

**GOVERNOR'S COMMISSION ON
STRENGTHENING UTAH'S DEMOCRACY**

W30, Utah State Capitol Complex
Salt Lake City, Utah

AGENDA

THURSDAY, NOVEMBER 5, 2009
2:00 – 6:00 PM

Commission Members Present: Acting Chair Kirk Jowers, Dan Jones, Dick Richards, Doug Wright, Ken Verdoia, Dee Rowland, Senator Scott Jenkins, Randy Dryer, LaVarr Webb, Representative Craig Frank, Frank Pignanelli, Dave Hansen, Bruce Hough, Tom Love, Senator Scott McCoy, Representative Rebecca Chavez-Houck, Meghan Holbrook, Yvette D. Donosso

Commission Members Excused: Steve Starks

Commission Attorneys Present: Matthew T. Sanderson, Douglas Larson

Commission Staff Present: Taylor D. Morgan

1. Welcome (2:30 – 2:35pm)

A. Acting Chair Jowers welcomed the public, media, and members of the Commission to today's meeting. Mr. Jowers noted that a quorum is present.

2. Commission Business (2:05–2:15 pm)

A. Approval of Minutes – Oct. 1 Meeting

1. Motion to approve by Dee Rowland, seconded by Randy Dryer, none opposed. Approved unanimously.

3. Draft Recommendation –Enforcement Commission (2:15-3:00 pm)

A. Presentation by Sponsors – Commissioners Randy Dryer and Bruce Hough

1. Commissioner Dryer introduced and discussed the key points of the proposal.

- I. Dick Richards noted that, in his view, judges will merely be political appointees that will judge. I think it would be far better off to have people from outside the government. I'm also bothered by the potential ability to determine punishment. I'd like it to be more like a preliminary hearing.

- II. Randy Dryer responded that the charge of the panel is the enforcement of election laws. The judges would have authority to issue fines.

- III. Meghan Holbrook asked will different parts of the state be represented? Will there be regional representation?

- a. Randy Dryer - There are only three people.

- b. Meghan Holbrook - I know. I think there should be one from Northern Utah, one from Salt Lake, and one from Southern Utah.

1. Randy Dryer - I think that may make it more difficult than it needs to be. I think retired judges fit the bill of adjudicating fairly. All are appointed by the Governor - you'd think the Governor would like to have a balanced representation. Do we want gender representation, economic representation, political representation, or what?
 2. Meghan Holbrook - I think a geographical representation is very important.
 3. Randy - what would you suggest we do? Give consideration to geographical diversity?
 - i. Meghan Holbrook – Yes.
- IV. Senator Scott Jenkins - I want to make sure we understand the jurisdiction of this body.
- V. Dave Hansen - Can I make a suggestion? You could say, no more than one from a congressional district, that way it takes care of it when there's four. About no more than one from a political party. During the Bangerter Administration, I handled appointments. The boards were commonly five, so there were no more than three from a political party. I would argue in favor of having two - no more than two from any political party.
- a. Randy Dryer - Three retired judges, no more than one may be affiliated with a political party or residing in a congressional district.
 - b. Acting Chair Kirk Jowers - A lot of judges I know don't affiliate with a party once they're a judge. I don't know if retired judges go back to being affiliated or not.
 - c. Dave Hansen - It's more in line with the way the state operates. The second paragraph is not objective. I think it ought to come out.
 - d. Acting Chair Kirk Jowers - some of the "whereas" clauses are subjective. Some try to express intent of the body. As for overall theme, "whereas clauses" can be subjective. All the authority we have is the value of our ideas and the sincerity of our beliefs. This rationale shows in the "whereas" clauses.
 - e. **Representative Chaves-Houck – I propose substitute language. I move to insert the following after "whereas." "Public confidence in the electoral system can be reinforced when." Add a period after independent body and delete "free of political influence, real or perceived." Motion to amend seconded by Ken Verdoia, no opposition, approved unanimously.**
 - f. **Representative Craig Frank – the term "affiliated" is sticking point. I propose to amend "affiliated" to "registered." Motion seconded by Dee Rowland, no opposition; approved unanimously.**
 - g. Ken Verdoia - "Comprised of three retired judges, no more than one of whom may be registered with the same political party and no more than one of whom may reside in the same county."
 - h. Representative Chavez-Houck – I believe Commissioner Holbrook is aiming for diverse perspective from the states.
 - i. **Ken Verdoia proposed the following language as an amendment: "Comprised of three retired judges, no more than one of whom may be registered with the same political party and no more than one of whom may reside in the same county."**

Motion to approve by Meghan Holbrook; seconded by Dan Jones, none opposed; approved unanimously.

2. Commission Deliberation and Voting
 - I. Dee Rowland asked what about economic concerns? Will this cost a lot?
 - II. Randy Dryer - Good question. I don't know the financial impact, but I presume the judges would be on a volunteer basis.
 - III. Craig Frank - Non per diem retired judges there should be a minimal of not a non-existent fiscal note.
 - IV. Acting Chair Kirk Jowers - We've gone back and done this in the most cost-effective manner possible. As we saw in how complaints were last year, there was a cost to that. I think this is our best foot forward with the least fiscal impact.
 - V. Dave Hansen - That's the point I make. It is going to cost. It will probably cost a significant amount by the end. It won't all be absorbed by one department. There will be a significant fiscal impact.
 - VI. Senator Scott Jenkins - The Lt. Governor's office will understand that. As a Legislature, we'll find a way to fund it.
 - VII. Dick Richards - There have been so few complaints until now. The judges won't have to act unless there's a complaint.
 - VIII. Meghan Holbrook - Motion to amend title to include campaign finance in title. Seconded Randy Dryer; none opposed; approved unanimously.**
 - IX. Motion to vote by Randy Dryer; seconded by Meghan Holbrook, none opposed. Motion to call for roll-call vote approved unanimously.**
 - a. **Representative Frank YES**
 - b. **Senator Jenkins YES**
 - c. **Commissioner Hansen YES**
 - d. **Commissioner Randy Dryer YES**
 - e. **Commissioner Wright YES**
 - f. **Commissioner Jones YES**
 - g. **Commissioner Hough ABSENT**
 - h. **Commissioner Pignanelli YES**
 - i. **Commissioner Love YES**
 - j. **Commissioner Rowland YES**
 - k. **Representative Chavez-Houck YES**
 - l. **Senator McCoy ABSENT**
 - m. **Commissioner Webb YES**
 - n. **Commissioner Richards YES**
 - o. **Commissioner Verdoia YES**
 - p. **Commissioner Holbrook YES**
 - q. **Commissioner Donosso ABSENT**
 - r. **Commissioner Starks ABSENT**
 - s. **Acting Chair Jowers YES**
 - t. **MOTION APPROVED UNANIMOUSLY**

5. Draft Recommendation – Lobbyist Association (3:00-3:45 pm)

A. Presentation by Sponsor – Commissioner Frank Pignanelli

1. Frank Pignanelli - I don't know if you know this or not, but I'm a lobbyist. Even today I was here helping to write and draft legislation. What I do and what hundreds of other lobbyists do impacts the lives of Utahns and beyond. It is a profession. However, if you have a complaint against a lobbyist, where do you go? I'm talking about people whose profession it is to lobby. Because we have a

profession, we need a mechanism to help it grow as a profession. Years ago, my partner Doug Foxley and I submitted a request to have all lobbyists sign a code of conduct. Many refused to sign it. There is a perception that lobbyists have an influence; they do. I propose an organization similar to the Utah State Bar. There would be no fiscal impact on the state as registered lobbyists would pay dues to cover costs of administration. I think this would go a long way to combat the negative public perception.

2. Dee Rowland - I can support this. Would you consider an amendment that exempts registered lobbyists who do not spend money on legislators?
3. Frank Pignanelli - What you're talking about is an association that pays \$5,000 to get office space at the Capitol. You're a much better person than I am. You are a registered lobbyist and you're advocating for pay. As a registered lobbyist, you have to comply with certain issues of professional conduct and ethics. People who lobby for anyone other than themselves should be held to certain professional standards. It is a profession that is important. We need to recognize this as a profession.
4. Randy Dryer - Having a code of conduct is a very laudable thing. Having a mechanism is a laudable objective. I understand this organization would develop professional standards and education to make people more ethical lobbyists. All of those are laudable. The question that has been raised thus far is what's the best body to do that and how is it funded? My experience has been that most of the truly private associations are very poor at enforcement. The trade associations don't really like disciplining their own professionals. I don't know how many registered lobbyists there are. How much would your dues have to be to hire the staff necessary to do this? The concept is good; the issues arise as to how we implement them.
5. Frank - There are 400 to 1,000 registered lobbyists. This would be a mandatory organization. You must be a member in order to lobby.
6. Craig Frank - This is something that needs to be addressed on the legislative level. Anytime you charge and confine lobbyists to a small room in the Capitol it's a great idea.
7. Ken Verdoia - I'd like to associate myself with the comments of Randy Dryer and Frank. It's too far of a stretch to associate lobbyists with the legal profession. I find it more closely aligned with the Society of Professional Journalists. It's a volunteer organization dedicated to enhancing ethics. Less than 30 percent of all journalists are members of this organization. There is nothing blocking lobbyists from doing this. I don't see this commission dictating that they move to morally higher ground.
8. Tom Love – I am a past president of Utah Advertising Federation. I agree with Randy's comments, but I'd like this to be voluntary. I have issues with requiring people to join this organization.
9. Randy Dryer - How about we, as a commission, encourage Utah's registered lobbyists to adopt and follow a code of conduct and consider some enforcement mechanism for members who fail to comply with that code? We're setting forth our view that they are professionals and that they ought to act as professionals.

B. Motion by Commissioner Frank Pignanelli to table recommendation, seconded by Acting Chair Jowers; none opposed.

6. Other Recommendations and Business (4:00 – 5:30 pm)

A. Presentation(s)

1. Campaign Finance Proposal by Acting Chair Kirk Jowers - This proposal is similar to the so-called Jowers proposal discussed at Weber State. The Randy Dryer proposal passed, but this would supersede that as the Commission's standing recommendation on campaign finance.
2. **Dave Hansen – I move to amendment Section 2, changing the \$40,000 aggregate to \$50,000, which is what we passed last time. Motion seconded by Acting Chair Jowers, none opposed. Amendment approved unanimously.**
3. **Acting Chair Kirk Jowers – I move to adopt this proposal in its entirety, including the amendment which already passed - changing the aggregate limit from \$40 thousand to \$50 thousand. If approved, this would replace the “Dryer Campaign Finance Proposal.” Motion for roll-call vote seconded by Randy Dryer; none opposed to roll-call vote.**

- I. Representative Frank YES**
- II. Senator Jenkins YES**
- III. Commissioner Hansen YES**
- IV. Commissioner Randy Dryer YES - “I do think this is a good compromise and legislative leadership’s support is significant. I urge everyone to realize that politics is compromise. This reflects a good, healthy compromise. It’s a good result.”**
- V. Commissioner Wright YES**
- VI. Commissioner Jones YES**
- VII. Commissioner Verdoia YES**
- VIII. Commissioner Pignanelli YES**
- IX. Commissioner Love YES**
- X. Commissioner Rowland YES**
- XI. Representative Chavez-Houck YES**
- XII. Senator McCoy ABSENT**
- XIII. Commissioner Holbrook YES**
- XIV. Commissioner Richards YES**
- XV. Commissioner Hough YES – “I’m inclined to vote for this as a show of unity. I do have concerns that it may be an infringement on First Amendment rights.”**
- XVI. Commissioner Webb YES**
- XVII. Commissioner Donosso ABSENT**
- XVIII. Commissioner Starks ABSENT**
- XIX. Acting Chair Jowers YES**
- XX. MOTION APPROVED UNANIMOUSLY.**
- XXI. Representative Craig Frank – During our break, I went upstairs and filed this to be included in my bill file that I will be running during the session.**

B. Commissioner Randy Dryer - Motion to allow any Commissioners who were in attendance at beginning of meeting and had to leave 24 hours to vote by email, seconded by Doug Wright, opposed by Jenkins; motion approved 10-4.

C. Electoral College Proposal

1. Presentation by Matthew Sanderson, Commission attorney.
2. Dee Rowland - I see this as a way to promote democracy. It makes every vote count.
3. Representative Chavez-Houck - How many states are currently using a similar setup?

4. Matthew Sanderson - Nebraska and Maine allocate their electoral votes based on winners of Congressional districts.
5. Dave Hansen- Couple of things - #1 when we started this one of the things the Governor talked about was increasing voter turnout. Most of the things we have talked about have had something to do with voter turnout. Now we're getting into the political stuff, which is beyond voter turnout. I believe this is going beyond our charge. I question whether or not you saw a significant increase simply because of a similar system. Until the rest of the country goes along with it, I don't think we should go along with it.
6. Acting Chair Kirk Jowers - I believe it's keeping within the mandate, but I also have concerns about it.
7. Dick Richards - I think it would be to our disadvantage if we did that. We're a small state and we would be lighter if we did that.
8. LaVarr Webb - This strikes right at heart of Electoral College system which was setup by the founders. They did so to give states more clout in the federal system so that candidates would have to pay attention to entire states. If all of the states did this, candidates would not care about states they would only care about demographic group across the country. Today they have to pay attention to individual states because of the winner take all system. This strikes at heart of federalism. States rights have been eroded, this would further erode them.
9. Randy Dryer - I think the presidential candidates are either going to come to Utah or not come to Utah if they think they can raise money, not necessarily only to win electoral votes. I'm philosophically attracted to this because I do believe it will increase voter turnout. On the other hand, I think it would hurt Utah's clout on the national scene so I'm going to vote against it. It would never see the light of day from a practical perspective.
10. Frank Pignanelli – The Electoral College has a bit of a troubled past. California is virtually ignored in the presidential race because of a winner take all system. I believe if you want to keep the College, we should maximize the ability of people to participate in the process. You can preserve states rights but demand attention. Utah doesn't have clout because of its electoral votes. If you had competition for those votes, you'd get more attention.
11. Craig Frank - Interesting to see this proposal in this format. Last week I sat with a gentleman for an hour and a half. It has come before the Legislature before but hasn't seen the light of day. There is a public bill file that has addressed the components of this proposal. This would have a hard time moving forward.
12. **Dee Rowland- motion to call previous question; seconded by Acting Chair Kirk Jowers, none opposed. Roll-call vote:**
 - a. **Representative Frank NO**
 - b. **Senator Jenkins NO**
 - c. **Commissioner Hansen NO**
 - d. **Commissioner Randy Dryer NO**
 - e. **Commissioner Wright NO**
 - f. **Commissioner Jones YES**
 - g. **Commissioner Verdoia YES (by email)**
 - h. **Commissioner Pignanelli YES**
 - i. **Commissioner Love YES (by email)**
 - j. **Commissioner Rowland YES**
 - k. **Representative Chavez-Houck YES**
 - l. **Senator McCoy - ABSENT**
 - m. **Commissioner Holbrook NO**
 - n. **Commissioner Richards NO**

- o. Commissioner Hough NO**
- p. Commissioner Webb NO**
- q. Commissioner Donosso ABSENT**
- r. Commissioner Starks ABSEBT**
- s. Acting Chair Jowers NO**
- t. MOTION FAILS 10-6**

D. Automatic and Permanent Voter Registration

1. Representative Chavez-Houck introduced the recommendation.

I. Presentation by Commission attorney, Matthew Sanderson.

- a. Representative Chavez-Houck - Jason Yocum from the SL County Clerk's office is here, as well.
- b. Doug Wright - Our mandate is to make the process open, welcoming, and inviting. I want to state here that walking up to my polling place, being greeted by a big stop sign on the door was appalling. I like to think of myself as an informed citizen. Can we at least take down the stop signs on the doors?
- c. Craig Frank - I too hit the stop signs at the polling place. .
- d. Representative Chavez-Houck - This recommendation allows people to stay registered. Anytime they interact with the government there is an opportunity for them to register to vote, and there's an opt-out opportunity. Allows ease and efficiencies.
- e. LaVarr Webb - We're talking about a number of different state databases. Do these state databases talk to each other? Is it going to cost money to make this happen?
- f. Jason Yocum - The states voter registration system, VISTA already interacts with states motor vehicle database. We see the value in maintaining accuracy. The challenge is maintaining accuracy of information. Most of the voters who have to vote a provisional ballot are because they've moved and haven't updated their information. In November 2008, SL County had over 18,000 provisional ballots case by voters who were registered but hadn't updated their registration. Right now, updating requires act of registering to vote anew.
- g. LaVarr Webb - I'm all for keeping database accurate because I believe there have been problems. Under this proposal, would all of that still have to happen?
- h. Jason Yocum - The initial registration form, this proposal would help us keep someone registered to vote for life until they changed it. Once someone is registered, once they move, their registration is automatically updated.
- i. Jason Yocum - Yes it would require all the same information.
- j. LaVarr Webb - So if they don't opt out, they're automatically in. So you end up with a lot of people who are registered to vote that don't actually vote. What about having an opt-in box instead of an opt-out box?
- k. Representative Chavez-Houck I like it, but I still prefer my opt-in proposal. Once the information is concerned, they county would send voter information.
- l. LaVarr Webb - But you're eliminating the conscious action of having to register to vote.
- m. Representative Chavez-Houck - by that same logic, we don't all decide to be citizens when we're born but we still have the privileges. I hate seeing people lost in the cracks.
- n. Representative Craig Frank - I just moved to a new home a year and a half ago. This was my first time to the polling place at my new house. I haven't exactly made a nuisance of myself, so I didn't know everybody there. When I went in, I did not know anyone there. For me, I like the idea of the stop signs and someone asking for my ID. I didn't find it offensive, I was glad we had it. I didn't think it was intrusive. Maybe next time I'll run into someone there.

- o. Doug Wright - It wasn't presenting the ID that was the problem, when we're trying to create a process that is welcoming, I was bothered by stop signs. It's amazing that our democracy has survived as long as it has without having to show our ID. Sometimes we are legislating ourselves out of the woodwork.
- p. Bruce Hough - I really like this. I think that this has a lot of merit. It is very clear that the most difficult thing, the biggest obstacle to people voting is this registration issue. It's because they've moved. This is perhaps the most important thing we can do to our original mission. If the technology exists to make this portability happen, then it would be fantastic! If I move from Summit County to Salt Lake County, will it happen seamlessly? If it's that easy, we ought to do it. I'd love to see our voter rolls cleaned up! If the technology exists to do this and we can verify citizenship and who the person is, I'm all for it. It's the right thing to do to help people to vote. Now, about opt in and opt out, I also have the desire to make it an affirmative display of one's will. I prefer to have someone opt in. Opting out makes it almost like there is no choice. I like the idea of affirmative action by someone. We should go forward with trying to make this happen.
- q. Dan Jones – I'd like to thank the good people from Salt Lake County for being here.
- r. Randy Dryer – I support this. I think this proposal, taken together with Acting Chair Kirk Jowers's proposal, those two things will do more than any other thing we've done in our existence. They will increase voter participation. If we can avoid fraud by requiring ID when we vote, by adopting this, we're telling people that if you're a Utahn, a citizen, you automatically are able to vote in every election.
- s. Bruce Hough - the automatic aspect seems irrelevant. If you're not registered, you must fill out the information to do that. Really what this is about is portability of the voter's information. I would suggest that is where we ought to focus in this.
- t. Jason Yocum - If you can collect all the information we need for an initial voter registration, then someone would be automatically registered.
- u. Webb - I still have an issue with people being automatically registered to vote without them knowing about it. I think they should take some affirmative action that they are registering to vote.
- v. Jason Yocum - We're being careful to stay out of debate. We feel that the portable side of this is very, very important and would be very helpful to us and other clerk's offices.
- w. **Randy Dryer - motion to amend to offer check in; seconded by Dave Hansen; no objections. Amendment approved unanimously.**
- x. **Representative Chavez-Houck - Move to vote on amended proposal; seconded by Dee Rowland; none opposed. Roll-call vote:**
 - 1. Representative Frank YES
 - 2. Senator Jenkins YES
 - 3. Commissioner Hansen YES
 - 4. Commissioner Randy Dryer YES
 - 5. Commissioner Wright YES
 - 6. Commissioner Jones YES
 - 7. Commissioner Verdoia YES (by email)
 - 8. Commissioner Pignanelli YES
 - 9. Commissioner Love YES (by email)
 - 10. Commissioner Rowland YES
 - 11. Representative Chavez-Houck YES
 - 12. Senator McCoy ABSENT
 - 13. Commissioner Holbrook YES
 - 14. Commissioner Richards YES
 - 15. Commissioner Hough YES

- 16. Commissioner Webb YES
- 17. Commissioner Donosso ABSENT
- 18. Commissioner Starks ABSEBT
- 19. Acting Chair Jowers YES
- 20. UNANIMOUSLY PASSES 14-0

E. Recommendation for Improving Voter Registration Process - FIRST HALF

1. Acting Chair Kirk Jowers introduced recommendation.

I. Matthew Sanderson presentation on recommendation.

II. **Randy Dryer – motion to amend to add following language: “Add or delivered electronically to county clerk via pdf document;” seconded by Acting Chair Kirk Jowers; no opposition. Amendment approved unanimously. Roll-call vote on first half of proposal:**

- a. Representative Frank YES
- b. Senator Jenkins YES
- c. Commissioner Hansen YES
- d. Commissioner Dryer YES
- e. Commissioner Wright YES
- f. Commissioner Jones YES
- g. Commissioner Verdoia YES (by email)
- h. Commissioner Pignanelli YES
- i. Commissioner Love YES (by email)
- j. Commissioner Rowland YES
- k. Representative Chavez-Houck YES
- l. Senator McCoy ABSENT
- m. Commissioner Holbrook YES
- n. Commissioner Richards YES
- o. Commissioner Hough YES
- p. Commissioner Webb YES
- q. Commissioner Donosso ABSENT
- r. Commissioner Starks ABSEBT
- s. Acting Chair Jowers YES
- t. MOTION APPROVED UNANIMOUSLY.

I. **Motion to vote on second half of recommendation by Randy Dryer; seconded by Meghan Holbrook; no objections. Roll-call vote:**

- u. Representative Frank YES
- v. Senator Jenkins YES
- w. Commissioner Hansen YES
- x. Commissioner Dryer YES
- y. Commissioner Wright YES
- z. Commissioner Jones YES
- aa. Commissioner Verdoia YES (by email)
- bb. Commissioner Pignanelli YES
- cc. Commissioner Love YES (by email)
- dd. Commissioner Rowland YES
- ee. Representative Chavez-Houck YES
- ff. Senator McCoy ABSENT
- gg. Commissioner Holbrook YES
- hh. Commissioner Richards YES
- ii. Commissioner Hough YES
- jj. Commissioner Webb YES

kk. Commissioner Donosso ABSENT
ll. Commissioner Starks ABSEBT
mm. Acting Chair Jowers YES
nn. MOTION APPROVED UNANIMOUSLY.

7. Conclusion

- a. Thanks from Acting Chair Kirk Jowers
- b. Randy Dryer – I'd like to go on the record having thanked Kirk Jowers as our Acting Chair; seconded by Bruce Hough.
- c. Discussion Regarding Presentation of Final Recommendations