

Brian Sandoval
Governor



Tara Hagan
Executive Officer

**Nevada Public Employees'
Deferred Compensation Program**
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COMMITTEE
Rex Reed, Chair
NDOC

Jim Barnes, Vice Chair
RETIRED

Diane Comeaux
DCFS

Brian Davie
LCB

Andrew MacKay
NTA

Cameron Vandenberg
Deputy Attorney General

Action and Summary Minutes of the Special Meeting of the
DEFERRED COMPENSATION COMMITTEE
Nevada State Library
100 N. Stewart Street, Board Room
Carson City, Nevada 89701
April 27, 2011

The Nevada Deferred Compensation Committee Special Meeting was held on Wednesday, April 27, 2011, at 1:30 p.m. in the Board Room of the Nevada State Library & Archives Building, 100 N. Stewart St., Carson City, NV. A copy of this set of "meeting minutes," including the agenda and other substantive exhibits, is available on the Nevada Deferred Compensation (NDC) website at:
http://defcomp.state.nv.us/NDC_MinutesMeetings.htm.

STAFF and ATTORNEY PRESENT:

Tara Hagan, Executive Officer
Jenny Potts, Secretary
Cameron Vandenberg, Deputy Attorney General

OTHERS PRESENT:

Bill Abramowicz, Hartford (by phone)
Bishop Bastien, ING (by phone)
Darryl Craig, Washoe County Deferred Compensation
Scott Craigie, Hartford
Michael Hackett, Hartford
Annette James, Division of Insurance (by phone)
Mary Keating, Participant
Eileen Kwei, Mercer (by phone)
Steve Platt, ING
Lou Roggensack, Nevada Life & Health Guaranty Assoc.
Carlos Romo, Participant
Ben Sharit, Participant
Bob Trenerry, Hartford
Tom Verducci, Hartford
Steve Watson, Hartford

These minutes are a draft subject to approval by the Deferred Compensation Committee at the next regularly scheduled meeting. The agenda for this meeting (Exhibit A) was posted according to the Nevada Open Meeting Law and was sent to groups and individuals as requested.

I. Call to Order/Roll Call

The Deferred Compensation Committee Special Meeting was called to order by Chair Mr. Rex Reed at 1:30 pm, April 27, 2011, in the Board Room of the Nevada State Library & Archives Building, 100 N. Stewart Street, Carson City, NV. Members Present: Chair Rex Reed, Vice Chair Jim Barnes, Mr. Andrew MacKay, and Mr. Brian Davie by phone. Ms. Diane Comeaux was excused due to a prior commitment.

II. Discussion regarding language from previously heard bill Assembly Bill (AB) 540 which may be included in AB 74

Chair Reed stated the subject of the meeting is to discuss the wording associated with AB 540 due to the possibility that this language may be placed in AB 74. Chair Reed requested testimony regarding the bill language from Hartford or the most appropriate person. Mr. Steve Watson provided prepared testimony for the Committee. (Please click [here](#) to view the testimony.)

Vice Chair Jim Barnes asked Mr. Watson if there are any actions he would like the Committee to take regarding the bill. Mr. Watson stated per participant requests, he would appreciate the Committee's support in requesting the necessary language be amended under the Nevada Life and Health Guaranty Association (NLHGA) section of the Nevada Revised Statutes (NRS) to include unallocated contracts. Mr. Watson noted deferred compensation retirees can currently annuitize their accounts and receive coverage under NLHGA but active employees are not able to annuitize until after retirement or termination. Chairman Barnes asked Mr. Watson how he would like to see the Committee show support. Mr. Watson reiterated he would like the Committee to support the bill language with a positive motion today which would allow all participants to be protected under NLHGA.

Mr. Brian Davie asked Mr. Watson how many participants have contacted him requesting this protection. Mr. Watson stated about 4 or 5 participants, which included John Crossley and Jack Crawford who are former Nevada Deferred Compensation Committee Chairs. He noted that the group also believes the Executive Officer and Members should attend the National Association of Governmental Defined Contribution Administrators (NAGDCA) conference for educational purposes. Mr. Watson mentioned he had solicited support from the Senate to increase the Program's budget for the Executive Officer and at least two Members to attend the conference. He noted that he would also like to see an increase in the budget for the quarterly newsletter. He stated that several retirees in the Program do not have access to email and he wants to ensure they continue to receive the Program newsletter.

Mr. Davie asked why Mr. Watson and others failed to notify the Committee regarding the bill in a timely manner especially since the Nevada Deferred Compensation Program (Program) is mentioned directly in the bill language and the Hartford General Account affects 40% of Program assets. Chair Reed stated that he received an email on March 30 that was sent by Mr. Watson regarding the bill. Mr. Davie stated that not everyone on the Committee received the email.

Mr. Davie asked Mr. Watson if he has talked to other Legislators who have an interest in pursuing this legislation. Mr. Watson stated he didn't feel it is an appropriate question. Chair Reed stated Mr. Watson is not required to answer the question.

Mr. Davie asked Mr. Watson why this amendment to the NLHGA is needed now and why it has not been pursued in the past. Mr. Watson stated he thought the Program was covered but realized in 2010 it was not and noted the 2011 Legislative session was the first opportunity to request the change in coverage.

Vice Chair Barnes stated he believes Mr. Watson did everything he could in notifying Chair Reed with an email. He noted it is unfair to criticize Mr. Watson regarding the timing and notification of this issue.

Staff noted that Mr. Watson's testimony cited ICMA and Fidelity as firms which would be covered under the bill's language; however, Staff noted these firms are not insurance companies and would therefore not be covered under NLHGA. Staff also stated the equivalent stable value fund in a financial firm would be in a separate account and therefore, participant assets would be insulated from any parent company losses. Staff noted Mr. Watson's example which utilizes an insurance company (Hartford) versus a financial firm (ICMA) may not be accurate.

Mr. Andy MacKay asked Mr. Watson if the intent of the proposed bill language is to capture all of the deferred compensation programs within the State and not simply cover this Program. Mr. Watson noted that is correct. Mr. MacKay noted Section 1 of the bill draft language and asked Mr. Watson if NRS 287.250 – 287.370 is the section exclusive to this Program. Mr. MacKay noted that if this section is exclusive to the Program then the proposed language would not cover other deferred compensation plans in the State. Mr. Watson stated that the group is seeking an amendment to the draft language to ensure coverage to all plans but since the bill has not been heard as of yet, this has not been completed.

Mr. MacKay asked Mr. Watson if he has had any discussions with other deferred compensation governmental boards or committees, such as Washoe County regarding this issue. Mr. Watson stated he has not; he noted he has only talked with the participant groups.

Mr. Lou Roggensack with NLHGA was available for Committee member questions. Mr. MacKay, utilizing Hartford and the Program as an example, asked Mr. Roggensack if the Hartford becomes insolvent and the Plan has \$250 million in the General Account, how are participant assets covered by the NLHGA. Mr. Roggensack stated that if any company becomes insolvent, NLHGA would assess all other member insurance companies to ensure it can pay all the necessary claims related to the insolvent insurer. Mr. Roggensack noted that the amount assessed and paid by a member insurance company can be used to reduce its premium tax payments to the State by 20 percent each year for 5 years (premium tax offset). Mr. Roggensack noted if an insurance company paid a \$20 million dollar assessment, the State would allow it to write off \$4 million each year for five years in reduced premium taxes. Mr. Roggensack stated this premium tax offset results in the State paying for the assessment through a reduction in premium taxes. Mr. MacKay asked Mr. Roggensack if the entire \$20 million is then eventually recouped by the insurers due to the premium tax offset. Mr. Roggensack noted that is correct.

Mr. MacKay inquired with Mr. Roggensack if NHLGA has an estimate regarding the current exposure to the association and the potential exposure, should unallocated contracts become covered. Mr. Roggensack noted he does not know the dollar amounts and stated the companies are best able to answer this question; however, he did note that if we were covering 10,000 accounts at \$100,000 each, the amount would be \$100 million.

Mr. MacKay asked Mr. Roggensack if he knows, of the 49 other associations, what percentage cover deferred compensation programs similar to the Program. Mr. Roggensack responded that some do and some do not. He noted 18 states which cover unallocated contracts; however he noted only 5 states allow for the premium tax offset which enables the insurance companies to recoup the assessment. He noted the other 45 states do not allow insurance companies to recoup the assessment which means they must pay the entire amount. Mr. Roggensack noted NLHGA is neutral on the bill language.

Mr. MacKay asked how many members are included in NLHGA. Mr. Roggensack stated NLHGA has 740 members.

Mr. Davie noted the Program has approximately \$235 million in the Hartford General Account and with the amendment to add all deferred compensation plans in the State, one could conservatively estimate that Hartford has \$500 million that would now be covered under NLGHA. Mr. Davie asked Mr. Roggensack if Hartford becomes insolvent and the amount covered is \$500 million, would the state tax base be subject to a \$100 million reduction in premium tax each year for the next 5 years. Mr. Roggensack stated based on the assumption that is correct.

Ms. Annette James with the Nevada Division of Insurance spoke via teleconference. Mr. Davie requested Ms. James provide the Insurance Division's position on the bill and explain the prohibition statute NRS 686C.390. Ms. James stated that the Division of Insurance is neutral regarding the bill amendment and its position is to provide information to all parties as the Insurance Commissioner has supervisory authority over NLHGA. Ms. James explained that NRS 686C.390 statutes prohibit insurance companies from using the \$100,000 coverage in advertisements or as means to encourage or entice persons to purchase an insurance product.

Mr. Davie inquired with Ms. James if the bill passes to allow coverage, would materials distributed by the Hartford or other insurance companies with general account products be prohibited from citing the NLHGA coverage. Ms. James noted the statutes prohibit insurance companies from using this information in advertisements or marketing materials. Mr. Davie asked Ms. James if this prohibition would extend to the Program's newsletters and other materials. Ms. James noted the statutes are only specific to insurance companies which could denote the Program has the ability to inform participants of the coverage. She noted this information should be discussed with the Program's legal counsel to ensure compliance with the statutes. Mr. Davie inquired regarding the purpose of adding the prohibition statutes during the 2001 Legislative Session. Ms. James stated the amendment was prompted by the desire to comply with the National Life and Health Guaranty Association model language.

Mr. MacKay asked Ms. James if the proposed language in AB 540 is being added to the already existing AB 74. Ms. James stated that a Legislator met with Commissioner Barrett to discuss the possibility of adding the AB 540 language to the Division of Insurance's already existing bill, AB 74. Ms. James stated that as of today, the Commissioner is not aware that the language has been added to the bill. She noted that AB 74 was declared exempt as of April 26, 2011, when it was re-referred from the Assembly Committee on Commerce and Labor to the Assembly Committee on Ways and Means. She noted one amendment has been attached to the bill but upon her review of the amendment today, it does not currently include the language that was previously in AB 540.

Mr. Bishop Bastien, ING representative, stated although a group of participants have an interest in adding this into the law, in his experience with government affairs and the National Life and Health Guaranty Association, the approach to adding the legislation has been unusual. He noted most changes to the guaranty association are accomplished through the National Life and Health Guaranty Association or the trade association.

Mr. Bill Abramowitz, Hartford representatives, did not have any comments at this time.

Hartford participant and former member of the Nevada Deferred Compensation Committee, Dr. Carlos Romo, testified in support of extending coverage to the Hartford General Account under the NLGHA. ([Testimony](#)) Dr. Romo noted the current Executive Officer, Tara Hagan, was a former ING employee and the problems and issues we are dealing with arrive from this fact. Vice Chair Barnes asked Dr. Romo if there are any actions he would like to see the Committee take regarding this proposed bill. Dr. Romo stated he believes the Committee should take a positive vote today in support of the legislation; he noted Hartford has a proven track record with over 200 years in business.

Hartford participant, Ms. Mary Keating spoke on behalf of extending the coverage to all participants. Ms. Keating stated as a former Committee member, she knows that it is the role of the Committee to advocate in the best interest of Program participants. She noted she would have preferred for the Committee to champion the bill rather than the Retired Public Employees of Nevada (RPEN). Ms. Keating noted that in her experience with state government she has never seen the State deny a gaming or other license because a company could go bankrupt. She

noted the Insurance Commissioner is in the best position to determine the financial health of an insurance company and purposefully chose not to include a fiscal note in the AB 540. She noted she would hate to think the Committee would not advocate on behalf of the participants because of the far-fetched potential loss to Nevada taxpayers. She encouraged the Committee to take an action to support this bill and support Program participants in moving forward with the bill. She also encouraged the Committee to contact Legislators in support of this bill.

Mr. Ben Sharit, Hartford participant, spoke on behalf of extending the coverage to all participants. Mr. Sharit noted as a Battalion Chief with the Tahoe Douglas Fire Department that he and his fellow firefighters are asked every day to protect citizens and he is requesting the Committee take this action to protect Program participants.

Mr. Daryl Craig, Washoe County Deferred Compensation Committee Chair, spoke as an individual participant with Hartford through Washoe County's plan. He concurred with the testimony of the various other participants and Mr. Watson. Mr. Craig stated that he would like the Committee to pass a motion today in favor of extending the coverage to all deferred compensation plans in the State of Nevada. He asked the Committee to lobby for passage of the bill and instruct its Executive Officer to also do everything possible to support the passage of the bill. Mr. Craig mentioned the talk of worst case scenarios is inflated when considering Washoe County's number of participants (2,100) and their average account balances (\$40,000). He noted Washoe County has approximately 40% of plan assets in the Hartford General Account which when considering the average account balance, the amount affected would be closer to \$16,000 and not \$100,000. Mr. Craig stated that Nevada System of Higher Education employees would also be covered under this bill. Mr. Craig stated Mr. Davie should stop his vendetta against the Hartford and noted he has been hearing this from the Committee for far too long. He also noted the Committee should direct its staff to stop its vendetta against the Hartford.

Mr. Davie asked Mr. Craig to provide evidence of the vendettas as he has no personal knowledge of such actions. Mr. Davie noted he supports both providers and noted given the amount of time Ms. Hagan has been employed by the Committee it is an insult to state that her prior employer would have any bearing on her current position. Mr. Davie noted, as evidenced in Committee meetings, it is clear Ms. Hagan's loyalties are with the Program and participants regardless of the provider. Mr. Davie noted he would like evidence of his, Staff's or any other Committee members' vendettas against the Hartford.

Chair Reed requested the Committee and the public contact him directly with these types of issues rather than in a public meeting. Mr. Craig stated he would be happy to contact the Chair.

Mr. MacKay stated that this is not the appropriate forum to be lobbying serious allegations. He noted as a Committee member, an initial Hartford participant and now a participant with both providers, he can state unequivocally that never once has Ms. Hagan in any meetings, public or private, been anything other than completely neutral and independent. Mr. MacKay noted it's insulting to this Committee to have attendees make these allegations without a shred of evidence. Mr. MacKay stated he would be derelict of his duty if he did not defend the Executive Officer and state that she runs this Program with one thing in mind which is what is in the best interest of the participants.

Motion made by Vice Chair Barnes to support the language in Agenda item #2 that provides limited coverage under the Nevada Life and Health Insurance Guaranty Association for unallocated annuity contracts to participants under the Nevada Public Employees Deferred Compensation Program, inclusive, in the amount of \$100,000 per participants' accounts. Motion seconded by Chair Reed.

Mr. MacKay noted the reality is a potential liability exists to the taxpayers of Nevada should the coverage be extended. He noted no one can provide or may even know at this time what the potential liability is to the State. He opined that this potential liability must be vetted at the Legislature and it is ultimately a policy decision that is exclusive to them.

Mr. MacKay noted it is appropriate for the Committee to remain neutral on this bill, not be for or against. He stated this is a legislative matter that doesn't necessarily involve this Committee.

Mr. MacKay noted a desire to do everything possible to protect participants' investments and stated the Committee has done a good job in that respect. He stated that participants who expect a higher rate of return must be willing to accept the risk associated with that higher rate. He noted participants who want a guaranteed protection in the amount of \$100,000 or \$250,000, must be willing to accept a lower rate of return.

Mr. MacKay noted this is a decision that should be exclusive to the Legislature and that while the Committee can provide information to Legislators, it should not be advocating for or against the bill. He noted although he is not against the bill, he fundamentally cannot support it because of the potential tax liability to the Nevada taxpayer.

Mr. Davie agreed with Mr. MacKay's points and noted that participants cannot expect fail safe investments, especially if that guarantee falls on the taxpayers of Nevada. He noted that public employees may not be received favorably if they are seen to be padding their pockets with additional protections at the expense of all Nevada taxpayers. He stated his request of Mr. Watson to provide additional information regarding legislative support was legitimate due to the fact that it is difficult to conceive a majority of legislators would support a bill that places the State's tax base at risk for an unknown amount. He noted the Committee and the Program may not be looked upon favorably if an insurance company does become insolvent and the State's tax base is affected. Mr. Davie agrees the Committee should remain neutral until more information can be obtained and a more solid proposal can be submitted.

Chair Reed presented an email from a participant, Mr. Doug Kelly, which stated he is requesting the Committee support the language in the bill.

Chair Reed noted that he currently sits in two different chairs, one as the Chair of the Committee and the other as a taxpayer. He stated as Chair he is responsible for protecting the interest of participants and noted as a fiduciary he should be amenable to extending as much protection as possible to participants. Chair Reed noted that as a taxpayer he looks to the Legislature for protection of his interests. Chair Reed noted he will support the motion but as a taxpayer he will contact his Legislators to provide input regarding how they should support his interest as a taxpayer.

Vice Chair Barnes stated that the role of the Committee is to protect the participants and he supports the motion. He noted the Legislature can look at it from their standpoint but the Committee's role is to protect the participants. He stated, as a representative for retired participants, he knows they overwhelmingly support the bill.

Motion failed with Chair Reed and Vice Chair Barnes in favor and Mr. MacKay and Mr. Davie in opposition.

Motion made by Mr. MacKay that the Committee's official position be neutral with respect to the language included initially in AB 540 and potentially included in AB 74, seconded by Mr. Davie.

Mr. MacKay noted that he and Mr. Davie don't disagree in their desire to protect participants and a neutral position is protecting participants. He noted he believes there would be a backlash on the Committee and the Program should they take a favorable position on this bill. Mr. MacKay stated that although he did not support the initial motion, it does not imply he doesn't support the participants in the Program.

Vice Chair Barnes stated he cannot support the motion to remain neutral. He noted the Committee has an obligation to take a proactive approach, as this bill is clearly in the best interest of the Program participants. He noted he will not support the motion.

Motion passes, 3-1 with Vice Chair Barnes in opposition.

III. Public Comments

No comments from the public.

Chair Reed stated that he had asked Staff to put forth on the June meeting agenda an item to reinstate funds for travel to send members to the NAGDCA Conference. He also stated if the motion passes, he would appreciate knowing which members would be interested in attending the conference. Mr. MacKay asked how the funding would occur. Chair Reed stated it would come from the Program's reserves.

Mr. Davie noted the budget was previously agreed to by the Committee and priorities were established. He stated that other priorities in the budget may need to be funded first prior to funding out of state trips and would request a more comprehensive discussion regarding biennium budget. Chair Reed stated the agenda item does allow the Committee to discuss the budget beyond just out of state travel.

Chair Reed stated that he supports Tara Hagan. He noted she is professional, does an excellent job and he has never noticed any favoritism. He stated that the Committee as a whole has confidence in her.

The meeting was adjourned at approximately 2:44 PM.

Respectfully Submitted:

Jenny Potts
Administrative Assistant

Approved by:

Tara Hagan
Executive Officer

LIST OF EXHIBITS

Exhibit A is the packet of informational items prepared by Staff for Committee members for the April 27, 2011 special meeting.

Exhibit B is the testimony from the Hartford representative, Mr. Steve Watson.

Exhibit C is the testimony from participant, Dr. Carlos Romo.

Exhibit D is the email received by participant Mr. Doug Kelly