

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

Thursday, December 12, 2013 - 2:00 p.m.

Room 20, House Building

State Capitol Complex

**Members present:**

Kimberley Jones (Chair), Brian Gough (Vice Chair), Sen. Howard Stephenson, Sen. Karen Mayne, Rep. Johnny Anderson, Thomas Bielen, Sherrie Hayashi, Manuel Torres, Al Manbeian, Bob Myrick, Steve Fairbanks, LeGrand Bitter

**Members absent:**

Rep. Lynn Hemingway, Randy Simmons, Kerry Casaday, Louenda Downs

**Staff present:**

Cliff Strachan, Governor's Office of Management and Budget

Note: Additional information including related materials and an audio recording of the meeting can be found at <http://gomb.utah.gov/operational-excellence/privatization-board/> and the Utah Public Meeting Notice Website (<http://www.utah.gov/pmn>).

**1. Welcome and Introductions**

Kimberley Jones chaired the meeting. Rep. Hemingway and Commissioner Downs are excused from the meeting.

**2. Public Comment (10 minutes)**

Mr. Strachan reported that at the previous meeting the board discussed whether or not to include a regular public comment period in meetings. The board's consensus was to provide such a period at the beginning of the board's meetings. Staff was to report to the board on procedures for public comment. A procedural document was distributed.

Generally, members of the public, as recognized by the chair, and not already on the meeting's agenda, will be given up to two minutes to comment on matters pertinent to the board. The chair may expand the time set aside in the meeting to accommodate more than five speakers. The minutes should record the name of the speaker and substance of the comments made.

*Motion:* LeGrand Bitter moved to approve the procedures for Public Comment as presented. CARRIED

Chairwoman Jones invited members of public to comment but no one came forward.

**3. Board Business/Minutes**

**a. Minutes from November 14, 2013**

*Motion:* Bob Myrick moved to approve the minutes of the November 14, 2013 meeting. CARRIED

## **b. Advisory Groups or Committees**

At the last meeting, noting that the Free Market Protection and Privatization Board Act provides for the creation of advisory groups, the board discussed a suggestion to create specific ad-hoc committees for various studies. The chair appointed an RFP Evaluation Committee to review the current request for proposals and directed staff to survey members to determine on which ad hoc committees each wished to be placed. 12 members responded. The other proposed advisory groups include 1) privatization review process development, 2) unfair competition reviews, 3) Commercial Activities Inventory reviews, 4) Department of Technology Services review, and 5) USOE review re student information systems.

Some members had already indicated preferences and others did so at the meeting. Mr. Strachan suggested that some committees be combined (for example, the unfair competition reviews could all be done by one committee, and the DTS review could be done by the Commercial Activities Inventory review committee). The chair will review matrix of names, committees and preferences and will follow up by email with board members.

## **3. Commercial Activities Inventory**

### **a. Utah State Tax Commission (USTC)**

Barry Conover, Executive Director, and Julie Alsop, Finance Director, representing the USTC talked about the responsibilities of the agency and its six divisions calling it a policy and an adjudicative body. USTC follows federal law in regard to security and confidentiality requirements. 82 percent of individual income tax filings are done online; 54 percent of motor vehicle registrations. Noted its On-the-Spot registrations can be done at 600 locations throughout the state. USTC interfaces with 55 motor vehicle related agencies or entities.

During questioning, board members heard in response that:

- There are limited ways to engage private sector agents to act for the agency; USTC does use outside tax collectors for delinquent accounts but privacy requirements limit the information that can be shared.
- Outside tax collectors cost \$0.18 per dollar collected; internal collections cost \$0.04.
- There are sometimes complaints about heavy handed collectors and the agency audits its outside agents but where those result in complaints, they bring the collections back inside the agency.
- There are not other areas to be privatized because of security and confidentiality requirements and concerns; referred to security breaches at Workforce Services and Health.

### **b. Department of Insurance**

Todd Kiser, Commissioner, discussed the agency's seven departments plus HIPUtah. Referencing Examinations, he noted there are 1,200 insurance companies in Utah, each must submit CPA-audited reports; if examiners find questionable items they will do their own audit. Captives Market - there are 300 captive (or self insured) carriers in the state. Health - Utah is a "file and use" state but the Affordable Care Act (ACA) is making Utah a "use and file" state, which involves a change in workload. Licensing - there are 97,000 insurance agents registered in Utah but only 21,000 are resident agents. Noted GOMB's Operational Excellence staff are looking at licensing, which is fully electronic now. To Market Conduct, he noted there

were 460 investigations opened this past year and 485 closed. Mentioned Insurance Fraud and then noted they are closing out HIPUtah by 2014 as a result of the ACA.

During questioning, board members heard in response that:

- Examinations are done in-house but could be done by private teams; they review about every five years - the next review is spring 2014. By comparison, examinations by state staff cost about \$72 per hour versus \$120.00 for contracted services.
- respecting regulatory impact on the market and multistate efficiencies that could be implemented, the US system of having 50 different regulatory frameworks is due to states' rights; in this case, the separate frameworks may challenge insurers but for Utah's insured, our lower risks than many other regions or peoples, result in lower premiums than if we were in a larger pool that included California or other areas; regarding licensing, there is reciprocity between Utah and other states; the NAIC strives from uniformity.
- local preference is no longer a consideration in Utah's insurance markets.

The agency will report on its findings respecting examinations outsourcing when its study is completed.

**c. Department of Agriculture and Food (UDAF)**

Mr. Strachan informed the board that the agency was unable to send representation to today's meeting, will be submitting some omitted surveys, and would present at the January 9, 2014 meeting. The materials received to date are included in the meeting packet.

**d. Department of Heritage and Arts (DHA)**

Kimball Hales, Finance Director, provided an overview of the agency and its divisions, noting the widely divergent services provided. Commented that the digitization program is partnered with other state agencies and its purpose is to protect artifacts, information, and records.

He noted that board staff had identified four possible areas to which to look for privatization opportunities:

- Library Collections, State History - DHA already uses vendors to find rare books and documents.
- Utah Cemeteries and Burials Database - Stated the relationships with private and some other cemeteries would not work if privatized the database. Said the database is one of the top 75 genealogical websites and its free; opined that the private sector would charge for access to the site. Also had concerns for private information protection.
- Cultural Competency Training - Two have been done so far, partnered with Washington State University.
- State Library Training - 36 percent of training is with private sector partners and 64 percent comes from state library staff.

During questioning, board members heard in response that:

- if the state lost control of cemetery information by sale, that data would have to be pulled apart to protect private information.

**4. Review Privatization of an Activity**

None

**5. Review Issues Concerning Agency Competition with the Private Sector**

Rep. Anderson referred to a recent legislative audit into higher education competition encroaching on the private sector, noted the audit findings and recommendations will result in the legislature looking at it, including sales tax differences (for example, students buying computers from a university bookstore don't pay sales taxes but do when buying from private sector stores). In September, the Board of Regents directed the Commissioner of Higher Education to draft some regulations.

Rep. Anderson requested that the Commissioner of Higher Education address the Privatization Board at its January 9 meeting. Staff will make the invitation.

Mr. Bielen asked for a copy of the audit; Rep. Anderson will email the link to the board members.

Sen. Mayne asked if the issue dovetails with the USTAR issue? It does not.

**Other Business/Adjourn**

*Motion:* Rep. Anderson moved to adjourn. CARRIED

Next two scheduled meetings:

Thursday, January 9, 2014 at 2 pm in 20 House Building

Thursday, April 10, 2014 at 2 pm in 20 House Building