

**DRAFT**  
**Minutes of the Meeting**  
**HEART-LUNG SUBCOMMITTEE**  
**OF**  
**COMMITTEE ON LOCAL GOVERNMENT FINANCE**  
**May 29, 2014**  
**10:00 a.m.**

The meeting was held at the Nevada State Legislative Building located at 401 South Carson Street, Room 2135, Carson City, Nevada, and video-conferenced to the Grant Sawyer State Office Building located at 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**COMMITTEE MEMBERS PRESENT:**

John Sherman, Chairman  
Beth Kohn-Cole  
Alan Kalt

**COUNSEL TO COMMITTEE**

Dawn Buoncristiani

**DEPT OF TAXATION STAFF PRESENT:**

Terry Rubald  
Kelly Langley  
Warner Ambrose  
Susan Lewis  
Janie Ware

**MEMBERS OF THE PUBLIC PRESENT:**

<b>Name</b>	<b>Representing</b>
Wayne Webber	City of Sparks
Norman Santoya	Douglas County
Karen Scott	Esmeralda County
Chris Collins	LV Police Protective Assoc.
Wayne Carlson	PACT
Ron Dreher	PORAN
Rusty McAllister	Professional Firefighters of NV
Hugh Gallagher	Storey County
Michael Sullivan	Town of Pahrump
Elizabeth Francis	White Pine County

**1. Roll Call and Opening Remarks**

Chairman Sherman called the meeting to order at 10:03 a.m. Warner Ambrose, Budget Analyst, Department of Taxation, called the roll and stated all members of the Subcommittee were present.

**2. Public Comment**

There was no public comment.

**3. For Possible Action: DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS**  
**Proposed regulation concerning appropriate financial reporting and liability disclosure of local government obligations required by NRS Chapter 617 for local government public safety employees, LCB File No. R010-13.**

Terry Rubald, Deputy Executive Director, Department of Taxation, stated these regulations regarding the financial administration and reporting of benefits under Chapter 617 have been adopted by the full Committee on Local Government Finance and were taken to the Legislative Commission for approval. The Legislative Commission declined to provide approval. They deferred it to a later time, and had some suggestions for us to consider. We are here today to review and improve these regulations, re-adopt by the full Committee and take them back to the Legislative Commission.

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Terry Rubald gave an overview of the proposed changes to the regulations. One of the primary changes throughout Section 4 and through Section 16 wherever there is a reference to “compensation and medical benefits” instead the use of the term “occupational disease obligations” is inserted. Section 5 defines what an occupational disease obligation means. The liabilities arising from coverage of certain occupational diseases is described in NRS Chapter 617. In addition to substituting the phrase “occupational disease obligations” for “compensation and medical benefits,” there is also a change to Section 12 in which we are proposing to delete the first sentence. The deleted sentence is “The objective in reporting compensation and medical benefits information on a form attached to the tentative budget is to provide information which will enhance financial transparency and clarity to taxpayers, local government employers and employee groups by providing the true cost of compensation and medical benefits over time.” The next sentence is expanded to read, “Total discounted estimated actuarial liabilities determined by an actuary are not required to be reported in the financial statements of the local government except as otherwise required pursuant to statements issued by the governmental accounting standards board.” This constitutes all of the proposed changes at this point.

Chairman Sherman stated he appreciates the changes, in particular the substitution of “occupational disease obligations” for “compensation and medical benefits.” In Section 13 where we use the concept “separately stated” or “separately reported,” the question came up as to the requirement to report this information for each individual. There would be problems if we actually had medical conditions reported for each individual. We need to have this information totaled for the current employees and retired employees. As a matter of clarification, if we go back to Section 13 (a) (2), Chairman Sherman suggested deleting the word “stated” in the phrase “separately stated” and insert after “separately” the phrase “subtotal for current and retired public safety employees.” This will make it clear we are looking for totals. We should use this concept in other places where this language is used. Also, we used throughout the regulation “public safety employees.” For clarification purposes, the Section 8 definition “public safety employee,” should be plural. Then Chairman Sherman suggested changing the phrase “means a person” by deleting “a person” and change it to “means persons eligible for and” so that it would read “public safety employees means persons eligible for and for whom the local government has an occupational disease obligation.” In Section 10, insert after the word “report” the phrase “conducted pursuant to Section 16 of this regulation.” In Section 16, we went through a great deal of discussion regarding the computation of a probability, the liability probability of 50% and 75%. Chairman Sherman stated the form did not require the conclusion of the 50% and 75% confidence level data. We should look at the form at the full Committee on Local Government Finance meeting. We could include the data from the 50% and 75% confidence levels.

Member Kalt asked about the rationale for striking Section 12.

Chairman Sherman responded that some of the Legislative Commission members inferred that these are not benefits. They are legal obligations that employers have to this class of employees. Rather than granting a benefit or compensation, it is a legal obligation to injured workers. In understanding this, we wanted to make sure there was no inference that this information is going to be used to change, diminish or remove those legal obligations. It is merely reporting on those obligations. Chairman Sherman stated he is inferring some meaning to what he heard. He asked Ms. Rubald for her comments.

Terry Rubald stated Chairman Sherman captured it in its entirety. There was a real concern that by using the term “compensation and medical benefits” it would diminish what local governments would provide. It should be obvious by reporting that we are trying to be more transparent. Perhaps we do not need to state it directly.

Chairman Sherman added from his perspective, the importance of the regulation is to make the local government employers of public safety officers mindful of this obligation. They should know what it is and plan to pay for it. Pertaining to Section 12, we did not want to come up with governmental accounting standards for the State of Nevada specific to these occupational disease obligations. There are reporting requirements –

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worker compensation liabilities in the financial statements and in the notes to the financial statements. This is why he suggested the clarifying language.

Wayne Carlson, Executive Director, Public Agency Compensation Trust (PACT), stated if we wanted to leave some of the deleted language in Section 12 because we want the form attached to the budget, for “compensation and medical benefits” we could substitute “occupational disease obligation” in those two parts.

Chairman Sherman stated we have never wrestled with putting intent language in the Committee on Local Government Finance regulations. It is prudent to consider what public policy issue is being served by the regulation. Chairman Sherman believes the objective is to provide information to the employers of public safety officials so they understand this obligation and financially plan for it. He is concerned with the perception that if we keep the same language in terms of “transparency and clarity to taxpayers, local government employers and employee groups” it might be inferred that we might want to modify Chapter 617 to change the obligations. He believes the present course of action would be to remove the statements of objective.

Wayne Carlson asked Chairman Sherman to restate what he said regarding Section 13.

Chairman Sherman responded that Section 13 (a) (2) as amended says “the number of eligible persons for whom the occupational disease obligations arise, separately stated.” The concern was the number of eligible persons, separately stated, might require reporting on each individual case, and there would be disclosure of information on individuals. When we originally discussed this “separately stated” meant between a group of current employees and a group of retired employees. Chairman Sherman wanted to clarify this so it would read “separately subtotal for current and retired public safety employees.” Then we would use that language in the remainder of Section 13 where we refer to the concept “separately stated.”

Wayne Carlson questioned the word “retired,” because some of them are just former employees that have gone to another occupation.

Chairman Sherman stated we could say “current and former” eligible public safety employees.

Terry Rubald clarified that her notes were correct.

Chairman Sherman asked for public comment.

Rusty McAllister, representing Professional Firefighters of Nevada, commented they have been watching the deliberations over the course of time that the Subcommittee has taken with regard to reporting. Their concerns, which they have expressed to the Legislative Commission, are the underlying cause to all of a sudden bring forth these regulations requiring actuarial studies on an annual basis creating an unfunded mandate on the local government employers. Why are public safety employees being singled out, in a discriminatory fashion, when they are not requiring the same obligations for 90% of the workers in the State of Nevada which are public employees? They are only singling out public safety and creating regulations and reporting requirements only for public safety even though there are long-term obligations for other workers' compensation benefits for 90% of the public employees. Mr. McAllister has actuarial studies from 10 years ago from Clark County, the City of Henderson, Las Vegas and North Las Vegas. None of the studies are remotely close to what is currently actual fact today. Now we are requiring local governments to report a 30-year obligation with no accuracy. These benefits were created in 1965 and 1967. In almost 50 years, they have not paid out anything remotely close to \$2.2 billion. Yet, the long-term financial obligation going forward, as submitted at the last Subcommittee meeting, showed a \$2.2 billion obligation going forward for the next 30 years. This cannot be correct. The Professional Firefighters of Nevada have worked with Ms. Vilardo, of the Nevada Taxpayer's Association, in the past. Four years ago, she brought legislation to severely limit these

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benefits. She was not successful in passing that legislation. It is interesting that Mr. Carlson brings up, when Chairman Sherman suggested changes to Section 12, the idea that some employees are not retired but are just former employees that leave and go to work in another occupation. In 2009 when the bill was before the Legislature, Mr. McAllister offered Mr. Carlson's lobbyist an option to remove these people after five years of coverage after they left employment. The option was turned down. Why did they turn it down then but now it is important to report these people? This could have been taken care of four years ago or more. It is obvious to Mr. McAllister that Ms. Vilardo was not successful in reducing these benefits through the legislative process. This is another way to go about reducing these benefits -- by creating long-term liabilities that look really, really bad on the financial reports of local governments. They are on pay-as-you-go to create a long-term liability that looks worse than it is so they can say they can fix the long-term liability by reducing the benefits. Assemblyman Daly stated at the last Legislative Commission Meeting that these are legal obligations. There is the cost for doing business. Mr. McAllister and his colleagues are not sure why there is all of a sudden a big push to get these regulations out. Mr. McAllister has this year's CAFR reports for the City of Las Vegas and Clark County which lists the long-term liability. He does not understand what we are trying to accomplish with these new regulations. It is interesting to see that the smaller local government, Las Vegas, listed their long-term liability as \$39 million. The larger local government entity, Clark County, only listed their long-term liability at \$33 million. Mr. McAllister does not understand the disparity between the numbers of the smaller and larger government. It lends to the idea that there is no consistency in the actuarial numbers, and this has been shown in the actual reports he has from 10 years ago. His colleagues have concerns about this, and do not feel, over the course of time, that this Subcommittee has really been interested in finding out anything from the people this will actually affect. The benefits affect the men and women that are actually doing this job. Mr. McAllister and his colleagues did not feel they would get a fair shake so they decided to go through the legislative process. These regulations appeared through the efforts of Ms. Vilardo and Mr. Carlson, on a railroad moving forward fast. His organization has tried to slow it down to bring more dialog to the subject.

Chris Collins came forward for public comment and introduced himself as the Executive Director of the Las Vegas Police Protective Association and the President of the Southern Nevada Conference of Police and Sheriffs. With these titles, it gives him the honor of speaking for about three quarters of the law enforcement community in the State of Nevada. He and his colleagues echo the thoughts of Mr. McAllister. They have seen this battle take place year after year and every other year during the legislative session. It is simply not fair. They believe, as Mr. McAllister stated, at some point, and it may not be the direct intent of this Subcommittee, but through these regulations these benefits will be stripped away. The law enforcement community and the fire community have been required to walk into homes that have meth labs in them or are grow houses for marijuana. No one has done a long-term study as to how this effects one's health. He spent 13 years on the SWAT team. They had no respirators or protection when they entered active meth labs. They would certainly oppose any restriction of these benefits. As Mr. McAllister said, they see this as a first step in restricting or taking away the benefits.

Ron Dreher, representing the Peace Officers Research Association of Nevada, came forward for public comment. He echoed the comments of Mr. McAllister and Mr. Collins. He has worked with both of them over the years at the Legislature. When working with Mr. McAllister, they came very close to resolving the disparity between heart and lung, PACT and Carole Vilardo. There was legislation ready to go, and it was rejected at the last minute. Mr. McAllister's comments are right on. Mr. Dreher has testified before this Subcommittee before regarding the problems they have had. His organization has allowed this process to go forward because they were under the impression it was going to be fair and objective and provide results. Mr. Dreher has concerns regarding some of Mr. Carlson's comments. Mr. Carlson's organization has been very active at the Legislature for years regarding this issue. Every session it comes up again. Mr. Dreher has been negotiating with Washoe County and the Sheriff Deputy Association. Years ago they presented really good information, according to the County, of what the liability would be for Washoe County. In 2004, 2005 and 2006, Washoe County put a price tag of \$125 million on the Sheriff Deputies Association for the heart and lung

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liability. Yet when there was proven data given to their organization by Washoe County Risk Management, it showed that over a period of twenty years their output was over \$2 million – not the amount of money they were expressing they needed to put away. That \$2 million cost for a 20-year period for heart and lung claims was much different than cost what was told to them at the negotiations table. The documents provided by Washoe County supported their contention that it was not breaking the bank. It was not necessary to put away that amount of dollars. The actuarial reports differ repeatedly depending on who you ask. Mr. Dreher has talked to members of this Subcommittee about this study and what you are trying to accomplish. In reading what the Legislative Commission put in this regulation today, he is not sure it is going to accomplish anything different than what they have set out to do for years. The actuarial data has been there. In summary, he would like to echo the comments of his colleagues in Southern Nevada.

Chairman Sherman stated that he honestly appreciates Mr. McAllister, Mr. Collins and Mr. Dreher coming forward and being very frank with this Subcommittee. He takes exception to this being on a fast track. We have been working on the concept of this regulation for many years. Mr. McAllister has given testimony at some of our Subcommittee meetings. Chairman Sherman has always encouraged all parties to come to the table to discuss this proposed regulation. He hears their concerns. Chairman Sherman stated local governments do have an obligation for these workers' compensation benefits that are specific to public safety employees. We are not trying to debate the merits of those obligations. What we are trying to do is bring structure to the actuarial analysis that determines what those obligations translate into financially. The Subcommittee had long discussions about what specific parameters to put around these actuarial studies to make them consistent with one another, understanding that any actuarial study has certain assumptions built in. We agreed to competence levels of 50% and 75% -- a 50% probability that a series of events will occur on one side and a 75% probability that a series of events will occur on the other side to get a range of values. These values are projections. When you live through them, they will come out different. But it gives the local government employers an understanding of what those costs might be. They can then plan for that likelihood and have the resources in hand to pay for those obligations. Chairman Sherman does not know if we can ultimately address all of their concerns. This is much like when the Committee on Local Government Finance developed regulations on post-employment retiree health benefits to be better able to develop reserves and plan to meet those obligations. One may look at this regulation in that same way. As to whether or not it is ultimately successful, clearly the point has been made that it is the Legislative Commission that will do so. The Committee on Local Government Finance has an obligation to respond to Speaker Kirkpatrick's request that we review this regulation based on testimony at the Legislative Commission hearing and provide input on how this proposed regulation could be changed to meet those suggestions. We would then bring the regulation back before the Legislative Commission. Whether we are personally in favor or opposed to any particular language or intent, we still have an obligation to meet Speaker Kirkpatrick's request.

Member Kohn-Cole stated for the record that she has always questioned the validity of the actuarial reports. The final results are so different. During the hearings she commented that they actually need to put the payments made by the local governments because when we compare what the future liabilities are versus what actually comes out-of-pocket, there are significant variances. She has concerns that in this legislation we would buy into the liability as if it was accurate. She is not sure if the language could be changed to state that we recognize these are future estimates. As an accountant, we know that these are estimates. There could be major differences between the actual results and the estimates. She is not sure this is the method we should be using to inform local governments of their obligation. The local governments should know they have this obligation. Most the large local governments know it because it is included in their footnotes. Most of the smaller entities are a part of PACT. Member Kohn-Cole asked Wayne Carlson if the smaller entities pay a separate premium for heart and lung.

Wayne Carlson responded that there is a separate code for post-employment heart and lung in order to accumulate the funding for the liability range given to them by their actuary. There is a wide range. Actuarial reports are always estimates for trying to project the future somewhat based on past experience. Also, in this

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particular case, the actuaries must look at demographic factors and the heart disease rates in the general population because there is not enough experience for the former employee component. There is some history on current employees. There are many different actuarial methods used. The actuary will tell them several methods that they use. The actuary will then choose from those various methods which one seems to best fit the data they are analyzing. It is a scientific approach. If the intent is to dismiss the actuarial profession as an unscientific process, and that they are grabbing numbers out air, is a mischaracterization of the purpose of the actuary. They are highly-skilled mathematicians. They look at many pictures and trends to get the best information they can. If PACT never did the study, they would not know what number to plug in. That would be speculative. Actuarial reports reduce speculation down to a reasonably valid estimate of future liability. It is the same thing that has been done for OPEB and for pension benefits. Actuaries are used in all of these cases to project future obligations so the organizations can have a means of knowing what they need to fund and come up with a funding plan. The intent of these regulations is to make sure the budget process requires that these actuarial studies assist in the ability to pay for these benefits. Without this, there would be an unfunded liability just like OPEB and pension unfunded liabilities. In his opinion, it is not good policy to subject the taxpayers to unfunded, unknown liabilities without any planning. There are several studies on California's OPEB liabilities. If California had to fully fund all of those obligations right now, most of them would be bankrupt. When the obligations come due, you have to pay for them, whether you have funded for it in advance or not. Pay-as-you-go is not a good solution for certain kinds of things. This is not an end run around any other legislative efforts regarding the obligation. This recognizes the obligation. It is expect to be funded, and the public should know they are funding for it. If they are not funding for it, the public should know that, too. This has been a long effort to obtain reasonable accuracy.

Member Kohn-Cole stated she was not intending to say there is not a scientific methodology for actuarial studies. However, the methodology is based on assumptions that are provided. Sometimes those assumptions change. On this Subcommittee, all along, she felt the purpose was a disclosure. It was never her intent to want to take away any benefits. This is an obligation, not a benefit that we, as citizens, have to the public safety officers.

Chairman Sherman stated he is very pleased that we are having a public policy debate regarding this. We have been working on this for a number of years. We have drilled down into the detail but never had a dialog about the public policy issues surrounding this particular regulation. Chairman Sherman recognizes there is a tension between the workers' compensation obligations that are due to the public safety employees and the obligation of the public employers to have the financial resources to pay those. This tension comes to the forefront when a local government is experiencing financial stress. When the obligations are in law and part of public policy, there is a reason for this that is unique to the public safety employee sector. Chairman Sherman does not have any issue with this, in general. He believes if the local governments do have an obligation to pay these claims, they should plan for them financially. Everyone should be clear as to the cost just as we are clear on other benefit issues. This Subcommittee and the Committee on Local Government Finance has an obligation to respond to Speaker Kirkpatrick's request. Chairman Sherman is not sure if there is any other language that we could put in this proposed regulation and the changes we discussed today that would mitigate these concerns. Chairman Sherman asked for further comments, suggestions and concerns.

Rusty McAllister stated it was obvious these regulations are going to be moved forward anyway. He understands the commitment that something must be brought back to Speaker Kirkpatrick. His first experience with these issues was in 1999 when Mr. Carlson and several others lead the charge to take away these benefits. It has been a constant battle for over 20 years, and there is contention. The insurers would like to get rid of the benefits. As public safety employees who rely upon these benefits, they would like to keep them. They believe this is an effort in a roundabout fashion to try to limit or take away these benefits. These long-term obligations have been put onto the financial reports in a way that is not accurate and very over-exaggerated. When they go to the bargaining table, this will be put in their face to say, "Look, this is what your benefits cost!" even though it is not accurate. Since they do not have any way to dispute this, it will be used as

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a tool. Mr. Carlson, the insurance industry as a whole and the local governments do not want to provide these benefits for the public safety employees. If the benefits went away, these groups would be very happy. It increases profit for some and makes things better for others. Mr. McAllister thanked the Chairman for taking his comments.

Chris Collins thanked Chairman Sherman and the Subcommittee for their time and echoed support for the comments made by Mr. McAllister.

Ron Dreher echoed the same comments. He thanked the Subcommittee and stated he appreciated the debate. They have been doing this for a long time, and it is not going away. They will try to be at these meeting as much as possible to provide the Subcommittee and the full Committee the input it needs to stop the attack on their heart and lung benefits.

Chairman Sherman asked for additional comments or suggestions.

Member Kalt stated he would like to reiterate some of the comments that have been made. As a member of this Subcommittee, he believed the purpose of this was to provide structure to professional, technical actuaries and provide them a basis to do their analysis. We have discussed the confidence interval and what we need them to provide so we do get meaningful information. Ultimately, he believes it is the local governments' responsibility to set money aside to pay for these liabilities that they are going to incur and going to have to pay at some point in time. As the aging workforce and more public safety employees will be using these benefits, local governments need to have money in the bank to pay those bills. It is important that we understand what a number is, so we can set money aside and have the ability to pay the benefits earned by these folks. The information provided in this regulation lets us know we need to have the money to pay these costs. This is important. From his perspective, this is part of the intent of what this regulation seeks. The other elements are legislative issues that are outside the Committee on Local Government Finance and this Subcommittee.

Member Kohn-Cole stated that hearing the concerns, she does not feel she can support this legislation any more. She feels there is too much confusion on the number. A number of \$3 billion can panic someone, when the reality may be only \$100,000. Sometimes there is a huge variance. The larger local governments are already disclosing it. She does not support this regulation.

Chairman Sherman stated we need to bring this to some conclusion. We have an obligation not only to Speaker Kirkpatrick but to the full Committee that asked us to look at this once again. As a point of clarification, this is not legislation, it is regulation. However, it does have a requirement to go through a legislative process through the Legislative Commission. It does not impose upon local governments an additional financial statement reporting requirement. We have been trying to be very clear about that. There are already accounting standards that deal with workers' compensation obligations and how that information is reported in financial statements. That is not being changed or impacted in any way with this proposed regulation. Chairman Sherman is also of the opinion that the workers' compensation benefits for public safety employees, the benefits themselves, are not a matter for this Subcommittee or the Committee on Local Government Finance. That is not our jurisdiction. That is for another venue and for the Legislature to define and describe. The Committee on Local Government Finance, as a whole, does have an obligation and a responsibility to provide guidelines, regulations and oversight of local government financial operations. Chairman Sherman believes if we can better define the information coming out of these obligations, it is prudent to do so for good financial administration of local governments. Chairman Sherman then asked for a motion on the regulation.

Member Kalt moved to approve LCB File No. R010-13 as amended with the corrections we have talked about this morning in the various sections.

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Chairman Sherman made the second motion. He stated the public policy discussion we had today should be included in transmittal to the full Committee. Depending on the full Committee's view of this, if it goes forward, this information should be provided to the Legislative Commission.

Member Kalt added that it would be beneficial to have a timeline.

The motion passed 2:1, with Member Kohn-Cole opposed.

Chairman Sherman suggested this be transmitted to the full Committee which he believes meets in August, and hopefully there will be time to place this on the agenda.

Terry Rubald responded that the next step is to resubmit this to the Legislative Counsel Bureau (LCB) so they have a revised LCB file. Then we will put out a 30-day notice for possible adoption by the full Committee on Local Government Finance.

Chairman Sherman clarified that we may not be able to hear it in August, but there is hopefully a possibility.

Terry Rubald responded yes.

Chairman Sherman stated it would be nice to resolve this one way or another.

Terry Rubald stated she would make sure both a timeline and minutes are included in the packet to the full Committee.

Chairman Sherman thanked the Subcommittee members for sitting through, yet again, another hearing. Chairman Sherman stated he appreciated representatives from the public safety employee sector.

- 4. BRIEFING TO AND FROM THE SUBCOMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF**
  - a) Discussion of Matters Affecting Local Governments**
  - b) Schedule Date and Review Agenda Topics for the Next Meeting**

There was no discussion under this agenda item.

**5. Public Comment**

There was no public comment.

**6. Adjournment**

The Subcommittee was adjourned at 11:04 a.m.