

**Minutes of the  
Free Market Protection and Privatization Board**

Wednesday, July 10, 2013 - 2:00 p.m.

Room 20, House Building

State Capitol Complex

**Members present:**

Senator Howard Stephenson, Senator Karen Mayne, Representative Johnny Anderson, Representative Lynn Hemingway, Thomas Bielen, Brian Gough, Commissioner Sherrie Hayashi, Randy Simmons, Kerry Casaday, Kimberley Jones, Manuel Torres, Al Manbeian, Commissioner Louenda Downs, and LeGrand Bitter

**Members absent:**

Katina Curtis

**Staff present:**

Cliff Strachan, Program Specialist/Secretary

Note: Additional information including related materials and an audio recording of the meeting can be found at [governor.utah.gov/privatization](http://governor.utah.gov/privatization).

**1. Welcome and Introductions**

Cliff Strachan, Governor's Office of Management and Budget, called the meeting to order and noted a quorum was present. The governor has appointed 15 of 17 members to date. Two more recommendations are pending Governor Herbert's approval in August. Katina Curtis sent was excused from the meeting.

All members in attendance and one of the recommended appointees introduced themselves.

Mr. Strachan noted that the presentation from Kristen Cox will be delivered out of the agenda order when she arrives. (It is found at item 6a of these minutes).

**2. Orientation**

**a. Open and Public Meetings Act (annual training)**

The board reviewed requirements of the *Act* with the Board in accordance with Utah Code Annotated (UCA) 52-4-104.

**b. Free Market Protection and Privatization Board Act**

The board reviewed changes to the *Act* per House Bill 94 (2013 General Session) and addressed specific aspects arising from the *Act*.

**i. Mission Statement**

The board received a revised mission statement consistent with the duties set forth in UCA 63I-4a.

Submitted for consideration until next meeting.

Randy Simmons asked whether the board can look at local government. The board can look at allegations of unfair competition and make recommendations. Also, principles of privatization can be shared.

Rep. Hemingway asked what recommendations have been made previously. Mr. Simmons noted that past recommendations addressed golf courses, DABC retail facilities and others, and staffing.

ii. Board Accounting Method

The board reviewed the requirements per UCA 63I-4a-205 and referred the board to the Privatization Assessment Workbook. The *Act* requires a method be established by rule (meaning the board needs to work through the rule making process).

Sen. Stephenson asked whether such rules are available elsewhere we can use. He suggested that the State Auditor be invited to share expertise re GASB and the rule making. Staff is researching and has found some possible models in some cities and the federal FAIR Act.

iii. Commercial Activities Inventory

The board reviewed the requirements per UCA 63I-4a-302, the board's history in compiling it and considered the draft inventory prepared by staff. The list is to be reviewed going forward and is a starting point.

Commissioner Downs asked if this is only state government and can the board look at other governments. The inventory is required only for the state agencies but a broad read of the *Act* suggests the board could look at other local governments, generally in response to complaints of unfair competition.

*Motion:* Commissioner Downs moved to adopt and post the inventory on the board's website. CARRIED

iv. Staff Support and the Governor's Office of Management and Budget

The board reviewed and discussed the requirements per UCA 63I-4a-204 and 304. Mr. Strachan noted that any private sector person hired is required to be neutral on privatization. As GOMB staff, he has been directed to be neutral as well.

v. Board Process Flow Chart

The board reviewed a flowchart illustrating the process to be followed by the board in reviewing privatization, unfair competition, and other matters pertinent to the board.

A question was asked about the budget for the board. The budget is \$200,000 and includes staff costs. More details will be made available.

**3. Organization**

**a. Selection of a Chair/Vice Chair**

UCA 63I-4a-202(4) requires the selection of a chair of the board for a one-year term.

*Motion:* Sen. Stephenson nominated Kimberley Jones to serve as chair. No other members were nominated. Ms. Jones is acclaimed.

*Motion:* Thomas Bielen nominated Brian Gough to serve as vice-chair in the absence of the chair. No other members were nominated. Mr. Gough is acclaimed.

Ms. Jones, Chair, directed Mr. Strachan to conduct the remainder of the meeting.

**b. Meeting Schedule**

UCA 63I-4a-202(6) requires the board shall meet at least quarterly and as necessary to conduct its business, as called by the chair. The board discussed the results of the availability survey conducted by staff prior to the meeting. Board consensus is to hold meetings on the second Thursday of the month.

Next meeting is set for September 12, 2013 at 2:00 p.m.

**4. Minutes**

**a. Meeting summary**

The board received in its packet a summary of meeting topics dating back to 1997. This summary is informational only.

**b. Minutes from November 13, 2012**

*Motion:* Sen. Mayne moved to approve the minutes of the November 13, 2012 meeting. CARRIED

**5. Annual Report**

UCA 63I-4a-203(1)(c) requires the preparation of an annual written report and reports to two interim committees. Mr. Strachan presented a draft for consideration. Government Operations Interim Committee has requested that the board report at its July 17, 2013 meeting. In discussion, suggested to include a bullet asking for use of the legislative branch's audio, calendaring, and resources.

*Motion:* Commissioner Downs to approve the report with the suggested changes. CARRIED

**6. Presentations**

**a. Operational Excellence**

Kristen Cox, Executive Director, Governor's Office of Management and Budget (GOMB), presented the SUCCESS framework - a comprehensive set of operational excellence tools and principles - and related it to the Governor's goal of improving operations by 25% over four years. Noted in passing that outsourcing may be an obvious fit for some activities. GOMB is looking at all agencies and developing a baseline.

Sen. Mayne referring to outsourcing commented that "just because we can, doesn't mean we should".

Sen. Stephenson lauded how UDOT uses scarce resources to get more for the buck through outsourcing engineering and touted the advantages of removing selection of road projects from the legislature.

Randy Simmons asked how the board can help GOMB with its work. Ms. Cox stated that the board needs to “focus”, “don’t get too broadly spread”, “elevate the plausible ideas”, and work with staff.

Another discussion item raised by Senators Stephenson and Mayne was to have the legislative and executive branches work together to use the resources of both to notice, broadcast, record, and calendarize these meetings.

**b. Fleet Operations**

**i. Senator Todd Weiler, and James Crowder, Enterprise Rent-A-Car**

Sen. Weiler talked about state fleet pools, noting there are two parts to his inquiry:

1. Can the state reduce the size of the fleet pool and save money by using a private vendor?
2. Can the state better utilize what vehicles that it has?

He spoke of one situation where a number of cars were assigned to a division but employees were typically using only the newer cars meaning that older cars were not getting used enough to rotate out of the fleet.

Sen. Mayne said some departments have cars where they are needed but suggested that cars get checked in and out and mileage tracked to better establish accountability on when and where cars are being used.

Representative Hemingway suggest the order of inquiry should be used and added that the state has been pushing for the use of natural gas vehicles and wondered if Enterprise would offer such. Mr. Crowder noted not at this time but Enterprise is looking at it.

Sen. Weiler noted also that he has a interim study item that the board may wish to consider: the use of law enforcement officers competing with private security firms for security work.

Mr. Crowder gave a presentation titled State of Utah Fleet Discussion in which he discussed areas of opportunity, potential solutions, benefits to the state, and gave examples of what is being done in other states.

Areas of opportunity start with mileage reimbursement, rightsizing the fleet, and fleet disposal. Potential solutions include tools to determine cost effectiveness, car sharing, supplemental car rentals, privatizing disposal of surplus vehicles, leasing options, with a view to reducing fleet size and lower mileage costs. He touted benefits as cost savings.

Tom Bielen asked for a copy of the presentation.

Al Manbeian asked if insurance is an issue. Mr. Crowder said that insurance is included in rates negotiated under the state contract.

Commissioner Downs asked if the car share program is being run in Salt Lake City. Mr. Crowder noted that the RFP is available now. Wants to see the program run statewide.

ii. Kim Hood and Rich Amon, Department of Administrative Services

Kim Hood, Executive Director, noted that the agency has spoken with Sen. Weiler and is working with Kristen Cox on the baseline under the SUCCESS program. Sen. Weiler's concerns are their concerns.

Rich Amon, Deputy Director, provided a handout and presentation on Fleet Management and Surplus Property. He gave an overview of vehicle ownership in the state fleet. Discussed role of the Division of Fleet Operations, noting that it collects and provides tracking and utilization data. Vehicles are a tool for agencies and Fleet works to help departments and employees use that tool effectively. Notes that there are many unique needs and situations in the state system and they must accommodate these. He discussed the current reservation system using Enterprise Rent-A-Car to address temporary or excess needs and POV (privately owned vehicles) mileage reimbursement. Talked about the process initiated by GOMB respecting utilization.

Mr. Amon noted that they are working on a study of surplus vehicle sales and can report to the board in September.

Commissioner Downs asked if September was too late to meet next. Staff will share information as it is available.

LeGrand Bitter asked about analysis of capacity and utilization and was told that the model takes into account FY 2012. FY 2013 information should be available by September.

**7. Other Business/Adjourn**

*Motion:* LeGrand Bitter moved to adjourn. CARRIED