

MINUTES

MEETING OF THE BOARD OF EXAMINERS

July 30, 2010

The Board of Examiners met on July 30, 2010, in the Annex on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 11:30 a.m. Present were:

Members:

Governor Jim Gibbons
Attorney General Catherine Cortez Masto
Secretary of State Ross Miller
Acting Clerk Stephanie Day

Others Present:

Jim Groth, State Office of Energy
Tom Wilczek, State Office of Energy
Jeff Mohlenkamp, Department of Corrections
Judy Stokey, NV Energy
Nicole Willis-Griuce, The Ferraro Group
Brett Barratt, Department of Business and Industry, Division of Insurance
Katie Armstrong, Attorney General's Office

Press:

Sandra Chereb, Associated Press
Cy Ryan, Las Vegas Sun
Sean Whaley, Nevada News Bureau

***1. SALARY ADJUSTMENTS**

A. Distribution of Salary Adjustments to Departments, Commissions and Agencies, pursuant to Chapter 391, Senate Bill 433, Sections 6, 7, 8, of the 2009 Legislative Session.

The 2009 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies for fiscal year 2010 that might be created between the appropriated money of the respective departments, commissions, and agencies and the actual cost of the personnel of those departments, commissions, and agencies that are necessary to pay for salaries. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended:

BA#	BUDGET ACCOUNT NAME	GENERAL FUND ADJUSTMENT	HWY FUND ADJUSTMENT
3706	Prison Medical Care	\$466,672	
3738	Southern Desert Correctional Center	\$185,352	
	Total	\$652,024	

Clerk's Recommendation: I recommend approval.

Motion By: _____ **Seconded By:** _____ **Vote:** _____

Comments:

Governor: Good morning everyone. The State Board of Examiners meeting will come to order. Today the date, time and location for the Board of Examiners meeting is July 30, 2010 at 11:30 a.m. located in the Capitol Building. Madam Clerk, for the record note the presence of the Secretary of State, the Governor, and the Attorney General will be calling in. We will note her presence when she calls. We have a very short agenda this morning and we will begin with agenda item 1 salary adjustments. These are distributions of salary adjustments to Departments, Commissions and Agencies pursuant to Chapter, yes, this is the Board of Examiners.

Lindsey: Good morning; this is Lindsay with the Attorney General's Office. I have General Masto for you.

Governor: Wonderful, thank you. Good morning.

Attorney General: Good morning, this is Catherine.

Governor: Yes, Catherine, the Governor and the Secretary of State are present. We have just begun with agenda item number 1 salary adjustments, Madam Clerk.

Madam Clerk: Thank you Governor. This is a request to distribute salary adjustment funds appropriated to the Board of Examiners' for the difference between the 6% salary reduction included in the Governor's recommended budget and the 4.6% furlough approved by the legislature. This difference of 1.4% was appropriated to the Board of Examiners to distribute to agencies as needed. The \$654,024 request before the Board today covers the Department of Corrections' Prison Medical and Southern Desert Correctional Center for Fiscal Year 2010. Additional salary adjustment requests will be requested at the August meeting.

Governor: Are there any questions or comments from members of the Board? Hearing none, is there a motion for approval of the salary adjustments under agenda item number 1?

Secretary of State: I move.

Governor: Moved by the Secretary of State is there a second?

Attorney General: I will second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 1 has passed the Board of Examiners.

***2. FURLOUGH ADJUSTMENTS**

A. Distribution of Furlough Exemption Funds to Departments, Commissions and Agencies, pursuant to Chapter 391, Senate Bill 433, Sections 7 and 8 of the 2009 Legislative Session.

The 2009 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies for fiscal year 2010 and 2011 that might be created between the appropriated money of the respective departments, commissions, and agencies and the actual cost of the personnel of those departments, commissions, and agencies that are necessary to pay for unpaid furlough leave for critical positions. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended for fiscal year 2010:

BA#	BUDGET ACCOUNT NAME	GENERAL FUND ADJUSTMENT	HWY FUND ADJUSTMENT
3762	High Desert State Prison	\$635,360	
	Total	\$635,360	

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Attorney General

Vote: 3-0

Comments:

Governor: Moving on now to number 2 which are furlough adjustments. These are distribution of furlough exemption funds to Departments, Commissions and Agencies, pursuant to Chapter 391, Senate Bill 433, Madam Clerk.

Madam Clerk: Thank you Governor. This is a request to distribute funds that were appropriated in Senate Bill 433 for furlough exceptions approved by the Board of Examiners. The request before the Board today is \$635,360 for High Desert State Prison for Fiscal Year 2010. There will be additional requests in August for this item also. The Board of Examiners approved approximately \$3.8 million in furlough exceptions for the Department of Corrections. Due to vacancies, the Department controlling overtime, and other factors, the total that will be requested for Fiscal Year 2010 is projected to be \$2.33 million.

Governor: And will that be after the next Board of Examiners meeting request for furlough distribution?

Madam Clerk: Yes.

Governor: So it will be \$2.33 compared to the \$3.8 set aside.

Madam Clerk: Yes.

Governor: Any comments or questions with regard to agenda item number 2.

Secretary of State: Move for approval.

Governor: Moved by the Secretary of State for approval, is there a second?

Attorney General: Second the motion.

Governor: Seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 2 passed the Board of Examiners.

***3. LEASES**

One statewide lease was submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State **Seconded By:** Attorney General **Vote:** 3-0

Comments:

Governor: We move to agenda item number 3 which are leases, Madam Clerk.

Madam Clerk: Thank you Governor. On the agenda this morning there is one lease for the Department of Business and Industry Division of Insurance.

Governor: Comments or questions with regard to the lease under agenda item number 3?

Secretary of State: Move for approval.

Attorney General: Second the motion.

Governor: Moved by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 3 passed the Board of Examiners.

***4. CONTRACTS**

One independent contract was submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By:

Seconded By:

Vote:

Comments:

Governor: We move to agenda item number 4 which are contracts. We have one contract.

Madam Clerk: Thank you Governor. We have one contract on the agenda this morning for the State Energy Office.

Governor: And I do believe this was the contract in which the Attorney General had a question and we removed it from the previous Board of Examiners agenda for today.

Madam Clerk: Yes it is Governor.

Governor: Madam Attorney General, do you still have questions on this issue you wish to bring forward?

Attorney General: Yes. And if Mr. Groth is there I ask him to come forward. And Governor let me just say after our last meeting we did talk. We talked about the contract, he answered my questions, but I also told him that I was going to talk with my staff to have them weigh in on this as well. Just recently I have been informed that the Public Utilities Commission has issued an order and the order is for a study on distribute generation study of Nevada it appears to me that the scope of work is similar to the contract that Mr. Groth from the Energy Department is pursuing as well. Here is my concern in talking with Mr. Groth he wanted an independent analysis done by NV Energy to be specific. This was also brought before the Public Utilities Commission here in Nevada. They took this into consideration when they made there order seeking to have this study done and not only that because of the concerns they created a stake holders group an independent stake holder group individuals involved including the Nevada State Office of Energy as well as my office and along with that they put procedures in place to ensure not only were the individual stake holders monitoring the study that is being commissioned by the Public Utilities Commission and being undertaken by NV Energy and Sierra Pacific Power they required the stake holder to come back to the commission on a regular basis so they could be updated on the activity of what is going on. Along with that the commission itself is holding a public workshop where the public can be

engaged on this process as well. I talked with Mr. Groth this morning and informed him of my thoughts on the order that was put out by the commission. And my concern is that I think that there is duplication and there is no need for two studies at this point in time when it appears that all of the resources that the stake holders are going to be looking at engaged in the same study but there are a large number of stake holders involved. So those are my concerns and I wanted to bring my concerns to the board so that the board could hear it and also give Mr. Groth the opportunity to address those concerns and give any addition comments.

Governor: Okay, Mr. Groth.

Jim Groth: I will pass out, thank you Madam Attorney General, Governor, Secretary, I will pass out some of the Nevada Energy Company Strike Force some of the advocates of the study. And get that over to your office also Madam Attorney General. I've got basically just a prepared statement about the study if I could pass through the Board's approval. The distribute generation study in question here is not, we do not see it as duplicative we do not as an either/or situation in regards to conducting the study in Nevada. There is no downside to the State of Nevada for conducting a citizen based DG or distributive generation study independent of the private... this is not funding source competitive. Our study or one study committed by federal funds is our federal ARRA funds which is a \$236,000 contract that we took back from one of the schools that didn't utilize all of their funding and it's going to be swept or we have been told that it will be swept by the Department of Energy and taken back to the feds as of September 30th if it is unspent. So this is strictly federal ARRA dollars no state taxpayer dollars conducting the study. No rate payer dollars for senior citizens. So this is not source competitive. The other study will be born by the rate payers of Nevada, ultimately, if it's conducted by utility. There is no detriment in having two data points of collection, thus two studies on distributive generation conducted in Nevada. The comparative analysis by two disparate studies on the same subject will only draw a stronger and more feasible solution for energy to come and develop in Nevada. And a point that I make of most emphasis in this analysis is the example that I give, turn back to my bullets here, and between 2003 and to date we have installed about six megawatts of distributive generation, solar, 120 kilowatts of wind, very small comparative amounts to the 7500 megawatt capacity in Nevada that we have. So we are at .0008% of 1% in distributive generation. We are not talking about riptide projects and RFP's that the Utility will conduct for large riptide projects. This is DGA, distributive generation for rooftop, housetop, commercial, small commercial, up to 1 megawatt we talk about with the Utility study. And the example that I give most clearly, is in discussing two studies coming up, one study is a quarter million dollars, I am giving a hypothetical, by the utility company, and our \$236,000 we use from federal ARRA funds that are used on this. Potential economic Nevada, economic impact driver for this is as if, say the study comes back and says that the infrastructure for Nevada Power South and Sierra Pacific North can take on 400 megawatts of distributive generation. At about 5 million dollars a megawatt right now to install silver, that's kind of about where were at in the megawatts, when a school does a \$200,000 30 kilowatt project it kind of gives relevance. At about 400 or 375 megawatts in Nevada, that's a billion and a half dollars, 1.5 billion dollars in economic development. If we cut that number in half and go to 200 megawatts we cut that 1.5 billion dollars in economic development in half to three quarters of a billion dollars. So, the absolute critical nature of getting as much data as you can from disparate studies or independent studies is nothing but beneficial with no downside. There is no downside. Particularly, from the funding stream or funding source of this study, so there's no downside. The independent DG study will be conducted by a Nevada prime contractor using many subject matter expert sub-contractors residing in Nevada. Without this study the money will go back to the

federal government and employ no one in Nevada. The U.S. Department of Energy has already improved and encourages the Nevada State Office of Energy's preparation of this independent study. The Nevada State Office of Energy study will encompass other co-opt utilities in the state not just areas managed by NV Energy. First and foremost, NV Energy is primarily beholding to its shareholders, not the rate payers of Nevada. While the NSOE does not oppose and even encourages to studies on DG, the companies for Sierra Pacific Power and Nevada Power, doing business as NV Energy, their study will ultimately be born by the backs of the rate payers. Conversely, the NSOE represents the citizens of Nevada and is already pre-funded through DOE ARRA funds. The comparative analysis data of two studies will be far superior in driving the Nevada Energy economic engine. Currently we operate about 6 megawatts, as I said, distributive generation has been installed from 2010 to date. We do have force, we operate and I facilitate the Nevada Energy Economy Strike Force of which Mr. Secretary and the Governor I have given you copies of, I put out a pulling of the entire desperate group of this strike force of public sector folks, private sector folks, legal folks, and desperate, and at 21 responses out of 39 of our members, every single one of the responses of our members wholeheartedly supports the independent study with or without the NV Energy conjunctive study, but believes that an independent study will give us the data and comparative analysis. And the two studies come up disparate and that is a good finding that works because the subject matter experts will then come together, and our study is to be conducted between now, we wanted to kick it off right after the BOE session here two weeks ago on the 13th or 14th of July, so ours will be kicked off say here by August 1st, August 2nd timeframe and be completed by October 31st ready, with data to feed to the 2011 Legislative Session for Bill Draft Request preparations. So, it's an economic driver for the State of Nevada is simply our point were making. And there is no downside to allowing the independent 3rd party study to be conducted whether or not the PUCN and the State over process and the Utility decides to conduct a study.

Governor: Any questions?

Attorney General: Governor, just a few comments, I guess my concern also is the studies are not only moving forward, but the studies are going to report at the same time. And we are capturing the same resources at the same time so it doesn't seem beneficial to the ultimate outcome of the study that you are trying to obtain. It doesn't make sense that we all focus on putting together one study.

Governor: Well I guess the question is, is whether we are willing to spend federal tax dollars generated on the larger tax base over a nationwide area versus the rate payers of Nevada, who are paying for the same cost to have the Utility Company do the study, which has in my opinion, invested interest in the outcome. So I'm concerned that we are asking the people of Nevada to pick up the cost, when the people of the United States are willing to pick up the same cost.

Attorney General: Governor, I agree with your concern, but it has come to my attention (in auditable). My understanding is whether we move forward or not, the PUC is going to continue to go to the Board with this.

Governor: Right, and nor are we in the case where we are in a game of chicken, see who backs down first.

Jim Groth: If I could make a comment, it doesn't need to be a game show. There is no reason. When I mentioned that the ramifications of two data points of analyses that come out at the end of these studies can have an impact of three quarters of a billion dollars on the economy of Nevada. Is what were talking about here whether or not the rate payers of Nevada are going to spend a quarter of a million dollars on a contract study and then the already contracted study that we have lined up to spend roughly of a quarter of a million dollars. Were talking about a half a million dollars here either rate payer or as you say the nation's tax payers to fund the study. The benefit of getting data and analysis from the two different data points and I would state also that the subcontractors and the subject matter expertise out there in Nevada, we have an awful lot of subject matter expertise on great infrastructure in the State of Nevada. It's not just that seven NV Energy employee engineers are going to be targeted by one group and then be targeted by the other group, so it's duplicated in a sense that they are both being asked for the same information. Their the 91% publicly regulated utility in Nevada, they have a responsibility to provide information to the public. You might very well make the case that that forum is through PUCN, that they will make that through the stakeholder process. But, if were talking about, I just put a brass tax in raw numbers, were talking about a number that comes out and a study comes out and says we can take 375 megawatts on the grid and as the Governor represented the self interest driven Utilities, says no we can take 175 megawatts on the grid, your talking about all of the utility, the electrical contractors and construction workers out there, that will employ the difference between thousands and thousands of workers in Nevada. So there is, if the infrastructure and there is a compromise between 175 megawatt number and the 375 megawatt number and they decide 250 megawatts is what the grid can take. Won't that have been a far far better outcome that will employ literally, potentially thousands of more people, then if the only utility driven study only is the driver in the driver force regardless of the stake holder process. Whoever signs the payment process, for that and drives that, we again already have BOE approved to run this independent study and we don't want to foolishly or inefficiently use the taxpayers dollars whether it be Nevada citizens or U.S. citizens, but we think that this is a very, very critical appropriate study, I am one who said that four studies would be better than two on this, two studies far better than one. So I like to have a lot of points of analyses and data and I think that UNR and UNLV and some of their engineering that they've already done, a lot of the data point and data collection has been done. It's a matter of the higher contractors to go out, and sub-contractors to go out and collect that information. Not just from NV Energy, but as I mentioned other engineering sources that they will contract with and go out and employ a lot of people in Nevada even during their study, which is what the ARRA and stimulus funds from the Department of Energy were sent to Nevada for.

Governor: Okay. Any other comments or questions?

Secretary of State: Well I certainly understand the call for something that's going to arguably generate income for the State, but I share similar concerns that having looked at this study, it might not be beneficial to have two studies. It is my understanding that the PUC started the study.

Jim Groth: I did want to make one comment on that, Mr. Secretary, you know if the DG study was so important to Public Utilities Commission and so important to the utility why has it taken from 2003 until 2010 to conduct this study? They only started conducting this study and having interest in this study in April of 2008 to 2010. When Department of Energy, DC contacted NSOE as being the flight shift driver of the study then the utility jumped into it and then the PUCN jumped into it on the distributive generation drop. That is fact. And that is the question, why has it taken seven, I only use the 2003 number because that's when they started the NV Energy rebate

program that they've been putting renewals on and distributing renewals on for longer than that in the state, but in driving force. It's only just been since I brought up through Department of Energy, Department of Energy came to us to conduct this study and we said yes, you've been right in our mindset, we need to conduct this study in Nevada, then the utility jumped on board and says, were the driver. The Governor makes a good point, we've got to understand the magnitude of the right force between what we conned up, the independent citizen study versus the utility study. And regardless of stakeholder involvement in the PUCN, there are middle ground that serves the rate payers equally they serve the utility, and so we kind of look at our side as more purely a citizen strewn study and having it be a newer entity. I feel strongly about it and I think it has a lot to do with the economy driving Nevada, so I am making a voice that will push for it.

Governor: Any other comments? Questions? Is there a motion? I will move for approval of the contract under agenda item number 4. Is there a second? Hearing no second, the motion fails. We'll move on to agenda item number 5, Board member comments and public comments. Any member of the Board wishing to make a comment? Any member of the public wishing to make a comment? Hearing none, agenda item number 6 is adjournment. Is there a motion to adjourn?

Secretary of State: Move.

Governor: Moved. Is there a second?

Attorney General: Second.

Governor: All those in favor signify by saying aye. We are adjourned.

5. BOARD MEMBERS' COMMENTS/PUBLIC COMMENT

***6. ADJOURNMENT**

Motion By:	Seconded By:	Vote:
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Comments:		