

MINUTES

MEETING OF THE BOARD OF EXAMINERS

June 11, 2013

The Board of Examiners met on Tuesday, June 11, 2013, in the Guinn Room on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Brian Sandoval
Attorney General Catherine Cortez Masto
Secretary of State Ross Miller
Acting Clerk Mike Torvinen

Others Present:

Kate Thomas, City of Reno
Rudy Malfabon, Director, Nevada Department of Transportation
Chris Smith, Department of Taxation
Michael McMahon, Administrator, Division of Welfare and Supported Services
Steve Fisher, Division of Welfare and Supportive Services
Julie Kidd, Leasing Services for State Public Works
Jane Brunner, Administrator of Autism Program
Julie Kochever, Autism Program
Doug van Aman, Governor's Office of Economic Development
Jim Wells, Executive Officer for Public Employees Benefits Program
Kimberlee Tarter, Deputy Administrator, Purchasing Division
Dave Prather, Nevada Department of Forestry
Pete Anderson, Nevada Department of Forestry
Jack Zeuter, Division of Welfare and Supportive Services
Julia Peek, Nevada State Housing Division
Donnell Barton, Nevada Department of Education
Karissa Neff, Attorney General's Office
Kurt Green, Mental Health and Disability Services
Clayton Bassiere, Mental Health and Disability Services
Robert Chisel, City of Reno
Mary Walker, Truckee Meadows Fire Protection District
Scott Sisco, Department of Corrections
Ellen Crecelius, Department of Health and Human Services
Megan Sloan, Public Employees Benefit Program
Donna Lopez, Public Employees Benefit Program
Jim Wells, Public Employees Benefit Program
Gus Nunez, State Public Works Division
Dave Gustafson, Enterprise IT Services
Leah Lamborn, Department of Health Care Finance and Policy
Brandi Johnson, Mental Health and Disability Services
Katie Armstrong, Attorney General's Office
Kristin Heise, Governor's Office of Economic Development

Julie Kidd, State Public Works Division
Teri Preston, State Public Works Division
Julia Teska, Department of Education

1. PUBLIC COMMENTS

Comments:

Governor: Mr. Secretary, can you hear me?

Secretary of State: Yes, sir.

Governor: All right. Good morning. How are you?

Secretary of State: Good. How are you?

Governor: Very well, thank you. All right, then. We are up and running. We will call the Board of Examiners meeting to order. Good morning, ladies and gentlemen. We'll commence with Agenda Item No. 1, public comment. Is there any public comment here in Carson City for the Board?

Kate Thomas: Good morning, members of the Board and Mr. Clerk, for the record, I am Kate Thomas with the City of Reno. And I'm here before you to ask for you to reconsider the Department of Administration's denial of the City of Reno's request and claim pertaining to AB543. As a brief recap from 2009 to 2011, the State legislature illegally diverted to the State General Fund approximately \$2 million paid by City of Reno taxpayers that was to be used for local capital projects.

In May 2011, a Clean Water Coalition ruling came out and in June 2011 Washoe County filed a claim for money illegally diverted from Washoe County. The City of Reno was under the impression at that time that the settlement would at least, in part, benefit Reno taxpayers. That was not the case. And so on September 5, approximately three weeks after the approval of the settlement, the City of Reno filed a claim with the State. Eight months later, on May 20, the State denied that claim. We have submitted another formal ask for reconsideration and I do so before you today, the Board of Examiners.

The existing statute of limitations gives us now less than three weeks to settle this issue. We need to resolve the claim by July 1 or we will be forced to file a lawsuit in State court. We prefer that this matter not go to litigation, so we request that if we are not able to resolve it by July 1, that the parties enter into a tolling agreement, which would allow us to work together in good faith. I'll defer the Board's authority for how we wish to move forward and I thank you in advance for consideration of the issue.

Governor: Okay. Thank you. Mr. Torvinen, are you aware of the status of this? I know it's been a while since we've talked about it.

Mike Torvinen: Right. Thank you, Governor. Mike Torvinen, for the record. I'm not totally familiar with the issue. I did see some paperwork on it after I became Deputy. I will go back and research the details and report back to you.

Governor: And when you say you were denied, and maybe my memory's not serving me correct, but there wasn't a formal denial or vote taken by this Board on that, was there? I don't recall that.

Kate Thomas: Correct. That actually came from the Clerk of the Board.

Governor: Okay.

Kate Thomas: Yeah, we received that letter on the -- what did I say? The 20th. And so we prepared a formal response which the Board of Examiners was copied on.

Attorney General: And, Governor, just for the record as Legal Counsel for the State, I have no doubt that the Administrator worked in conjunction with my office, and we will also do the same considering the most recent reconsideration request.

Governor: We can't take any action today because it's not agenda'd, but what I would ask is counsel meet with the Department of Administration and have that discussion because my recollection is there was a timing issue for the City of Reno on this in terms of the timing of the request. So I haven't seen a copy of that denial, so I'd like to see that. But if we're going to toll, I don't know if that is going to be an action that has to be taken by this Board or whether that can be done via the Attorney General's Office and the City of Reno. So if it's an action that has to be conducted by this Board, then we will have to contemplate a special meeting.

Attorney General: And then, Governor, I just have a quick question. The request, Katie, is it in writing or is this your official request? Have you put something in writing in a letter to...

Kate Thomas: We have. On May 29 we submitted a letter to Mr. Mohlenkamp from the City Attorney's office. And you, Mr. Miller and Mr. Sandoval, all are copied, so...

Attorney General: Okay. Thank you.

Governor: And if I could get a copy of that letter as well, please.

Secretary of State: Could we also request that the Clerk or perhaps the AG's Office provide some background in terms of the other settlements that may have occurred with Washoe County and a little bit of the timeline and background?

Mike Torvinen: Absolutely.

Secretary of State: Thank you.

Governor: All right. I think the only one that we have was with Clark County and is the only resolution where we reached a settlement agreement on that.

Kate Thomas: I believe it's Washoe County.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 3, State Vehicle Purchase. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. Item 3 is a request from the Department of Corrections to purchase two vehicles for just over \$7100. It includes a sedan and an S.U.V. and clearly they're used vehicles. Here is the price.

Governor: So they want to buy a 1997 Crown Victoria sedan with 160,000 miles on it?

Mike Torvinen: I believe so, yes.

Governor: It's a rhetorical question. I have no questions. Any questions from Board members?

Attorney General: No.

Governor: The Chair will accept a motion for approval.

Attorney General: I'll move for approval of Agenda Item No. 3.

Secretary of State: Second.

Governor: Attorney General has moved for approval of Agenda Item No. 3, which is a State vehicle purchase for the Department of Corrections in the amount of \$7,156.50. Secretary of State has seconded the motion. Any questions or discussion on the motion? All in favor, please say aye.

Governor: Aye.

Attorney General: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

***4. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A FORMER EMPLOYEE**

A. Office of the Controller

Pursuant to NRS 284.1729, Section 1, Subsection 1-2, the Controller's Office requests authority to contract with a former employee, on a part-time basis through the use of a temporary service, so this individual, who retired on May 24, 2013, may train the new employee on their debt

collection duties in an effort to transfer knowledge without an additional loss in debt collection productivity. The contract period is upon Board of Examiner's approval through September 30, 2013.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 4, authorization to contract with a former employee, Office of the Controller. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. The Controller's Office is requesting a short-term contract with an employee that retired in May, and so that person can train the new employee in their debt collection duties and efforts through the Controller's Office. Again, the contract period would end September 30, 2013.

Governor: I have no questions on this Agenda item. Any questions from Board members?

Attorney General: No.

Governor: Chair will accept motion for approval.

Attorney General: Move for approval of Agenda Item No. 4.

Secretary of State: Second.

Governor: Attorney General has moved for approval of Agenda Item No. 4, which is an authorization to contract with a former employee by the Office of the Controller, seconded by the Secretary of State. Any questions or discussion on the motion? All in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

***5. FOR POSSIBLE ACTION – AUTHORITY TO PAY MINING CLAIM REFUNDS**

A. Department of Taxation – \$43,875

Pursuant to Senate Bill 493, Section 16.7 of the 2011 Legislature, the Department of Taxation must submit mining claim refund requests to the Board of Examiners for approval. The

Department of Taxation is requesting authority to pay three refund requests totaling \$43,875. This results in a remaining balance of \$647,068 in mining claim funds eligible for reimbursement.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 5, authority to pay mining claim refunds. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. Before you today is the request to pay three refunds totaling \$43,875. As you requested last meeting, a reminder went out to those mining companies that potentially had a claim but had not filed. So they've been reminded that there's a June 30 deadline, and so potentially there will be a few more claims on the next meeting, but today we're requesting approval for three refunds.

Governor: So that claim will have to -- or those requests will have to come in by June 30, and right now there's still \$647,068 left on the table?

Mike Torvinen: That's correct.

Governor: And if no refunds are sought from that amount, will those revert back to the General Fund?

Mike Torvinen: It will revert back into the General Fund, yes.

Governor: Have we gotten any replies from our mail?

Mike Torvinen: I don't know. The reminders were sent out by Department of Taxation.

Governor: I have no questions. Board members?

Attorney General: No questions.

Governor: Chair will accept a motion for approval for Agenda Item No. 5.

Attorney General: I'll move for approval.

Secretary of State: Second.

Governor: The Attorney General has moved for the approval to pay mining claim refunds in the sum of \$43,875. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All in favor, please say aye.

Governor: Aye.

Attorney General: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

***6. FOR POSSIBLE ACTION – SALARY ADJUSTMENTS**

The 2011 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 2013 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
2600	Nevada Indian Commission	\$697	
4600	Agriculture – Predatory Animal/Rodent Control	\$2,078	
	Total	\$2,775	

Clerk’s Recommendation: I recommend approval.

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

Comments:

Governor: We’ll move on to Agenda Item No. 6, salary adjustments. Mr. Torvinen.

Mike Torvinen: Governor, before you today is a request for two fairly small salary adjustments. First is the Nevada Indian Commission for \$697 and the second is for the Predatory Animal and Rodent Control account in the Department of Agriculture for \$2,078 for a total of \$2,275. There’s a substantial amount of money that will be reverted to the General Fund from this account. There just weren’t very many requests for salary adjustment this fiscal year.

Governor: And you said \$2,225 is the correct amount -- \$2,775?

Mike Torvinen: The total amount is \$2,275. Two different claims, one for \$697 from the Nevada Indian Commission and one from the Predatory Animal and Rodent Control account at the Department of Agriculture for \$2,078.

Governor: And what do those two add up to?

Mike Torvinen: \$2,275.

Attorney General: No, \$2,775.

Mike Torvinen: That's a typo. Thank you. I'm the numbers guy, too.

Governor: I just want to make sure we got it right. Okay. I was trying to see what you had down compared to me. But in any event, I have no questions on this Agenda item. Board members?

Attorney General: Just curious. How much is reverting back from this account?

Mike Torvinen: Thank you. I was going to look at that this morning. I got sidetracked. It's in the millions of dollars.

Attorney General: Okay. So does it -- when you say revert back, it goes back into -- rolls over into the same account to be used for the next claim?

Mike Torvinen: No. It went back into the General Fund and was used as part of the computation to balance the budget.

Attorney General: Okay.

Governor: Chair will accept a motion for approval of the salary adjustments described in Agenda Item No. 6.

Attorney General: Move for approval of Agenda Item No. 6.

Secretary of State: Second.

Governor: There's a motion by the Attorney General for approval of the salary adjustments described in Agenda Item No. 6. The Secretary of State has seconded the motion. All in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

approve this settlement. And Karissa Neff is here to answer any kind of legal questions that the Board may have.

Governor: I have no legal questions. And, Mr. Malfabon, I believe you've answered my only question, is that this settlement was in the best interest of the State, given the possibility of a worse outcome if we were to litigate this through a judgment...

Rudy Malfabon: Yes, Governor.

Governor: ...or verdict. Any questions from Board members?

Attorney General: No.

Governor: If there are no questions, the Chair will accept a motion for approval to pay a cash settlement in the sum of \$400,000 to resolve a threatened inverse condemnation claim pertaining to property owned by -- it's Iovino?

Rudy Malfabon: Iovino.

Governor: ...Leasing Enterprise I, LLC.

Attorney General: Governor, I move for approval.

Secretary of State: Second.

Governor: Attorney General has moved for approval to pay the cash settlement described in Agenda Item 7. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All those in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously. Thank you very much.

Rudy Malfabon: Thank you.

***8. FOR POSSIBLE ACTION – NOTIFICATION OF INTENT TO FILE FOR A GRANT OR LOAN FROM THE DISASTER RELIEF ACCOUNT WHICH REQUIRES AN EXTENSION TO COLLECT DATA**

A. Department of Public Safety – Division of Emergency Management – Caughtlin Fire

Chris Smith: Absolutely. We have all provided their documentation to the State for the application process. So we are no longer in need for collecting more information. Now it is solely reviewing the information to ensure that it meets the standard.

Governor: All right. Thank you. Any questions from Board members? If there are none, the Chair will accept a motion for approval for the action described in Agenda Item No. 8.

Attorney General: Governor, I'll move for approval of Agenda Item No. 8A and B.

Secretary of State: Second.

Governor: The Attorney General has moved for approval of Agenda Item 8A and B. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously. Thank you very much.

***9. FOR POSSIBLE ACTION – REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE CONTINGENCY FUND**

A. Department of Health and Human Services – Director's Office – Public Defender Office – \$46,400

Pursuant to NRS 353.268, the Public Defender Office requests an allocation of \$46,400 from the Interim Finance Contingency Fund for a salary shortfall due to leave payoffs at the end of the fiscal year.

B. Department of Education – Nutrition Education Programs - \$23,000

Pursuant to NRS 353.268, the Department of Education – Nutrition Education Programs, requests an allocation of \$23,000 from the Interim Finance Contingency Fund for a fiscal year 2012 repayment of federal Child Nutrition funds in excess of eligible expenditures that were drawn.

C. Department of Agriculture – Predatory Animal/Rodent Control - \$51,557

Pursuant to NRS 353.268, the Department of Agriculture – Predatory Animal/Rodent Control, requests an allocation of \$51,557 from the Interim Finance Contingency Fund for a salary shortfall due to a leave payoff. Additionally salaries projected to be paid with a transfer from the

Department of Wildlife were not fully achieved because the projected work to be done did not occur.

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: Agenda Item No. 9, request for General Fund allocation from the IFC Contingency Fund A, B and C. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. Item A is from the Department of Health and Human Services Director's Office, Public Defender's Office. It's a request for \$46,400 to cover salary shortfall due to leave payoffs. They had a couple of long-time employees retire and are for an additional allocation of funds to their budget to pay those off.

Governor: Why don't you do all three.

Mike Torvinen: Okay. Second item is the Department of Education, Nutrition Education Program for \$23,000. This is a request to cover repayment to the federal government for excess eligible expenditures. They drew money for expenditures that ended up not being eligible for reimbursement, so they're paying back the federal government. Item C is the Department of Agriculture. And this, again, is for salary shortfall, partially due to a leave payoff and also they were going to do some work for the Department of Wildlife, in which they would have been reimbursed, but that work was never accomplished or asked for. So they had a shortfall in the funding for a particular position.

Governor: Any questions from Board members?

Attorney General: No. I will move for approval of Agenda Items No. 9A, B and C.

Secretary of State: Second.

Governor: Attorney General has moved for approval of Agenda Item 9A, B and C. The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

***10. FOR POSSIBLE ACTION – LEASES**

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

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move on to Agenda Item No. 10, leases. Mr. Torvinen.

Mike Torvinen: Governor, we have three leases before you today, two with the Department of Health and Human Services. One is in Carson City for the radiation control program. One is in Las Vegas for the Welfare Division for the expansion of their program related to ACA. And the other is for the Nevada Board for Regulation of Liquefied Petroleum, also in Carson City.

Governor: All right. I had a question on Lease No. 2. Good morning.

Michael McMahon: Good morning, Governor, Members of the Board. For the record, Michael McMahon. I serve as your Administrator for the Division of Welfare and Supportive Services.

Governor: Now, I understand this lease is for the ramp-up for the number of employees that Health and Human Services is going to need associated with the requirements of the Affordable Care Act.

Michael McMahon: Yes, sir.

Governor: My question is this, is it's a ten-year lease and that's not typical. Why are we entering into a ten-year lease?

Michael McMahon: Governor, the staff have responded to your staff. A couple of the points that were brought up is normally we have five-year lease terms. What we're doing is there's significant modifications that need to be made to the building, so the ten years will allow the landlord to recoup the initial investments to make the modifications in the building. Second, with the way that the market is currently in Las Vegas, this will allow us to take advantage of low-lease yield so that we'll be able to have lower lease rates over the next ten years and won't be impacted by the change in the market as it starts to have an uptick and the costs go up.

Governor: Now, is there a provision in the lease if the State was to opt out of the Affordable Care Act in the next ten years?

Michael McMahon: I don't recall anything specific in the lease regarding the Affordable Care Act itself. As far as provisions within the lease agreement, I would ask Leasing Services to come forward.

Steve Fisher: Typically, there's a -- I'm sorry, for the record, Steve Fisher, Deputy Administrator. Typically there's a funding clause in the leases that I believe we could pull out the lease agreement.

Julie Kidd: Yes, that's correct. Julie Kidd, head of Leasing Services for State Public Works. And, yes, if the funding should be reduced either by the State opting out or for any other reason, then we have that ability to opt out of the lease.

Governor: So the landlord is assuming the risk or taking the risk on of doing these TI's.

Julie Kidd: Yes.

Governor: Okay. That's the only question I have. Thank you very much. Board members, do you have any other questions with regard to the leases described in Agenda Item No. 10?

Attorney General: No.

Governor: If there are none, the Chair will accept a motion for approval.

Attorney General: Move for approval of Agenda Item No. 10.

Secretary of State: Second.

Governor: The Attorney General has moved for approval of Leases 1, 2 and 3 described in Agenda Item No. 10. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All those in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: The motion passes unanimously.

***11. FOR POSSIBLE ACTION – CONTRACTS**

One hundred ninety-five independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General

Seconded By: Secretary of State

Vote: 3-0

Comments:

Governor: We'll move on to contracts, Agenda Item No. 11. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. On your Agenda today are 195 separate contracts for your consideration. And I believe you had a few you wanted to pull out and had some comments on.

Governor: Yeah. Why don't you help me with that?

Mike Torvinen: So Item 59, I believe, was the first contract that was The Ferraro Group. We were going to (inaudible) from that contract. Item 81 you wanted to call up for some explanation. Items 102, 103, 104 and 108 was The Children's Cabinet, and then you were going to abstain from those contracts. And you wanted to call up for further explanation Items 190 and 191.

Governor: All right. So why don't we begin with 81 was that? The first holdout.

Mike Torvinen: Yes. It's the Department of Health and Human Services, Aging Services.

Governor: And, Board members, do you have any other holdouts for the contracts?

Attorney General: No, Governor.

Secretary of State: Governor, I couldn't hear. What happened with Contract No. 59?

Governor: It's held it out. I'm abstaining from that contract. Sorry. You're listening to us flip our pages, so I apologize for the interference.

Secretary of State: Okay. Will there be an opportunity to discuss 59 also?

Governor: Of course.

Secretary of State: Okay. Thank you.

Governor: Good morning.

Jane Brunner: Good morning.

Governor: I just wanted a little more information on this contract. There's nothing to do with it in terms of what the actions that are performed within it. But I wanted to make sure that -- because there's been a significant increase of the amount of funding for autism because of this budget that I just signed yesterday.

Jane Brunner: Yes.

Governor: And I wanted to get, I guess, a little bit more detail from you what that means.

Jane Brunner: Okay. This is Julie Kochever. She runs the Autism Program for us. I'm Jane Brunner, Administrator. So I'm going to go ahead and let Julie tell you about the Program.

Julie Kochever: Well, thank you for including increased funding for autism in the budget. This largely pays -- this contract pays for the in-home behavioral treatments. It's a progressive program. And the children in the program received anywhere between 10 and 25 hours of in-home treatment in their homes. And so we use a consumer-directed model where the parents are actually allowed to select who's going to be coming into their home and who's going to be working and what schedule and hours they do. And what this contract allows us to do is it's a web-based system where the interventionist enter their timesheets online. The parents approve that they actually did the time. We check as well. And then the payroll is issued. So we can have this in-home program without requiring parents to upfront the money or requiring us to pay and then reconcile afterwards. And they also have a 24-hour customer service line that's bilingual, so that parents when they typically are approving timesheets, it's like ten o'clock at night, 10:00 or 11:00, and that's when they need help. And State offices aren't open during that time, obviously, so they can call and get help anytime they need 24 hours a day.

Governor: And this question may not have to do with this contract, but one of my concerns and legislator's concerns was -- there was a significant wait list for autism services.

Julie Kochever: Yes.

Governor: With what has been done in the budget, will we be making a big dent?

Julie Kochever: We will be making a significant dent. We roll -- it will cover all of our existing plus people that we expect, we get about ten applications a month. It will cover the growth there and 50 percent of our existing wait list. And, in fact, the children that we picked for the first quarter, all of them have been waiting over 1,000 days and they were the ones who will be funded in the next three months.

Governor: That's great news. All right. I have no further questions. Board members? Thank you very much.

Julie Kochever: Thank you.

Governor: And I'm sorry, Mr. Secretary, I skipped over Contract 59.

Secretary of State: Oh, that's fine, Governor. We can go through yours. I just didn't understand if it had been pulled from the Agenda. I couldn't hear.

Governor: Yeah, we'll go ahead and do that now. I was just going to do them in order and I went straight to 81. I won't be participating on this one. So if you have any questions, please proceed.

Secretary of State: Okay. I just have two questions. One, can you just outline the specific scope of work that's contemplated under this contract and any deliverables that may be associated with that?

Doug van Aman: Certainly. This is Doug van Aman with the Governor's Office of Economic Development, for the record. The primary purpose of the contract is three different areas. One is giving access to skills in cases that are temporary, such as in a period of high demand. So that could be, like, writing services, you know, in trying to come up with new documents, et cetera. Second would be access to part-time skills that are not in the office itself. So, for example, agency work that the agency did work in the past for us on setting up the trade mission to China, the luncheon that was done in Las Vegas. They also assisted us recently with the indoor agriculture event down in Las Vegas that was held last April. And then a third one is really on an ongoing basis, giving us a broader peripheral vision of things that are going on in terms of media opportunities to tell the State's story. And those are the three big primary areas. I can go back and read off the items that were in the RFP as well and in the contract itself. But those are generally the types of things that we ask the agency to do.

Secretary of State: Okay. Thank you. And how did you arrive upon the need for a four-year contract term, which is a little bit unusual to me for public relations services?

Doug van Aman: Well, in terms of discussing this with our Chief Administrative Officer, Steve Woodbury, who's been with the State a long time -- I'm fairly new. I've only been with the State for a year and so some of the rules are new to me. In discussing with him the opportunity to do a four-year is permissible under the law and we intended to go forward. We're pleased with the work of the Ferraro agency as performed in the past. As you probably know, they actually came -- the contract was done before there was actually a Governor's Office of Economic Development, so it was inherited when the ENSED was part of the Lieutenant Governor's Office. And we're pleased with the work that they've done. And when we did the RFP, they responded and we selected them.

Secretary of State: And I'm not suggesting that there's anything inappropriate and illegal in terms of the contract duration. I just haven't seen any public relations contracts that I remember that are of this duration. And certainly The Ferraro Group does outstanding work and they actually listed us as references because we had worked with them on the census project, so they obviously are an outstanding contractor.

But in reviewing the materials that were submitted, The Ferraro Group themselves had submitted a cost proposal to the Office of Economic Development. And in that proposal The Ferraro Group had proposed that the contract be set for a one-year period beginning in July of 2013 and ending June 30, 2014, so only a one-year period there. How did we reevaluate and move away from their recommendation and opt to a four-year?

Doug van Aman: We had a discussion internally and offered the four-year backout primarily because we'd gone through renewals in the past. And since we have an anticipation of an ongoing relationship, determined that that made the most sense from a business perspective. I mean, to my understanding -- excuse me, Mr. Secretary. I apologize. From a contractual perspective, if at some future point down the road, we do have the opportunity to get out of the relationship as well.

Secretary of State: Okay. Good enough. Thank you very much.

Doug van Aman: You're welcome, sir.

Governor: Madam Attorney General, do you have any questions?

Attorney General: Maybe just a follow-up. So the out clause that we have in the agreement, is it for cause, do you know, or is it just you have the ability...

Doug van Aman: No. It's not for cause. It's...

Attorney General: ...to terminate at any time?

Doug van Aman: Terminate with notice.

Attorney General: Okay. That answers it. Thank you.

Governor: Thank you very much.

Doug van Aman: Thank you.

Governor: Let's move on to 190 and 191.

Jim Wells: Good morning, Governor, members of the Board of Examiners. For the record, my name is Jim Wells. I'm the Executive Officer for the Public Employees' Benefits Program. Contract No. 190 is a new contract that we did bid for one year. On April 29, we were provided a termination by the vendor who we had gone out to bid for and awarded this contract a little over a year ago. They gave us a 60-day termination notice, which is in line with what the contract says. So we were left without being able to provide the specific services effective July 1. They're important services for utilization in large case management. These are some of our sickest participants and we didn't feel it was appropriate for us to not have these services available. We also don't like changing them in the middle of a plan year, so we did this for one year. During the next year, we will go to bid for these services with an effective date of July 1 of 2014.

Governor: All right. Thank you. You've answered all my questions for that contract. Why don't we move on to the next one, 191.

Jim Wells: Again, for the record, Jim Wells. Contract No. 191, Liberty Mutual, that is a contract for voluntary home and auto insurance, so it is not paid by the State or my agency. It's purely an elective option for our participants. We go out to bid for these services generally every four years or so. The current contracts that expired June 30 are with Liberty Mutual and with Travelers. Travelers did not submit a bid for the contract that renews on July 1. We did get one other bid from MetLife. However, there were some concerns we had with the provisions in there. So we opted to just go with Liberty Mutual. This contract has been around for a very long time. I'm not exactly sure when it started, before I did.

Governor: What's the utilization by State employees for this insurance?

Jim Wells: I know we had -- with Travelers, we only had about 690 people -- or policies. It could be more than one policy per person. There are thousands of policies with Liberty Mutual. I'm not sure of the exact number, but we have thousands of employees who have home and auto insurance through Liberty Mutual.

Governor: Thank you. I have no further questions. Board members? Thank you, Mr. Wells. Before I take a motion, Board members, do you have any further questions with regard to Contracts 1 through 195? Is that right, Mr. Torvinen?

Mike Torvinen: That's correct, Governor.

Governor: All right, then. For purposes of the record, I will not be participating in the vote on Contract No. 59, as I've known the principle who runs the Ferraro company since college and so I won't participate in that one. Contracts 102, 103, 104 and 108 are with the Children's Cabinet. My wife is employed at the Children's Cabinet. And although we won't be benefited personally in any way by the State entering into these contracts with the Children's Cabinet, out of an abundance of caution, I will not be participating in this vote as well. And I had no discussions with my wife about these contracts either. All right, then. So the Chair will accept a motion for approval of Contracts 1 through 195 with the exception of 59, 102, 103, 104 and 108.

Clerk's Recommendation: I recommend approval.

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

Comments:

Attorney General: Governor, I'll move for approval.

Secretary of State: Second.

Governor: The Attorney General has moved for approval of Contracts 1 through 195 with the exception of 59, 102, 103, 104 and 108. Secretary of State has seconded the motion. Any questions or discussion on the motion? All those in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Any opposed, no. Motion passes. Now, Attorney General, I would turn it over to you or the Secretary. I'm not sure what the protocol is there, but because you're physically here with me, if you would handle 59, 102, 103, 104 and 108.

Attorney General: I will. Thank you, Governor. Just because there's two of us, I will make the motion to move for approval of Items No. 59, 102, 103, 104, 108 under Agenda Item No. 11.

Secretary of State: Second.

Attorney General: Any further discussion? Hearing none, all those in favor signify by saying aye. Aye. Was that a...

Secretary of State: Aye, sorry.

Attorney General: Oh, perfect. Thank you, Mr. Secretary. All those in favor signify by saying -- those opposed, nay? The contracts have been unanimously approved. Thank you.

Clerk's Recommendation: I recommend approval.

Motion By: Attorney General Seconded By: Secretary of State Vote: 2-0

Comments:

Governor: If you would mark me as abstained. Thank you. All right, then. Thank you, Madam Attorney General.

***12. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENTS**

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

Clerk's Recommendation: I recommend approval.

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

Comments:

Governor: All right. Let's move to Agenda Item No. 12, master service agreements. Mr. Torvinen.

Mike Torvinen: Thank you, Governor. Under Agenda Item 12, there are four separate requests for approval of master service agreements, one with Broadband Networking. One deals with the purchase of office furniture by State agencies and subdivisions. The third is for inmate kiosks. And the fourth is for security systems offered to various State agencies.

Governor: Board members, do you have any questions with regard to Agenda Item No. 12?

Attorney General: No, Governor. I move for approval of Agenda Item No. 12.

Governor: Attorney General has moved for approval for the master service agreements described in Agenda Item No. 12. Is there a second?

Secretary of State: Second.

Governor: Second by the Secretary of State. Any questions or discussion on the motion? All those in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes unanimously.

13. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

Governor: Agenda Item No. 13, Board member comments, public comment. Mr. Torvinen, did you have a comment with regard to legislation?

Mike Torvinen: Yes. Thank you, Governor. With us is Kimberlee Tarter from the Purchasing Division. We wanted to give you a briefing on AB41 that's changed some of the BOE procedures in contract thresholds.

Kimberlee Tarter: Good morning. Kimberlee Tarter, Deputy Administrator with the Purchasing Division, for the record. AB41 was passed on May 18. And there are four sections in this that affects State contracting. The first section -- and I think this is something that you'll be appreciative of. We were able to relocate NRS 284.173. 284 -- excuse me, that's an old one. Did that last session. 284.1729, which is the section that deals with the current and former employee contracting. We were able to move that into NRS 333, so it took it into the Purchasing Act.

The second thing that we were able to accomplish in that was changing the process. We had one contract on the Agenda today where it required two Board of Examiner meetings to get that contract approved. The first one was the approval of the relationship. And then upon your approval, you would then have to go to the next Board of Examiners meeting for the actual contract approval. We were able to get that changed so that those two items can be separate action items but on the same Agenda. So on the first Agenda if you approve the relationship, you can then leave the contract in the contract approval section of that same Agenda. And what it will require is we'll have to go and change the State Administrative Manual because we have this process clearly spelled out in the State Administrative Manual currently as a two-step, taking it to the single meeting. Two step in one meeting. So that is one of the things that AB41 was able to accomplish.

The second thing that was accomplished was the bid threshold. Again, this is just an internal procedure on solicitations that the Purchasing Division oversees for supplies, equipment and material. It's commodity based. We will now be able to do informal solicitations up to \$50,000.

And then at \$50,000 is when we will do a formal invitation to bid for those commodity items. One of the changes in that was that we will now be working with the Governor's Office of Economic Development and working with Assemblywoman Bustamante Adams. She was working to get legislation in place to work with emerging business enterprises. So we're going to be working more with local Nevada businesses. We'll have more flexibility in being able to do that now. So that's one of the other good takeaways from that threshold being raised to \$50,000. And the second thing was that it brought it commensurate with local governments. They were already at \$50,000 for their bids.

The third piece that went into effect, and this is one that's going to require a sound policy change also, but this is one that we'd like to bring to your attention because it is going to be an action item that we would propose at the next Board of Examiners' Agenda. So I'll let you know what occurred. And then if you would let us know if you would like to meet with us to discuss it further or if you just have any concerns or anything you'd like to alert us to. But entered as 333.700 was revised and that's the section that applies to the Board of Examiners' ability or authority to delegate contract approvals to the Clerk of the Board of Examiners. And as you know, currently \$9,999 is the Clerk of the Board's authority to approve a contract. We were able to get that raised to \$50,000. So with your approval, the Clerk of the Board of Examiners would be able to approve a contract up to \$49,999 now. In the past there was a slight separation. He could do up to \$9,999 for a contract. And then if there was an emergency, he could go up to \$25,000. But those were combined together and just set at \$50,000.

So based upon the Board's pleasure, we would then go back and do a change to the State Administrative Manual reflecting the Clerk's authority to do \$50,000 if that was indeed your pleasure. The agencies -- that was still limited to \$1,999. There was no appetite to increase State agencies' authority to approve contracts. So an agency director, such as Mr. Willden, could go and approve a contract up to \$1,999. Any contract above that would be submitted to the Budget Office, would then be approved by the Clerk of the Board of Examiners potentially up to \$49,999 as the statute's currently changed. So we would be seeking feedback on that as to what your pleasure is in making that change in policy as well.

The second thing it did was they added a provision that contracts can be performed in parts or in phases, but the contract can't be split to avoid the competitive bidding requirements. And the last little thing AB41 did, under the statute, if an agency entered into a contract for commodities, and they did it contrary to the provisions of NRS 333, then it would become void and they could be personally liable for that contract. But it overlooked services, so we went in and we added services in there to provide that continuity so that if an agency goes out and enters into a contract contrary to the provisions of NRS 333 now for goods, supplies, material or services, any one of those would be void and then they could be potentially held personally liable for their actions. And those really sum up what occurred with AB41.

Governor: Thank you. Very thorough. Any questions from Board members?

Attorney General: Just a follow-up question. When you say personally liable, personally liable for the costs?

Kimberlee Tarter: Yes, that is correct.

Attorney General: That's the only penalty? They would be fined -- assessed against whoever entered into it outside of the NRS?

Kimberlee Tarter: That's correct. The only thing that would happen, as the contract becomes void, that individual and I should add also the agency head could then be held personally liable for the cost of that contract.

Attorney General: And who does the enforcement action?

Kimberlee Tarter: It has not, to date, been enforced all the way through. It has been -- Department of Corrections going back about probably 15 years started to go down that path with -- it was either a warden or associate warden out at one of the rural camps that was making some purchases that were illegal. They started to enforce that. It was with the Inspector General's Office at that time, who was working on it and investigating it. Before they actually made it to that point, that individual chose to retire, and that's the only time I'm aware that an agency has actually pursued that.

Attorney General: There's nothing in the statute that identifies the enforcement agency, however?

Kimberlee Tarter: No, there's not.

Attorney General: Okay. And then the only thing I would ask is that if we are going to bring back to the Board the discussion on the authority of the Clerk of the Court to approve contracts up to the \$49,000 threshold, I'd like to know how many contracts actually there are that are entered into under that threshold. I don't know. Going back a year or two years. I don't know if that's too burdensome, but I'd be curious just to know the total amount.

Kimberlee Tarter: Last fiscal year. What it will do is that will actually increase the contracts by about 200 -- a total of 200. So I don't have the exact numbers off the top of my head, but there was approximately contracts up to that amount. There was 217 contracts approximately up to \$9,999. And then when we went and looked at the numbers up to \$49,999, it added another, I think, 236.

Attorney General: And so that was in the course of last year -- annual basis?

Kimberlee Tarter: That was over last fiscal. I think I ran that over fiscal year.

Attorney General: Fiscal year. Okay.

Kimberlee Tarter: I'm pretty sure I did.

Attorney General: So we're talking about 300 contracts, little over 300 contracts?

Kimberlee Tarter: No. I would say 225 to 250.

Attorney General: Okay.

Kimberlee Tarter: It will essentially -- and what was interesting in looking at those numbers is that it almost went in thirds. Below the \$10,000 was approximately 220 contracts. \$10,000 to \$50,000 was about 230 contracts. And then \$50,000 and up was right about 200 contracts.

Attorney General: Okay.

Kimberlee Tarter: So it would take to the Clerk then about double what will go through their office.

Attorney General: Okay. And so you read that as enabling legislation and that authority only will be granted if the Board grants that authority up to the \$49,000 to the Clerk or it's not enabling legislation? The Clerk automatically now has that without any action by the Board?

Kimberlee Tarter: It is enabling legislation. It speaks to efficiencies in contracting. It allows agencies to get those contracts between that \$10,000 approved in a much more timely fashion. I think it's also important to note that the type of contracts we saw when we went in and analyzed the information were more the contracts along the line of maintenance, HVAC-type plumbing and then some were -- some services we saw some interpreter contracts. But they were more contracts that were the day-to-day business operations of the agency that fell into that threshold, that range. And while the statute provides you now the ability to authorize that delegation, you have to specifically make an authorization through the State Administrative Manual. It just does not become effective automatically.

Attorney General: Okay. Thank you.

Kimberlee Tarter: You're welcome.

Governor: Thank you.

Secretary of State: I have a follow-up question to that.

Governor: Go ahead, Mr. Secretary of State.

Secretary of State: Did your analysis also contemplate the type of situations that I believe occur regularly where agencies will contract below the \$10,000 threshold and spring an amendment later on to increase that amount?

Kimberlee Tarter: Yes. We did look at that. It won't stop that, but I think it will actually limit it because that threshold prior to was so low that it was very difficult. And so time was of the essence and they would need to get a contract in place, and they would use that \$9,999 as the means to do that to start work to ensure that no work was taking place outside of a contract, and then do an amendment to bring back for the total amount, which is why we added that one

section in the statute saying you can split work, but you can't do anything to avoid the competitive solicitation requirements. So the intent is to prevent agencies from doing an informal solicitation and getting three quotes, getting that contract approved and then amending it and adding enough authority to that contract that they would then have exceeded the requirement to do an RFP.

So if you're an agency and you have a need for services and that estimated contract amount is over \$25,000 in a fiscal year, you must do an RFP by regulation. And so what we're working with is ensuring that they don't go and do a contract for a smaller amount to avoid the RFP process and then amend it to bring it up to an amount that exceeded when they should have done a formal solicitation. So those are the types of things that we look for. I think with that threshold of \$50,000 being available to them for the Clerk to approve, that takes some of that away because they can still follow the process. They can still get their contract approved in a more timely fashion if it's \$25,000 or \$30,000. I think that's one of the things they were doing.

Secretary of State: And I certainly understand that and appreciate that need for additional transparency and hopefully having it brought to a public board. What other specific interests did you speak to when you brought this before the legislature in terms of how that \$10,000 threshold may have been cumbersome or problematic for agencies?

Kimberlee Tarter: Honestly, it was doing an analysis of the data and looking to see what types of contracts would fall within that range, how many we were seeing amendments to increase them to go over the \$10,000 threshold and then to get the total numbers like we discussed earlier where those natural breaks were falling. That's really the information we analyzed in coming back and making a recommendation for a proposed threshold change.

Secretary of State: Okay. And so do you have any written analysis that you would be able to provide to the Board so that we could review it prior to being asked to make a decision?

Kimberlee Tarter: Absolutely.

Secretary of State: Okay. Great. Thank you.

Governor: Thank you. And just a couple follow-ups with the Secretary of State's questions is there won't be an ability for an agency to stack \$49,999 contracts one on top of the other to avoid review by this Board, will there?

Kimberlee Tarter: No.

Governor: Okay.

Kimberlee Tarter: The initial contract can be approved up to that dollar amount and then they could do an amendment up to that dollar amount and that would stay at the Clerk based on the current interpretation of that section of statute.

Governor: So you're saying they can, then.

Kimberlee Tarter: Well...

Attorney General: Legally, technically they probably can.

Kimberlee Tarter: I think they could stack an amendment at \$50,000. That is something, though, that can -- because the way that statute is written, that could be precluded through the policy adoption piece.

Governor: Yeah, no, and that would be an issue that I'd want to discuss and then also what we do is the Attorney General knows on the State Transportation Board is a review as an informational item all the contracts less than \$300,000 so we have an idea of what is being approved. But certainly I know I will want, if we do adopt this, that we review all those as an informational item, those that have been approved and entered into and that we avoid any stacking. Not to say that anyone's trying to do that, but once somebody gets over that \$50,000 threshold on a contract, I'll want that to come before the Board.

Kimberlee Tarter: Yeah, absolutely. And right now the process is with \$10,000. The Clerk can approve less than that and then they can do an amendment for \$10,000 or less and go to the Clerk. But because this is a much larger dollar amount, that is absolutely a process that we can provide for your consideration and through the contract entry and tracking system. We do have the ability to get that information and provide it as an informational on the Board of Examiners Agenda.

Governor: And then I'll perhaps -- if you could connect with Director Malfabon to see -- they do a really nice job on the spreadsheets with the contracts that are entered into by the department over there. So anyway, any other further questions with regard to AB41?

Attorney General: Just one more follow up. On the heels of the Secretary's request for the next meeting, if we're going to have this discussion and the written analysis, I'd also like to know the Clerk's thoughts. In other words, if the Clerk is going to have this new authority up to that amount, what criteria will the Clerk look at to approve or not approve these types of contracts so that State agencies kind of have a sense of what parameters they have to follow so that we're not hearing arguments that is arbitrary or there's no set process or you have to take the Clerk to lunch to get what you want. So that's what I would kind of want to know, if there is something that we can set in place, at least some broad parameters. That would be helpful to State agencies.

Governor: And also the Attorney General prompted a question for me. Would there be some appellate process if the Clerk were to turn down a contract and somebody wanted it considered again by the Board?

Attorney General: And would that come up to the Board, right?

Governor: Yes.

Attorney General: Okay.

Kimberlee Tarter: Absolutely. We will bring all these back for the next meeting. Thank you.

Governor: Any other questions or comments? All right, then. Is there any public comment here in Carson City for the Board of Examiners? Any public comment from Las Vegas? All right, then.

***14. FOR POSSIBLE ACTION – ADJOURNMENT**

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

Governor: Is there a motion for adjournment?

Attorney General: I'll move for adjournment.

Secretary of State: Second.

Governor: Attorney General has moved for adjournment. Secretary of State has seconded the motion. All in favor, please say aye.

Attorney General: Aye.

Governor: Aye.

Secretary of State: Aye.

Governor: Motion passes. This meeting is adjourned. Thank you, ladies and gentlemen. Thank you. Very well done.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

