

**DRAFT**  
**Minutes of the Meeting**  
**HEART-LUNG SUBCOMMITTEE**  
**OF**  
**COMMITTEE ON LOCAL GOVERNMENT FINANCE**  
**October 16, 2013**  
**9:30 a.m.**

The meeting was held at the Nevada State Legislative Building located at 401 South Carson Street, Room 3137, Carson City, Nevada, and video-conferenced to the Grant Sawyer State Office Building located at 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada.

**COMMITTEE MEMBERS PRESENT:**

John Sherman, Chairman  
Beth Kohn-Cole  
Alan Kalt

**COUNSEL TO COMMITTEE**

Melissa Flatley

**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>
Isabelle Beaumont-Fuenette	Carrara Nevada
John Pfeiffer	City of Las Vegas
Joanne Huston	City of North Las Vegas
Darlene Rosenberg	City of North Las Vegas
Matt Taylor	City of Reno
Dan Newell	City of Yerington
Karen Scott	Esmeralda County
Michael Yarter	NLVPOA
Carole Vilaro	Nevada Taxpayer's Association
Wayne Carlson	PACT
Ron Dreher	PORAN
Michael Sullivan	Town of Pahrump
Mary Solorzano	Washoe County

**1. Roll Call and Opening Remarks**

Chairman John Sherman called the meeting to order at 9:35 a.m. Member Kohn-Cole is present and Member Kalt is on the teleconference.

Warner Ambrose, Budget Analyst, Department of Taxation, asked if any other individuals on the teleconference would identify themselves. Matt Taylor, City of Reno, and Mary Solorzano, Washoe County, identified themselves. Mr. Ambrose gave instruction to the callers regarding muting their telephones.

Chairman John Sherman commented that this is a discussion about a permanent regulation we are working on as a successor to a temporary regulation that has been in place for about a year. It would appear there is no need for a radical overhaul or significant changes. We need only minor refinements to make sure we are getting the information that was deemed important by the Subcommittee and the full Committee. We had many, many meetings over a number of years.

**2. Public Comment**

Chairman Sherman asked if there was any public comment. There was none.

**3. For Possible Action: DISCUSSION AND CONSIDERATION OF REGULATORY MATTERS**  
**Proposed regulation concerning appropriate financial reporting and liability disclosure of health care and disability benefits required by NRS Chapter 617 for local government public safety employees, LCB File No. R010-13; addressing comments expressed at the workshop held on August 6, 2013.**

Terry Rubald, Deputy Executive Director, Department of Taxation, stated the primary discussion today might be connected with Section 10. Section 10 pertains to who is going to do the reporting. The way the current proposed permanent regulation is drafted states the governing body of a local government which employs a public safety employee who is subject to these benefits must file a report. Mr. Wayne Carlson is here today to discuss his proposal. We may need to bifurcate this into a couple of different groups for reporting purposes. Ms. Rubald stated she is onboard with this idea because the Department has been in charge of trying to produce a report. They have sent out some examples of the report, and there are some gaps in it. It would be helpful if they could direct organizations like PACT to submit their information. This has been done, but it is not in the regulation. The problem with this solution is whether the Department can direct a non-local government to report to them. That is the crux of the issue.

Chairman Sherman stated he understood that Terry Rubald had the Attorney General's Office look at this and provide insight as to whether this is a viable solution.

Terry Rubald stated that Mr. Carlson came up with the best solution so far. She will have him address this.

Wayne Carlson, Executive Director, Public Agency Compensation Trust (PACT), stated that PACT was formed through NRS 277, the local corporation act, and is a quasi-governmental agency. It has a broad authority to collect information from local governments. They are the source of information for their members.

Chairman Sherman stated he understands the NRS 277 piece because in Washoe County there were several entities that were created by these joint power authorities. The Truckee Meadows Water Authority and the Truckee River Flood Management Agency are two of these that comply with all the state laws and local government finance.

Member Kohn-Cole stated the other entity listed is LiCON. It is a quasi-governmental entity, too.

Wayne Carlson stated he was involved in helping LiCON get started in 1989. It is not a worker's comp provider or a self-insured group. It is a liability malpractice provider.

Chairman Sherman stated, in the process of getting the forms filled out for the last period, members of PACT were reporting to the Department of Taxation the total premium they paid to PACT. We know that premium includes more than just the heart-lung payment. We had the problem of to whom and in what form we get PACT members to report, and what do they report. One alternative would be to require local governments who are members of an association to ask their association headquarters to send them a copy of this, or require them to ask PACT to send the Department a copy. The onus is still on the local government to do that. He is not sure what benefit it is to ask for the annual fees paid from these members to PACT. We may be able to remove this requirement, and then ask PACT to send the report for their members.

Wayne Carlson stated either way would be fine with them. They could do a simple change in instructions for self-insured or private insured groups to not fill out Section 3. Right now it says skip Section 4 through 13. The rest of it comes from PACT. They filled out Form 33 on behalf of the organizations that had public safety.

Chairman Sherman stated this would have the benefit of cutting down on a lot of paper.

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Wayne Carlson responded that the organizations that do not have anything to do with public safety do not have to complete this form at all. PACT would report on all of their members. Only those that choose to go with a private insurer would not be within PACT. Right now, there are not any private insurers willing to write for worker's comp. They will write excess for self-insured.

Chairman Sherman stated one of the side benefits of requiring members of PACT be notified that they need to have PACT report is that they are on notice that the state, the Committee on Local Government Finance, is interested in this. This raises their level of awareness, rather than just saying that if you are a member of PACT, do not worry about it. Someone else will do it.

Terry Rubald clarified that because they are still required to fill out Form 33, even though it is only Sections 1 and 2, they are still engaged in the process.

Chairman Sherman responded that was correct.

Member Kalt asked if we would have PACT fill out the form and provide the information in the aggregate or fill out a form for each individual entity with their allocated cost or associated liability.

Chairman Sherman responded that PACT does not disaggregate their analysis. They report in the aggregate. It would be nice to have it from an individual agency, but from a policy perspective, we need to see the aggregate numbers.

Member Kalt asked if PACT would know the individual member's contribution.

Chairman Sherman stated that we could ask that; however, he understands that the assessment they levy on the members is for more than heart-lung. It includes many other types of claims.

Member Kohn-Cole stated if we get back to the information we really wanted to create with this form, it is really the future liability. We do not really need the contribution. She stated when we get this completed form from PACT, we need a list of members that are participating because if someone drops out, we would never know.

Chairman Sherman responded that was a good point.

Wayne Carlson stated PACT does it in the aggregate because there has been no actuarial credibility for an agency that has only five police officers. There are some agencies with one paid firefighter. It has to be done on the aggregate level. They can attach a list of the members. It is available on the insurance division's website under association's lists, but they can certainly provide their list.

Chairman Sherman stated we will adjust the reporting for those entities that belong to the public agencies, such as PACT, and we will have PACT report on those. PACT needs to list all the members it is reporting on. We might get a rogue agency that completes the form but is also a member of PACT. We could cross check these against the member list from PACT.

Wayne Carlson stated they have a classification that includes all of the risks of being a police officer or fire fighter. There is one rate for that. After the Supreme Court decision that established the post-employment liability as a risk for life, they created a separate code just for the post-employment piece so they could track that liability and see how it unfolded.

Chairman Sherman clarified that the current employee liability is an aggregate of heart-lung and other potential claims.

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Wayne Carlson answered yes, for current employees it is blended into the other rate. For post-employment only, they have it segregated.

Chairman Sherman asked if they accumulate their reserves in the same manner. He asked if they blend current potential claims for heart-lung and other potential claims separate from the reserves for post-employment.

Wayne Carlson answered that yes, in their financial statements, they show the post-employment piece as a separate item from other reserves and all other claims including heart-lung for current employees.

Chairman Sherman stated we have that issue with self-insurers, too. They say they have set up reserves but they are actually aggregate reserves. We will have to look at that separately from this.

Wayne Carlson stated from the actuaries report they get the reserves that are related to heart-lung. Form 33 is strictly for heart-lung, current and post-employment. That is all – nothing else.

Chairman Sherman stated that he understood that. That is what we intended it to be, but we feel that some of them got blended.

Wayne Carlson responded that he does not know what was in the other's reports. In his report, it is segregated out.

Chairman Sherman asked if we had a fix on Section 10, bifurcated into self-insurers and those that are insured through public agencies. If it is the latter, then the agencies need to request that PACT report on their behalf. He asked Terry Rubald to compose a form letter. When the public agency replies on the local government's behalf, they also have to include the list of agencies that participate in their program.

Member Kohn-Cole asked if we were eliminating Section 3.

Chairman Sherman responded that those that belong to PACT would only fill out Section 1 and 2.

Terry Rubald asked Melissa Flatley, Deputy Attorney General, if we can direct a quasi-governmental agency such as PACT.

Melissa Flatley responded that she had previously only looked at whether the private insurers were subject to the regulation. She is not sure about a quasi-governmental group, but the responsibility is on the local government. If they report through PACT, the information is still being provided by the local government and you are still getting the information you want.

Chairman Sherman suggested that we should be safe with this and require the local government that belongs to PACT to direct their PACT to report on their behalf. It is still the local government's requirement. What we do not want is many different reports from PACT.

Member Kalt clarified that PACT members do not complete Section 3 that shows what their contributions were during that period of time.

Chairman Sherman responded that was correct. It is an erroneous number.

Wayne Carlson commented that the only private insurers writing now are writing excess. The local governments are reporting their claims, if they are individually self-insured with excess, and they are reporting their liabilities, probably net. The retentions on most of the excess policies exceed most of the reserves. You

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are not likely to get any excess recovery from all of those carriers, including our own. You are still getting the information from the local government so Mr. Carlson does not believe it is needed from the excess insurers. A private insurer would occur if PACT were to close its doors or to kick a member out. The entity's only alternative, other than individual self-insurance, would be to go to Assigned Risk, which is a private market. That private market would have that risk/entity. It would get randomly assigned around depending on market volume.

Chairman Sherman clarified that it is not necessary to have this in there.

Wayne Carlson responded that it is probably not necessary. If you do not have the regulatory authority to get it from the private insurers in the manner you can get it from PACT, you are probably not going to be able to get it.

Chairman Sherman recalls private insurer was included just in case.

Wayne Carlson stated if we did not want to separate that because it was not within our legal purview to get it from the private insured, we have probably accomplished that by stating in Section 1 and 2 that the local governments have to provide the information. If the local governments put down private insurer, it would be up to them to get it. The Commissioner of Insurance has the authority to get it.

Chairman Sherman suggested adding to Section 2 "if you have another insurer such as a private insurer, ask them to provide the report." Chairman Sherman asked Mr. Carlson about the information from PERS. Churchill County looked into that. He does not know if the others, particularly the self-insured, have had any trouble getting information sufficient to come up with the data for the rural analysis.

Wayne Carlson responded they were able to get the information when they did their second study six years ago. They are trying to update their study. They have a limited list which covers some of the things. The most important missing piece is the post-employment information. That is still a risk that PACT has. The individual member has access to the PERS data. PERS would not provide it to Churchill County on its own request. They do not need names for actuarial purposes. There is the possibility of duplication if they do not have them. They need gender, spouse and dependent information, date of birth, employment dates and date of termination. They know that some employees will leave the workforce and not go work for another agency. They will fully retire. That is still their risk. Some will go to another agency that is in an individual self-insured category. Some will go to another agency that is still within PACT. They may get some of those that moved within PACT if they can get information on current employees. PERS was able to provide some but not all of this information. For those that completely retired or completely left the workforce and went to another occupation but still have eligibility under the statute, they need to know if they are still there in the data. Otherwise, they cannot project that.

Chairman Sherman asked Terry Rubald if the Department has had any interaction with PERS regarding this.

Terry Rubald responded no, but they need to.

Chairman Sherman stated that it was part of a legal controversy now regarding what PERS is authorized under law to release. He asked if this regulation would be going to the full Committee next month.

Terry Rubald answered that they posted the 30-day hearing notice yesterday in time for the November 15<sup>th</sup> meeting. This regulation must go back to LCB for one last review of these changes. They may not be able to get the review done before the meeting, and may have to withdraw the regulation from the November 15<sup>th</sup> meeting.

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Chairman Sherman stated it might be of benefit to sit down with some PERS representatives and go over this from the Committee's and the Department's perspective of doing an accurate analysis.

Wayne Carlson responded that PERS felt they were authorized to release names, date of birth, date of hire, and date of termination but nothing else.

Member Kalt stated, working with Wayne Carlson, they wanted to have Churchill County request the data through the PERS system so when all the other entities of PACT requested it, the bugs would have already been worked out. He would be willing to sit down with PERS to find out what they can do for this specific study. They need the retiree data and the ability to cross check to make sure they have picked up all people that have this potential liability in the future. The actuary needs this information to get a real number. The goal was to have Churchill County be the test case.

Chairman Sherman stated it would be best to meet with PERS informally rather than through the subcommittee. In speculation, for a way around this, it may require some additional work, either regulatory or statutory. When we were working on the OPEB issue, we had to have a lot of interaction with PERS in terms of crafting the final legislation and regulations. Let's continue forward with the regulation without trying to address this issue.

Terry Rubald stated Wayne Carlson had some wordsmithing suggestions in Section 13. Under 13(a) where it says how the compensation of medical benefits are funded, remove the word "other" where it says "any *other* private insurance plan." Under (c), the request was to clarify the meaning of "separately reported" and whether this means 1) currently active eligible persons and 2) former employees or inactive/retired eligible persons.

Terry Rubald stated there was also a request under Section 14 to delete Subsection 1.

Chairman Sherman stated we will modify Form 33. Chairman Sherman further discussed Form 33. When this does go to PACT, the form for PACT should also include a requirement that they list their participating members. He does not want to create another form, but this must be captured. Maybe it could be included in the cover letter. This requirement will be in the regulation.

Chairman Sherman mentioned in Section 12(f) there is a concern as to whether or not the amounts reported are just for heart-lung, particularly from the self-insured, and also the PACT on the current portion of their reserves. Maybe under Section 12 where it says reserves, parenthetically, we can note (for heart-lung liabilities only). As a backup, maybe we could include a check box for 12(f) and a notation "if the reported reserves include more than just heart-lung, check this box."

Member Kohn-Cole commented that the problem we have with some of these self-insured programs include reserves for worker's comp in total and do not track. She believes if we request they check the box, it would be helpful.

Member Kohn-Cole clarified that we will modify the regulations in Section 14. When we remove (1), will we add that PACT must submit a list of members?

Chairman Sherman responded that we do not want to direct PACT. We want to direct the members to do that. He suggested the language "these members shall require their association to maintain a membership list and provide it with the report."

Member Kalt stated he was in agreement with this.

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Carole Vilardo, Nevada Taxpayer's Association, commented on Section 10. It talks about having the form submitted with the tentative budget. In prior discussions we have had, we also discussed having it appear as a footnote or a separate page within the budget document. She would like to know if this is off the table. If so, it then becomes very important how the information is posted on the Department of Taxation website, such as where it would be posted. Within that posting, when information comes in from this, the list of names submitted should be on there. We have had prior discussions that it would be in the budget document and there would be a statement if it was reported in the aggregate through PACT. She did not hear any discussion during this meeting about what we are doing with the budget documents relative to identifying the information or where the information could be found.

Chairman Sherman stated we require it to be reported with the tentative budget. It is part of the budget package.

Terry Rubald responded that Form 33 is part of the budget package. Although it is not on the website now because of the problem producing this first report, presumably now that we have solved this problem, we will be able to put it up on our website.

Carole Vilardo asked if Form 33 was going to be part of the budget documents because some of the locals put their tentative budgets on their websites for the hearings.

Terry Rubald responded that the reason the form is entitled Form 33 is because there are at least that many forms that are part of the tentative budget.

Chairman Sherman asked if Form 33 was part of the tentative budget and not separate from it.

Terry Rubald responded that Form 33 was part of the tentative budget.

Carole Vilardo stated if it is acknowledged that it is part of the budget, she is fine with it. She asked if the names would be posted on the Department's website with the PACT reports as well as the liability information.

Terry Rubald responded that we will have a full report for both self-insured and PACT insured.

Chairman Sherman replied that this is a requirement of the regulation.

Member Kalt stated his organization, Churchill County, completes only Section 1 and Section 2 of Form 33 since they are a member of the association of self-insured. They would not have the aggregate PACT data listed on their form. He asked Carole Vilardo if she would like to see his PACT's aggregate data on his entity's report as part of their budget document.

Carole Vilardo stated no, but if she looks at a budget document, she has no way of knowing, without some sort of footnote, where that information is. She does not necessarily need the aggregate of PACT. She would like to be able to know that Form 33 was submitted. If Form 33 is posted on the Department of Taxation website, she is fine with that. She thanked all of those that worked on this.

Chairman Sherman expressed his appreciation to the Department of Taxation, Terry Rubald and staff for their efforts.

Member Kalt moved to submit this regulation to the full Committee as revised, based on the discussion today. There was a second from Member Kohn-Cole. The motion passed.

**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**

Terry Rubald stated she did not have any matters under this agenda item unless the Chairman wished to schedule another Subcommittee meeting.

Chairman Sherman mentioned that there will be a full CLGF Committee meeting next month, which will be noticed shortly. This regulation could be on the agenda if it comes back from LCB.

**5. Public Comment**

Member Kalt thanked the Department and the Chairman for letting him participate over the telephone. With his auditors being there, it was helpful and saved him two hours in travel.

Chairman Sherman stated it was good that we had this communication ability. He thanked Member Kalt for his participation. He stated Member Kalt provided a lot of good insight from being a member of PACT.

**6. Adjournment**

The meeting was adjourned at 10:27 a.m.