



MINUTES
of the
THREE-HUNDRED-TWENTY-FOURTH MEETING
of the
LEGISLATIVE COUNCIL
July 27, 2009
Santa Fe

The three-hundred-twenty-fourth meeting of the Legislative Council was called to order on Monday, July 27, 2009, at 10:40 a.m. in Room 307 of the State Capitol by Speaker Ben Lujan, co-chair.

Present

Senator Timothy Z. Jennings, Co-Chair
Representative Ben Lujan, Co-Chair
Senator Carlos R. Cisneros
Senator Dianna J. Duran
Representative Keith J. Gardner
Senator Stuart Ingle
Representative Rhonda S. King
Senator Cisco McSorley
Representative Rick Miera
Senator Michael S. Sanchez
Representative Sheryl Williams Stapleton
Representative Thomas C. Taylor
Representative Jeannette O. Wallace

Absent

Representative W. Ken Martinez
Senator William H. Payne

Special Advisory Members Present

Representative Eliseo Lee Alcon
Representative Donald E. Bratton
Representative Anna M. Crook
Senator Mary Jane M. Garcia
Representative Antonio Lujan
Representative James Roger Madalena
Representative Al Park

Special Advisory Members Absent

Senator Pete Campos
Senator Kent L. Cravens
Representative Brian F. Egolf, Jr.
Senator George K. Munoz
Senator John Arthur Smith

Guests

Representative Henry Kiki Saavedra

Staff

Paula Tackett, Director, Legislative Council Service (LCS)
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS
Raúl Burciaga, Assistant Director for Drafting Services, LCS

John Yaeger, Assistant Director for Legislative Affairs, LCS
Jeret Fleetwood, Locator Coordinator, LCS

On a motion made, seconded and unanimously approved, the minutes of the June 24, 2009 meeting were approved as submitted.

Interim Committee Business

Ms. Tackett reminded the council that several subcommittees had been formed at the last council meeting and members needed to be named. Speaker Lujan suggested that each subcommittee be kept as small as possible.

The council authorized several members of the Legislative Health and Human Services Committee to attend the Legislative Finance Committee meeting on health care reform in Angel Fire. House members authorized to attend are Representatives Cote, Gardner and Picraux and Senators Beffort, Feldman and Ortiz y Pino.

The council named the following members to the Disabilities Concerns' Subcommittee of the Legislative Health and Human Services Committee: Representatives Espinoza, Antonio Lujan and Madalena and Senators Papen, Ulibarri and Adair.

The council named the following members to the Acequias Subcommittee of the Water and Natural Resources Committee: Representatives Bandy, Nunez and Thomas A. Garcia and Senators Ortiz y Pino and Phil A. Griego.

The Regulatory Review Subcommittee is composed of members from the Revenue Stabilization and Tax Policy Committee, the Economic and Rural Development Committee and the Courts, Corrections and Justice Committee.

Members named from the Revenue Stabilization and Tax Policy Committee are Representatives Sandoval, Taylor and Trujillo and Senators Eichenberg, Morales and Neville. There was a question regarding whether Representative Taylor, as a member of the council, could be appointed to a council-created subcommittee.

Members named from the Economic and Rural Development Committee are Representatives Gray, Lundstrom and Rodella and Senators Munoz, Bernadette M. Sanchez and Sharer.

Members named from the Courts, Corrections and Justice Committee are Representatives Cook, Park and Stewart and Senators Lopez, Ryan and Ulibarri.

The Uranium Mining Task Force is composed primarily of those members of the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee who traveled to Washington, D.C., in January to urge federal funding for cleanup of legacy uranium mining sites.

The members named are Representatives Heaton, Lundstrom and Wallace and Senators Asbill, Lovejoy and Ulibarri.

Operational and Fiduciary Review Status

Ms. Tackett and Mr. Burciaga provided the committee with an update on the status of the Request for Proposals (RFP) for an independent operational and fiduciary review of the state's investment agencies. They noted that the council had directed staff to proceed, in cooperation with the State Board of Finance, with development of the RFP.

Mr. Burciaga provided the council with a copy of the RFP, which had also been published in the *Santa Fe New Mexican*, the *Albuquerque Journal* and *Investments and Pensions*, a trade magazine. He went on to indicate that about 10 firms had indicated their intent to respond to the RFP. Mr. Burciaga went on to note that proposals were due on August 7, 2009, with contract negotiations and eventual selection anticipated for August 17, as outlined in the RFP.

The council had a lengthy discussion about various elements of the RFP and the review itself, including the following topics:

- that up to \$200,000 from the State Board of Finance and another \$100,000 from the LCS and Legislative Finance Committee had been authorized to conduct the review;
- definitions of bribes and kickbacks as outlined in the RFP;
- level of disclosure regarding applicant information, including prior, relevant experience, other financial interests and potential conflicts of interest of bidders on the RFP;
- reporting requirements for the contract recipient, including reports to the boards of the entities being reviewed, the State Board of Finance, the Legislative Council and the Investments Oversight Committee;
- number of other states seeking similar reviews, and the time frames and terms spelled out in their reviews;
- anticipated beginning and end dates of the contract;
- the need to clarify definitions of terms such as "conflict of interest", "direct", "indirect" and "best practices" within the RFP;
- disclosure and consideration of interests, including subsidiary ones, of bidders on the RFP;
- appointment and makeup of the evaluation committee, who review responses to the RFP and are the ultimate decision makers on award of the contract;
- relevant experience of legislative staff members selected to serve on the evaluation committee;
- whether the RFP should include alternative investments made by the State Treasurer's Office;
- potentially repetitive language regarding waiver of contract irregularities;
- questions related to willingness of respondents to the RFP to disclose their experience and potential conflicts of interest in hopes of winning the contract;

- scoring criteria (including overall cost and relevant experience) used in determining who receives the contract;
- naming of LCS staff as Procurement Manager in the RFP; and
- ability to amend the RFP.

On a motion made, seconded and approved, the council directed staff to move forward with the RFP for independent review of the operational and fiduciary review of the state's investment agencies. Senator McSorley voted NO on the motion.

In explaining his vote, Senator McSorley explained that at least one lawsuit has already been filed regarding the investment practices of the state. He noted that he believes that each witness interviewed as part of the proposed review will be subpoenaed as part of an ongoing federal investigation into the same area. He also raised questions about the amount of money being appropriated for a study that may not produce significant results.

Staff Reports

Ms. Tackett introduced Mark Harben as a new permanent LCS staff member and Sebastian Dunlap, Michael Calderon and Josh Sanchez as interns.

Ms. Tackett also provided the council with an update on the Capitol Parking Structure, which she indicated was supposed to be finished by the beginning of September.

She noted that the structure would provide 593 parking spaces, but that the Facilities Review Subcommittee would have to meet within the next month to work out a management plan. Ms. Tackett also noted that management of the parking structure would be transferred to the LCS from the General Services Department when it was completed.

In response to a question from Speaker Lujan, Ms. Tackett noted that the original completion date for the structure was January 2009, but that the decisions to extend the structure below ground level and subsequently to increase an archaeological investigation of the site had prolonged planning and construction of the structure.

In response to a question from Representative Crook, Ms. Tackett indicated that the Facilities Review Subcommittee would give direction on a plan to spell out the number of spaces allocated for legislative staff, executive agencies, entities seeking some kind of lease for spaces and the public.

Ms. Tackett reminded the council that the law related to reimbursement of Uniform Law Commissioners had been amended. The council approved of the use of the Per Diem and Mileage Act to cover reimbursement of public appointees for attendance at the Uniform Law Commission conference in Santa Fe.

Ms. Tackett also indicated that planning for the Council of State Governments-West conference, planned for October in Santa Fe, was proceeding well. The council asked for an update at its next meeting.

There being no further business, the council adjourned at 12:15 p.m.