first class shall together, by November 15, 2001, prepare a master plan for municipal annexations and incorporations within the county. He said that to the best of his knowledge, neither Salt Lake County nor the municipalities within that county have come forth with that plan. He informed the Committee that people from the White City area have a concern about that concept and he gave them some time to present their side of this issue.

Ms. Paulina Flint, a member of the Association of Community Councils Together for Salt Lake County, a member of the White City Community Council, and a member of Municipal Service Users Association of Salt Lake County told the Committee that Salt Lake County Mayor, Nancy Workman, has directed community councils and cities to produce maps on what they want their communities to look like. She indicated that the Association of Community Councils was under the impression that those maps were to be presented in a committee hearing before the Legislature prior to November 15, 2001. The Association

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has sent a GRAMMA request to each city as citizens of the unincorporated community areas and a list of 28 questions that need to be answered before this process should move forward because there is a financial risk and liability that goes along with changing boundaries and service lines related to bonding. She stated that bonding and security of boundaries is critical to providing services and Salt Lake County must be able to proceed in the future with secure boundaries so it can provide services and bonding to meet and finance those needs.

Sen. Poulton noted that the legislation is not requiring that any area of unincorporated county be moved into the city. The purpose of the proposal was to figure out a way to protect an incorporated area from losing its tax base. As the counties and cities complete their plans, those plans will be brought to the Community Councils at the county level.

Ms. Flint said the people want to make sure that their interests are protected and that a process is followed in the future that protects the interests of the public.

Rep. Curtis noted that Nancy Workman has been working with cities within Salt Lake County and she has put together a map. He said Mayor Workman was waiting for an invitation to present her ideas to LMC.

Sen. Mansell stated that the public would be notified of any future meetings regarding this issue.

16. Adjournment

MOTION: Sen. Hale moved to adjourn the meeting. The motion passed unanimously. Rep. Biskupski and Rep. Ure were absent for the vote. Chair Mansell adjourned the meeting at 5:45 p.m.