



**MINUTES
of the
THREE-HUNDRED-FORTY FIRST MEETING
of the
LEGISLATIVE COUNCIL
January 16, 2012
Santa Fe**

The three-hundred-forty-first meeting of the Legislative Council was called to order on Monday, January 16, 2012, at 11:20 a.m. in Room 307 of the State Capitol by Senator Timothy Z. Jennings, co-chair.

Present

Senator Timothy Z. Jennings, Co-Chair
Representative Ben Lujan, Co-Chair
Representative Thomas A. Anderson
Representative Donald E. Bratton
Senator Carlos R. Cisneros
Representative Anna M. Crook
Senator Stuart Ingle
Representative W. Ken Martinez
Senator Cisco McSorley
Representative Rick Miera
Senator William H. Payne
Senator Michael S. Sanchez
Senator William E. Sharer
Representative Sheryl Williams Stapleton
Representative Thomas C. Taylor
(Speaker Lujan participated by phone.)

Absent

Special Advisory Members Present

Representative Eliseo Lee Alcon
Senator Pete Campos
Senator Mary Jane M. Garcia
Representative Roberto "Bobby" J.
Gonzales
Representative Rhonda S. King
Representative Dennis J. Kintigh
Representative James Roger Madalena
Senator George K. Munoz
Representative Andy Nuñez
Senator John Arthur Smith

Special Advisory Members Absent

Representative Antonio Lujan
Representative Debbie A. Rodella

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)

Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS

John Yaeger, Assistant Director for Legislative Affairs, LCS

Jeret Fleetwood, Locator Coordinator, LCS

Approval of Minutes

On a motion made, seconded and passed, the minutes of the August 29, 2011 meeting were approved as submitted.

On a motion made, seconded and passed, the minutes of the October 3, 2011 meeting were approved as submitted.

Session Security

Lieutenant Robert McDonald of the New Mexico State Police provided the council with testimony regarding the state police detail assigned to capitol security for the session. He explained that the detail would consist of 19 officers, including four sergeants, representing 11 of the 12 districts in the state. Lieutenant McDonald also noted that the state police detail would work with capitol security to ensure the safety of everyone in the capitol, as well as provide escorts to vehicles parked near the capitol. He encouraged anyone with questions or issues to contact him or the LCS.

President Pro Tempore Jennings noted that concerns had been raised regarding the security of the capitol in relation to other states, many of which use metal detectors at public entrances.

Representative Kintigh presented the council with a letter requesting that a study be conducted over the next interim regarding security at the capitol.

In response to questions from several other members, Mr. Burciaga indicated that members' cards should provide them access to both the main capitol building and the capitol north building, as well as the parking garage.

In response to a question from Speaker Lujan, Lieutenant McDonald said that there would be one female state police officer on duty during the second half of the session.

Staff Reports

Mr. Burciaga noted that copies of interim committee final reports are available in hard copy or online from the LCS. He also pointed out that summaries of interim committee work are available on the legislature's web site under "Beyond the Roundhouse".

Mr. Burciaga also provided the council with a handout regarding capital outlay issues for the session. He explained that, according to information provided at the December 9, 2011 Legislative Finance Committee meeting, \$130.3 million in severance tax bond capacity and \$180

million in general obligation bond capacity exist. Mr. Burciaga also reviewed the house, senate and joint rules regarding capital outlay and reauthorization bills, reminding members that the deadline for submitting capital outlay requests to the LCS is 5:00 p.m. on Sunday, January 29.

In response to a question from Senator Cisneros, Mr. Burciaga explained that if requests for project reauthorizations are submitted, a bill would be produced. He also noted that reauthorizations come into the LCS as individual requests from members, but all are included in a single bill.

Speaker Lujan reminded members that capital outlay bills may be introduced in either house and that members and the executive would have to communicate with one another to produce capital outlay bills.

In response to a question from President Pro Tempore Jennings, Mr. Burciaga noted that about \$400 million has been authorized but not yet spent on capital outlay projects.

In response to a question from Representative Martinez, Mr. Burciaga provided the council with an update regarding redistricting litigation. He explained that a ruling and judgment and final order had been issued on the redistricting of congressional districts and that a ruling on a house of representatives plan had been issued, but the judgment and final order on the plan had not been filed yet. Mr. Burciaga also explained that a compromise on senate districts had been reached by all the parties except the legislature and that the trial on redistricting the Public Regulation Commission had ended on Thursday, January 13, 2012.

In response to another question from Representative Martinez, Mr. Burciaga noted that information regarding each of the redistricting cases had been sent to members and is available to the public on the legislature's web site.

In response to another question from Representative Martinez, Mr. Burciaga explained that the council would have to authorize legal counsel to represent the legislature if it desires to have the legislature represented in any subsequent appeals.

Representative Martinez moved, with Representative Stapleton seconding, that the legal team headed by Richard E. Olson, Luis G. Stelzner and Professor Michael Browde be authorized and directed to represent the legislature on any subsequent appeals of the decision on the house of representatives redistricting.

Several members raised questions regarding the grounds for appeals. Other members raised questions about the need to go into executive session to discuss those grounds.

Some members suggested that discussions begin in open session, and, if necessary, the council could again consider going into executive session. However, Professor Browde indicated that he would be reluctant to discuss anything involving the grounds for appeal in open session as such a discussion would quickly lead to privileged areas.

A motion was made and seconded to waive the attorney-client privilege for the purpose of discussing appeals to the ruling on the house of representatives redistricting trial. The motion failed on a vote of 7-8, with Speaker Lujan, Representatives Martinez, Miera and Stapleton, President Pro Tempore Jennings and Senators Cisneros, McSorley and Sanchez voting NO.

On a motion made, seconded and approved, the council voted 8-7 to go into executive session to discuss issues related to appeals of the decision in the house of representatives redistricting trial, with Representatives Anderson, Bratton, Crook and Taylor and Senators Ingle, Payne and Sharer voting NO.

Upon returning from executive session, a motion was made and seconded to continue to retain Mr. Olson, Mr. Stelzner and Professor Browde to represent the legislature in any subsequent appeals of the decision in the house of representatives redistricting trial. The motion passed on a vote of 8-7, with Representatives Anderson, Bratton, Crook and Taylor and Senators Ingle, Payne and Sharer voting NO.

There being no further business, the council adjourned at 1:55 p.m.