

MINUTES

MEETING OF THE BOARD OF EXAMINERS

March 9, 2010

The Board of Examiners met on March 9, 2010, in the Annex on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Jim Gibbons
Secretary of State Ross Miller
Attorney General Catherine Cortez Masto
Clerk Andrew K. Clinger

Others Present:

Dawn Rosenberg, Department of Corrections
Mitch Varner, Department of Corrections
Tim Tetz, Office of Veterans Services
Lisa Young, Department of Public Safety, Records and Technology Division
Carrie Schenkhuisen, Department of Public Safety, Records and Technology Division
Karen Daley, Department of Public Safety, Administrative Services
Bill Kirby, Department of Health and Human Services, Division of Mental Health and Developmental Services
Kimberlee Tarter, Department of Administration, Purchasing Division
Jason Holm, Department of Health and Human Services, Division of Welfare Supportive Services
Romaine Gillilan, Department of Health and Human Services, Division of Welfare Supportive Services
James Wells, Department of Education
Tina Sanchez, Department of Public Safety,
Jim Lawrence, Department of Conservation and Natural Resources, Division of State Lands
Miles Celio, Office of the Military
Richard Jacobs, Department of Health and Human Services, Division of Child and Family Services
Jim Spencer, Attorney General's Office
Megan Sloan, Public Employees Benefits Program
Donna Lopez, Public Employees Benefits Program
Donna Rivers, Public Employees Benefits Program

PRESS

Geoff Dornan
Cy Ryan
Sandy Cherub

Comments:

Secretary of State: Agenda item number 2 is a waiver request for the Department of Education, Mr. Clerk.

Clerk: Thank you Mr. Chairman. Item number 2a is a request from the Department of Education pursuant to AB 13 of the 2009 Legislative Session. This is a request to waive the minimum requirements for textbooks, instructional supplies, instructional software and computer hardware expenditures due to economic hardships for the school districts. This has been forwarded from the Department of Education and we are forwarding it to the Board of Examiners' for recommended approval on these waivers. This request will then be submitted to the Interim Finance Committee for final approval. Clark County School District for fiscal year 10', as you can see on the agenda, is requesting a waiver of minimum requirements and the amount is \$24,712,062, for fiscal year 11' it is \$63,127,231; Nye County School District for fiscal year 10' is \$600,000; Pershing County School District fiscal year 10' \$100,000; the Innovations International Charter School for fiscal year 10' \$34,824; and finally the Silver Sand Montessori Charter School for fiscal year 10' is \$14,000.

Secretary of State: Are there any comments or questions with respect to agenda item number 2?

Governor: Move for approval.

Secretary of State: It has been moved for approval, is there a second.

Attorney General: I will second the motion.

Secretary of State: All those in favor signify by saying aye. Agenda item number 2 has passed unanimously.

***3. REQUEST TO WRITE OFF BAD DEBT**

A. Public Employee's Benefits Program - \$683.52

Public Employee's Benefits Program (PEBP) is requesting authority to write off debt that totals \$683.52. The reported bad debt is specifically related to participant health insurance premiums. One account represents collection fees deducted from amounts collected from the Controller's Office, one account is uncollectible, and one account represents a debt incurred prior to February 2006, past PEBP's four year statute of limitations for collections pursuant to NRS 353C.140.

Clerk's Recommendation: I recommend approval.

Motion By:	Seconded By:	Vote:
Comments:		

Secretary of State: Moving to agenda item number 3, request to write off bad debt, where we have three agenda items: A is the Public Employee's Benefits Program, B Department of Public Safety, and C also the Department of Public Safety, Mr. Clerk.

Clerk: Thank you Mr. Chairman. Item A is a request to write off health insurance premiums in the Public Employee's Benefits Program. One account represents the collection fees deducted from the amounts collected from the Controller's Office, one account is uncollectible, and one account represents a debt incurred prior to February 2006, which is past the Public Employee's Benefits Program four year statute of limitations. Mr. Chairman, would you like to take these one at time or try and evolve them?

Secretary of State: Let's try to evolve them.

Clerk: Okay. Item 3B, is a request from the Department of Public Safety, the Records and Technology Division, this is a request to write off a bad debt in the amount of \$13,847. This is an amount due from other governmental entities, issued to the Records and Technology Division being unable to provide sufficient back-up to support the amount due to several accounting errors, both system and user. The named State agencies have been advised without accurate documentation the invoices will not be paid. Mr. Chairman, we do have representatives here from the Records and Technology Division, if the Board would like to hear from them on what procedures they put in place to ensure that this doesn't happen again. Item 3C again, from the Records and Technology Division of Public Safety, this request is for \$5,678.75. These are accounts that have been deemed uncollectable and were submitted to the Office of the State Controller. The State Controller's Office gave their recommendation to write off the bad debts.

Secretary of State: Any questions or concerns with respect to the three agenda items under agenda item number 3?

Governor: Mr. Chairman, I would like to hear on item 3B someone from the department testifying as to efforts to identifying the charges also to if they could identify what policies they have put in place in order to prevent this occurring again.

Secretary of State: Governor, we have a representative here she is prepared to testify.

Lisa Young: Hi, my name is Lisa Young I am the administrative services officer for the Records and Technology Division for the Department of Public Safety. All of these charges are prior to October of 2007. In October 2007 we implemented a new accounting system, along with new internal controls that went along with that, these issues should not continue to occur with one exception to that is the Department of Employment, Training, and Rehabilitation, specifically that Department is all; we are unable to give them the documentation that they requested. The reason why is because when they send an account to be fingerprinted and all of these charges are for fingerprint based criminal based background checks that person is given a contract, and they give that contract to the agency that actually takes those fingerprints, that contract stays there. Then those fingerprints are submitted to us and we run background checks on those fingerprints. Because we don't receive the contract we are unable to provide that to

DETR, they are disputing some of those charges and so within the last month we have been in contact with them to change the way that we will be carrying those background checks so that that won't happen again. We may come back to you with one more write off request for DETR, to clean them up, but as of March 1 none of these agencies should have any issues.

Secretary of State: Any follow up questions? Hearing no additional follow up questions on this agenda item what is the pleasure of the Board? Is there a motion to approve in mass or individually?

Governor: I will make a motion to approve in mass 3A, 3B, and 3C.

Attorney General: I will second the motion.

Secretary of State: It has been moved and seconded, all those in favor signify by saying aye. Agenda item number 3 passed unanimously.

B. Department of Public Safety – Records and Technology Division - \$13,847.00

The Division is requesting approval to write-off outstanding debts owed by State of Nevada agencies which exceed \$50.00. The total amount of this request is \$13,847.00. This issue has been outstanding due to Records and Technology being unable to provide sufficient back-up to support the amount owed due to several accounting errors, both system and user. The named State agencies have advised without accurate documentation the invoices will not be paid. The recommendation is to approve this request.

Clerk's Recommendation: I recommend approval.

Motion By:	Seconded By:	Vote:
Comments:		

C. Department of Public Safety – Records and Technology Division - \$5,678.75

The Division is requesting approval to write-off outstanding debts owed by past due vendors which exceeds \$50.00. The total amount of this request is \$5,678.75. The Records and Technology Division, pursuant to NRS 353C.195 request collection assistance from the State Controller's Office and has exerted their resources to collect the outstanding debts owed. The named debts are recommended to be written off.

Clerk's Recommendation: I recommend approval.

Motion By: Governor	Seconded By: Attorney General	Vote: 3-0
Comments:		

***4. CASH MANAGEMENT IMPROVEMENT ACT**

A. Office of the State Controller – Payment to U.S. Treasury in the amount of \$301,462.00

The State Controller requests approval of payment to the U.S. Treasury in the amount of \$301,462 from the General Fund. This amount includes the current State interest liability for fiscal year 2009 of \$118,453 plus an additional \$183,009 for prior period interest liability.

Clerk’s Recommendation: I recommend approval.

Motion By: Attorney General Seconded By: Governor Vote: 3-0

Comments:

Secretary of State: Moving to agenda item number 4, Cash Management Improvement Act, Office of the State Controller, Mr. Clerk.

Clerk: Thank you Mr. Chairman. The purpose of the Cash Management Improvement Act is to ensure greater efficiency in the exchange of funds to the federal government and the states. The State incurs an interest liability for federal funds in positive in the state account. Prior to the day the state pays out funds for program purposes. Conversely, the federal government may incur an interest liability when the State pays out it’s own funds for program purposes. The request before the Board today is authorized by Assembly Bill 562, section 65 in the 2009 Legislative Session. The amounts includes in FY 09’ liability of \$118,453 plus an additional \$183,009 for prior period interest liability. This is an estimate at this point, this is the maximum amount it may be lower, the Controller’s Office will not know the final payment amount until March 16 so the request before the Board today is to offer an amount not to exceed \$301,462.

Secretary of State: Any questions or concerns with respect to agenda item number 4? Hearing none, is there a motion to approve?

Attorney General: I will make a motion to approve.

Governor: Second.

Secretary of State: All those in favor signify by saying aye. Item number 4 passes unanimously.

***5. LEASES**

Three statewide leases were submitted to the Board for review and approval.

Clerk’s Recommendation: I recommend approval.

Motion By: Governor

Seconded By: Attorney General

Vote: 3-0

Comments:

Secretary of State: Moving to agenda item number 5, leases, Mr. Clerk.

Clerk: Thank you Mr. Chairman. There are three statewide leases submitted to the Board for review and approval.

Secretary of State: Any questions or concerns with respect to agenda item number 5?

Governor: I move for approval.

Attorney General: Second the motion.

Secretary of State: Moved by the Governor, seconded by the Attorney General, all those in favor signify by saying aye. All three leases have been approved.

***6. CONTRACTS**

Sixty-four independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 3-0

Comments:

Secretary of State: Moving to agenda item number 6, contracts, we have sixty four contracts, Mr. Clerk.

Clerk: Thank you Mr. Chairman. As you said, we have sixty-four contracts and we would request the withdrawal of contract number sixty three with the Board of Pharmacy and the McKesson Corporation.

Secretary of State: I had a special meeting with the Attorney General's Office on this and I know we previously have not done that, I think it may be more appropriate to make a formal motion on withdrawing it since the contract was placed on the agenda. If there are no objections I would move to formally withdraw contract number sixty-three.

Governor: Second.

Attorney General: I will second the motion.

Secretary of State: It has been moved and seconded, all those in favor signify by saying aye. Contract number sixty-three has been withdrawn. With respect to the other sixty-three remaining contracts are there any other questions or concerns? I have a question related to all of the contracts, the process concerning as to whether or not these individual contractors are in

compliance with State Statutes requiring that they be a contractor in good standing in Secretary of State's Office and who also have obtained a business license. In reviewing a number of contracts this morning it appears as though we can't find legitimate records substantiating these entities are in good standing. It could be offered to the contractors that are either in remote status some have default, some just aren't listed in our system at all, maybe a foreign corporation and doing business elsewhere and not for insignificant amounts, there is a master service agreement for example Paul Roen Company three point six million dollars and the other one for five million dollars. We couldn't find any record of them having business licenses. Last Legislative Session the legislature attempted to address the amount of contracts that are done in the state and one of the steps that they took to address that problem was moving the business licenses over to my office so we could capture revenue out there. They also put in place a Statute that in public counties if you were doing business in the state that were not in good standing could be a penalty of ten thousand dollars. So my question is I always assumed that when we were approving these contracts that there was a due process to ensure that the vendor is in good standing with the state and my office. I would like to know the steps that we take to ensure that the vendor is in good standings with the state and that they have a business license before these contracts are brought before us?

Clerk: Mr. Chairman, I would ask that Kimberly Tarter from the Purchasing Division describe for the Board what their policies and procedures are in addition to the training that they provide to the agencies.

Kimberly Tarter: Good morning, for the record, Kimberly Tarter with the State Purchasing Division. When the Purchasing Division facilitates contracts on behalf of an agency, or a master service agreement, we have a review process that each proposal goes through. We look at the contract being sent to the Board and we go to the center state caucus' website and we go to the commercial reporting section and we have to see what their proposal indicates to determine if they are registered with the State of Nevada. We do a certified contract training class for state agencies and as part of that training class that instruction is also provided, because there are many checks that we instruct agencies to perform on contracts that they intend to award. Such as, if there is a contractor's license necessary, if there are other certifications in place such as court reporters have to be certified through one of the boards. Secretary of State's Office is just one of the places that we send them and also to the Department of Taxation. So we train agencies on what they should be looking for, trying to give them the tools to go out and find it, but beyond that point our office doesn't provide any review of contracts that these agencies award.

Secretary of State: So there is a process to ensure the entities are in good standing or are in compliance, but that is left to the individual agencies who apparently are not ensuring the entities are in good standings or in compliance with the state?

Kimberly Carter: That is correct.

Secretary of State: Of the sixty-four contracts submitted before us today, we identified upwards of twenty that are not in good standing. My recommendation would be to adjust the

form so that for a contractor to apply they would have to provide a certificate of good standing with our office, as well as proof of a business license in good standing, and then an easy way to check that we are now providing a Nevada business ID which could become a unique identifier. So some of these are instances where the contractors name isn't listed in the same manner that they have registered with our office. I would also have to request if its within the authority of the Board of Examiners if we choose to approve these contracts today which I would support, then we have permission to set the approvals contingent upon any of these entities providing proof that they are actually in good standings and if they don't provide that proof within 30 days the contract would then be brought back before the board. The other thing I would like to discuss is that this can be a significant issue and the previous contracts that we have approved, it is possible for the department and the Director of the state agencies that they examine any contracts that they currently have in place and make sure that the entities that they are doing business with are in good standings and in compliance with the state. If there are no additional questions or comments, what is the preference of the Board?

Attorney General: I will make a motion to approve the sixty-two contracts conditioned on the fact that the contractor's must go back to those agencies and verify that they are entities in good standing in this State within the next thirty days.

Secretary of State: Just to clarify, I think there are sixty-three contracts is that your motion?

Attorney General: Actually, we withdrew one contract, so if I am not mistaken is it sixty-two?

Secretary of State: There was sixty-four.

Attorney General: You are right. So I change my motion to add it to the sixty-three contracts.

Secretary of State: There is a move by the Attorney General, is there a second?

Governor: I will second.

Secretary of State: It has been moved and seconded, all those in favor signify by saying aye. The sixty-three contracts have been approved.

***7. MASTER SERVICE AGREEMENTS**

Two master service agreements were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Governor

Vote: 3-0

Comments:

Secretary of State: Moving to agenda item number 7, master service agreements, Mr. Clerk.

Clerk: Thank you Mr. Chairman. The Clerk would recommend approval on the two master services agreements.

Secretary of State: I would request that the master services agreements also have the same provisions as the contracts.

Attorney General: I will make that motion.

Secretary of State: There is a motion, is there a second?

Governor: Second.

Secretary of State: It has been moved and seconded, all those in favor signify by saying aye. The two master service agreements are approved under those conditions.

8. BOARD MEMBERS' COMMENTS/PUBLIC COMMENT

Comments:

Secretary of State: Moving to agenda item number 8, are there any Board member comments? Hearing none, are there any members of the public wishing to make a comment today before the Board of Examiners? Seeing none then we will move past agenda item number 8 and move on to agenda item number 9, which is adjournment.

***9. ADJOURNMENT**

Motion By: Governor

Seconded By: Attorney General

Vote: 3-0

Comments:

Secretary of State: Is there a motion to adjourn?

Governor: I move to adjourn.

Attorney General: I will second.

Secretary of State: It has been moved and seconded, all those in favor signify by saying aye. The Board of Examiners' is adjourned, thank you.

Respectfully submitted,

ANDREW K. CLINGER, CLERK

APPROVED:

GOVERNOR JIM GIBBONS, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER