

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

Thursday, December 11, 2014 - 2:00 p.m.

Room 215, Senate Building

State Capitol Complex

**Members present:**

Kimberley Jones (Chair), Brian Gough (Vice Chair), Sen. Karen Mayne, Rep. Lynn Hemingway, Thomas Bielen, Manuel Torres, Russell Anderson, Bob Myrick, Jacquie Nielsen, LeGrand Bitter

**Members absent:**

Sen. Howard Stephenson, Rep. Johnny Anderson, Randy Park, Al Manbeian, Rick Jones, Steve Fairbanks.  
Louenda Downs

**Staff present:**

Cliff Strachan, Governor's Office of Management and Budget (GOMB)

Note: Additional information including related materials provided at the meeting 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.

Sen. Howard Stephenson, Rep. Johnny Anderson, Randy Park, Al Manbeian, Rick Jones, and Steve Fairbanks were excused.

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

**3. Board Business/Minutes**

**a. Minutes from November 13, 2014**

*Motion:* Senator Mayne moved to approve the minutes of the November 13, 2014 meeting. CARRIED

**3. Commercial Activities Inventory (CAI)**

**a. Division of Risk Management**

Tani Downing, Director, introduced her colleagues and presented on Risk Management programs in the areas of insurance, loss prevention, and claims management. She provided copies of the division's responses to the CAI survey. Risk Management is responsible insuring state agencies and state property. The state self insures for property damages up to \$1 million and spreads risk for damages above that amount among various insurance risk pools. In addition to self insurance generally, the state acquires a variety of specific insurance policies from the private sector.

Ms. Downing discussed the findings of a 2014 audit by Perlinski and Company which reviewed the division's programs. The Perlinski audit found that the state's cost of operations, including claims adjusting, were more than \$1 million lower than commercial third party administrators which handled similar claims volume. Addressing a privatization initiative in Louisiana for these services, Ms. Downing commented that that state with 155,000 state employees had 175 employees doing similar work without a strong technology base. A comparative analysis indicates that Utah uses 28 employees for 112,000 state employees, a significantly lower ratio and an operating budget of \$8.4 million as opposed to \$15 million.

Another 2014 audit by Bickmore of liability and property claims found that Risk Management's staff are efficient, experienced, and experts which combination saves the state money, especially with respect to litigation costs.

Other privatized services used by the division include claim audits, actuarial analyses, the risk management information system, various but specific types of inspection and adjustment services.

#### **4. Review Privatization of an Activity**

##### **a. Property Damage Subrogation Pilot Project**

Mr. Strachan outlined the property damage subrogation pilot project mentioned at last month's meeting. UDOT (Department of Transportation) will be the primary state participant. The proposal is to engage a third party subrogation firm to do the work for an 18-month period beginning July 1 with evaluation to begin after 2 months. To make the project work, legislative changes are required in the area of fees and damages.

After discussion, *the following recommendations were moved by Kim Jones, seconded, and approved by the Board:*

1. That GOMB coordinate with interested state and other interested agencies to develop and issue one or more test use contract(s) for property damage subrogation.
2. That GOMB and any participating agencies evaluate the performance of any test use contract(s) after twelve months and report to the agencies, GOMB, the Office of the Legislative Fiscal Analyst, Division of Purchasing and this board the results of that evaluation.
3. That the legislature in its 2015 general session introduce and pass amendments to State Code as suggested by this project outline.

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

##### **a. Competition Review Advisory Committee**

The committee met this morning to review and discuss information provided by Utah State Office of Education (USOE) and Relational Data Corporation (RDC). At that meeting and summarized more succinctly here, Mr. Strachan reviewed the information respecting RDC's petition to investigate "unfair competition" in the market for student information systems (SIS). A summary of the findings is that USOE does have an unfair advantage because it can offer the product at no charge to LEAs and the SIS (known as Aspire) could be privatized.

Mr. Jerry Winkler, Information Technology Director, USOE and Messrs. Andelin were invited to speak to the findings. Each discussed the findings from their own perspective.

Draft recommendations were read to the board. Because a quorum was no longer present any vote on the recommendation was postponed until the next board meeting. Staff will circulate a draft report, first to board members for comment, and later another draft, will be sent to Mr. Winkler and Mr. Andelin for comment.

## **6. Other Business/Adjourn**

*Motion:* Bob Myrick moved to adjourn. CARRIED

Scheduled Board meetings:

- Thursday, January 8, 2015 at 2 pm in 215 Senate Building

Scheduled Advisory Committees meetings: