

STATE OF ARIZONA

Joint Legislative Budget Committee

STATE
SENATE

ROBERT L. BURNS
CHAIRMAN 2006
MARSHA ARZBERGER
TIMOTHY S. BEE
ROBERT CANNELL
JORGE LUIS GARCIA
JACK W. HARPER
DEAN MARTIN
JIM WARING

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 926-5491

FAX (602) 926-5416

<http://www.azleg.gov/jlbc.htm>

HOUSE OF
REPRESENTATIVES

RUSSELL K. PEARCE
CHAIRMAN 2005
ANDY BIGGS
TOM BOONE
MEG BURTON CAHILL
PAMELA GORMAN
STEVE HUFFMAN
LINDA J. LOPEZ
STEPHEN TULLY

MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

May 2, 2006

The Chairman called the meeting to order at 8:12 a.m., Tuesday, May 2, 2006, in Senate Appropriations Room 109. The following were present:

Members: Representative Boone, Vice-Chairman Senator Burns, Chairman
 Representative Biggs Senator Arzberger
 Representative Burton Cahill Senator Cannell
 Representative Gorman Senator Martin
 Representative Lopez
 Representative Pearce
 Representative Tully

Absent: Representative Huffman Senator Bee
 Senator Garcia
 Senator Harper
 Senator Waring

APPROVAL OF MINUTES

Hearing no objections from the members of the Committee to the minutes of March 28, 2006, Senator Burns stated the minutes would stand as presented.

ATTORNEY GENERAL – Review of Allocation of Settlement Monies.

Ms. Leah Ruggieri, JLBC Staff, stated that the Attorney General (AG) is seeking a favorable review of the proposed allocation from the monies received from consent judgments from Ameriquest and Smart Advertising Solutions LLC. The AG is coming before the Committee as required by a General Appropriation Act a footnote that requires that all settlement monies over \$100,000 be reviewed by the Committee. Of the \$5.9 million that will be received from the Ameriquest consent judgment, \$865,000 will be received by the AG and for the Smart Advertising Solutions LLC, \$225,000 will be received. These monies will be deposited into the Consumer Fraud Revolving Fund, which is the fund that supports the enforcement of consumer fraud statutes.

Representative Pearce moved that the Committee accept the JLBC Staff recommendation to give a favorable review of the allocation plans for the settlements with Ameriquest Mortgage Company and Smart Advertising Solutions LLC. The motion carried.

ARIZONA DEPARTMENT OF CORRECTIONS – Consider Approval of Requested Transfer of Appropriations.

Mr. Lorenzo Martinez, JLBC Staff, stated that this item is a consideration of approving a transfer from Personal Services and Employee Related Expenditures Line Items (ERE) within the Department of Corrections (DOC) budget into the Overtime/Compensatory Time Special Line Item. The JLBC Staff received updated amounts from the department and they would transfer \$3 million from Personal Services and \$1 million from ERE. The department also requested that they be given approval to do a year-end transfer in case there are any monies available in Personal Services and ERE. JLBC Staff recommends the approval of the \$4 million transfer and recommends deferring any action regarding a year-end transfer until a June Committee meeting. After this transfer, the department does anticipate that it will have sufficient monies remaining in Personal Services and ERE to finish the year due to the additional \$9 million they received from the Chapter 1 pay raise.

Representative Biggs asked about the disparity between the department's estimate of the Overtime/Compensatory Time expenditures and JLBC Staff's estimate.

Mr. Martinez said the JLBC Staff estimated the \$36 million based on expenditure year-to-date amounts as of February actual expenditures. Since the Chapter 1 pay raise, the department's expenditures related to that have increased by a reported amount of \$1 million every payroll. Given the additional information on actual expenditures, the department has increased their estimate from \$37 million to \$41 million. The JLBC Staff is still working with the department to review the data to see if adjustments need to be made to those estimates.

Representative Lopez asked about the outcome of the incident in the Tucson facility.

Ms. Dora Schriro, Director, Department of Corrections, responded by saying that the officer was released uninjured last night and the inmate was sent to the Florence facility.

Representative Lopez asked about the staffing issue at the time of the hostage.

Ms. Schriro responded that staffing at Tucson has been problematic for quite some time. Vacancies are about 25%; there are 3 officers doing the job of 4 officers. The swing shift last night should have had 44 officers. At the time of the hostage there were 17 vacancies. They needed a minimum of 24 officers to cover critical posts. A third of those critical posts are staffed by overtime employees. The officer that was taken by the inmate was a graveyard shift officer who reported early to cover one of those uncovered critical posts.

Representative Lopez asked about the staffing issue agency wide.

Ms. Schriro stated that department-wide, the vacancies are about 22%. At other facilities, beyond those that have been historically problematic, which include Tucson and now Safford, they are struggling with exceptionally high vacancy rates.

Representative Pearce shared his concern for the safety of officers and recruitment. He asked what else could be done to help retain officers.

Ms. Schriro responded that this body can give them the essential resources that they need, and that is the competitive pay package. Exit interviews are conducted and the feedback from staff in those exit interviews is that wages are not competitive.

Representative Pearce expressed concern for the staff shortage and the strain it puts on those officers. He will continue to work on this issue.

Representative Pearce moved the JLBC Staff recommendation as outlined in Item 2 to transfer \$3 million from Personal Services and \$1 million from ERE to the Overtime/Compensatory Time SLI and defer any action concerning a year-end transfer for compensatory time costs until the June meeting. The motion carried.

DEPARTMENT OF ECONOMIC SECURITY – Consider Review of Transfer of Appropriations and Update on *Ekloff v. Rodgers* Litigation.

Mr. Russell Frandsen, JLBC Staff, explained that the Department of Economic Security (DES) is proposing to transfer \$1.2 million General Fund from the state-only side of the Arizona Training Program at Coolidge to the federally matched side of the Arizona Training Program at Coolidge. This will enable DES to draw down \$2.5 million federal funds and replace unrealized client revenue funds of \$2.5 million on the state-only side. The JLBC Staff recommends a favorable review of this transfer.

In addition, Mr. Frandsen presented an update on the *Ekloff v. Rodgers* pertaining to incontinence briefs for children. Previously Arizona's Medicaid policy has been to only provide incontinence briefs for children after they have experienced skin breakdown or once a problem has developed. In June 2005, a lawsuit was brought against the state to compel Arizona to provide incontinence briefs as a preventative measure. In early March, the court ruled in favor of the plaintiff, the state has appealed that decision and that still is in process. The Governor's Office of Strategic Planning and Budgeting (OSPB) has estimated the FY 2007 cost to be \$4.5 million General Fund to provide the incontinence briefs should the court deny the appeal of the state.

Representative Boone asked if there has been some information requested by JLBC Staff that has not been provided by the department regarding the capitation rate. There was a 4 to 6% estimated increase for FY 2007, and he asked if that information was provided along with detailed back-up information.

Mr. Steven Pawlowski, Department of Economic Security, Financial Services Administration, responded that there is a footnote in the General Appropriation Act that requires the department to report a preliminary estimate of the subsequent year's capitation rate by March 31. The department sent a letter in compliance with the footnote stating that preliminarily they expect the rate is going to increase between 4% and 6%. No rate has been finalized at this point in time, so there is no specific detail to share. The department has had regular conversations with JLBC Staff as recently as yesterday, saying it appears that the capitation rate increase is going to be closer to 6% than it is to 4%. That includes a number of issues, one of which is the incontinence brief lawsuit that JLBC Staff mentioned. It also includes the impact of the pay raise. Once those are taken into consideration the actual capitation rate increase is going to be fairly comparable to the 3% that was adopted by the Appropriations Committee on February 21, 2006. When the department has a rate that is signed off by the Centers for Medicare and Medicaid Services (CMS), the department will share that information with the Committee and JLBC Staff.

Representative Boone asked when that information would be available.

Mr. Pawlowski stated that a proposal has been sent from Arizona Health Care Cost Containment System (AHCCCS) to CMS. The rate goes into effect July 1, 2006. He does not know specific date when the information will be available.

Representative Boone stated in a 2003 special session on Child Protective Services (CPS), there was a requirement for program and financial accountability report to be submitted twice a year. He asked if the February report has been submitted.

Mr. Pawlowski stated that the report has not been submitted but is to be released May 2 or 3.

Representative Pearce moved, the JLBC Staff recommendation to give a favorable review to transfer \$1,200,000 from the state-only Arizona Training Program-Coolidge (ATP-C) General Fund to the Long Term Care ATP-C General Fund and to transfer \$2,544,300 from the state-only ATP-C Long Term Care System Fund to the Long Term Care ATP-C Federal Title XIX. The motion carried.

EXECUTIVE SESSION

Senator Burns moved that the Committee go into Executive Session. The motion carried.

At 8:30 a.m. the Joint Legislative Budget Committee went into Executive Session.

Representative Pearce moved that the Committee reconvene into open session. The motion carried.

At 9:26 a.m. the Committee reconvened into open session.

Representative Pearce moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of Coffey v. State of Arizona and University Medical Center. The motion carried.

Representative Pearce moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of Torrez v. State of Arizona, et al. The motion carried.

At Senator Burns' request, Mr. Stavneak read the following motion:

The Department of Economic Security shall provide a report by June 5, 2006 on their internal investigation procedures concerning Child Protective Services (CPS) caseworkers who have failed in the performance of their duties. Besides providing the department's general policy, DES' response should address the specifics of the review of employees involved in the Torrez case. The Director of DES is requested to present those findings directly to the Committee himself.

The motion carried.

The meeting adjourned at 9:28 a.m.

Respectfully submitted:

Amanda Ruiz, Secretary

Richard Stavneak, Director

Senator Robert Burns, Chairman