



**MINUTES
of the
THREE-HUNDRED-FORTY-FIFTH MEETING
of the
LEGISLATIVE COUNCIL
September 25, 2012
Santa Fe**

The three-hundred-forty-fifth meeting of the Legislative Council was called to order on Tuesday, September 25, 2012, at 10:30 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 William E. Sharer
Representative Sheryl Williams Stapleton
Representative Thomas C. Taylor
(Speaker Lujan participated by phone)

Absent

Senator Michael S. Sanchez

Special Advisory Members Present

Senator Pete Campos
Representative Roberto "Bobby" J.
Gonzales
Representative Rhonda S. King
Representative Dennis J. Kintigh
Representative Antonio Lujan
Representative Andy Nuñez
Senator John Arthur Smith

Special Advisory Members Absent

Representative Eliseo Lee Alcon
Senator Mary Jane M. Garcia
Representative James Roger Madalena
Senator George K. Munoz
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
Doris A. Faust, Assistant Director for Drafting Services, LCS
Jeret Fleetwood, Locator Coordinator, LCS

Approval of Minutes

On a motion made, seconded and passed, the minutes of the three-hundred-forty-fourth meeting from July 31, 2012 were approved as submitted.

Capitol Security

Mr. Burciaga provided the council with an overview of security at the capitol. He explained that, by statute, the New Mexico State Police have concurrent jurisdiction at the capitol but that there is also cooperation with the Santa Fe Police Department. He also noted that eight unarmed security staff members serve year-round in the capitol, supplemented by armed state police officers during the session. Mr. Burciaga pointed out that capitol security staff members are required to have three to five years of prior experience in security, law enforcement or a security-related position in the military and that seven security officers are on duty at any given time during the day. He also indicated that Legislative Building Services (LBS) personnel maintain an overnight and weekend presence in the building year-round, while around-the-clock security is maintained throughout sessions. Mr. Burciaga also discussed the training received by capitol security personnel, as well as the presence of digital cameras throughout the capitol complex. He went on to note that rallies have to be scheduled through LBS and that the security team works with rally leaders. Mr. Burciaga also discussed some of the security improvements implemented, such as further limiting access to the underground parking garage and video surveillance upgrades.

Mr. Burciaga discussed the provision of security at other state capitols, noting that states tend to rely on capitol police who are either with divisions of the highway patrol or are highway patrol officers themselves; capitol police who are under the jurisdiction of the legislature; or chamber security officers, such as sergeants-at-arms.

Finally, Mr. Burciaga explained that installing metal detectors in the New Mexico State Capitol would require five detectors and at least 10 additional staff members and would initially cost \$1 million to install.

Mr. Burciaga indicated that he would like to continue reviewing capitol security by hiring an independent third party to conduct an assessment and report back at the next council meeting.

In response to a question from Senator Jennings, Mr. Burciaga explained that while the governor's security detail is in the building when the governor is present, its responsibility is protecting the governor.

The council directed staff to continue with hiring a third party to review security measures and recommend options.

Pre-Session Preparation

On a motion made, seconded and unanimously passed, the house and senate chief clerks' offices were authorized to hire the necessary pre-session staff beginning on October 15.

Mr. Burciaga also noted that emergency medical technicians have been hired each year to be present during the session and provide urgent care for legislators and staff and that Don Mason handled this for many years. However, after Mr. Mason died in 2011, the LCS hired another provider and expects to continue to do so.

Mr. Burciaga then explained that Mr. Mason also apparently worked with some alternative medical providers to provide services in the capitol that included chiropractic and naprapathic care, massage and acupuncture. Mr. Burciaga said that while the services were used often by many legislators and staff members, there was no procedure in place to ensure that the practitioners were licensed and carried malpractice insurance. He also noted that there was some question about whether the legislature, as owner of the State Capitol, would be at risk in the event of illness or injury as a result of a practitioner's services. Mr. Burciaga explained that because of that question, he decided not to allow alternative medical providers to set up in public areas of the capitol in 2013. He indicated that the LCS would like to work with the alternative providers, but it would also like to mitigate any potential liability the legislature might have, and the LCS will be working with the Risk Management Division of the General Services Department to address the issue.

Mr. Burciaga also discussed concerns regarding the requirement for privacy when a medical professional is providing services. He explained that the area near the south doors on the second floor of the capitol has been used by emergency medical services (EMS) and alternative medical providers, but that scheduling and confidentiality problems are presented by that location. Mr. Burciaga noted that he had spoken with both chief clerks, who indicated that they did not have any additional space in the building. He also said that the EMS providers had expressed some concern about providing services, such as daily blood glucose and blood pressure readings, that could be considered ongoing primary care, and while the services may have been provided easily and freely in the past, the current providers did not anticipate the costs of providing them. Mr. Burciaga explained that the LCS might have to consider either charging a small fee for some services or absorbing those costs as part of the contract.

In response to a question from Senator Sharer, Mr. Burciaga explained that alternative medical providers do not currently have to provide proof that they are licensed and insured, noting that the LCS might begin asking for documentation from providers before allowing them to practice in the building.

Use of the Capitol Building and Chambers

Mr. Burciaga noted that the council had approved use of the chambers for Emerge New Mexico at the last meeting, and by rearranging schedules, there was no need to charge the group for security staff to be in the building on the day they meet. He did point out that while use of the house or senate chambers this year had not resulted in any charge to the organizations using them, weekend costs do arise from time to time. Mr. Burciaga also explained that the council would have to approve use of the chambers on November 11-16 for the Model United Nations program, as well as a proposed policy regarding use of the chambers.

The council discussed the proposed policy change, with some members noting that problems might arise from the use of the words "ceremonial" and "student", while other members suggested that the legislative chambers are a special place, and while there should be access for some groups, they should not be available to everyone.

The proposed policy was amended to include an item requiring Legislative Council approval of use of the chambers and another item indicating that the policy only applies when the legislature is not in session.

On a motion made, seconded and approved, the amended policy was adopted by the council with Senator McSorley voting NO.

The council also approved use of the chambers for the Model United Nations program November 11-16.

Redistricting Costs

Mr. Burciaga provided the council with a breakdown of redistricting costs from the 2010 process and the one in 2000, explaining that while there are some notable differences, the breakdown represents the best "apples to apples" comparison of the two. He explained that the bottom line costs for 2000 were about \$5.5 million, while the 2010 process cost about \$8 million, with the cost of litigation rising significantly in 2010. He pointed out that there were fewer full trials in 2000 and that representation for many of the defendants was handled somewhat differently 10 years ago.

The council had a discussion about the rising cost of redistricting litigation, with some members pointing out that there is no disincentive to file a lawsuit challenging the fact that the state has not enacted a plan.

Staff Reports

Mr. Burciaga explained that the Human Services Department (HSD), including the Office of Health Care Reform, created a New Mexico Health Insurance Exchange Advisory Task Force, and that several legislators had requested that the task force include some legislative input. He noted that six to 10 members of the legislature were invited by the HSD to attend four biweekly meetings through November 13, and they asked if they can be reimbursed per diem and mileage for attending these meetings.

The council had a discussion about reimbursing members invited by the executive to attend meetings. Some members pointed out that the legislature passed a health insurance exchange bill in 2011, but the governor vetoed it, decided to move forward with the process and now wants legislative input. Other members raised questions about whether the governor gets to decide who participates or if the speaker and president pro tempore should name members and if it was appropriate for members wishing to participate to use one of their four extra committee meetings attendance days.

On a motion made, seconded and passed, the council authorized the speaker and president pro tempore to approve members to provide legislative input to the New Mexico Health Insurance Exchange Advisory Task Force and to authorize reimbursement for them, with Representatives Bratton and Crook and Senators Ingle, Payne and Sharer voting NO.

Mr. Burciaga also noted that there have been recent reports of a member being reimbursed travel costs by both the National Conference of State Legislatures and the State of New Mexico to attend a conference. He explained that the LCS can make the reimbursement form clearer, as well as draft a policy for the council's consideration that would make it clear that a member who is being reimbursed from a conference organizer would first be reimbursed by that entity before being reimbursed for any additional travel costs by the state.

The council had a discussion about the issue of reimbursement. Some members suggested that the LCS send a memo to members outlining what is allowable and what is not, while others noted that ethics issues exist in terms of conference reimbursement as well as for interim committee attendance. Other members pointed out that many conferences place a cap on reimbursement that rarely covers the total cost of attendance.

The council directed staff to look further at the issue.

Senator Jennings also suggested that it would be valuable to have a briefing on health care issues before the regular session.

The council also observed a moment of silence for Bobby McBride, who recently passed away.

There being no further business, the council adjourned at 1:05 p.m.