

**MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION**
Friday, May 11, 2001 - 9:00 a.m. - Room 405 - State Capitol

Members Present:

Mr. Alan L. Sullivan, Chair
Ms. Jean B. White, Vice Chair
Speaker Martin R. Stephens
Mr. W. Craig Jones
Rep. Patrice Arent
Rep. Afton B. Bradshaw
Mr. Mike Christensen
Mr. Dallin W. Jensen
Mr. Morris Linton
Mr. Kevin Worthen
Sen. John Valentine

Members Absent:

Members Excused:

Sen. Mike Dmitrich
Ms. Christine Durham
Sen. Dave Gladwell
Mr. Byron Harward
Mr. Robin Riggs

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 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 9:11 a.m.

MOTION: Rep. Bradshaw moved to approve the minutes of the February 2 , 2001 meeting. The motion passed unanimously.

2. Debt Limits for Municipalities – Article XIV, Section 4

Rep. Wayne Harper explained that the intent of the resolution is to allow the legislature greater flexibility in the classification of cities. He also explained that the change from "municipalities" to "political subdivisions" would subject special districts to the same debt limitations as municipalities.

Mr. Rees explained that the population of third class cities ranges from 800 to 60,000 people. He explained that the resolution would allow the legislature to divide that single classification of cities into multiple classifications without affecting the debt limits of existing third class cities.

Mr. Richard Fox, bond lawyer, Ballard Spahr Andrews & Ingersoll, stated that the changes in the resolution would likely provide a higher debt limit for some entities that they

currently have under statute.

Mr. Mark Anderson, attorney, Utah Association of Special Districts, stated that the increased debt limit may become a burden on smaller counties if and when they needed to repay the debts. He stated that since the special districts have not met the current debt limitation, decreasing the limit is of no immediate consequence. However, he explained at some time in the future, when special districts require an increase in the debt limit, amending the constitution to get the increase may prove too difficult. He suggested that a wiser approach may be to establish the debt limiting statute which would allow for more flexibility in time of dire need.

Ms. Kathryn Pett, General Counsel, Utah Transit Authority, stated that debt limits for transportation districts are established by statute at three percent. She requested that if the resolution proceeds transportation districts be allowed the eight percent limit.

Mr. Richard Scott, bond counsel, Chapman and Cutler, stated that the debt limit should be established in statute instead of the constitution. Chair Sullivan said that there was some justification for the limitations to be originally established in the Constitution. It would be helpful if we knew what those reasons were so we could determine whether or not those reasons justify a constitutional provision or whether a statute would suffice.

MOTION: Rep. Bradshaw moved to proceed to the next item on the agenda. The motion passed unanimously with Speaker Stephens absent for the vote.

3. Discussion of State School Fund – Article X, Section 5

Mr. Edward Alter, Utah State Treasurer, explained that the State School Fund was established by the constitution to ensure that the trust would be used to support public education. He explained that the fund is being wisely managed. Former fund managers, he said, adopted a conservative approach to the investment of the fund's principal. This approach guaranteed a certain amount of interest earnings which the state relied upon to benefit education, but the approach did not produce any long term growth in the fund. In 1994, the constitution was amended to allow for a reinvestment strategy designed to increase long term growth. Although that strategy has helped produce substantial growth, the formula on which it is based is flawed because under certain conditions it requires nearly all of the annual earnings to be reinvested, leaving little or nothing to be used for the support of public education. Mr. Alter emphasized that the long term investment strategy of the fund ought to balance the need to support public education and at the same time accommodate a long term investment strategy.

Mr. John Andrews, Chief Legal Counsel, School and Institutional Trust Lands, stated that the organization is strongly supportive of the efforts to increase growth to the fund. He stated, however, a concern about the language that requires at least 50 percent of the fund's principal to

be invested in equities.

Ms. Margaret Bird, State Trust Land Specialist, State Office of Education, explained that the 50 percent equity concept is intended to increase the fund's growth. The board is of the opinion that some equity strategy be discussed and adopted. Without an equity investment strategy, she said, the fund will experience inadequate growth. She added that the State Office of Education is very supportive of the resolution.

Rep. Matt Throckmorton, explained that the money from the School Trust Fund should go directly to benefit public schools. To date, he said, money from this fund has not been reaching school children. He explained that he is in the process of working on an amendment that would earmark these funds for specific benefit to school children.

Ms. Janet Cannon, Vice Chair, State Board of Education, distributed a handout "Utah PTA Position Supporting a Constitutional Amendment to the Utah Constitution – Article X, Section 5." She stated that although the board has not yet met to discuss the resolution, that she would inform the commission regarding the board's position.

4. Discussion of State and Local Government Sale/Leaseback Exemption – Article XIII, Section 2

This item will be discussed at a later date.

5. Revenue and Taxation Article – Article XIII

Chair Sullivan explained that the commission had decided to study Article XIII in two segments: the first was to offer one draft, the purpose of which was to clarify the article without making any substantive changes. That draft is nearly complete, he said, and will be discussed at length at the next meeting. While constructing the first draft, the commission instructed staff to take notes on any substantive issues discussed. Should any member of the commission desire to discuss substantive changes, we should schedule them for a future agenda.

Mr. Howe reviewed a list of potential substantive changes raised in the discussions of Article XIII. Those issues, contained on page 45 of the mailing packet included: elimination from the constitution all property tax exemptions; explicit authorization for the legislature to classify property and taxpayers for taxation purposes; vertical revenue sharing; intangible property; and highway fees and taxes.

Chair Sullivan requested that members consider whether or not any of these should be discussed for possible recommendation to the legislature. Sen. Valentine suggested that vertical

revenue sharing ought to be repealed. Mr. David Spatafore, Utah League of Cities and Towns, stated that Mayors have always needed to come to the legislature for the appropriations process. It would be helpful to visit the issue of vertical revenue sharing, he said.

6. Revenue and Taxation – Article XIII

Chair Sullivan said that the clarification draft for the Revenue and Taxation Article be placed on the agenda for the June meeting.

7. Other Business

The next meeting is scheduled for Friday, June 8, 2001 at 9:00 a.m. in room 405.

8. Adjourn

Chair Sullivan adjourned the meeting at 11:55 a.m.