

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

Friday, March 3, 2017

State Capitol, Room 1525

Lincoln, Nebraska

Call to Order – Chairman Schulz called the meeting to order at 9:00 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

Sean Conway – Excused
Jeffery Davis - Present
Matthew Enenbach – Present
John Gale – Present
Douglas Hegarty - Present
Andrew Loudon - Excused
Jeffery Peetz - Present
Timothy Schulz - Present
James Ziebarth – Excused

Approval of the Open Session Minutes of the December 2, 2016 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Gale, second by Peetz, that the Open Session Minutes as of the December 2, 2016 meeting be approved as presented - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Peetz and Schulz voted yes. Motion carried (6-0-0).

Report on late filing fees and requests for relief: The Executive Director indicated that there were no requests for relief.

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley indicated that two staff members attended the Council On Governmental Ethics Laws (COGEL) Conference in New Orleans back in December. Mr. Daley referred the Commissioners to a copy of the COGEL Conference program.

Executive Director Daley indicated that in an effort to reduce the projected state revenue shortfall during the current fiscal year, the Legislature passed LB 22.

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This bill reduces the Commission's General Fund appropriation by \$19,900. The carryover balance from the General Fund as of June 30th 2016 was reduced by \$119,000. This results in a net decrease of \$139,000 available for use by the Commission during the current fiscal year which ends on June 30th. Mr. Daley discussed the budget proposals for the upcoming biennium. Currently, the Commission's General Fund appropriation is \$498,000. The Governor's FY17/18 proposal reduces this by \$13,000. For the same fiscal year the Legislature would propose a reduction of \$34,000. Daley further reported that in FY 18/19 the Governor's proposed reduction is \$6,000 and the Legislature has a proposed reduction of \$27,000. Daley reported that the Commission's appropriation hearing is scheduled for March 8th.

Executive Director reported that the Commission has been audited by the Office of Public Accounts. The last audit for the NADC was in 2010. The audit has been completed and the final audit report has not yet been received. The final audit report will be made available to the Commission members at the next meeting.

Executive Director Daley reported that after forty years on the 11th Floor of the State Capitol, the Accountability and Disclosure Commission has been advised that it will be moving to a new location outside of the Capitol by September 1st of this year. The move is connected with the installation of a new heating and air conditioning system in the Capitol. While the move is considered temporary, it is expected to last eight to ten years.

Executive Director Daley reported that the Electronic Filing Project is ongoing and continues with additional testing. Mr. Daley believes the project may be substantially completed this spring.

The Executive Director indicated that Lobbyist and Principal 4th Quarterly Reports disclosing receipts and expenditures were due on January 30th. Those reports that have been filed are available to the public for review on the Commission website.

Executive Director Daley indicated that the First General Election and annual campaign statements that have been filed are available for review on the Commission website.

The Executive Director indicated that in the matter of litigation he would defer to General Counsel Danberg.

The General Counsel advised that the Commission assessed a civil penalty of \$16,000 a number of years ago. In 2007 the civil penalty was reduced to a judgment by the District Court. The Commission had been unable to find any unencumbered assets and the civil penalty remained unpaid. Recently, Mr. Shannon became a Bellevue City Councilman, which is a salaried position. The

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Commission has taken steps to revive the dormant judgment and is poised to seek garnishment and execute for satisfaction of the judgment.

Legislative Update, review of and action on Commission positions – Daley reported that he had consulted with the Executive Committee as to the proposed Commission positions on legislative bills. He asked that the Commission either affirm these positions or give other direction. The Executive Director gave the Legislative Update and referred to his written report.

LB 27 – This bill by Senator Murante includes a provision that the Auditor of Public Accounts may share its work papers with other specified agencies, including the Commission. The Auditor has maintained that current statute prohibits its office from sharing its work papers with other agencies. This has created difficulties in situations in which the Auditor has referred possible violations to the Commission, but believed it could not provide all of the information it has in its possession. Commission position: Support.

LB 85 – This bill by Senator Blood as amended would prohibit an individual who owes civil penalties or interest to the Commission from appearing on the ballot as a candidate or from being appointed to certain offices. Commission position: Support as amended.

LB 127 – This bill introduced by Senator Groene would amend the Open Meetings Law by requiring public bodies to place a notice for each meeting in the newspaper or newspapers which circulate in every county in the agency's jurisdiction. The amendment would remove state agencies from the bill. Commission position: Neutral on bill and support of the amendment.

LB 153 – This bill by Senator Kuehn would prohibit certain office holders from being lobbyists for two years after leaving office, and certain state employees from being lobbyists for one year after leaving their position. Commission position: Neutral.

LB 252 – This bill by Senator Crawford would require those who engage in electioneering communications or issue ads to file reports with the NADC that would show how much was spent and what candidate was named in the communication. Commission position: Support.

LB 209 – This is a bill by Senator Watermeier that would change some of the provisions of the Administrative Procedures Act and require certain filings with the Clerk of the Legislature. Commission position: Neutral.

LB 299 – This is a bill by Senator Ebke and makes significant changes to the Administrative Procedures Act which is the body of law that agencies must follow in the development and adoption of rules and regulations. It creates a new entity to regulate rules in the system. Commission position: Oppose.

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LB 421 – This bill by Senator Murante adds two words to a provision of the Accountability and Disclosure Act with no change in the meaning to the Act. The Commission: Neutral.

LB 426 – This bill by Senator Murante changes the structure by which state employees, state officials, members of state boards and commissions are reimbursed for expenses. Commission position: Oppose.

LB 451 – This bill by Senator Murante relates to Statements of Financial Interests. It closes a gap created by LB 400 last year which set a deadline for one category of filers, but not for others. Commission Position: Support.

LB 445 – This is a bill by Senator Chambers which would prohibit lobbyists from supplying food and beverages to State Senators while the Legislature is in session. The Commission recommended that the prohibition be extended to include principals as well. Commission position: Neutral.

LB 464 – This bill by Senator Watermeier and would amend the rule making process. Commission Position: Oppose.

LB 581 – This bill by Senator McDonnell would require lobbyists to submit statements to their clients which disclose the identity of other clients. This bill would give a client the opportunity to cancel a contract in case of conflict of interest. Commission position: Neutral.

LB 654 – A bill by Senator Murante that would move jurisdiction in certain cases regarding automatic dialing machines from the Public Service Commission to the Accountability and Disclosure Commission. This would be for calls which would support or oppose ballot questions and candidates for public office. The Commission is neutral on this bill with the amendment under discussion.

LB 663 – This bill by Senator Kuehn would require a principal who receives public funds to file a copy of the contract with the lobbyist. Commission position: Neutral.

LB 664 – This bill by Senator Kuehn would prohibit political subdivisions from using revenue from any tax or fee imposed by a governmental body to employ or contract with a lobbyist. Commission position: Neutral.

LB 665 – This bill by Senator Kuehn would require lobbyists to file disclose certain information within twenty-four hours after their first contact with an official in the executive or legislative branch regarding legislation. The disclosure would include the name of principal, the name of the lobbyist and the bill number. Commission position: Support.

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Discussion followed.

Motion by Gale, second by Peetz, that the Commission adopt the positions as suggested in the memorandum on pending legislation and that the Executive Director be allowed to testify on any of those positions whether they be supportive, neutral or opposing as he deems at his discretion – Roll Call Vote: Commissioners Davis Enenbach, Gale, Hegarty, Peetz, and Schulz voted yes. Motion carried (6-0-0).

Report of Conflicts Committee – Chairman Schulz indicated that there was nothing to report.

Report of Executive Committee – Chairman Schulz indicated that there are no issues to report at this time.

Closed Session - Motion by Davis, second by Enenbach, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Peetz and Schulz voted yes. Motion carried (6-0-0).

The NADC went into Closed Session at 9:35 a.m.

The NADC returned to Open Session at 10:35 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley announced that the Commission approved a settlement agreement in the matter of Jeffrey Schellkopf case #16-30. By the terms of the settlement agreement, the Commission found three violations of §49-14,103.01 of the NPADA. The Commission assessed a civil penalty in the amount of \$2,000. This action was taken with six Commissioners concurring, none dissenting and none abstaining.

Adjournment – Motion by Enenbach, second by Hegarty, that the NADC adjourn. Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Peetz and Schulz voted yes. Motion carried (6-0-0).

Chairman Schulz declared the meeting adjourned at 10:36 a.m.