

SPENDING AND GOVERNMENT EFFICIENCY COMMISSION

(SAGE Commission)

Friday, October 24, 2008 – 10:00 a.m.

University of Nevada Reno

Harry J. Reid Building - First Floor Conference Room (109-110)

1664 North Virginia Street, Reno, Nevada

MINUTES OF MEETING

Present: Bruce James (Chairperson), Don Ahern, Barbara Campbell, Robert Feldman, Robert Forbuss, Stephen Greathouse, Steven Hill, Jerome Snyder, Jim Thornton, Carole Vilaro

Absent: Randy Garcia, David Goldwater, Jan Jones, Howard Putnam

Also present: Frank Partlow (Executive Director), Perry Comeaux (Deputy Director), Suzanne Kilgore (General Manager), Pamela Fox/Quinn Reid (to take Minutes)

I. CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM

Chairperson James called the meeting to order at 10:05 a.m. Roll call was heard and a quorum of ten Commission members was determined.

II. APPROVAL OF MINUTES FROM SEPTEMBER 25, 2008 MEETING

Carole Vilaro moved to approve the September 25, 2008 meeting minutes. Don Ahern seconded the Motion. Motion carried unanimously.

III. COMMENTS FROM COUNTY AND STATE OFFICIALS ON POSSIBLE REASSIGNMENT TO THE COUNTY LEVEL OF THE ADMINISTRATION OF THE SENIOR CITIZEN PROPERTY TAX REBATE PROGRAM

Deputy Director Comeaux explained the Department of Health and Human Services recommended the administration of the program be shifted back to the counties because county assessors were on a closer level with applicants. He explained the original intent was to credit senior citizens and that approximately \$170,000 in administrative costs and \$4.6 million in rebates were issued during the last fiscal year. It was clarified the issue was that the State was paying for rebates out of the general fund without receiving corresponding revenue.

Mary Liveratti introduced Carol Sala, Division for Aging Services Administrator. Ms. Sala reviewed the current budget and reported 17,570 rebate checks would be issued in fiscal year 2009, but there would be a shortfall of \$247,000 due to recent budget cuts. She noted checks would be issued after the IFC (Interim Finance Committee) is notified of the shortfall by November 20, 2008 and that check amounts will be reduced by \$10. Ms. Liveratti noted general funding for the program rolls forward into the next fiscal year, but there is not funding to roll over into the next fiscal year due to budget cuts.

Commissioner Vilaro requested to know if rebate checks were still being issued to senior citizens living in low-income housing. Ms. Sala replied yes.

Commissioner Thornton asked about the amount of an average rebate check. Ms. Sala reported the average check was approximately \$370. She stated the issue with senior citizens is not the \$10 reduction, but the timing of when checks are mailed out.

Commissioner Vilaro asked about the average number of checks issued per county. Ms. Sala stated she could get that information from their database. Ms. Liveratti pointed out the County Assessor's Office currently gets paid a \$4 processing fee per application.

In response to a comment about the affect of capping property taxes, Deputy Director Comeaux reported the County Assessor used to provide the state with the assessed value of a senior citizen's property in order to determine the tax paid and the amount that should be reimbursed, but now the County Assessor would have to provide the actual amount of the tax to the state.

Commissioner Thornton requested to know why a rebate was issued rather than a tax credit. Deputy Director Comeaux explained it was a timing issue.

Josh Wilson, Washoe County Assessor, stated the Senior Citizen Property Tax Rebate program was a great program and that Washoe County can administer the program with the County Treasurer distributing the funding, but the bigger issue was the fiscal impact on local government. In response to Commissioner Vilardo's request about the average number of checks issued per county, Mr. Wilson reported, in Washoe County, 2,487 applications were received and the average rebate check was \$316 for a total of approximately \$786,000. He stated the number of individuals applying for the program was increasing. He stressed the importance of the program for low-income senior citizens.

Commissioner Campbell requested to know how many rebate checks went to property owners versus renters. Mr. Wilson stated he did not have that information.

Commissioner Vilardo commented that it did not make sense to her to issue property tax rebate checks to renters and that the percentage of rent that had to be paid in order to receive rebate checks was only an assumed amount.

Executive Director Partlow explained an unfunded mandate was defined as a senior government that imposes a mandate on a junior government without providing funding, but this issue was not an unfunded mandate to the county because the county collects the revenues. It was an unfunded mandate to the state because the state pays for the rebates out of the general fund but does not receive revenue from property taxes.

Commissioner Thornton requested to know if rebate checks were issued after taxes had been paid. Mr. Wilson reported checks were issued in mid to late August. Deputy Director Comeaux pointed out the original intention was to issue a rebate or a credit after taxes had been paid because an eligibility requirement is that an individual has to own or rent their property since July 1st of the preceeding year from the time the application was filed.

Wes Henderson, Nevada Association of Counties (NACO) stated they were opposed to the proposal because the administrative cost to implement the program in rural counties was more than the rebate checks issued. It was not efficient to delegate administrative duties to seventeen separate counties when those same duties could be accomplished by one organization. It would not save the state any money, but would only be a cost shift. In response to Executive Director Partlow's comments regarding unfunded mandates, Mr. Henderson stated their definition of unfunded mandate was delegating administrative functions to the county without providing the funding to accomplish those functions.

Commissioner Vilardo pointed out applications were completed by the counties until 1991 and without funding whereas now they receive a \$4 processing fee for each application.

Commissioner Campbell requested to know if NACO would be opposed to establishing a tax credit for senior citizens. Mr. Henderson stated there may still be concern if the credit came out of county funding rather than the state general fund.

Commissioner Vilardo reported county assessors were provided with a technology fund that sunsets and suggested an extension of the sunset as assistance.

Sabra Smith-Newby, Director, Clark County Department of Administrative Services, stated Clark County would be willing to take on administrative duties for the program, but was opposed to providing funding for the program. Discussion followed about the importance of providing information regarding how many renters were involved in the program and how the state was a beneficiary due to the fact that a significant part of offsetting the state cost of education came from property taxes.

IV. REPORT FROM CHUCK DUARTE, ADMINISTRATOR, DHHS DIVISION OF HEALTH CARE FINANCING & POLICY, ON SURVEILLANCE UTILIZATION REVIEW (SUR) PROGRAM STAFFING

Deputy Director Comeaux explained, at the last meeting, the Commission had reviewed the SUR program's recommendation to increase staffing to enhance state collections of payments that were made in error or as a result of Medicare fraud, but the Commission had requested the item be tabled until this meeting because more information was needed about privatizing the program.

Chuck Duarte, Administrator, DHHS Division of Health Care Financing and Policy, distributed and reviewed a handout regarding the current SUR program and the proposed benefits to the program by increasing staff by six new positions.

Chairperson James requested to know how the program tied federal and state governments. Mr. Duarte reported the Social Security Act mandates an SUR program be implemented in the state, but did not specify how large the program had to be. At

the federal level, there was more emphasis on Medicaid integrity therefore funding and staffing were provided to curtail fraud within states.

In response to questions and concerns heard, Mr. Duarte reported the following:

- There were four states nationwide that have privatized their program with one state reconsidering the privatization of their program.
- Activities by the program were reimbursed at a 50% or 75% federal level, but it was not known how much would be reimbursed if the program was privatized due to the fact that current SUR programs receive assistance with investigations and prosecution of Medicaid fraud from other government agencies.
- The estimated total annual cost for the additional staff included PERS and PEBP, but that the cost was not run through the state budgeting system to apply appropriate overhead charges.
- He could not say how much savings there would be to the state, but that a review of increased staffing and recovery rates in other states was the justification for their request.
- It was requested that each unit be tracked separately with regards to recovery and potential recoveries.
- Contractors could be paid a percentage of the recovery, but it was strongly discouraged because there was an incentive for them to pursue cases with limited backing of documentation due to the appeals process. Contractors were paid an administrative charge and the incentive for them to do a good job for the state was to get a good reference for their company from the state to expand their business to other states.
- All costs were included in the estimated total annual costs, but he reminded the Commission it was only an estimated amount.
- They currently sub-contract a company to complete data mining for them. They have requested licensing costs for another software program called Data Probe.
- Attorney General Prosecutors were used to prosecute Medicaid fraud cases. Case information was reported at both the federal and state level. At the federal level, the provider was excluded from participating in the Medicare and Medicaid programs. If criminal action was determined, the case was reported to the State Board of Medical Examiners.
- Approximately 25% of cases were fraudulent. The Attorney General also conducts investigations independently from information received from the federal government.
- There may not be a cost savings to the state by outsourcing this service because an aspect of investigatory control and confidentiality to the state would be lost.
- The federal government did not use private contractors for this type of work.
- The DHCFP had the authority to recoup funds and to initiate a termination of the provider.
- The federal government uses contractors to assist with data analysis and to review activities.
- Eligibility determination investigations were sub-contacted to the Division of Welfare and Supportive Services. If fraudulent activity has been determined, the case would be referred to the Attorney General's Office for prosecution. Financial recovery would be sought from the recipient or their family.

V. COMMENTS FROM INTERESTED PARTIES ON SAGE COMMISSION PROPOSAL A FOR AMENDMENT OF THE PUBLIC EMPLOYEE BENEFIT PROGRAM (PEBP)

Executive Director Partlow stressed Proposal A was only a DRAFT proposal by the Commission for further review. Chairperson James explained it was not the Commission's intention to address the PERS and PEBP issues as quickly as they have, but it was apparent these would be important issues in the coming legislative session therefore Proposal A was constructed only as a starting point for discussion on this issue.

Commissioner Feldman, Leslie Johnstone, Executive Officer, PEBP program, and Randy Kerner, PEBP Board Chairman provided information regarding the PEBP program. Commissioner Feldman distributed and reviewed a handout entitled "SAGE Commission (meeting 10-24-08) Brief Summary – State Employee Benefits Program". He noted there was extensive information regarding PEBP on the PEBP website. Executive Director Partlow pointed out cost factors listed within the handout were based on Ms. Johnstone's actuaries. Ms. Johnstone clarified that her assumptions came from the Commission's proposal.

In response to questions and concerns heard, the following information was reported:

- The federal government was not subject to state mandates unless stated in federal government statute. The federal government also was not subject to administrative costs.
- The state program was more of an advantage because ERISA laws can bypass state law and allow provisions to be included that are not allowed by state law. \$300 million in savings to the State would occur over a five-year period if state employees paid a fair amount of benefits in order to compete with private industry.

- The total cost savings was calculated with a two-year phase in and an 8% inflationary cost.
- Active employees were not treated any differently than retired employees in the PEBP program. The difference was that teachers were covered under their own jurisdictions and were subject to the bargaining process.
- Non-state groups were eligible for the program under their employer, but costs and benefits were rated separately from the state with the emphasis on the retiree side. It was noted northern rural employers joined the program more due to the fact that northern and southern portions of the state were rated the same and that, as of November 1, 2008, the PEBP program would not enroll non-state retirees unless through their employer.
- The only benefit to the program by doubling membership would be that it would stabilize rates. It was not known if administrative costs would be reduced by combining programs because the program was one of the few options chosen by retirees given the current legislative policies.
- There was no unfunded liability for active employees.
- Utilization was a part of the actuaries listed in the handout, but it was not known if a comparison of utilization between state employees and the private sector was conducted.
- Technically, there were four payroll systems because of the consolidation of the larger systems.
- Small local jurisdictions do not subsidize retirees; larger jurisdictions have retiree programs and allow retirees to decide about joining the PEBP program.

Commissioner Forbuss commented that teachers were the largest workforce in the State of Nevada with the greatest impact, but they were being paid the lowest salaries, which would alter the amounts listed on the chart on page 3 of the handout. It was clarified the information provided in the chart regarded state employees only and not K-12 employees.

Chairperson James requested more information regarding the PEBP Board. Dr. Kerner reported there were nine Board members who represented different constituencies of the State including two Board members that represented the private sector. The Board's role is fiduciary because they had different sources of income from the state and from contributions. They were also responsible for the solvency of the program. For example, in response to Governor Gibbons' report that the State's contribution in the coming biennium would not be increased for inflation, the PEBP Board elected to cost shift 50% to participants and 50% in cost sharing which would amount to \$55 million over the next two years. Discussion followed regarding how the figures were determined in order to stay competitive with other states and local governments.

Commissioner Snyder stated he was confused by the savings projected by staff and the savings projected by the PEBP Board. Ms. Johnstone clarified the PEBP Board used a different set of assumptions than the SAGE Commission's proposal.

Commissioner Feldman explained his interest was cost savings to the State and to have the program handled on a percentage basis to be increased as inflation increases. There was also the issue of the State being under-funded for retirees. Chairperson James requested current discussion remain focused on active employees.

Executive Director Partlow noted his attraction to the Commission's proposal was the establishment of percentages for certain types of policies. Ms. Johnstone stated she was concerned about having a percentage of costs within statute because, if costs are more than estimated, the burden would fall back on the Legislature to attempt to find funding for that percentage.

At 12:24 p.m., Chairperson James called for a short break for individuals to prepare for the working lunch. At 12:50 p.m., the meeting resumed.

Ms. Johnstone reported the PEBP benefit package for retirees was the same as for active employees with the exception that life insurance was fifty percent and there was no long-term disability. Medicare retirees were rated separate from non-Medicare retirees. Medicare retirees also have additional HMO options.

Chairperson James requested to know if state employees participated in Medicare. Ms. Johnstone clarified state employees hired after 1986 participated in the Medicare program. She explained the current benefits of the program and reviewed the State Employee Benefits Program handout in relation to retirees. She reported the State does not deem an individual a retiree until pension was drawn and that PEBP could be considered a supplemental plan for retirees. Discussion followed about the pros and cons of providing individuals an opportunity to purchase private health care plans and about funding healthcare in the future given the population growth of the state.

VI. COMMENTS FROM INTERESTED PARTIES ON SAGE COMMISSION PROPOSAL B FOR AMENDMENT OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM (PERS)

Dana Bilyeu, PERS Executive Officer, provided an overview of the current pension system. Ken Lambert, Investment Officer, reported asset value was lower than six months ago, but higher than two years ago.

In response to questions raised, the following information was reported:

- Yearly gains and losses were measured by mortality tables, but not the average retirement time for an individual.
- The average wage reported was approximately \$44,000 and included such pay as hazardous pay. "Call back" pay was also reported, but not straight overtime. Holiday pay was reported if a holiday falls within an individual's regular work schedule.
- Benefits were calculated by the time worked, the average compensation received, and the age of the beneficiary (ies). Most individuals retire at a fifty percent benefit. The percentage of contribution from the individual was also included in the benefits calculation.
- The Employer/Employee After-Tax Contribution plan is an approximately 10.5% match from the employer and employee for the PERS program. The Employer Pay plan is an approximately 10.5% contribution from the employer with a salary reduction to the employee. The incentive for the Employer Pay plan was a reduction in taxable income while still financing the benefit. There was also a one percent differential between the Employer/Employee plan.
- The State has reviewed the cost of conversion to a Social Security program because the attempt was to build a combined program that replaces a defined benefits program, but costs for a Social Security program would be increased because there would not be investment earnings.
- Endowments are invested differently than public pension plans because a public pension plan was expected to average an eight percent return over time with the least amount of risk. The 8% was the assumed discount rate. There was a constitutional provision prohibiting funds from being loaned to or invested in the State.
- Modifications could be made to the program as long as the modification was specifically designed to enhance the funding of the system and provide a similar value to the employee.

Commissioner Vilaro expressed concern that a benefits program was dependent on investment earnings when employees were being reduced due to the recent economic downturn and the number of "baby boom" retirees were increasing and living longer. Ms. Bilyeu explained unfunded liability included current liability and that they take into consideration fluctuating rates and mortality rates when determining a benefits program that would be fair to employers and employees.

Chairperson James requested to know how the SAGE Commission could accomplish a cost savings for the State with the PERS system. Ms. Bilyeu cautioned the Commission to carefully analyze the evaluation of the benefit structure of the pension program because any changes to the program such as the closing of a tier had to have a balance of funding in order for other tiers to pay for themselves.

Chairperson James commented that finding new State employees may be easier if employees were given the option of choosing their own pension plan. Ms. Bilyeu explained how a DC (Defined Contribution) program would be the more secure pension program than a 401(k) plan.

Deputy Director Comeaux requested more information about the proposed system changes. Ms. Bilyeu reported cost estimates would be presented to the PERS Board at its November 13, 2008 or the December meeting.

Executive Director Partlow clarified the Commission's proposal did not suggest a change from defined benefits to defined contributions. He requested verification that items 1-3 under the proposal explanation was what the PERS Board was currently reviewing. Ms. Bilyeu stated they were items for discussion. Executive Director Partlow asked if the final average salary definition was from the three highest consecutive years. Ms. Bilyeu replied yes.

Commissioner Campbell asked if there was discussion regarding establishing a minimum retirement age as opposed to the current age limit. Ms. Bilyeu reported the Board has not discussed the issue except in the context of the Internal Revenue Service's age requirement.

Commissioner Feldman requested to know if the Board considered establishing a portable pension plan for short-term State employees. Ms. Bilyeu reported the retirement board had considered a 3-year vesting program in 2001 and indexing of deferred benefits.

Commissioner Hill clarified for the record that Commissioner Jones should have been listed on the agenda as providing information on this agenda item and not him and that the Chamber of Commerce has not made any recommendations

regarding this issue. He stressed the importance of hearing all sides on this issue before the Commission makes a recommendation on this issue.

The following letter from Commissioner Jones was distributed and read as part of the official record of the meeting:

“Unfortunately, I will not be able to attend the October 24, 2008 meeting of the SAGE Commission. I would however, like the following comments read into the record concerning the Commission Proposal A for amendments of the Public Employee Benefits Program (PEBP) and Proposal B for amendment of the Public Employee Retirement System (PERS).

“I consider PEBP and PERS to be the most important issues facing Nevadans and believe that the liabilities for PERS benefits and retiree health insurance (PEBP) demand our thorough review and attention. I am especially concerned that while Nevada PERS has been long established and has a funding mechanism in place, Nevada’s unfunded liabilities for retiree health care (PEBP) are substantial and Nevada has failed to identify a funding mechanism for these obligations.

“The SAGE Commission has been given an important task and this opportunity to make a serious and well researched recommendation is one we cannot neglect nor minimize. Having said that, I do not believe we have given the necessary detailed attention and independent analysis on the extent of these impacts on Nevada state and local governments and the current and future citizens of Nevada. Instead it appears we have uniformly adopted the recommendations of the Las Vegas Chamber of Commerce. While I applaud the research the Chamber has conducted on these programs, we have failed to give equal time to other constituencies. For example, this Commission has not vetted these proposals through the PERS Board or its administration. Likewise, we have not requested input from state or local government officials. These entities have considerable knowledge and experience with these programs and could offer valuable feedback to this Commission. These groups will surely be asked to give their input to the legislature before any changes are considered. It would be unfortunate if our work were dismissed because it appeared that we were not willing to consider perspectives from a wide range of stakeholders.

“In closing, I respectfully request that we table these amendments until we have an opportunity to engage other perspectives, and hold sufficient hearings in order to thoroughly review outcomes and make appropriate recommendations to the Commission for consideration.”

At this time, Chairperson James requested agenda item IX be heard next. There were no objections.

VII. PUBLIC COMMENT AND DISCUSSION (Formerly agenda item IX) - Time limit: three (3) minutes per person. No action may be taken on a matter raised under this agenda item until the matter itself has been specifically included on an agenda as an item on which action will be taken.

A. Kent Ervin suggested the Commission review salary comparisons carefully due to the diversification of jobs. He reported UNR faculty who were not former educational providers had their own defined contribution program. He pointed out on page 5 of the State Employee Benefits Program handout that an employee with a spouse was receiving a higher subsidy than an employee with children.

B. Craig Stevens, Nevada State Education Association, suggested the Commission review the Chamber report to see the differences between teachers in the private sector and the public sector and that any changes to the PERS system by the Commission would affect teachers in the public sector. He pointed out funding from PERS was recycled back into the economy.

C. Jeannie Pratt, AFSCME, stated AFSCME believed state workers were paid less than other public and private employees and that by eroding benefits would result in an inability to recruit qualified employees. The Chamber of Commerce report was making improper comparisons because some educational providers in the private sector were not required to have a college degree and were being paid more than an educational provider in the public sector with a degree. She noted the PERS program was constitutionally protected and expressed concern about changes to the program.

D. Marty Bibb, Executive Director, Retired Public Employees of Nevada, commented on the positive outcome of state plans and provided some examples.

E. Scott Gorgon, Professional Firefighters of Nevada, stated the organization approved of the PERS program. He suggested the Commission hear input from the local level. He expressed concern with the long-term ramifications to such programs as Workman’s Comp if a minimum retirement age for public service employees was established at 60 years of age and how other tiers would be funded if certain tiers were to be closed. He also noted he received one day’s notice of the meeting.

F. Commissioner Feldman commented that all areas would need to be reviewed to avoid an economic collapse.

VIII. ITEMS OF INTEREST FOR THE SECOND 90-DAY REPORT TO THE GOVERNOR TO BE APPROVED AT THE DECEMBER 4TH COMMISSION MEETING AND SUBMITTED ON DECEMBER 12TH

Chairperson James requested a meeting of the Task Force be held before the Commission's December meeting and that proposals regarding PERS and healthcare for active employees and healthcare for retired employees be presented at the December 4th meeting for possible recommendation to the Governor. Commissioner Ahern suggested the Task Force review healthcare for new employees.

IX. UPDATES BY INDIVIDUAL COMMISSIONERS ON POSSIBLE AREAS FOR SAGE REVIEW

The Commission discussed obtaining input from city and county officials regarding Commission recommendations.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 4:06 p.m.

Barbara Campbell moved to adjourn the meeting. Carole Vilardo seconded the Motion. Motion carried unanimously.