ARIZONA STATE LEGISLATURE
AD HOC COMMITTEE ON STATE TRUST LAND REFORM

Minutes of the Meeting
June 18, 2004 – 9:00 a.m.
Senate Hearing Room 1

MEMBERS PRESENT:

Senator Bennett, Cochair
Senator Brown
Senator Cannell
Senator Mitchell
Representative Gullett (alternate to Representative Flake)
Representative Lopez

MEMBERS ABSENT:

Senator Allen
Senator Bee
Senator Blendu
Representative Flake, Cochair
Representative Boone
Representative C. Gray
Representative Nelson
Representative Landrum Taylor

STAFF:

Kerri Morey, Senate Natural Resources and Transportation Committee Research Analyst
Kimberly Martineau, Senate Assistant Research Analyst
Kathi Knox, House of Representatives Deputy Director of Research
Kristine Stoddard, House of Representatives Assistant Research Analyst

Senator Bennett called the meeting to order at 9:20 a.m. and attendance was noted.

Mark Winkleman, Land Commissioner, State Land Department (SLD), stated the SLD would review the budget and projections. He indicated he has been in the real estate profession for the past 21 years, and has an understanding of that business. He commended the individuals, particularly those in real estate and the Urban Land Institute (ULI), who shared their viewpoints. Commissioner Winkleman commented a suggestion was made to project numbers to the year 2015; however, he said that would be difficult due to the changing economy, interest rates, and real estate cycles.

Commissioner Winkleman remarked that the importance in this report would be to look at trends and the overall potential. He said devising a way to fund the SLD more adequately is critical and an important investment for the State. He said although the numbers are large, he believes they are attainable in order to fund education. He said time is of the essence to complete this process in order to place it on the ballot. He emphasized that people are continually moving to Arizona, which pushes the growth beyond and into the areas of State trust lands.

Richard Hubbard, Deputy Commissioner, State Land Department, distributed a handout entitled “State Trust Land Reform” (Attachment A). He referred to page 1 of the handout noting the effective date of reform is July 1, 2007 with revenues projected for fiscal year (FY) 2008 or July 1, 2007, and he itemized the projected distribution of those revenues. He referred to Senator Bennett’s inquiry as to whether the SLD had any of the Treasurer’s estimates on the permanent fund reflecting the numbers, and at this point he said he does not have that information.

Mr. Hubbard outlined the SLD’s additional needs in terms of staff and contract money. He indicated a proforma budget was prepared addressing the critical needs of the SLD. In response to Senator Gullett, Mr. Hubbard explained the permanent fund is the monies held by the Treasurer received from the State trust land and its products. The Treasurer invests that money and the interest earned becomes part of the expendable fund, which is distributed to the beneficiaries according to a formula. In addition to the interest, the expendable fund consists of State land leasing revenues as well as interest on term sales.

Mr. Hubbard referred to page 3 of the handout and explained the SLD would like to increase SLD staff by 53 initial positions to be able to generate significant revenues for the trust. He said the projected funding for those positions is approximately $5 million.

Mr. Hubbard referred to page 4 and said the goal of SLD is not to grow the agency, but rather receive contract money for planning, engineering, legal services, real estate fiscal analysis and audit services. He pointed out that the SLD currently has approximately $1.1 million in contract money and currently could handle an additional $3.2 million for outside services. He commented that those projections would bring the current budget for State trust land activities up to just below $20 million. He noted those services are emphasized on revenue-generating activities.

Senator Bennett questioned whether the package should be broken down to enable the State to currently move some of the inventory rather than delay the program another three or four years. Senator Cannell commented the timing concerns him as well because the current real estate market may not be the same in three or four years, and revenues may be lost if delayed.

Senator Brown commented that the State is limited by the Constitution with respect to any changes that need to be made. However, since timing is a factor, he said action should be taken as soon as possible to perhaps work on the smaller items.

Senator Bennett commented that he is struggling with the timing and correctness on this project with respect to digesting all of the information within a few weeks in order to have it ready for the ballot this fall. He questioned whether anything could be done in the short term to bring more resources into the SLD as work is being accomplished to ensure the process is done correctly for inclusion in the Constitution and Enabling Act.

Representative Lopez commented that she agreed with Senator Bennett's comments. She suggested that if money could be appropriated to the SLD, it would provide an opportunity for more time to analyze the situation.

Mr. Hubbard described how the SLD produces revenues with standard long-term commercial leases for large-scale projects.

In response to Senator Bennett, Commissioner Winkleman further explained the details of how the revenues are obtained over the term of those commercial leases.

Mr. Hubbard next explained the following items as outlined in the handout:

- Trust land term sales procedure
- Revenue assumptions without State trust land reform
- Revenue assumptions with State trust land reform

Senator Mitchell asked Mr. Hubbard to elaborate on the item "planning entitlements." **Steve Betts, attorney, Gallagher and Kennedy,** responded that it is a tough question to answer. However, he said clearly there are some Constitutional changes that will be necessary to implement the entire planning package. He explained that currently the SLD cannot set aside land as part of a planning process. Therefore, the ability of the SLD to create master plans such as is done by the private sector to create value to land cannot be accomplished under the Constitution. However, he said the coalition would be willing to discuss the critical pieces in order to implement those plans. He said in order to arrive at the numbers as suggested in the outline under "revenue assumptions," some reform is needed to the Constitution and additional reform would be needed in statute.

- Participation agreements

In response to Representative Lopez, Mr. Hubbard said that the "participation agreements" would need to be achieved through Constitutional change.

Mr. Hubbard next explained the chart of "new land sales estimates." He noted that without reform, the SLD anticipates gross sales would amount to approximately $3 billion through 2015, and with reform that amount would be $5.6 billion. In addition, a total of approximately $2 billion would be possible because of "participation agreements."

Mr. Hubbard next reviewed the pages of the handout describing the various graphs for fiscal years FY 2004, FY 2010, and FY 2015. The topics of the graphs include:

- Natural resources revenue
- Rights-of-way sales cash
- Rights-of-way rent
- Commercial lease rent
- Participation agreements
- New sales cash

In response to Senator Bennett, Mr. Hubbard explained the “new sales cash” graph is a combination of the 10% down of land sales at auction and the sales received from “participation agreement” contracts.

Mr. Hubbard described the following topics in the handout:

- Certificate of purchase principal payments
- Certificate of purchase interest
- Total real estate revenue

Mr. Hubbard explained that SLD created a budget for 2015 reflecting a slight increase in full time employees (FTE) and a significant increase in contract services related to revenue generation. He commented on the positions required and the funds needed for professional and outside contracts. He said the proposal would bring the 2015 budget to approximately $29 million, and he answered questions relating to the proposed figures outlined in the handout indicating that the goal of the proposal is to make the SLD self-funding by 2015.

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association, responded to questions raised by the members regarding the 15% cap of monies that could be designated for the trust land management fund. She said an additional internal check and balance mechanism was included, which provided that the trust land management fund could not have any more than two times the SLD’s operating budget over a five year average. This was done to ensure that the money would not be built up into a fund that otherwise should be going into the permanent fund to make money for schools.

Senator Cannell emphasized that it is important to maximize the monies going through Proposition 301 into teachers’ salaries now because there will not be any money going into teachers’ salaries from the fund next year. Ms. Palmer clarified that the reason why additional funding will not be available in FY 2004 and FY 2005 from the trust land management fund is because of past poor investment performance.

Senator Bennett commented he is hesitant to take portions of monies that would otherwise be going to the permanent fund for annual operations.

Mr. Hubbard indicated that with the State trust land reform package, it is estimated that an additional $300 million could be contributed to the expendable fund and an additional $3.2 billion to the permanent fund by 2015.

Senator Bennett commented that hopefully between now and the next meeting additional data should be available in order to conduct a further analysis on this issue.

Representative Lopez asked whether it is possible to obtain a fiscal analysis of what the result would be if the legislature funded the $8 million for the positions needed and a Constitutional change was made reflecting the "participation agreements." Mr. Hubbard responded he would be happy to provide that information.

Senator Cannell commented he does not believe the SLD should just be an engine to produce real estate sales in order to put money into the trust. He said part of this Committee's agreement was to develop the lands in a reasonable manner as growth occurs to ensure that there is open space, quality of life and responsibility for the rural areas as well. He indicated that the focus should be to eliminate the "leapfrogging" or "checkerboard" pattern that is being developed around the State. He said that although the most important issue is to create revenues for education, there are also other responsibilities when it comes to land development.

Senator Bennett recessed the meeting at 10:30 a.m.

Senator Bennett reconvened the meeting at 10:55 a.m. He announced that rather than continue with statutory changes, public testimony would be taken today. He said that the next meeting is scheduled for Tuesday, June 22, which will focus on identifying the necessary items for this year's ballot.

Don Looney, Supervisor, Reddington Conservation District, representing the Arizona Association of Conservation Districts (Districts), provided background information on the Districts (Attachment B). He outlined the ways that the Districts could be of assistance in implementing new policy on State trust lands.

In response to Representative Gullett, Mr. Looney said that the Districts were not involved with the stakeholders in the development of the reform package. She commented that it would make sense that the Districts should be involved, particularly in the rural areas.

Janet Regner, lobbyist, representing The Hopi Tribe (Tribe), distributed and read a letter from Wayne Taylor, Jr., Chairman of the Tribe (Attachment C). She said the Tribe has a legitimate issue regarding grazing leases as they are one of the largest lessees in the State with a history of experience in cattle grazing.

Brenda Rosenberg, representing Legends Equestrian Center (Legends), stated she testified at Thursday's meeting and wanted to disclose that she has been a real estate agent for the past two years acting as a principal for Legends. She indicated she has been working with the City of Phoenix to bring motion picture studios to this area as well as a concept mall. She provided background information on the Legends facility. After examining the reform package and attending hearings, she questioned why Legends and similar facilities are being excluded.

Senator Bennett responded that it is not the intent of the reform package to exclude anyone from the opportunity of buying or leasing State land. He indicated the coalition is comprised of some of the larger groups of people who use, buy, or manage State lands, such as grazing, agriculture, developers and the conservation community. The concerns of that collective group will provide the SLD with additional tools in the management of State lands. He said that Legends or any entity could pursue a parcel of land when and if it becomes available.

Representative Gullett suggested having individuals meet with Ms. Rosenberg next week to discuss her concerns. Ms. Rosenberg responded that she would welcome such a meeting.

Senator Bennett announced the next meeting is scheduled for next Tuesday at 1:00 p.m.

There being no further business, the meeting was adjourned at 11:10 a.m.

Respectfully submitted,

Nancy L. DeMichele
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)