



Nevada Public Agency Insurance Pool
Public Agency Compensation Trust
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**APPROVED MINUTES OF THE
NEVADA PUBLIC AGENCY INSURANCE POOL AND
PUBLIC AGENCY COMPENSATION TRUST
HUMAN RESOURCES
OVERSIGHT COMMITTEE MEETING**

**Date: September 16, 2011 Time: 10:30 a.m.
Place: POOL/PACT Building
201 S. Roop St., Library (2nd floor)
Carson City**

1. Oversight Committee Roll Call:

Members participating: Chairman Curtis Calder; Ann Murdoch; Darcy Worms; Geof Stark; Jose Delfin; Ben Zunino; and Ben Sharit. Not Present: Bill Deist; Pat Whitten; Steve Englert; and Robert Quick. PRI Staff: Jeanne Greene and Christine Vido. Guest: Mike Pavlakis.

Jeanne Greene mentioned to the committee that there was a new member. Undersheriff Robert Quick from Lander County has agreed to fill the spot left vacant by Chief Davidson of Winnemucca.

Curtis Calder mentioned to the committee that items were going to be taken out of order this meeting while there was still a quorum. All action items would be presented first.

2. Action Item: Approval of Minutes of Meeting June 17, 2011

Geof Stark made a motion to approve the minutes of June 17, 2011, as presented. Jose Delfin seconded the motion. Motion was carried.

7. Action Item: HR Assessment Grant Approval

Jeanne presented the committee with one application for approval. It was for Mt. Grant General Hospital. Jeanne mentioned that they had adopted policies such as Children in the Workplace and Anti-bullying, they added FLSA status to their job descriptions, they received training on disciplining effectively, and they implemented written offers of employment for all positions. Curtis mentioned to the committee that Mt. Grant was looking for the full \$500 grant which they intend to use to purchase binders and indexes for new handbooks. Darcy Worms made a motion to approve the application as presented. Ann Murdoch seconded the motion. Motion was carried.

8. Action Item: Schedule Next Regular Meeting for POOL/PACT Human Resources Oversight Committee

Curtis Calder asked the committee if Fridays was still preferable. Jeanne suggested December 2nd or 16th. Jeanne also mentioned that the POOL/PACT Retreat was scheduled for December 4th and 5th. Geof asked if there was a reason for the committee to meet prior to the retreat. Jeanne replied that Wayne has already set the agenda and she did not see anything that needed to be discussed beforehand. It was agreed that Fridays still work well for everyone to meet. Curtis suggested



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meeting next time in Winnemucca. Jeanne stated that she would ask Bill and get back to the rest of the committee. Curtis Calder made the motion to schedule the next Oversight Meeting on Friday, December 16, 2011, in either Carson City or Winnemucca. Darcy Worms seconded the motion. Motion was carried.

3. Item: Clarification of SB98 presented by Mike Pavlakis

Mike Pavlakis, an attorney with Allison, MacKenzie, Pavlakis, Wright, and Fagan, stated that he would start by outlining the existing law, describe the changes due to SB98, and what the uncertainty is. He advised the committee to review the letter included in their board packets from labor attorney Charlie Cockerill. Mike explained existing law prohibits confidential employees from being members of a union. Existing law defines a confidential employee as one who is involved in decisions of management affecting collective bargaining agreements. Also in existing law are provisions regarding supervisory employees. Existing law states that supervisory employees cannot be part of the same bargaining unit as the members that they supervise. There is also an existing definition of supervisory employee stating they have the authority to hire, fire, discipline, direct employees, and adjust grievances so long as the exercise of that type of authority requires the use of independent judgment and is not routine or clerical in nature and the exercise of that authority is a significant part of the supervisory employee's day.

Mike said the question is "what did the legislature do that came into effect on July 1st?" They added a provision that supervisory employees cannot belong to a union if they meet the new supervisory definition. This definition consists of three elements and all elements must be met in order to fall under this definition. **1) They must be appointed.** Mike said the word "appointed" has significance in the context of state employees. It is unclear if the legislature intended to talk about the classified system of employment. These appointed employees must have the authority to hire, fire, discipline, direct employees, and adjust grievances. **2) They must have authority to make budgetary decisions.** The use of the word "budgetary" highlights another question. Mike points out that when the statute discusses budgets in Chapter 354, it is talking about boards and the members of the governing body that establishes the budget. It is possible that unions would say that the use of the word "budgetary" in that section would require looking at Chapter 354 to find out who has budgetary authority. Mike explains that statutory construction requires plain and ordinary language used and should not provide an absurd result. If the definition of "budgetary authority" is going to limit the application of this definition to only the elected and governing board that would be an absurd result and the courts would say that this is not the intent of the legislature. **3) The supervisory employees are consulted on decisions relating to collective bargaining.** Again, it is not clear what "consulted on" means. Does the same definition apply as for confidential employees?

Mike stated the exercise of the supervisory elements requires the exercise of independent judgment and these supervisory issues occupy a significant portion of the employee's day. If an employee meets the requirements of the new definition then they may not be a member of an employee organization. Not only can they not be part of the same union as the employees they supervise, but they cannot be a member of any union. Mike stated that the unions will want to limit the application of this new definition.



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Mike explained that the bill adds another section of employees who are not able to belong to a union. The first category is appointed officials and department heads who are primarily responsible for formulating and administering management policy and programs. The second category is doctors and physicians employed by a local government. The third category is Deputy District Attorneys assigned to a civil division except those who were already members of a union as of July 1, 2011.

Mike discussed the last area the bill addresses, which is adding to the subjects that are mandatory topics of bargaining: procedures and requirements for reopening agreements that exceed a term of one year, and requires policies and procedures in the bargaining agreement to reopen discussions in the event of fiscal emergencies. There needs to be an economic trigger such as a CPI but needs to be negotiated in good faith with the association.

Under existing law, the agency that has the responsibility for enforcement is the EMRB. Mike indicated that it is possible that the EMRB may get involved in the interpretation. They might also decide to establish regulations to further define supervisory employees.

Mike pointed out that the letter from Charlie Cockerill indicates that each agency needs to discuss this topic with their local counsel. Most likely the legislature will be asked to revisit this topic during the next session.

Jeanne added many questions still exist with no answers at this point and we will probably not have answers until the EMRB makes a decision or it goes to court. Curtis said that "appointed official" as far as it pertains to local government is identified by who has to file financial disclosures on an annual basis with the State of Nevada. He also said that City Charters and County Codes will outline the appointed positions. Mike asked Curtis if all department heads in the City are appointed. Curtis responded that in Elko they are not. Curtis said the bulk of the department heads are not appointed. The Fire Chief who is also a department head and the Police Chief are examples along with the City Manager position who are appointed. Everyone else is an employee of the city who serves at the pleasure of the City Manager. Mike responded that indicated to him that the legislature intended using the word "appointed."

Ben Zunino stated that he has people who are hired as the Director of Transportation, Maintenance, Nutrition Services who do most of the items except consultation about collective bargaining. They do the budgets, recommendations for hiring, and discipline. Mike asked Ben how many associations are in his district. Ben replied that there was one. Mike said the issue for Ben resides under the current law; the Director positions would fall under the definition of supervisory employees and they shouldn't be in the same association as the employees they supervise.

Curtis asked about positions that are not appointed and to whom they report to. He said in the City of Elko, if the position is not appointed, the employee serves at the pleasure of the City Manager. In the event of the termination, the department head has to make the recommendation and the City Manager has to approve it. The City Manager does not need to be involved in the process aside from that decision. Curtis asked Mike if that process creates gray areas in determining if the department heads really have the authority to hire and fire. Mike responded that there is language in the statute that discusses if the approval is simply a "rubber stamp" and the department heads have effectively made



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the decision. Mike said it would depend on how involved the higher official was during the process such as investigating, interviewing, preparing the paperwork. Darcy asked Curtis how the City handles the appeals process if the City Manager is the final decision maker. Curtis said that the union contracts speak to the appeals process and a lot of the contracts go above the City Manager. If Curtis signs off on a termination, they can appeal to the City Council. Mike said the discussion about the employee having the power to effectively recommend hiring and firing falls under the new definition of supervisory employees. These employees still have to meet all three requirements in order to not be allowed to unionize. He also said the legislature didn't come out and say supervisory employees cannot unionize and the unions will take the stance that nothing has changed.

Jeanne asked Darcy if Douglas County had plans to address this issue. Darcy said the county was going to wait and see what other organization do first. Darcy said that the City of Reno, Washoe or Clark Counties will probably deal with this first and they would wait until then. Jeanne advised the committee that this would be followed up on and if there are any further developments, Charlie Cockerill or Mike Pavlakis will be invited back to provide further information.

Curtis asked if there were any other comments regarding this item and there were none.

4. **Item: Report on Current Activities**

Jeanne reported that this would be discussed quickly and highlight the incomplete projects.

- **10/11 Final Strategic Plan** (July 1, 2010, through June 30, 2011)

New Instructor-Led Courses – Achieving a Drug- and Alcohol-Free Workplace was to be completed this fiscal year. Due to the training manager's maternity leave this training was moved over into the current year.

Revised/Updated Trainings – There were three that were not completed adding Gender Identity. They were also moved to the current year.

New E-Learning Courses – Addressing Sexual Misconduct in Schools was 90% completed and the delay is on the part of the producers. Drug and Alcohol training was not completed due to the training manager going on maternity leave. The instructor-led training will be completed first followed by the e-learning. These have been moved into the current year.

Roundtable Meetings ó Jeanne advised that these meetings have been discontinued after a survey was sent to the members of the roundtable and it was agreed by all that it was not beneficial. If a topic of interest comes up, the meetings can be called on an as-needed basis.

FAQ Section on Website – This project was delayed waiting for updates and improvements to the POOL/PACT website.

Enhancing Client Tracking System ó Jeanne advised that this is an internal system for POOL/PACT HR's use. It does not impact member services. It will be moved over into FY11/12.



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Statistics – Trainings ó 173 trainings scheduled; 103 completed. About 3,300 employees were trained. **E-learning** – Almost 9,100 employees were enrolled. About 4,000 completed the online training. **HR Briefings** ó 80 briefings scheduled; 47 completed. **Policy Development** – 10 completed.

New Client Service Programs ó There were no requests for Succession Planning this year. It is still a current service available. The other service, Recruitment and Hiring Coaching was completed.

HR Compliance Assessment Program – In FY09/10 four out of ten participant assessments were completed. For FY10/11, Carlin was the only organization that had completed all of their recommendations.

- **11/12 Strategic Plan** (July 1, 2011, through June 30, 2012)

New Instructor-Led Courses – Achieving a Drug- and Alcohol-Free Workplace was moved over from the last fiscal year. There are two courses: one for employees and one for supervisors. They should be available to teach by the end of the month. Advanced EMS is the next scheduled project and should be completed in February. There will be a requirement for Advanced EMS that attendees will have to graduate regular EMS prior to starting this course.

Revised/Updated Trainings – Existing courses are listed that need to be updated due to changes in law such as adding gender identity. The trainings are being updated based upon when they are scheduled; those that are scheduled sooner are given a higher priority.

New E-Learning Courses – Addressing Sexual Misconduct in Schools and Drug and Alcohol training were moved over from the previous year. The instructor-led training will be completed first followed by e-learning. One more course on Supervisory Documentation is also listed to be completed this year.

Regional Trainings – EMS - Has been started in Lyon County with 27 participants. It is scheduled in Carson City in October and again in February. **Advanced EMS** - Scheduled in March and May in Carson City. It will also be held in Elko and Winnemucca but no dates have been scheduled. **HR Rep Program** - Will be held in Carson City beginning in March. It will be held on back-to-back dates. **Internal Investigations for School** - A result of many changes in law during the last legislative session. Ann Alexander will be presenting this in nine locations throughout the state. **Internal Investigations** ó Presented by Ann Alexander and Becky Bruch. It will be presented in Boulder City on September 21st. **Workplace Violence** ó One has been presented in Lovelock and another one will be presented in Douglas County after the first of the year. **POWER** – Training for NACO and the League of Cities in two locations this year.

Revised HR Briefings – Seven have been updated due to changes in law. A number of others have been identified and will be updated throughout the year.



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Webinars – Four will be scheduled through the EAP. The first is Boundaries in the Workplace and will be presented on September 27th.

New HR Briefings – Three have been identified this current year. A fourth will be added to address social media

Client Service Programs ó Succession Planning and Recruitment and Hiring Coaching are going to be offered again this year to the members.

Statistics – Trainings ó 58 trainings scheduled; 14 completed. There are other trainings listed on the service plans but are not being counted at this time as actual training dates have not been identified. 921 participants have gone through training since July 1st; the majority of participants are school district employees who have gone through the sexual misconduct trainings. **Policy Development** – One completed - Mt Grant General Hospital.

Policies – The review of the sample policies was completed at the beginning of the fiscal year due to the legislative session. It is also on the calendar for a review at the end of the fiscal year.

Compliance Assessment Program ó Ten organizations are typically selected to participate in the program. 12 asked to participate this year and they have all been accepted. Douglas County has already started their assessment. Others have been scheduled to begin over the next several months.

Darcy Worms commented that she would recommend any organization to participate in the Compliance Assessment Program. She said it was very respectful and good information was provided. She said no one should be afraid to participate.

- **Employment Opportunity Listing Website**

The report shows the number of people visiting the website. The numbers are very consistent. There are no huge peaks or valleys. The statistics from the previous year were also provided as a point of comparison.

5. Item: Report on Other Activities

- **HR Problem-Solving Reports** ó These are summaries of out-of-ordinary issues which occurred during the fourth quarter of last year.
- **Report on Employment Related Claims** ó As of the date of the report (September 1, 2011) the loss history looked good with three claims for the first two months. Since that time, Jeanne said she is aware of three other incidents not listed on the report dealing with sexual misconduct issues at school districts.



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6. Item: Overview of FRISK Documentation Model

Jeanne mentioned this is a new project that POOL/PACT HR is very excited about. It is a documentation model developed by a California employment attorney as a result of noticing weaknesses in documentation when he took cases to arbitration, mediation, and court. About 75% of school districts in California require their employees to use this model. He has programs for school districts, community colleges, universities, and local government. Lyon County School District will pilot the program. Either Humboldt or Storey County will also participate. The creator of the model will be coming out to the school district to train approximately 50 employees on Monday and Tuesday of next week. Bill Deist and Pat Whitten will be in attendance to see if this program can be used in their organizations. Jeanne explained that the reason these organizations were chosen to participate was because they had stability in management and in their HR Programs. The program currently will be on a pilot basis through January. POOL/PACT HR will then do an assessment to see if any adjustments need to be made. It will then be available to other organizations after that time. The acronym for FRISK stands for: Facts, Rule, Impact, Suggestions, and Acknowledgment. Jeanne pointed out that the developer of the program is not a licensed attorney in the State of Nevada so there is no conflict of interest. He is not charging us for the use of the program other than the cost of the books. POOL/PACT HR will be picking up the cost of the books for the pilot organizations. Depending on the number of organizations that commit to doing the program, Jeanne said POOL/PACT HR might be able to continue purchasing for other organizations. Darcy Worms asked if POOL/PACT HR would be conducting the trainings. Darcy also asked who should be trained. Jeanne replied all supervisors and managers should be trained and there has to be total buy-in by the organization for cohesion. When the developer comes out to do the initial training, POOL/PACT HR will be observing and will be provided the information to conduct future trainings. Jeanne stated that the goal of this training is to try to get good documentation so when action is taken against an employee the organization is in a defensible position.

9. Item: Public Comment

No public comment was made.

10. Action Item: Adjournment

Curtis Calder called the meeting adjourned at 11:29 a.m.