

SUMMARY *of* PROCEEDINGS



JOINT CORPORATIONS, ELECTIONS & POLITICAL SUBDIVISIONS COMMITTEE

COMMITTEE MEETING INFORMATION

May 28 & 29, 2013
Best Western Inn at Lander
Lander, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Cale Case, Cochairman
Representative Rosie Berger, Cochairman
Senator John Hines
Senator Wayne Johnson
Senator Leslie Nutting
Representative Gregg Blikre
Representative Jim Byrd
Representative Gerald Gay
Representative Matt Greene
Representative Dan Kirkbride
Representative Jerry Paxton
Representative Ruth Ann Petroff

COMMITTEE MEMBERS NOT PRESENT

Senator Charles Scott
Representative Dan Zwonitzer

LEGISLATIVE SERVICE OFFICE STAFF

Lynda Cook, Staff Attorney
Kelly Shepp, Research Analyst

OTHERS PRESENT AT MEETING

Senator Eli Bebout
Representative Lloyd Larsen

Please refer to Appendix 1 to review the Subcommittee Sign-in Sheet
for a list of other individuals who attended the meeting.

The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at <http://legisweb.state.wy.us>.

EXECUTIVE SUMMARY

The committee met in Cheyenne and discussed local government legal publication requirements, utility ratemaking, telecommunications, misclassification of building industry employees, roofing contractors, funeral director and coroner statutes, insurance code, campaign finance and business fraud prevention.

CALL TO ORDER

Co-Chairman Cale Case called the meeting to order at 8:30 a.m. The following sections summarize the Committee proceedings by topic. Please refer to Appendix 2 to review the Committee Meeting Agenda.

APPROVAL OF MINUTES

Minutes from the October, 2012 Committee meetings were approved.

FUNERAL DIRECTORS AND CORONERS

Funeral directors practice act.

Marian Schulz, lobbyist, Ross Gorman, embalmer and Jamey Kirkland, funeral director, testified.

Ms. Schulz presented the changes the association proposes to the practice act. (Appendix 3) She noted that the statutes have not been updated in many years. The board of embalming voted on the proposed changes last year. Both state associations approved the draft changes. The bill renames the board, increases criminal penalties, provides for operation of crematories and redefines educational and training requirements, but grandfatheres current licensees.

Ms. Schulz testified that there are eleven crematories in Wyoming. Chemical disposition is a new method of disposal bodies through chemical baths and autoclave. This practice is not currently regulated and is increasing in surrounding states. The new statutes will provide more stringent requirements for embalmers.

The committee discussed clarifying that licensees may not have felony or misdemeanors related to the practice of funeral directing or embalming. Additionally, language regarding gross immorality and moral turpitude should be revised. Archaic language regarding cappers, steerers and solicitors should be better explained.

The committee discussed the consumer protections in the statutes. The committee also discussed the relationship between the funeral directors' statutes and the coroners' statutes. Senator Nutting questioned whether the statutes address the question of when a funeral home must accept a body and when it may reject a body. Ms. Schulz suggested that the bill does not address those issues but she will take that back to the association to consider.

Rep. Blikre suggested the committee should consider renaming the board to a name that does not imply religious services.

Dominic Weibel, funeral director, testified that the revisions help the funeral directors have more clarity. The committee asked LSO staff to draft a bill and bring it back to the committee at the next meeting.

Coroners.

Mark Harris, deputy county coroner, Fremont County, testified that he is here on behalf of the Coroner Standards Board. He testified that the board of coroner standards has no authority to enforce the standards. Ed McCauslin, Coroner, suggested that a bill should be drafted that would allow the board to enforce the requirements, without placing limitations on filing for office. Mr. Harris noted that they only want to prohibit the name being put on the ballot, not limit people from filing.

Mr. Harris provided proposed changes to the statutes to handle complaints about coroners who do not meet the standards. (Appendix 4). The proposal also places a qualification on running for office that certification not have been revoked. The committee questioned whether those qualifications could be required.

The committee asked LSO staff to draft a bill and a legal memo regarding the legal implications of qualifications for elected office.

INSURANCE***Own Risk Solvency Model Act.***

Tom Hirsig, Insurance Commissioner, presented a proposed bill. (Appendix 5). The bill provides requirements for maintaining a risk management framework. The act is necessary to maintain accreditation with the NAIC. The bill requires companies to review their own risk and submit that information to the commissioner. The bill sets requirements for that review and addresses confidentiality of those submissions.

Lynn Birleffi, America's Health Insurance Plan, testified in support of the bill.

Katherine Wilkinson, Property and Casualty Insurance companies, testified in support of the bill.

The committee asked LSO to draft a bill and bring it to the next meeting.

Guaranty Association Model Act.

Dave Picard, presented the proposed statutory changes. (Appendix 6). Chris Chandler and Cindy Oliver, discussed the specifics. Mr. Chandler testified that the purpose of the Guaranty Association is to protect the public. This association continues coverage when a company becomes insolvent by moving the policies from the insolvent company to a solvent one. The Association is funded by an assessment on membership which consists of all licensed companies in that field. Mr. Chandler provided a summary of the claims paid by the association since 1998.

The changes provide updated definitions for consistency with other states. The revisions also increase the aggregate coverages available.

John McBride, Blue Cross/Blue Shield, testified in support of the legislation. He discussed a particular situation where the company is going to pay an assessment for long term care insurance policies but the company does not write those types of policies. He suggested that long term care policies should be covered by all three types of guaranty associations rather than just health insurance companies.

Mr. Chandler suggested that the change proposed by Mr. McBride would create problems and would deviate from the model act.

Dave Uchner, American Council of Life Insurers, testified in support of the bill.

Tom Hirsig, Insurance commissioner testified in support of the bill.

The committee asked LSO to draft a bill for consideration at the next meeting.

Electronic delivery of Insurance Documents.

Katherine Wilkinson, PCI, testified that Wyoming needs statutory change that provides for electronic delivery of insurance documents and electronic transmission of insurance notices. (Appendix 7). The proposed bill provides for that electronic delivery and also allows for internet posting of insurance policies. The proposal provides that the insured must opt in to delivery by electronic mail.

Cindy Pomeroy, Mountain West, Marianne Shanor, State Farm, and Dave Picard, Esurance, all testified in support of the bill.

Tom Hirsig, Commissioner, testified that electronic delivery has been going on for a while. They have had very few complaints. He questioned the necessity of the bill though. Jim Mitchell, insurance department attorney, noted that there are 7 instances in statute where a notice is required. He noted that the UETA covers 80% of the issues dealt with in the proposal. Ms. Wilkinson testified that insurance providers would like more specificity to the insurance industry.

The committee asked LSO to draft a bill for consideration at the next meeting.

ELECTION ISSUES

Effects of legislation on campaign finance reporting system.

Andrea Burn, Peggy Nighswonger and Pat Arp, Secretary of State's office, provided a presentation on the WYCFIS, Wyoming's campaign finance reporting system. (Appendix 8). Ms. Burn discussed a programming error which resulted in erroneous e-mails being sent out suggesting that filings had not occurred. Those issues have been resolved. The second issue involved ongoing committees, i.e. candidates' campaign committees that do not dissolve. The office provided training throughout the state. They will provide more training before the next election.

2013 HB 187 changed the limits individuals and PACs can contribute. This will require changes to the system to recognize the difference between statewide and non-statewide candidates.

The committee discussed the need to really consider the fiscal impact of legislative changes.

Voter identification.

Senator Case explained that the issue arose with 2013 Senate File 134 which failed in committee. (Appendix 9).

Mary Lankford and Julie Freese, county clerks, testified regarding the issue. Ms. Freese explained the current registration process. She noted that they currently look at the Wyoming driver's license, if the

person has one. If they do not, there is a list of acceptable identifications. If a person does not have ID when they vote at their first general election they are given a provisional ballot. If a person is homeless the clerks have to make up an address for them. They further add that they have no way of investigating.

Ms. Freese asked what the legislature wants to accomplish – that the person is who they say they are or that the person is voting where they are supposed to.

The committee expressed concern about people voting in the wrong area in order to influence the vote where they do not live.

Ms. Langford noted that if a convicted felon votes there are methods for handling it. Ms. Freese noted that the clerks association neither supports nor opposes the concept, but they want to assist the committee in understanding the concept.

Ms. Nighswonger discussed the paucity of voter fraud occurring in Wyoming. Senator Hines suggested that we do not have the problems of big states where people do not know each other. He noted that the only reason to have a bill like this is if there is a problem.

Darwin Sinclair, chairman Eastern Shoshone Tribe, questioned whether tribal identification was considered. He also noted that many tribal members do not have drivers' licenses.

Marguerite Hermann, League of Women Voters, expressed appreciation for the committee's discussion. She noted that the committee should use caution to not do anything that does more harm than good. Do not put up any obstacles to voting that are not absolutely necessary.

Linda Burke, ACLU, testified that the trend in other states is to reinstate felon voters as soon as the sentence and parole is finished. She suggested it is an advantage in rehabilitating those people.

Dan Neal, Equality State Policy center, testified that there is no problem that needs to be solved.

The committee expressed no interest in furthering the issue.

BUSINESS REPORTING ISSUES

Business Fraud Prevention.

Karen Wheeler, Secretary of State's Office, gave a presentation about the history of fraud prevention in Wyoming, the statutory changes that have occurred and several instances of victories for the department. Prior to a law eliminating drop box addresses, 5700 entities used drop box locations. 76% dissolved rather than comply with the new law.

The office is asking for authority to dissolve a business entity that is also a commercial registered agent if that entity does not pay penalties. They are also asking for authority to refuse filings from entities that have outstanding penalties. (Appendix 10).

Scott Meier, Hathaway and Kunz, testified in support of the bill. His firm does registered agent work for their clients. He testified that it will not hurt any legitimate registered agents.

The committee asked LSO to draft a bill to consider at the next meeting.

Business Entity cleanup bill.

Jerry Melsness, business division director, explained the bill. The bill addresses certain fees that needed updating, and cleans up statutes that are conflicting. (Appendix 11).

Scott Meier testified in support of the bill, and noted that they really were mistakes at the time the model corporate and limited liability laws were updated.

The committee asked LSO to draft a bill to consider at the next meeting.

Central Filing.

Pat Arp explained that the proposed bill deals with filing of agricultural liens. (Appendix 12). The CIO has asked agencies to move off of the main frame system. The SOS has many filings on the main frame. The bankers association has come to the SOS asking to have a module on the online filing system for these liens. The bill puts in place the statutory changes necessary to transfer these liens from a paper filing system to electronic filing off the main frame.

The committee asked LSO to draft a bill to consider at the next meeting.

The meeting recessed at 5:30 pm

The meeting was called back to order at 8:30 am

LOCAL GOVERNMENT PUBLICATIONS STATUTES

Cindy DeLancey & John Gibbs (Counties), Barry Cook (WAM), Bob Bonner & Jim Angel (press Association) and Julie Freese (County clerk) testified.

The working group has been meeting to review the statutes governing local government legal publications. Ms. DeLancey provided a book containing all the statutes with publication requirements. (Appendix 13). The group has identified statutes that apply jointly to local governments, those that apply only to counties and those that apply only to municipalities. The group suggested that 3 companion bills would be the best approach.

Ms. DeLancey identified several statutes that the working group has considered and what they recommend for amendment. (Appendix 14).

With respect to salary publication statutes, the group (other than WAM) agree that one publication could be required. Mr. Cook noted that they would like to see an option to publish more than once where the names are never published with the salaries. Ms. DeLancey noted that minutes are another area where publication is required but there is no consistency among the entities. The working group suggested that the WPA could put on workshops to help local governments to develop consistent and concise minutes.

The committee discussed the use of electronic media rather than print newspapers. The committee also discussed clearing up the statutes as to what is required to be published.

Ms. DeLancey noted that receipts and expenditures are published 2 times. She asked the committee to make that one time and in an alternative electronic means. The committee discussed municipalities that do not have websites and how they can work with counties to handle those publications.

Liquor license publications were discussed. The committee directed the working group to address these by limiting the number of publications.

There was discussion about what a legal newspaper is and whether the definition applies to municipalities as well. Ernie Over, County 10 website managing editor, testified that online newspapers should be an option.

The committee directed the working group to work with LSO to bring a bill to the next meeting dealing with issues they agree upon.

The working group would also like to bring a list of antiquated statutes they have found.

UTILITY RATEMAKING

Ken Lay and Crystal McDonough, Northern Laramie Range Alliance, provided testimony regarding utility ratemaking for renewable resources (Appendix 15). Mr. Lay asked the legislature to address the policy issue of pricing of utilities to ensure that renewable resources aren't required. Federal law (PURPA) requires some purchase of qualifying facility energy but does not require utilities to pay more than the avoided cost. Avoided costs are being determined with two different benchmarks for wind and solar.

Mr. Lay noted that Utah and Idaho have taken different approaches to making those benchmarks for avoided cost. He suggested that requirements in other states could have effects on rate making in states without RPS (Renewable Portfolio Standard) requirements.

The NLRA's two issues they would like to see addressed are 1. Ensuring that nothing in Wyoming statute or regulation could operate to require or permit public utilities to purchase energy or capacity from certain qualifying renewable energy or cogeneration facilities on terms less favorable to the public utility and its customers than required by federal law; and 2. Ensuring that public utilities operating in Wyoming and also serving customers in other states are not intentionally or inadvertently charging Wyoming ratepayers to cover higher-cost renewable energy that they acquire pursuant to other states' RPS requirements.

Al Minier, Bill Russell and Kara Brighton, PSC commissioners, testified about the definition of avoided cost. Mr. Minier testified that he does not believe the PSC's decision was favorable to wind. Mr. Minier discussed the commission's actions in the hearings and the settlement agreements it was based on. He testified that the decision was based on sound assumptions.

Mr. Minier discussed the multi-state protocol. In a rate case if the utility is doing business in multiple states, the states have agreed to a very complex process for allocating costs between customers in those states. Situs assets go to the state where they are located, system assets are shared among the states using the multi-state protocol. Wyoming's share of the MSP is 17%.

The committee discussed the ramifications of dropping out of the multi-state protocol. Mr. Minier testified that it would result in breaking up the company for purposes of regulation. The assets that are allocated across states would be allocated by the federal government and Mr. Minier believes the federal

government is more liberal in allocating costs to rate payers than the PSC is. Rep. Blikre noted that the MSP enables energy producers in the state to sell outside the state more efficiently.

Ms. Brighton and Mr. Russell addressed the committee and thanked them for their interest in the topic. Senator Case argued that the MSP allocates costs to Wyoming rate payers when Wyoming exports most of the energy. He also argued that the RPS requirements in other states take up transmission infrastructure that then limits the output that can be used by coal and other energy.

Senator Case asked the PSC for a written explanation of why the PSC used a different analysis for avoided costs for wind in 2009.

Senator Case discussed an order in a Powder River net metering case. He stated that the law is limited to small producers who can sell back their energy at the same rate they pay for it (retail). This is limited to facilities with a generating capacity of not more than 25 kw. The commission order insinuates that those facilities that generate more than 25 kw are not addressed in the statute. Mr. Minier argued that the statute only forces net metering if it is a small facility, but does not force it for larger facilities. In that case there were two consenting entities wanting to allow net metering. Senator Case suggested that the statute does not allow it because it is not in the best interest of the rate payers.

Bryce Freeman, OCA, testified that he has been involved in all three avoided cost cases discussed. He testified that consumers have been protected.

Brad Schaeffer, Rocky Mountain Power, testified that Mr. Minier made an excellent presentation. He noted that he is willing to work with the committee to answer any questions that arose. The committee asked Rocky Mountain Power to be on the agenda at the next meeting to further educate the committee.

Richard Garrett, Wyoming Outdoor Council, testified that the legislature should consider creating an Office of Environmental Advocate on par with the OCA, to promote the interests of environment in energy generation decisions.

Dale Cottam, Hirst & Applegate, echoed the testimony that the decisions are honest and fair.

TELECOMMUNICATIONS.

The current telecom act will sunset in 2015 so the committee is starting the process of reviewing the law.

Kristen Lee, CenturyLink and Liz Zerga, independent telephone companies, testified.

Kelly Hoffman, president of WYTA provided written testimony (Appendix 16). He testified that there are about 1.8 customers per square mile.

Mr. Brubeck, CenturyLink, provided a PowerPoint presentation about the Connect America Fund (Appendix 17). The Connect American fund is a new program based on the 1996 federal telecom act. It is a broadband based fund. He explained how the FCC is modeling the need for funding based on census blocks. He explained how the Wyoming USF provides critical support to rural customers. It is a voice based fund. He argued that cell service is a large competitor. As the federal funds are repurposed to broadband, the state USF will become more important and impacted.

Mr. Reynolds, CenturyLink, testified that funding will be made available, but the companies will have to decide whether the full state is worth picking up. If they reject the full state, they can go back later and bid on individual census blocks. Some census blocks will not be picked up and will become very high priced areas. He testified that these are very uncertain times.

Senator Case asked why the state should have a USF at all. Mr. Reynolds suggested that there will be census blocks that are underserved and high cost. The federal model won't be known until the first quarter of 2014.

Kristen Lee explained the money they used from the I fund last year. This year the FCC allowed the funds to be used for more areas.

Jason Hendrix, Range Telephone companies, explained rate of return (or rural) carriers. He discussed the goals of the federal act and the limitations on state funds required by the federal law. Rural carriers have been able to receive support for some broadband network infrastructure that CenturyLink has not. He noted that intercarrier compensation is going to be reduced to zero in the near future under federal law.

Liz Zerga testified about the disparity in regulation among providers in the state. (Appendix 18). She testified that cable phone service and wireless have almost no regulation in Wyoming. In any rewrite of the telecom act, the landline companies want to have the exact same regulation as those non land line competitors where they are competing. The statutory changes they are promoting are reflected in Appendix 18. The major rewrite would include a change from listing things not regulated to things that are regulated. Another area would be to define high cost areas and what would need to be shown to prove that. She testified that it should be based on the cost to provide the service rather than the cost to the consumer.

Cheryl Riley, AT&T, speaking on behalf of cell and cable technologies, thanked the committee for the deregulation of IP enabled services. She noted that the telecom act does not apply to them and they suggest that the committee consider thinking progressively about deregulation of all telecommunications. Chris Robish (Contact Communications), Dave Picard and Melissa Shannon (Cablevision) spoke about the products that will be available on emerging technologies.

The committee discussed what would happen if they eliminated state fund and carrier of last resort. Ms. Zerga stated that there would be areas of the state where there is no service or very expensive service only. She noted that satellite does not have enough bandwidth to cover all the customers. Mr. Robish stated that it is not that clear because companies like his will step in to provide services where there is demand. Mr. Hendrix testified that they would pull out of areas that they couldn't serve without making a profit.

Al Minier noted that he is inclined to go slower toward deregulation. He also noted that some of the items raised by Ms. Zerga were not really big issues. He reminded the committee of the old regulation using TSLRIC long term pricing. The committee asked the commission to provide their thoughts in writing.

Bryce Freeman, OCA, testified that competition is coming. However, there are areas that don't have it yet. He thinks determination of high cost and noncompetitive areas need to be determined on an almost case by case basis. Total deregulation is probably not the best way to go right now. He will also provide written comments to the committee.

Dale Cottam, representing AARP, reminded the committee to think about the rural customers and avoid deregulation that would result in cherry picking customers. He will also provide written comments. Currently 85% of Wyoming households still subscribe to land line phone service. Regulatory parity should not be allowed to cost consumers reliable advanced, affordable telecom service.

BUILDING INDUSTRIES

Misclassification of building industry employees.

Tim Wells explained the issue. Jimmy Haun provided a handout explaining how the underground economy works (Appendix 19). He wants to create a level playing field among contractors. When a contractor misclassifies employees as subcontractors they have a competitive advantage. His concern is with the multiple offenders. Currently when people are caught they only have to pay back workers comp and taxes. They would like to see fines for multiple offenders.

Kim Floyd, AFL-CIO, testified that the problem is much bigger than he anticipated. It is not just the taxes that are not being collected, it is a safety issue in that those people are not covered by workers compensation when they are injured. He expanded the issue to include people who are paid under the table or who are underpaid for the hours they work.

Mr. Wells noted that workers comp is a protection to the employer as well because people injured under the program cannot sue the employer. He suggested no fine for first offenders if they pay what they owe. But second and subsequent offenders should have a large fine. That could also include a stop work order.

The committee discussed federal oversight of these issues. Mr. Haun noted that most of the enforcement actions occur at the state level. Mr. Haun also noted that when the federal government enforces first, the state loses recoupment of the state taxes.

The proposal is to provide teeth to the workers' compensation division authority.

Josh Carnahan, Wyoming construction coalition, testified that they would like to look into the issue and see if there is a simple fix. They agree with ideas that will return money to workers comp.

The committee asked LSO to draft a bill to consider at the next meeting. Staff should work with workforce services and workers comp in developing language.

Roofing contractors.

Mike Mores, Farmers Insurance Group, explained the issue. (Appendix 20). The problem is when disreputable roofing contractor's prey on homeowners after a big storm. He noted a current statute (W.S. 40-12-104) provides for three days cancellation after a home solicitation. He suggested amending that statute to allow for cancellation of these types of contracts within three days after the insurance adjuster checks the damage. He alternatively suggested allowing them to work with LSO staff to revise the bill from last year.

Mr. Mores explained the previous year's bill. He explained that they are hoping to change the bill to cover exterior residential storm damage. Rep. Byrd called the contractors this is aimed at as parasitic vagabonds.

Tim Wells, Carpenters association, testified in support of the idea. He noted that it is not limited to Cheyenne and it is a serious consumer protection issue.

Josh Carnahan, Wyoming construction Coalition, Katherine Wilkinson, PCI, and Kim Floyd, AFL-CIO, testified in support of the concept.

The committee asked LSO to work with Mr. Mores, industry and Rep. Byrd to bring a bill for consideration at the next meeting.

MEETING ADJOURNMENT

There being no further business, CoChairman Case adjourned the meeting at 5:10 p.m.

Respectfully submitted,

Cale Case, CoChairman

Rosie Berger, CoChairman

Committee Meeting Materials Index

Appendix	Appendix Item	Appendix Description	Appendix Provider
1	Committee Sign-In Sheet	Lists meeting attendees	Legislative Service Office
2	Committee Meeting Agenda	Provides an outline of the topics the Committee planned to address at meeting	Legislative Service Office
3	Funeral Directors	Description of proposed bill	Marian Schulz
4	Coroners	Proposed bill	Mark Harris
5	Insurance	Own Risk Solvency Model Act	Department of Insurance
6	Insurance	Guarantee Association Model Act	Dave Picard
7	Insurance	Electronic Delivery Model Act	Katherine Wilkinson
8	Elections	Consolidated training evaluations	Secretary of State
9	Elections	Information regarding voter identification	Legislative Service Office
10	Business Entities	Registered agent act changes	Secretary of State
11	Business Entities	Cleanup bill	Secretary of State
12	Business Entities	Central Filing bill	Secretary of State
13	Local Governments	Public Notice Laws of Wyoming	Cindy DeLancey
14	Local Governments	Suggested changes to public notice laws	Public notice working group
15	Utility Ratemaking	Written testimony	Northern Laramie Range Alliance
16	Telecommunications	Written testimony	Wyoming Telecom Assn.
17	Telecommunications	Connect America Fund II	CenturyLink
18	Telecommunications	Disparities in regulatory burdens	Liz Zerga
19	Building industries	Underground construction	Tim Wells
20	Building Industries	Roofing contractors	Mike Mores