



**MINUTES
of the
THREE-HUNDRED-THIRTY-THIRD MEETING
of the
LEGISLATIVE COUNCIL
September 22, 2010
Santa Fe**

The three-hundred-thirty-third meeting of the Legislative Council was called to order on Wednesday, September 22, 2010, at 10:40 a.m. in Room 307 of the State Capitol by Senator Timothy Z. Jennings, co-chair.

Present

Senator Timothy Z. Jennings, Co-Chair
Senator Carlos R. Cisneros
Representative Keith J. Gardner
Senator Stuart Ingle
Representative Rhonda S. King
Representative W. Ken Martinez
Senator Cisco McSorley
Representative Rick Miera
Senator William H. Payne
Senator Michael S. Sanchez
Representative Sheryl Williams Stapleton
Representative Thomas C. Taylor
Representative Jeannette O. Wallace

Special Advisory Members Present

Representative Eliseo Lee Alcon
Representative Anna M. Crook
Representative James Roger Madalena
Senator George K. Munoz

Guest Legislator

Senator Linda M. Lopez

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

Absent

Representative Ben Lujan, Co-Chair
Senator Dianna J. Duran

Special Advisory Members Absent

Representative Donald E. Bratton
Senator Pete Campos
Senator Kent L. Cravens
Representative Brian F. Egolf, Jr.
Senator Mary Jane M. Garcia
Representative Antonio Lujan
Representative Al Park
Senator John Arthur Smith

Jeret Fleetwood, Locator Coordinator, LCS

Wednesday, September 22

On a motion made, seconded and unanimously passed, the minutes of the August 10, 2010 meeting were approved as submitted.

Redistricting Proposals

Mr. Burciaga provided the council with recommendations for technical and legal redistricting services. He began by reviewing the process, noting that requests for proposals had been issued on August 10. Mr. Burciaga went on to explain that seven proposals had been submitted, four for technical services and three for legal services, and that they had been evaluated in-house. He went on to note that two technical and two legal proposals were qualified. Of the qualified proposals, staff recommended approval of Research and Polling, Inc., for the technical services contract and a proposal submitted by Rich Olson, Luis Stelzner and Professor Michael Browde for the legal services contract. Mr. Burciaga pointed out that these are the same offerors that were selected 10 years ago for the last redistricting efforts.

Senator Jennings suggested that the council discuss the technical and legal proposals separately.

In response to a question from Senator McSorley, Mr. Burciaga indicated that no one had seen the submitted proposals in advance of the meeting.

Several members of the council noted the importance of the decisions facing the council and asked about holding another meeting at which members of the council would be able to question the recommended contractors.

In response to questions from some members, Jon Boller, LCS staff attorney, explained that precincts have been chosen as the basic building block for districts and that, while county commissions draw precinct boundaries, those boundaries were frozen by a law passed during the 2010 session. However, he also indicated that in certain emergencies, the legislature could redefine some precinct boundaries.

Several other members of the council pointed out that both of the recommended contractors had done an excellent job during the last redistricting effort and that it seemed unlikely that any contractor other than Research and Polling, Inc., would be capable of performing the technical work required of the contract any better.

Senator McSorley made a motion to direct the LCS to distribute the offeror's proposal to all legislators and set up a separate meeting for a presentation by the offeror. Senator Payne seconded the motion, but the motion failed with only Senator McSorley voting in the affirmative.

On a motion made, seconded and approved, staff was directed to negotiate a contract for technical services associated with redistricting with Research and Polling, Inc., with Senator McSorley voting NO.

In explaining his vote, Senator McSorley emphasized that a critical component of the overall redistricting effort was being decided by the council without sufficient review of the submitted proposals.

In response to a question from Representative Crook, Mr. Burciaga explained that four technical proposals had been submitted, two of which were deemed insufficient by the scoring group.

Senator Jennings noted that Research and Polling, Inc., is a New Mexico company that has proven to be capable of performing the technical work required of redistricting. He also emphasized that the purpose of the Legislative Council is to make decisions on behalf of the legislature when it is not in session.

Several members of the council raised questions regarding legal services for redistricting, specifically about whether it makes sense to have separate representation for the majority and minority parties.

In response to a question from Senator Payne, Mr. Burciaga explained that legal services are performed for the legislature as a whole, rather than with partisan concerns in mind.

Several members expressed concern regarding having the entire legislature represented by one firm or group, pointing out that redistricting is often settled through litigation and that counsel provided to some groups may eventually conflict with the will of the majority and could perhaps undermine minority interests in court.

Other members expressed concern regarding the costs laid out in the recommended legal proposal, noting that the proposed hourly rates, travel costs and various other costs could amount to a significant amount of money.

In response to a question from Senator Payne, Mr. Burciaga said that the total cost of technical and legal services for the legislature for the last redistricting effort was about \$1.5 million. He also added that the Risk Management Division of the General Services Department paid about \$3 million for litigation costs incurred on behalf of plaintiffs and intervenors.

Some members of the council suggested that the contract stipulate that legal services include work performed during the 2011 interim and an anticipated special session but could be renegotiated before any litigation.

Other members of the council suggested that the legal services contract include language limiting the travel, copying and various other costs allowed.

The council also discussed the qualifications of some of the members of the legal team recommended by staff.

On a motion made, seconded and approved, the council authorized staff to negotiate a contract for legal redistricting services with the group headed by Mr. Olson, Mr. Stelzner and Professor Browde, with the expectation that the offeror would continue to represent the legislature through litigation and provided that the contract allow for review and approval of continuing the contract with the offeror before litigation, including limits on certain costs. Senator McSorley voted NO.

In response to a question from Senator McSorley, Mr. Burciaga explained that three bidders had submitted proposals for legal services: the Olson, Stelzner and Browde group, one firm from California and one other from India. He noted that the California firm had performed work for the Arizona Redistricting Commission, the Florida state senate and some work in Texas, while the group from India had redistricted its entire country. However, Mr. Burciaga pointed out that the recommended firm had submitted a better, more cost-effective proposal.

Mr. Burciaga introduced Pam Stokes and Alise Rudio as new staff attorneys who are replacing staff attorneys who had departed. He also introduced Jennifer Rabinowitz as a legislative intern.

Interim Committee Business

The council authorized the Investments Oversight Committee to move one of its meetings to late November or early December to review the recommendations made by the Retirement Systems Solvency Task Force.

Staff Reports

The chief clerks of the house and senate were authorized to hire two to three additional information technology employees after October 15 and additional core pre-session staff after November 1.

Mr. Burciaga reminded the council that staff would be providing some members with interim committee meeting notices and associated materials via email, noting that members should notify the LCS as quickly as possible of any changes to either their preferences or contact information.

The council observed a moment of silence for the families of several staff members who had suffered recent losses.

There being no further business, the council adjourned at 12:45 p.m.