

# OFFICE OF LEGISLATIVE LEGAL SERVICES

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## SUMMARY OF MEETING

### COMMITTEE ON LEGAL SERVICES

**September 13, 2011**

The Committee on Legal Services met on Tuesday, September 13, 2011, at 1:11 p.m. in SCR 356. The following members were present:

Senator Morse, Chair  
Senator Brophy  
Senator Guzman  
Senator Schwartz (present at 1:22 p.m.)  
Representative B. Gardner, Vice-chair  
Representative Labuda  
Representative Levy  
Representative Murray  
Representative Waller

Senator Morse called the meeting to order.

**1:12 p.m.** -- Jennifer Gilroy, Revisor of Statutes, Office of Legislative Legal Services, addressed agenda item 1 - Office of Legislative Legal Services presents an overview of the process for consideration of responses received to the RFP for the C.R.S. publication contract.

Ms. Gilroy said I wanted to briefly go over the purposes for why we're here today and the plans for today. The purpose of this meeting is for the Committee to hear from those who have submitted proposals in response to

the RFP you all released for the publications contract and to select a vendor for the publication of the Colorado Revised Statutes, the session laws, and the red book and production of the CD-ROM and the on-line public access version of the state's laws. As you're aware, state statute does charge this Committee with the oversight responsibility to fulfill the responsibility under the constitution that the laws of the state be published. Unlike many other states, Colorado functions as its own publisher of the statutes and session laws. We actually do insert all the new law and repeal the old law, write all the editor's notes, update or create the source notes, read all the appellate opinions and draft the annotations, prepare the indexes, and prepare the tables and cross references. Then we send it out to the contract vendor who then formats it, prints it, binds it, and distributes it as we direct. They're also responsible for promoting the sale of the statute books as well and handling that whole sales process with the public. As we've discussed before, this bid has to go out at least every 10 years. We have had LexisNexis as the official contract publisher for the state since 2003. In selecting a contractor, you're charged with awarding the contract to the lowest responsible bidder and as part of that consideration, the statute requires you to consider the fiscal, economic, and tax impact to the state as well as its citizens and businesses. The usual practice of this Committee has been to award a five-year contract, which is the maximum term under the statute, and at the conclusion of that five years the Committee decides whether to extend that contract for up to an additional five years or to put it out to bid again at that time. This Committee may choose to select a shorter term than five years if it would like.

Ms. Gilroy said the plan for today is for a motion to be offered by the Committee to go into executive session. That's for two reasons: One is to allow you to receive attorney/client advice pursuant to any specific legal questions you may have about the RFP process or the negotiation of the contract; and two is to keep confidential any of the financial and proprietary information that will be shared by the vendors who are here today to speak to you. The Committee will then come out of executive session after which you will have a discussion about the vendors who have submitted proposals and, if the Committee is inclined, you can entertain a motion to select a vendor. If, however, the Committee is not prepared at this point or if it would like further information from any of the vendors, the Committee may lay the matter over. Your next scheduled meeting is October 4.

**1:17 p.m.** -- Senator Morse address agenda item 2 - Discussion of RFP process for the C.R.S. publication contract and ten-minute presentations from each entity that responded to the RFP for the C.R.S. publication contract followed by a ten-minute question-and-answer period with each entity.

Senator Morse said when we go into executive session, we will clear the room except for those that are permitted in the executive session and then, one at a time, I will ask that staff bring the vendors in. We decided to do that in alphabetical order. We will give you 10 minutes, which I will time, for the presentation. I will be a stickler about that 10-minute process since we've already gone through the documentation. Then I will open it up for questions from the Committee. I don't know how long that will take for each individual vendor. It may fluctuate as there may be lots of questions for one vendor and very few for another. For those that will be outside the room waiting, please know that I will stick to the 10 minutes on the presentation but I will let the Committee ask whatever questions it needs to to make its determination or get the information it needs to make a determination. Then we will, as the law permits us to do, get some legal advice with respect to how we make that decision and discuss any proprietary information that we need to discuss. Then we'll come out of executive session, give a minute or two for the public to get back into the room, and continue with the rest of the meeting where we will have further discussion as long as none of that is proprietary information. If we get to the point where someone is asking or still needs more information on the proprietary thing, we may go back into executive session.

Senator Morse said at this time, the Committee should conduct an executive session in accordance with section 24-6-402 (3) (a) (II) and (3) (a) (III), C.R.S., for the purposes of: Receiving legal advice on specific questions related to the RFP process; discussing matters required to be kept confidential by section 24-72-204 (3) (a) (IV), C.R.S.; and discussing confidential commercial and financial data received from responding entities and pursuant to the deliberative process privilege exception pursuant to section 24-72-204 (3) (a) (XIII), C.R.S.

**1:20 p.m.**

Hearing no further discussion or testimony, Representative Gardner moved that the Committee enter executive session for the specific reasons just stated by the Chair. The motion passed on an 8-0 vote, with Representative Gardner, Representative Labuda, Representative Levy, Representative Murray, Representative Waller, Senator Brophy, Senator Guzman, and Senator Morse voting yes. Senator Morse said the Committee will resolve into executive session. Those who are not allowed by law to be present need to wait in the hallway at this point. I would ask that the usual tape system be turned off and a separate recording be made of the executive session.

The tape system was turned off, and the Committee went into executive

session. The Committee heard testimony from the following people: Anders Ganten, Nikki Daugherty, and Dennis Dougherty from LexisNexis; Kathy DeMatteo, Rich DeMatteo, and Rich Nyland from PostNet; Dave Donovan from Simplikate; and Ellen Gillespie, Joe Kubus, Gary Abrams, Dawn McKnight, Michael Valdez, and John Rostek from West/Colorado Bar Association.

**5:08 p.m.**

The Committee returned from executive session.

**5:10 p.m.** -- The Committee addressed agenda item 3 - Committee discussion and selection of contractor.

**5:10 p.m.**

Hearing no further discussion or testimony, Representative Gardner moved that the Committee, having determined that LexisNexis is the lowest responsible bidder, considering the economic, fiscal, and tax impacts of the award on the state of Colorado, including any extensions of that award, and considering that impact on its citizens and businesses as well, direct the Office of Legislative Legal Services staff to negotiate with LexisNexis for the publication of the Colorado Revised Statutes and other associated publications consistent with the terms of the RFP, beginning January 1, 2013, for a term of 5 years, and that the contract, once negotiated, be brought before the Committee for final approval. The motion passed on a 7-2 vote, with Representative Gardner, Representative Murray, Representative Waller, Senator Brophy, Senator Guzman, Senator Morse, and Senator Schwartz voting yes and Representative Labuda and Representative Levy voting no.

**5:12 p.m.**

The Committee adjourned.