

**MINUTES OF THE THIRD MEETING OF THE STATUTE LAW COMMITTEE
2009-2011 Biennium**

December 8, 2010

The Statute Law Committee held its third meeting of the 2009-2011 biennium at 9 a.m. in the Senate Rules Room in the Legislative Building in Olympia.

The meeting opened with Vice Chair Tom Hoemann presiding.

Members present: Alexander, Baker, Carrell, Goodman, Panesko, and Rodger.

Members absent: Brown, Conte, Kline, and Rodne.

Also in attendance were Kyle Thiessen, Code Reviser, who serves as the committee's secretary; Lew Lewis, Deputy Code Reviser; Kerry Radcliff, Washington State Register Editor; and Debbie Deibert, Administrative Secretary.

The Vice Chair noted that minutes to the May 26, 2010, meeting had been distributed. (Tab 1) A motion was made by Justice Gerry Alexander to adopt the minutes to the previous meeting. The motion was seconded by Mr. Joe Panesko and adopted.

Kyle offered introductory remarks by first welcoming a group of state librarians who are interested in and will comment on the code reviser office's bill draft concerning the publication requirements of the statute law committee. He directed the committee to Tab 2 which contains a survey sent to subscribers concerning bound versions of publications, internet access, ease of use by the subscriber and other pertinent questions.

Kyle explained that the account used to publish paper versions of laws and rules has steadily declined and in the future may not be able to sustain itself unless changes are made to who receives free copies of the laws and rules or what format

is dispersed for free. A CD-ROM is much less expensive to produce and send out. Mr. Thiessen became more specific giving an example of the cost of the Washington Administrative Code and how much revenue it brings in. He pointed out the approximate cost of the session laws after each session and reported on how many free copies are sent to county auditors.

Kyle Thiessen introduced Kerry Radcliff who presented the committee with a volume of the Washington Administrative Code bound by Trappist monks in Oregon. She explained that perfect bound books are assembled using signature groups, while the hard bound copy produced by the monks are pages printed in house by our office as a complete volume and delivered to Oregon to be bound. Kerry was able to arrive at an estimate of \$303 per set of 13 volumes with a minimum production of 100 sets. A bindery in Walla Walla was contacted about binding the WAC, but the company did not reply to the inquiry. Currently, the cost for a set of WAC is \$370.

A discussion followed concerning authentication of publications on the Internet. Currently, two states authenticate their administrative rules on-line by rtf versions. A problem would exist for those who do not have internet access and there were concerns expressed on how cumbersome it was to access the rules of one of the two states.

Kyle explained that only the RCW seems to be paying for itself. Suggestions have been made to ask the Legislature for an appropriation to publish the publications, however in this fiscal climate, it may not be well received. Currently, the state printer puts our publications out to bid. Only a few organizations do the type of binding that the code reviser's office requires. The RCW stays current as printed for a longer amount of time than the WAC. Many rules published can be out of date before the sets are even distributed. Furthermore, most agencies and other entities who order the WAC set are actually only interested in one or two titles. The most up to date WAC rules are displayed on the Internet.

Kyle reported to the committee that the office is taking steps to make the internet version of each WAC title more user friendly and easier to download and print as a title. He also noted that in the spring of 2011, agency rules permanently adopted in 2010 will be published as a second supplement set.

Kyle introduced the associate dean for library and computer services for the University of Washington School of Law, Penny Hazelton who acted as spokesperson for the group of librarians attending the statute law committee

meeting.

Mrs. Hazelton explained to the committee that the librarians have a broad interest in publications of all types. They felt it important that their point of view be represented and by attending the statute law committee meetings, they have learned quite a bit about the committee's publication process and the costs involved with publishing the state's laws and rules.

Mrs. Hazelton noted that not every person or library has access to the internet and that it was still a huge unmet need. The librarians would like to see wording in the bill draft which would state that we would provide broad access to the laws. Also, until the laws and rules can be authenticated, she asserts that the state should not move away from the printed word. There is concern that it is easy to change digital files. The librarians believe that printed copies of laws and rules should be made available to the public at a reasonable cost until all official digital publications can be authenticated. The printed version is also important because some people are not savvy computer users and that the people of this state need to have a medium which they can access and which they know to be correct.

A discussion was held on the term "authentication" and it was felt by some of the librarians that the word "official" did not meet the criteria necessary to protect the version of rule or law that an internet user was looking at.

It was proposed that the publications on the web or in digital form should have guarantees that they will be freely available with permanent public access, meaning that old files would have to be readable in perpetuity, so this guarantee requires upgrading old content to whatever new readers and standards there might be.

Another concern which came to light was a perception that there was a lack of oversight by any other entity, other than the statute law committee, in deciding which publications would be available in paper form or in digital form only. The committee noted that given the solemn and lengthy discussion being held by its members at this meeting and at past meetings, concerning its publication authority that the people of the state should be confident that their needs are taken into consideration by the committee.

Kerry Radcliff gave statistics of answers from a survey sent out by the code reviser's office to subscribers of the 2009 WAC. (Tab 2) The survey asked about the use the publication and whether paper or digital met the needs of the

subscriber. This reemphasized the statement that the committee and the code reviser's office do seek input from the people who use its publications. Kyle offered his opinion that this is a good committee to make such decisions versus going to the legislature each time.

Kyle reiterated that the code reviser's office in conjunction with the legislative service center continue to enhance the availability and ease of use on-line for all of the publications.

A further discussion was held on authentication and about the archival aspect of the codes. Most members agreed that the historical preservation of the code was an important consideration. Further discussion was delayed until the end of the meeting so as to continue with reports on the agenda.

Kyle reported that there were 60 subscribers to the paper set and 46 CD subscribers to the Washington State Register. All other users go on-line to view filings. Ninety to ninety-five percent of filings come to the office via electronic filing. It was noted that as yet, the governor's executive order concerning the drafting and adoption of rules has had just a small impact on the work load in the office.

A discussion was held concerning Initiative 1053 which repealed RCW 43.135.035, but did not include the 2010 session law. Pursuant to statute, the office of the code reviser can in consultation with the statute law committee decodify a statute when a statute is repealed without reference to an amendment to the same statute. Currently, the code reviser's office published both in 8 point type. The office of program research and the staff director of senate committee services stated that this was an appropriate action. Kyle stated that the conflict arose due to a timing issue. The initiative, when drafted in early January, could not have anticipated an amendment by the legislature in March. (Tab 3)

Kyle reported that the operating fund has a sufficient balance to support office functions through the end of the biennium. Expenditures and revenues of the publication account were briefly discussed. The balance in the publication account was noted. (Tab 4)

The agency plan for the 6.287 percent general fund allotment reduction was available for the committee to review. A part of the agency's reduction plan includes closing the office at 8 p.m. Monday through Thursday, but with attention to the needs of the legislature and its clients. Also displayed behind Tab 4 is the proposed 2011-2013 budget for the Code Reviser's Office and the Uniform Law

Commission. Kyle mentioned that during the next biennium he would like to attend the July 2011 ULC national conference. One item on the agenda at the conference is a proposed enactment concerning authentication of electronic legal materials, which has the potential for adding onerous duties and expensive requirements to the electronic publishing process. Kyle also mentioned that there is a proposal in the budget for Kerry Radcliff, editor of the Washington State Register, who is an officer of the National Association of Secretary of State, Administrative Codes and Registers section to attend its national meeting in South Carolina.

Item VI on the agenda concerned committee sponsored bills. Kyle reported that more review by committee staff of the code cleanup bill will be conducted over the next few weeks. The gender neutral bill is a work in progress each legislative session because of its size. Kyle noted that in a few years, all changes should be completed. This year, the office has worked closely with the Department of Agriculture for their input on some of the terms. It was stated that the gender neutral bill needs to remain noncontroversial. If a section change seems controversial, it is taken out. A provisional approval for sponsorship was moved by the vice chair and seconded.

The committee returned to the publication authority bill draft. The vice chair suggested that additional time be given for the librarians to propose changes or additional language to the bill draft. It was agreed that some parts of the bill are not controversial. It was suggested that input by the librarians be coordinated by Penny Hazelton and forwarded to Kyle in order to improve and convey the concerns of the librarians and the committee. The committee agreed to meet during the first weeks of session to consider the latest draft.

Thereupon, the meeting adjourned at 10:50 a.m., the next meeting to be held at the call of the Chair.

K. KYLE THIESSEN, Secretary

TOM HOEMANN, Vice Chair Date

(Tab references are to the meeting binder.)