

**MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION**
Friday, February 1, 2002 – 12:00 noon – Room 405 State Capitol

Members Present:

Mr. Alan L. Sullivan, Chair
Mr. Kevin J. Worthen, Vice Chair
Rep. Patrice M. Arent
Mr. Michael E. Christensen
Sen. David L. Gladwell
Mr. Morris D. Linton
Judge Jon M. Memmott
Dr. Michael Petersen
Mr. Robin Riggs
Ms. Kristine Strachan
Sen. John L. Valentine

Members Absent:

Rep. Greg J. Curtis
Sen. Mike Dmitrich
Justice Christine Durham
Mr. Byron L. Harward
Speaker Martin R. Stephens

Staff Present:

Mr. Jerry D. Howe, Research Analyst
Mr. Robert H. Rees, Associate General Counsel
Ms. Cassandra Bauman, Legislative 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 Cassandra Bauman at 538-1032.

1. Call to Order

Chair Sullivan called the meeting to order at 12:16 p.m.

2. Review of Constitutional Amendments Proposed for Consideration During the 2002 General Session of the Utah Legislature

SJR004 Joint Resolution Allowing Changes to County Boundaries (C. Walkers)

Sen. Carlene Walker distributed "County Boundary Issues: Salt Lake County, Utah County and Draper City (Bisected Residential Parcels)." She indicated that she learned of a problem created by Draper City during a Political Subdivisions Interim Committee. The constitution, she said, currently provides that a majority of voters from each of the counties must vote in favor of a proposition to annex part of a county to another. It is not a majority of voters who turn out and vote at an election, she said, but a majority of registered voters, which is a virtual impossibility.

She also indicated that the amendment allows legislative officials from each county to make minor changes to a county boundary by agreement. She explained that "minor" is not defined in the constitutional amendment, but that the enacting legislation defines "minor" up to 1000 feet.

She explained that the Senate passed 1st Substitute S.J.R. 4 unanimously.

MOTION: Mr. Riggs moved that the Commission recommend S.J.R. 4 favorably. The motion passed unanimously.

HJR018 Resolution Directing Use of Interest on State School Fund (*M. Throckmorton*)

Mr. Rees explained that HJR 18 eliminates the current two-step process for distributing funds to schools. He indicated that the money would go directly from the State School Fund to the State School Board for distribution.

Sen. Valentine indicated that the Commission had approved Sen. Hillyard's resolution regarding the State School Fund. He questioned the differences in the legislation.

Ms. Paula Plant, State Office of Education, indicated that interest and dividends currently go to the School Land Trust Program for distribution to schools. She explained that the schools prepare a budget plan and present that to the Local School Boards. She indicated that the Local School Boards approve the plans and maintain oversight of the funds. She stated that HJR 18 provides that the money would go directly to schools and bypass the Uniform School Fund.

MOTION: Sen. Valentine moved that the Commission proceed to the next item on the agenda. The motion passed unanimously.

2002FL0359 Resolution Amending the Revenue and Taxation Article (*W. Harper*)

Mr. Rees indicated that Rep. Wayne Harper will not pursue the legislation further at this time.

2002FL0860 Resolution Authorizing Attorney for State Auditor and State Treasurer (*J. Valentine*)

Mr. Austin Johnson, Utah State Auditor, explained that Legislative Research and General Counsel issued a legal opinion in which it opined that in-house legal hired outside of the Attorney General's Office is probably unconstitutional. He explained that, since he is a constitutional officer, a constitutional amendment is necessary if he is to hire in-house counsel. Mr. Johnson explained that the Legal Advisor in his office is solely for day-to-day legal advice and any litigation would be handled by the Attorney General. He noted that Attorney General Mark Shurtleff is not opposed to this amendment.

Sen. Valentine explained that if the state is going to retain the independence for the auditor and the treasurer, separate in-house counsel must be available. He questioned what might happen if the State Auditor was to audit the Attorney General's Office and need legal advice during the audit. Under the current language of the Constitution, the Attorney General's Office would have to provide that legal advice, he said.

Mr. Ed Alter, Utah State Treasurer, explained that the need for independent legal advice in the State Treasurer's Office is to assist in drafting legal documents such as GRAMA (Government Records and Management Act) requests. He stated that it is less of a need for a legal opinion or legal advice, but for a person who has a legal background.

Chair Sullivan indicated that the Commission would benefit from hearing the Attorney General's opinion on the legislation. Ms. Strachan suggested staff contact the Attorney General and get his opinion. Judge Memmott rhetorically asked whether the Commission would reconsider supporting the legislation if the Attorney General objected.

MOTION: Judge Memmott moved that the Commission recommend the legislation providing that Attorney General Shurtleff does not object to the concept and that the Commission delay recommendation on the legislation if Attorney General Shurtleff is found to object until the Commission can hear from the Attorney General. The motion passed unanimously with Rep. Arent and Mr. Christensen absent for the vote.

3. Other Business

Sen. Valentine distributed the intent language that accompanied the legislation and explained that S.J.R. 10 is the Commission's nonsubstantive rewrite of Article XIII. He indicated that S.J.R. 10 "Resolution Amending Revenue and Taxation Provisions of Utah Constitution" passed the Senate Second Reading Calendar with no opposition.

Mr. Worthen questioned whether the intent language would follow the resolution when it is presented to the voters. Sen. Valentine explained that the Voter Information Pamphlet will contain pros and cons for the passage of the provisions but that the intent language would probably not be quoted in the Voter Information Pamphlet.

Chair Sullivan indicated that the Commission has been asked to study the Tax Article regarding governmental exemptions related to governmental properties in competition with private enterprise. Judge Memmott questioned if the Tax Review Commission should be involved in a joint study of that item.

Chair Sullivan indicated that the Commission discussed reviewing the open courts provision as well as the state redistricting process. Mr. Rees indicated that a list of substantive issues which arose regarding Article XIII has been compiled for those interested in making that a study priority.

4. Adjourn

Chair Sullivan adjourned the meeting at 1:39 p.m.