

Governor Steve Sisolak
Chairman

Susan Brown
Clerk of the Board



Attorney General Aaron D. Ford
Member

Secretary of State Barbara K. Cegavske
Member

STATE OF NEVADA BOARD OF EXAMINERS

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<http://budget.nv.gov/Meetings>

MEETING MINUTES

Date and Time: April 9, 2019, 10:00 AM

Location: Old Assembly Chambers of the Capitol Building
101 N. Carson Street
Carson City, Nevada 89701

Video Conference Location: Grant Sawyer Building
555 E. Washington Avenue, Ste. 5100
Las Vegas, Nevada 89101

MEMBERS PRESENT:

Governor Steve Sisolak
Attorney General Aaron Ford
Secretary of State Barbara Cegavske – Present in Las Vegas

STAFF PRESENT:

Paul Nicks, Clerk of the Board
Greg Ott, Board Counsel, Deputy Attorney General
Dale Ann Luzzi, Board Secretary

OTHERS PRESENT:

George Togliatti, Director, Department of Public Safety
Scott MacDonald, Chief Deputy, Gaming Control Board
Ward Patrick, Division Administrator, Department of Administration
Brenda Nebesky, Acting Director, Department of Tourism and Cultural Affairs
Sharon Williams, Member of the Public

1. Call to Order / Roll Call

Governor: Good morning. I would like to call today's meeting for April 9, 2019, 10:00 AM, of the Board of Examiners (BOE) to order. Welcome, everyone.

Secretary: Good morning. Let the record reflect we do have a quorum.

Governor: Thank you very much.

2. Public Comment (The first public comment is limited to comments on items on the agenda. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes).

Governor: This is the first time set aside for public comment. Anyone wishing to address the Board, on any item on today's agenda, please step forward and identify yourself for the record. Comments will be limited to three minutes.

Seeing no one, do we have anyone in Las Vegas?

Secretary of State: We do not, Governor.

3. Approval of the March 12, 2019 Minutes (For possible action)

Governor: Moving on, item number 3, *Approval of the March 12, 2019 Minutes*. Do we have a motion?

Secretary of State: Move for approval.

Governor: We have a motion for approval, any discussion on that motion?

Governor: Hearing and seeing none, all in favor signify by saying aye. Are there any opposed? That motion passes, thank you.

4. Request to Adopt Written Findings and Designate Positions in Government as Critical Labor Shortages (For possible action)

Department of Public Safety (DPS) – Capitol Police

Pursuant Nevada Revised Statute (NRS) 286.523, the Department requests that the Board of Examiners continue DPS Officer I and DPS Officer II position classifications as "critical labor shortages" and grant a Public Employees Retirement System exception for the Capitol Police Division. This designation is requested for a period of one year and will allow for the reemployment of

qualifying retired employees to fill the DPS Officer I and DPS Officer II positions for which a critical labor shortage has been appropriately identified.

Governor: Item number 4, *Request to Adopt Written Findings and Designate Positions in Government as Critical Labor Shortages*.

Clerk: Good morning, Governor. Pursuant to NRS 286.523, it is the policy of the State to ensure that the reemployment of retired public employees is limited to positions of extreme need. An employer who desires to employ a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public in an open meeting. The Board of Examiners has the authority to designate positions in State Government for which there are critical labor shortages.

In determining whether to designate a position as a critical labor shortage, the Board is to consider and make findings on, the efforts made to fill the positions through other means, the turnover rate for the position, the number of openings and number of qualified candidates, the length of time the positions have been vacant, any special circumstances, education or experience requirements for the positions and the history and success of recruitment efforts.

The Department of Public Safety (DPS) requested and the Board approved the designation of DPS Officer I and DPS Officer II classifications as critical labor shortage positions in January 2016, and again in January 2018 BOE Meetings. This item includes a report from the Department on the use and effectiveness of the critical labor shortage designation and a request to continue the designation of DPS Officer I and DPS Officer II classifications as critical labor shortage positions and a Public Employees Retirement System exception for Capitol Police. This will allow the Department to continue to reemploy retired public employees who require little or no training to perform important peace officer duties.

Should the Board approve the designation, it may delegate to its Clerk, the notice of the designation to Public Employees' Retirement System of Nevada (PERS) and I will work with Director Togliatti and his staff to ensure it is submitted timely. Director Togliatti and staff are here to present this item and answer any questions the Board Members may have.

Governor: Thank you. Are there questions?

Secretary of State: No questions, Governor.

Governor: We're going on four years of this being designated and obviously, what I'm reading is they've all left for better wages.

Director Togliatti: Thank you, Governor. The attrition rate is, I think of it as being astounding. Some years ago when I was, again, Director of Department of Public Safety, it was pretty bad then and not much has improved.

We've had discussions before and I think some of the issues are due to pay and another is from the ability for people in law enforcement to move from agency to agency based on the ability to take along their PERS and retirement with them. Some agencies can look at some quality folks that we have at the Highway Patrol and Parole and Probation and look at them basically as a base where they can start recruiting.

Again, having that issue, we look at the Capitol Police and there's a bill out there now, Assembly Bill 143, to move them to a DPS Officer II, which I think will help our retention with Capitol Police, but as for right now, it's the ability to pay them equitably in order to retain them.

In January of last year, we had a request to go 17 months for the critical need. As I look at it now, we've had 15 positions within critical need. I anticipate when this expires in June, I believe, June 6th, that the only area of concern will remain the Capitol Police and that will be four positions. The other 11 positions should be filled by other employees. For example, our background investigative team, we're going to use recruits of non-sworn people to continue with that effort and same with Training Division and Parole and Probation. So, those positions we will no longer be in critical need.

My concern is that our attrition problems may not be solved by June of this year, which would put the Capitol Police positions in jeopardy.

Governor: Thank you. Do we have any further questions?

Is there a motion?

Secretary of State: I move for approval.

Governor: We have a motion on the floor. Is there any discussion on that motion? Seeing none. All in favor, signify by saying aye. Are any opposed? The motion passes. Thank you very much.

5. Request for Designations of Bad Debts (For possible action)

Nevada Gaming Control Board – Nevada Gaming Commission

Pursuant to NRS 463.123(2), the Board requests the approval to remove delinquent debt from the Nevada Gaming Commission's records. The amount requested to be deemed as bad debt is \$8,040.55. A listing of the debt is included in the attached schedule.

Governor: Item number 5, *Request for Designation of Bad Debts*.

Clerk: Most State agencies turn their uncontrollable or their uncollectable debt over to the State Controller, who has the authority to request the Board of Examiners to write off bad debt that has become impossible or impractical to collect. Bad debt under the purview of

the State Controller cannot be removed from the State's books unless the Board of Examiners designates the bad debt as uncollectable.

Prior to the passage and approval of Assembly Bill 14 from the 2015 Legislative Session, the Division of Industrial Relations' (DIR) Advisory Council and the Nevada Gaming Commission, by the affirmative vote of a majority of their respective members, could remove from their records, the name of a debtor and the amount of tax, penalty or interest owed by a debtor, if after a period of three years for DIR, or five years for Gaming Commission, they remained impossible or impractical to collect. Assembly Bill 14 amended NRS 463.123 and requires the Gaming Commission to report the bad debt determined to be impossible or impractical to collect to the Board of Examiners for the designation of bad debt. Upon such designation, the Clerk shall notify the State Controller to remove the debt from the State's books.

This item includes one request to designate debts as bad debts under the provisions of NRS 463.123. The request is from the Nevada Gaming Control Board to designate \$8,040.55 as bad debt for the purpose of removing the three debts from the State's books. Last year, this agency requested the designation of \$5,131.25 as bad debts for the purpose of removing the debts from the State's books.

Representatives from the agency are available to answer any questions the Board Members may have.

Governor: I have one. The question is, do we keep track of these bad debts, so if they come and apply for a license in two or three years?

Scott MacDonald: Yes.

Governor: We do, great.

Do you have any questions, Secretary Cegavske?

Secretary of State: I do, Governor, thank you very much. Inside our packet, there's a letter from Sandra Morgan, the Chairwoman and we've got some information on an email from Lance Ferrato. This one states that the two of the three owners, own Eclipse Flooring Company which is inactive status on the Secretary of State's website, so I wonder if anything has been done with the other two owners about repaying this?

Scott MacDonald: We've tried to reach out to all three owners and haven't been successful from the Gaming Control Board's standpoint. We turned the debt over to the Controller's Office for collection purposes.

Governor: Why don't we table this item until we've heard from Lance Ferrato. How's that?

Secretary of State: That would be great. Thank you, Governor.

Governor: Thank you and I've got a follow-up from General Ford.

Attorney General: Thank you. So, you turn the debt over to the Controller's Office and I don't know what the Controller's Office perspective is on the collectability of this particular debt. Is this something that you have presented to the Board of Examiners in concert with the Controller's Office?

Scott MacDonald: From the Gaming Control Board's viewpoint, it's uncollectable in that they no longer have a gaming license. At that point, it's deemed uncollectable and we turn it over to the Controller for collection.

Governor: I don't think they pursue it to any other companies, if they can be held liable but if you could bring Lance over, if you could give him a call, I'd appreciate that.

Scott MacDonald: Yes, alright.

Governor: I'm going to table this item until we've heard from the Lance Ferrato. Thank you.

6. Approval of Proposed State Administrative Manual Changes (For possible action)

Pursuant to NRS 353.040 the Governor's Finance Office – Budget Division requests modifications to the policies and procedures of the State Board of Examiners adopted and collected in the following section of the State Administrative Manual, which revises the stale claims section to allow the Clerk of the Board of Examiners or designee to approve all stale claims.

1. SAM Section 2622 – Stale Claims

Governor: Moving ahead to item number 6, *Approval of Proposed State Administrative Manual Changes*.

Clerk: Item 6 seeks approval to revise one chapter of the State Administrative Manual. Chapter 2622, Stale Claims. Chapter 2622 has been revised to remove the requirement for Stale Claims greater than \$50,000 to be submitted to the Board of Examiner's for action and allows for the approval of these stale claims by the Clerk of the Board. I am available to answer any questions Board Members may have.

Governor: Do we have any questions on the changes to the State Administrative Manual?

Do we have a motion?

Attorney General: Move approval.

Governor: We have a motion for approval, is there any discussion on that motion? Seeing none, all in favor signify by saying aye. Are there any opposed? That motion passes. Thank you.

7. Approval of Proposed Leases (For possible action)

Governor: Item number 7, *Approval of Proposed Leases*.

Clerk: There are four leases in agenda item 7 for approval by the Board this morning. No additional information has been requested by any of the Members.

Governor: Thank you. I've got a question on this, that is, I did in my staff briefing – who checks on the comparative leases on the comparability of these rent payments?

Clerk: That is a function of Leasing Services, when they're negotiating the leases.

Governor: Thank you, could Leasing Services please come forward?

Ward Patrick: Good morning.

Governor: Good morning, welcome. My question is, on some of these, for example, the L&R Partners, LLC with the market rate worth \$2.00/foot – who does the comps on these to see if these are reasonable square footage charges?

Ward Patrick: We do a market analysis and its in-house staff and we're looking towards getting comps from the community, from the real estate community.

Governor: When you say "in-house staff," we have someone on staff that's trained in these comps?

Ward Patrick: We would have to look into the level of training those people have and get that to you.

Governor: Okay. Well, the obvious concern is, it's a \$10 million lease. We've just got somebody that looks at what? How much emphasis do they put on this negotiation and looking at if this is a fair and reasonable lease?

Ward Patrick: We have a broker involved when we look at these leases when there's a big tenant improvement associated with it.

Governor: We have a broker, a broker that's representing the property?

Ward Patrick: A broker representing the State.

Governor: The concern I have is that we're talking about millions of dollars, in every one of these meetings, in leases that we're approving. I want to make sure that we are getting value for the money and maybe it should say \$1.80/foot instead of \$2.00/foot. Who is looking to see if this is a fair price? If the staff doesn't have that training, I don't know that it's really on the broker. The broker wants to consummate the lease because that's how they earn. So, do we have a procedure in place to do this?

Ward Patrick: We will come back to you with a procedure for assuring value on these leases.

Governor: Thank you, I would appreciate that. It's been my experience in my 20 years of public service that a lot of landlords view the State government as the best tenant you can possibly have because we're never late, we always pay, it's secure and we don't default on leases. So, you can't get a better tenant than government or quasi-governmental agencies. I'm not disputing the lease. I just want to make sure that it's a good value for what we're getting. If you could come back at the next meeting with an explanation or a plan on how we're doing this, it would be helpful for me.

Ward Patrick: Thank you.

Governor: Are there any other questions?

Secretary of State: No, I think you hit the nail on the head, thank you, Governor.

Governor: Thank you. Do I have a motion?

Attorney General: So moved.

Governor: We have a motion on the floor. Is there any discussion on that motion? Seeing none, all in favor signify by saying aye. Any opposed? Motion passes. Thank you gentlemen, appreciate it.

8. Approval of Proposed Contracts (For possible action)

Governor: Item number 8, *Approval of Proposed Contracts*.

Clerk: There are 35 contracts in agenda item 8 for approval by the Board this morning. No additional information has been requested by any of the Members.

Governor: Well, I've got some additional information I need on this one too, so sorry. My question is, if you look at page 13, 1 of 3, this is a contract to promote Nevada in tourism in China and we hired a California company to do that; then looking further to page 14, 1 of 3, this is to promote tourism in Latin America and we selected a Florida company to do this. So, I don't want to go through all of these but first off, I would like a list of how many of these we have, where we're promoting Nevada and why are we hiring out-of-state companies when you would think that Nevada, I can guarantee you, has no shortage of public relations firms that represent Nevada and know it well.

Brenda Nebesky: When we solicit requests for proposal for these contracts, we're looking for expertise in the country. So, though many Nevada firms may have those qualifications domestically, they don't necessarily meet those criteria in the countries that we're looking for representation in.

Governor: Well, I know that we have companies in Nevada that have offices in Latin America. Not only do they know the area, they actually have physical offices there. Do they get a priority? Do we look at Nevada companies?

Brenda Nebesky: We do. We absolutely weight Nevada companies within the scoring process through the Purchasing Division. Yes, we do.

There's also the matter of who responds to the proposal, which we don't have any power over. So, quite often, we don't have responses from Nevada firms.

Governor: Alright but these are million dollar contracts, again. So, I'm kind of surprised. Maybe we need to reach out more to try to get Nevada companies. How many of these do we have for promotions in other countries?

Brenda Nebesky: We currently have eight.

Governor: How many of them are out-of-state firms advocating for us?

Brenda Nebesky: At this time, it's all of them.

Governor: So, we have eight contracts promoting Nevada around the world and we use eight out-of-state firms to do the promotion.

Brenda Nebesky: Correct.

Governor: I have a big problem with that. So, what I would like is a list of the eight countries; I would like a list of the eight companies and where they are located; and I want to do more to try to reach out to Nevada companies that understand Nevada and understand the country that we're promoting it in – to try to keep as many of these tax dollars in-state as we possibly can and that's a priority for me. I would assume my colleagues feel the same way.

Brenda Nebesky: Yes, I could get you a list of who has responded to our solicitation from the Purchasing Division.

Governor: Perfect, thank you.

Governor: You could forward that to me. Secretary Cegavske, you want the list too?

Secretary of State: I would really like the list.

Governor: Thank you. If we could get it to the Secretary as well. I can tell by the look on her face, she is intrigued, so that would be good.

Secretary of State: I look at if they have a State Business License, so you know how that goes.

Governor: Yes, I do. I looked at all that, and I didn't bring that up, you're absolutely right. Thank you.

Do we have any further questions?

Secretary of State: I have a disclosure, Governor, on Item 6, if I could read into the record please. I just want it to be noted for Contract 6, which is the Secretary of State's contract with Opportunity Village. I am disclosing the fact that I currently serve as a member of the Opportunity Village Art Board of Directors and in that capacity, I have no involvement with the contract process, nor the preferred vendor status of Opportunity Village. I plan on voting on this item because it does not affect me any differently than any other person. Thank you.

Governor: Perfect, thank you. Do we have a motion?

Attorney General: So moved.

Governor: We have a motion for approval. Do we have any discussion on that motion? Seeing none, all in favor, signify by saying aye. The motion passes.

9. Approval of Proposed Master Service Agreements (For possible action)

Governor: Item number 9, *Approval of Master Service Agreements*.

Clerk: There are 20 master service agreements in agenda item 9 for approval by the Board this morning. No additional information has been requested by any of the Members.

Governor: Thank you. Do we have any questions or discussion on item number 9? Do I have a motion?

Attorney General: Move approval.

Governor: We have a motion for approval. Is there any discussion on the motion? All in favor, signify by saying aye. Are there any opposed? The motion passes.

10. Clerk of the Board Contracts (Informational only)

Pursuant to NRS 333.700, the Clerk of the Board may approve all contract transactions for amounts less than \$50,000. Per direction from the August 13, 2013 meeting of the Board of Examiners, the Board wished to receive an informational item listing all approvals applicable to the new threshold (\$10,000 - \$49,999). Attached is a list of all applicable approvals for contracts and amendments approved from February 16, 2019 through March 18, 2019.

Governor: Item number 10, *Clerk of the Board Contracts*.

Clerk: There were 33 contracts under the \$50,000 threshold approved by the Clerk between February 16, 2019 and March 18, 2019. This item is informational only. No additional information has been requested by any of the Members.

Governor: Thank you. Do we have any questions on item number 10? Seeing none. Appreciate it.

11. Reports (Informational only)

Compact with Pyramid Lake Paiute Indian Tribe Governing Class III Gaming

Pursuant to Public Law 100-497, the Indian Gaming Regulatory Act, codified at 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168, a fifth amendment has been made to the compact between the Pyramid Lake Paiute Indian Tribe and the State of Nevada. The amendment extends the compact for an additional two-year period to expire on February 23, 2021.

Governor: Moving on, item number 11, *Reports*. Compact with Pyramid Lake Paiute Indian Tribe, Governing Class III Gaming.

Clerk: Item 11 is an information item on the Fifth Amendment to the Tribal-State Gaming Compact between the Pyramid Lake Paiute Tribe and the State of Nevada. This amendment extends the compact for an additional two-year period, to expire on February 23, 2021.

Governor: Alright, do we have any questions on item number 11, the compact? Seeing none, thank you.

12. Public Comment (This public comment period is for any matter that is specifically included on the agenda as an action item. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes).

Governor: That brings us to item number 12, *Public comment*. This is the second time set aside for public comment. Anyone wishing to address the Board on any item, please step forward and identify yourself for the record, comments will be limited to three minutes.

Welcome, good morning.

Sharon Williams: Good morning, Governor. My name is Sharon Williams, I'm with the Northern Nevada Electrical Apprenticeship Program. You just signed our grant contract. We really appreciate it. The apprenticeship program is a great opportunity for employment in Northern Nevada. Thank you again.

Governor: We appreciate it, thank you. Looking forward to educating people and getting them into work. Thank you.

Is there anyone else wishing to speak during public comment? Seeing no one, we'll close public comment.

13. Adjournment (For possible action)

Governor: Do I have a motion to adjourn?

Attorney General: So moved.

Governor: We have a motion on the floor, any discussion? All in favor, signify by saying aye. Any opposed? The motion passes. Thank you all, appreciate it.