MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS
SUBCOMMITTEE

Seventy-Third Session
May 10, 2005

The Committee on Government Affairs Subcommittee was called to order at 5:16 p.m., on Tuesday, May 10, 2005. Chairwoman Peggy Pierce presided in Room 3143 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

SUBCOMMITTEE MEMBERS PRESENT:

Ms. Peggy Pierce, Chairwoman
Mr. Tom Grady
Ms. Bonnie Parnell

SUBCOMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman David Parks, Assembly District 41, Clark County
Assemblywoman Kathy McClain, Assembly District No. 15, Clark County
Assemblywoman Ellen Koivisto, Assembly District No. 14, Clark County
Assemblyman Pete Goicoechea, Assembly District No. 35, Pershing, Eureka, White Pine, Churchill (part), Humboldt (part), Lander (part), and Washoe (part)
Assemblyman John Carpenter, Assembly District No. 33, Elko, and Humboldt (part)
Assemblyman Joe Hardy, Assembly District No 20, Clark County

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Susan Scholley, Committee Policy Analyst
Nancy Haywood, Committee Attaché

OTHERS PRESENT:

Gary Wolff, Business Agent, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada
Ron Dreher, Legislative Advocate, representing Peace Officers Research Association of Nevada
Woody Thorne, Executive Officer, Public Employees' Benefits Program of Nevada (PEBP)
Roger Maillard, President, Retiree Chapter, State of Nevada Employees Association/AFSCME Local 4041, Carson City, Nevada
Jim Richardson, Legislative Advocate, representing Nevada Faculty Alliance
Marty Bibb, Executive Director, Retired Public Employees of Nevada

Chairwoman Pierce:
[Meeting called to order and roll called.] We have two proposed amendments to S.B. 479. The first one is going to be addressed by Assemblyman Grady.

Senate Bill 479: Makes various changes to provisions governing Public Employees' Benefits Program. (BDR 23-609)

Assemblyman Tom Grady, Assembly District No. 38, Lyon, Storey, Carson City (part), Churchill (part):
I would like to touch on a proposed amendment (Exhibit B) to S.B. 479, amending Sections 3 and 4. It would amend Section 3, page 5, by deleting lines 14 and 15, and inserting NRS [*Nevada Revised Statutes*] 287.0475: "1. A public officer or employee who has retired pursuant to..." It would amend Section 4, page 6, by deleting lines 14 and 15, and inserting "employees, and all retired state officers or employees..." striking "or any combination thereof," and inserting "who served in the same positions as the active state officers or employees who are members of the group that participate in the Program may leave the Program..." and then it continues.

I would further recommend that we amend Section 4, page 6, line 34, by deleting (5) and reinserting (4), amend Section 4, page 7, by deleting lines 5 through 7, amend Section 4, page 7, line 8, by deleting 5 and inserting 4, and amend Section 4, page 7, line 10, by deleting "program and," and inserting new language: "Program and conditions and procedures for reentry into the Program by those participants; and," then continue with the balance of it.

[Assemblyman Grady, continued.] I feel very strongly that if a person leaves with a group and then transfers to another division or job within the State—and is not continuing with the original group's affiliated job—or if they are still employed by the State, they should be able to come back into the State insurance. If they are no longer a member of the union or if they decide they want to come back into the State insurance, I feel they should have that prerogative.

Gary Wolff, Business Agent, International Brotherhood of Teamsters Local No. 14, Las Vegas, Nevada:
I fully concur with Assemblyman Grady that people should be allowed reentry. There are too many factors that could be presented in a career life of an employee through no fault of his own. He should be allowed to come back in.

The amendment we proposed (Exhibit B) is much simpler. I have no problem with Assemblyman Grady's amendments until we get to Section 4. The reason we are asking for the word change from "may" to "must" is because a year ago, when we submitted our application to leave, the law was very clear. It says, "Unless we impact the system by 5 percent..." I am talking about Section 4, subsection 1(b), line 21. We are asking to change the word from "may" to "must." On Section 4, subsection 2, line 28, we want the same change—the word "may" to "must."

At a meeting in December of 2004, Aon consultants did the numbers, which we agreed to. They stated that even if we were a superhuman group, we would not impact this system at greater than 0.5 percent. They came up with a $3 figure, and they said that it didn't matter if it cost the employees $10; we weren't getting out. It was that simple. The law says 5 percent, and that is where we have this huge problem. A year later we came in again, and they magically came up with a number of 5.6 percent. We have a law firm in Las Vegas, and one of their top attorneys was in this meeting. That led us to want something about a judicial review included in the bill.

The problem we have right now is that they are not held accountable for anything. They do what they want to do over there. They crunch the numbers so that we don't have the ability to ask for a hearing officer, a judicial review, or anyone to review what they do with the numbers. We have no method within the system to dispute what they say, and that is a huge problem when you are dealing in a system of this magnitude.

The law is clear. It says that if we don't impact the system by more than 5 percent, we are supposed to be allowed to leave. In the Legislative

Commission that was reiterated, and Mr. [Woody] Thorne and the PEBP [Public Employees' Benefits Program] people were told that it seemed they had no intention of allowing anyone to leave the program. That is why we want to change the word "may" to "must."

[Gary Wolff, continued.] We need some kind of review process added to Section 5; a hearing officer would be fine. We have asked to remove the current language with respect to any dispute arising out of Section 4—between the opt-out group and the Public Employees' Benefits Program—being subject to judicial review. We would be okay with adding "or State hearing officer." We must have some kind of safety net in this system. We don't want to have happen what happened in 1999, which created this whole debacle, where you lost $26 million. To this day, no one in this room knows where that money went. On top of that, the State had to put in $18 million to bail the system out. You might disagree with me on the "must" or "may," but if they would follow the law, the "may" would be fine. We left "may" in there because we thought this group would be reasonable and follow the law where it says 5 percent, but that was ignored even when it was 0.5 percent. We also want to include the judicial review or hearing officer and fully agree with the change regarding not ever getting back in.

Ron Dreher, Legislative Advocate, representing Peace Officers Research Association of Nevada:
We stand in opposition to the bill as written. We are in support of the amendments that Assemblyman Grady and Mr. Wolff have submitted. I think you can look at the judicial review and hearing officer as ways of resolving a problem. There is also binding arbitration that resolves a problem. If you have a judicial review setting, you might want to add that the cost of any review would be borne by the parties equally, and/or if you have a hearing officer, as that deals with the cost, both parties can pay their fair share. As far as putting "may" to "must," that is important, because if you leave it subjective as to "may," then there is no alternative way of problem-solving in this particular bill. You need teeth in this particular bill to take care of the problems as Gary has portrayed over the years and as have continuously arisen over this issue with PEBP.

Assemblywoman Parnell:
I am surprised that we don't have more IFC [Interim Finance Committee] oversight; I would like to see that added to this bill. Perhaps we might want to look at, if a group wants to leave, and they have presented their case, then at some point in time, that case has to be presented to IFC for IFC to make the decision that it is sound, financially secure, and that this is something that should, at that time, be accepted or rejected.

Ron Dreher:
I agree. You have to make sure that if a group is going to leave, where they are going is going to be fiscally sound and responsible for taking care of those 300 people if they do leave.

Woody Thorne, Executive Officer, Public Employees Benefit Program of Nevada (PEBP):
I want to clarify my understanding of Mr. Grady's amendment, which is to establish procedures for a group that has left to come back in when there is catastrophe or change in circumstances. Am I hearing that correctly?

Assemblyman Grady:
If the group is insolvent, or if an employee changes his job classification, he or she would have the right to come back into the program, if that other insurance was not available to them. Yes, we need to take care of our State employees. If an employee changes his job classification, where he is no longer in the position he held when he left with the group, he or she would have the right to come back into the program if the original group's insurance was not available to them.

Assemblywoman Parnell:
What I am going to read are conceptual amendments; legal language has not been added to these suggested changes. These will clarify the intent. Everyone has been very concerned, and Mr. Thorne, you have heard me talk about this for the past five years. All of a sudden, in one year, a specific group spikes in their rates. We have never been able to have a consistent, predictable increase. We all expect an increase in our health care costs. I think the average runs about 14 to 15 percent. When we see a 15 percent increase, we are okay with it, because it's a national average, and we understand the high cost of health care.

But when a group gets selected out of a huge pool and receives—as a group did this year—a 600 percent increase, the inconsistency is one of the reasons we are here today. I think it's time that we look at how to create a program so we can have some consistency from year to year, and we don't need to be upset with the program. [Assemblywoman Parnell read from Exhibit C, which is incorporated herein.]

We feel those conceptual amendments will really begin to create a system that is stable. The stabilized rates are what we are all looking for, and at the same time, certainly recognize that primary coverage and payment in claims for that

coverage is very different from what we would pay out for those where the State system is being used as their secondary provider.

Woody Thorne:
In the first proposed amendment, "limit participant share increases to a particular index, no more than...," recognize that there would have to be some mechanism to allow the State to pick up whatever additional costs are and require that the State pick that up through its subsidy. Otherwise, you are just going to deplete the funds within the program. As far as the second item, creating an account—the rainy day fund—for excess reserves, I don't think that will meet the federal rules on the amount of cash that you can maintain on hand. That money initially has been collected, on a subsidy portion, from all sources of funds for the State. That includes federal money, grant money, et cetera. If we have already collected it, and there is a limitation on what they will allow us to hold by formula, then, unless we can come to an agreement with them that they will allow us to hold it, they wouldn't allow us to transfer it into another fund as a way to get around that, I don't believe. Your Fiscal and Legal staff will be better able to address that.

Assemblyman Grady:
When you said "them," who were you referring to?

Woody Thorne:
It is a federal rule.

Assemblyman Grady:
What do you now do with the excess funds that you have over the reserves that are required?

Woody Thorne:
In the current budget that we submitted, we are applying more subsidies toward the active employee rates than we are currently receiving through the next biennium. We are adding surplus to that to come up with the subsidy that is showing in our rate tables. We are drawing down that excess surplus. The initial notification that we received was in January, as they were doing the calculations for June 30, 2004. Once it's been noticed, then you have two years to correct it. By the time we get through the biennium, we would have drawn that back down to a more normal level.

The other aspect is that you can negotiate a level that may be higher then allowed, and I believe it is 60 days of cash needs that they will allow you to hold. We believe we can maintain adequate reserves for IBNR [incurred but not reported] and catastrophic reserves for the stabilization that Assemblywoman

Parnell was talking about with about 75 days. If we can get an agreement with the federal government, we can hold that much money without it being a problem.

Assemblyman Grady:
Who makes that determination?

Woody Thorne:
It goes through the Department of Administration in their overall negotiations on administrative allowances under the federal funds that we receive.

Assemblywoman Parnell:
When I refer to the 15 percent average, if you are with Anthem-Blue Cross or any of the national programs, why are they all able to find a level playing field where you have a predictable increase coming? We never have been able to find that since 1999, when the board was formed. What different dynamics do we have that any other pool doesn't seem to have?

Woody Thorne:
Starting in 1999, you were trying to dig out of a hole. The claims hole was already there. As we went through that biennium to the 2001 Session, there were actually continuing problems that weren't recognized with the then-TPA [third-party administrators], which created another problem. They thought things were in good financial shape. In mid-2001, when we came on board after the legislative session, the subsidy amount had been reduced based on what was thought to be good financial numbers, then compounded by a series of extremely high large claims, both in number and size of the claims. We ended up in a special session in 2002.

In 2003, we were looking at a change in the commingling requirements to select something in the statute having to do with how many pools we have. That created a single commingled pool for actives and retirees in the State, and another pool for the actives and retirees in the non-State.

In 2005, we implemented new predictive modeling to set rates. This is used by the federal government and Medicare in setting of the rates for Medicare. It is more accurate, but instead of what you would expect from a traditional tier structure—meaning single employee and spouse, employee and children, employee and family, which had been used for many years in traditional underwriting—we discovered, based on our population and demographics, we had a much higher claims rate with our employee and spouse category. When we look at our older population, where our employees and spouses are older and have more chronic illnesses, these costs are a lot more. The category where the

employee, spouse, and children are younger and healthier resulted in an increase in the distribution.

[Woody Thorne, continued.] We saw a relatively stable increase in leveling of costs in 2003, 2004, and into 2005. That has happened as a result of the changes we made in coverage and in the cost of the program. We have implemented much better control over our vendors, particularly the TPA. We now have quarterly audits; we know that the claims are being paid, and we know that we only have a week's to a maximum of ten days' worth of claims in the process that have been received.

Since the 2001 Legislative Session, we have been working to implement the commingling requirement. In July 1, 2004, we were able to create a mechanism to standardize costs. You now have true standardization of coverage and costs across all individuals, whether they are active, early retiree, or Medicare retiree.

When we look at the coordination of benefits and how that is handled, it is done regardless of whether or not it is Medicare or active that has family coverage and purchasing dual coverage. This mechanism applies across the board with the coordination of benefits. Maintenance of benefits is much more common in the private sector, and we have seen fewer companies in the private sector offering retiree benefits. Over the last several years, we have moved toward a more stable process for 2006 to have more predictability in both the costs and rate structure.

Assemblyman Parnell:
In 1999, the payment of the claims was a problem. I applaud you for fixing that issue.

Assemblyman Grady:
If you have dual insurance, and the State is paying 80 percent, and another insurance company is paying 20 percent, then you get to Medicare, who is paying 80 percent, and the State is paying 20 percent, where is this equal?

Woody Thorne:
If you have State-working parents who have children under both parents' policies, you then have a coordination of benefits. It is a relatively small segment of ours, because we have many of our families in that situation working for the State. One of the plans is primary for the children, and the other is secondary. Under maintenance of benefits, for coordination of benefits, these are the same rules that would apply to them that we would apply to another insurance carrier or to Medicare.

Assemblyman Grady:
If you have dual coverage, even if they are 50/50, and the Medicare coverage is 80 percent and State coverage is 20 percent, I don't see where it comes out equal.

Woody Thorne:
When we look at it from an equality of coverage, we are looking at the total benefit, regardless of who is paying the benefit. To use myself as an example, as I go through my career as an active non-Medicare retiree, and then a Medicare retiree, what makes a difference as we process through this is that I should have a different or better benefit because I have reached a Medicare age threshold.

If I am active or a non-Medicare retiree, I have an out-of-pocket expense; I then pay into the pool for the premium. Twenty percent of that cost, the out-of-pocket limit, is my expense. Then I become a Medicare retiree, pay a lower premium, and get a better benefit than my active or non-Medicare retiree counterparts. We want to provide everybody with the same maximum benefit and have everybody pay into the pool in the same manner.

Assemblyman Grady:
I don't think you do get the benefit, because you are paying the State, and you are also paying for Medicare coverage. You are paying two premiums and are paying the full amount on Medicare insurance.

Woody Thorne:
A State employee, hired before April 1, 1986, who worked for the State their entire career, leaves the State job by retiring, and then works for 10 years in the private sector, is not eligible for Medicare. You have an individual who has worked for the State, has more than 30 years of service—having spent his entire career at the State—and he retired. You are making him pay more for his coverage, both out-of-pocket and in premiums, than his counterparts who worked for some of those years in the private sector. How do we deal with that? This is the ultimate in pooling for insurance purposes. If you continue to break down components to the Medicare retiree, then why do we commingle the active and the early retiree? That's where we were when commingling was put into the statute in 2001. If there is a different way that the Legislature wants that done, we need to put that into the statute so that we know how to administer it.

Assemblyman Grady:
I would say we don't have a pool, because we would all be in the same pool. You have State employees, non-State employees, State retirees, non-State retirees, and Medicare. You have five different divisions; you don't have a pool.

Assemblywoman Parnell:
What is the cost to the program for a Medicare participant with the same medical problem as a person who does not qualify for Medicare? It is costing you less if there is a claim filed. That is why I don't believe Medicare should be commingled. Will you explain to me how that claim payoff could possibly differ?

Woody Thorne:
With the person without Medicare, the plan would pay the maximum allowed. If Medicare paid on that, it would pay their share, and the participant would pay their 20 percent up to the out-of-pocket maximum.

Assemblywoman Parnell:
I want to know the cost to the program. By the time they file their Medicare claim and you come in with the percentage left, the cost to the State has to be less. That is where I see a big difference.

Woody Thorne:
Under the maintenance and benefits that we have, there would be a dramatically lower cost for the Medicare-covered recipient. If one client has a claim of $100,000 for an active participant or early retiree, how many participants do we have to have a zero cost for in order to pay that $100,000 claim? That is the concept of insurance. If we look at the total payout, nothing changes. It's a question of who pays what premium and who contributes what share.

As far as complying with the same provisions as any other insurance carrier, that will increase the cost to the program and is the reason you have most private employers of any size self-funding—that is, to get out from under those provisions and go under the rules of ERISA [Employment Retirement Income Security Act of 1974] or Taft-Hartley [Labor-Management Relations Act of 1947]. What you end up with is that the bulk of insurance written in the state is for small employers—those who can least afford it—because of all the mandates that have been put in.

You asked about commingling with other primary insurance carriers; that is what we have been discussing in the joint money committees. Whatever the Legislature wants we are here to administer, whatever is placed into the law. Prior to the board voting on the rates, when we look at the financial viability of

the program, it is the board's fiduciary responsibility to maintain the financial integrity of the program. Only in that way can we ensure that the program will have the funds necessary to pay the claims. I think the language that you are talking about would be a major restructuring of that and, basically, having the Legislature run the program, as opposed to the court. If that is what the Legislature intends, then that also would need a significant change to the statutes.

Assemblyman Grady:
You are running it now with a board. The people have nowhere to go, and when they call your office, they are told, "The Legislature makes the rules; contact them." I can show you emails that we are receiving because our constituents can't get answers from you. I think our frustration is that the people are being told by your employees to contact the legislators. Maybe if it went under the Insurance Commissioner, your people could say, "If we are having a problem, contact the Insurance Commissioner."

Woody Thorne:
If you could provide me with specifics about one of my employees providing that kind of response, I will deal with that internally, because that is totally inappropriate.

Assemblywoman Kathy McClain, Assembly District No. 15, Clark County:
I am co-chair for the General Government Budget Subcommittee, and we have spent a lot of time looking at this. We are very concerned about the Medicare retirees. I have not gotten the answer as to why we have to commingle the retirees and actives together. I am under the impression that we should change the law to say we can treat Medicare participants differently. Medicare is the primary insurance for these retirees; it does not cost the State as much money in claims as it would for a non-Medicare retiree. My whole argument is that you cannot use the claims experience for a Medicare retiree the same as a non-Medicare retiree, because hospitals and doctors are paid through Medicare. There is a huge amount that never comes out of the claims that the State pays. The only things that should be commingled for the two separate retiree groups are vision, dental, and prescription drug coverage. I feel we should un-commingle the Medicare people. We need to stay with the maintenance of benefits.

We have had many problems with PEBP for years. Until we can get it stabilized, we need to have some IFC oversight on this. By the time the board makes its recommendations and votes on it, it is too late for any of the budget committees to do anything about it. We are pushing staff to the limit on trying to get the budget resolved, but we are going to fix the Medicare retirees this

session. From this point on, we really need to do something about IFC oversight, our ongoing legislative oversight committee.

Roger Maillard, President, Retiree Chapter, State of Nevada Employees Association/AFSCME Local 4041, Carson City, Nevada:
Amendments 1 and 2 we fully agree with, but I am concerned about the word "stabilized." I am in favor of requiring the board of the Public Employees Benefits Program to comply with the same provisions as other insurance companies. I will give you an example that we are facing right now. If you think the phones are ringing off the hook because of commingling, wait until the retirees who don't know this find out about Medicare carve-out. That is being implemented in this program beginning July 1, 2005. The carve-out is a hit on retirees, and if it were a private insurer that we had our policy with, they are not allowed to carve out. I approve of the idea of it coming underneath the Insurance Commissioner.

Prohibit PEBP from commingling the claims and experience of persons who have their primary coverage with PEBP. If you separate the Medicare people out of the pool right now, they would get a lower rate, but I urge a word of caution on that, because the lower rates may only be temporary. Prior notification on rates, I think, is a good idea. When it comes to carve-out, they have no warning on the enrollment forms, it doesn't say a word about carve-out. When they get the SPD [system plan document] that describes the plan, and they see carve-out, you will get phone calls.

Gary Wolff:
I gave you a letter with the Teamsters' proposed amendments (Exhibit B). I am glad that Assemblywoman McClain is here, because when we appeared before the General Government Budget Subcommittee, we had a huge problem with this. Although I agree with Assemblywoman Parnell, I would like to see some factor of a composite rate introduced to take care of our employees with families. We asked for a legal opinion from LCB [Legislative Counsel Bureau] of how they are dispersing subsidies within the state, and we have not received the information back from them.

If you look at the chart from July 2004 to June 2005 and you look up an active employee, the State rate for that employee is $453.21. They apply a State subsidy of $448.68, and on top of that, they require the employee to pay $4.53. Under Nevada law, that employee is entitled to $558.00 through this program. For the employee and spouse, the rate is $1,051.86, and they are applying a subsidy of $931.22. Under NRS 287.044, it states, "If a State officer or employee chooses to cover his dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and

NRS 287.0477"—and those exemptions are for deceased police officers—it says, "he must"—which is mandatory—"pay the difference between the current amount of the premium or contribution for the coverage for himself and his dependents and the amount paid by the participating state agency…" State law prohibits subsidies. We have asked for this legal opinion, and we have not seen it yet. We may find some loopholes when you created this board of what the authority is. If you have done so, you need to change it, because our attorneys think they are out of compliance and breaking state law by doing this. They are giving a greater subsidy to an employer and spouse then they give to the active State employee.

[Gary Wolff, continued.] They now come to you and want to lower this subsidy rate. If you add on the $4.53 and subtract the $448, they have built a $22 million surplus on the back of State employees by not buying them the insurance that they are required to buy. What they have done is manipulated this entire program. Assemblywoman Parnell asked for a subsidy, but they can't do it by lowering the State contribution, because the last time you lowered the contribution, you had to come back in 2001 for a special session, and you had to pay $18 million. We adamantly oppose any reduction in the State subsidy.

Jim Richardson, Legislative Advocate, representing Nevada Faculty Alliance:
I think the Assembly Government Affairs Committee has made a major contribution to policy in this area. I would like to call your attention to the 72nd Legislative Session, where you spoke of the major difficulty with A.B. 286 of the 72nd Legislative Session, Assemblywoman Koivisto's bill. It required that local governments place retirees into the State health plan to subsidize them to the same extent that the State does, and that was a very important policy decision.

I take a straightforward view of what the problem is, and I agree with Assemblywoman McClain. This is a problem with one particular category. It's a small category with about 700 people with spouses on Medicare that are getting their rates increased. That would be 700 people who have served the state long and well. Some of them are being priced out of the market. I am hearing stories about people who retired a few years ago, and their whole PERS [Public Employees Retirement System] check is going to be gobbled up by these rate increases, and so basically, we are saying, "You don't need health insurance anymore, because you can't afford it, even though you served the State long and well."

The money committees do fix these problems, and I urge that this whole thing receive a lot of study. It's hard to fix something that has this many complications in two or three days. I have suggested an interim study and think

it should be a top priority to look at what's happening with this plan and decide what we want to do with it as a state. I would like to make some remarks about the plan that Assemblywoman Parnell has introduced.

[Jim Richardson, continued.] Number 1: a worthy goal, but the state subsidy must be there to pick up expenses if something major happens, so add a mechanism to protect the plan itself.

Number 2: I think you need legal advice on whether such a fund would meet federal regulations. This is a very worthy goal, and if the legal staff at LCB says you can do that legally, then I would be testifying and trying to retain some of the $47 million that the budget amendment is taking out of these funds, because the feds are saying we are oversubscribed. Senator Beers said that a portion of those funds are contributed by the participants; he used the figure 20 percent.

Number 3: I have some reservations about more oversight, but I am not sure this is the best way to do it. I am not sure it makes sense to suggest that the IFC or the Legislative Commission has to approve rate increases, because it complicates things immensely. I wonder about a reporting function, and if Assemblywoman Parnell might consider—with adequate notice given—that there would be a report given to IFC or the Legislative Commission and a publicly noticed meeting where the rates could be looked at. That leaves the authority in the hands of the PEBP board, and some of you are nervous about that because of things that keep happening. You did entrust the PEBP board with responsibilities, and I think they are sincerely trying to address those responsibilities. There might be a reporting function where some legislative body can look at these rates before they get finalized. Woody Thorne may tell you that this is impossible because of timelines, but I think, from Mr. Thorne's point of view, it would be better than having the Interim Finance Committee or the Legislative Commission actually approve the rates. A public discussion of them might serve a useful function.

Number 4: As to the notion of commingling, if it is the view of the PEBP board that they are bound by an opinion that is only three lines in a memo, and that we do require a change in statute, then I would certainly support this. We need a change in statute that makes it clear what your intent is, and that is to take into account those people who have a primary coverage like Medicare. It gets complicated because there may be a number of people who have spouses that participate and have primary coverage. You may want to mention Medicare coverage as opposed to the general term of "primary coverage." I would defer to your legal staff on how to best do that.

[Jim Richardson, continued.] When I chaired the Benefits Committee, it was made clear to me that we do things in this state in a more simplified fashion. There are benefit programs where the subsidy comes in as the amount that the State's General Fund would give for an active employee. We have some local government plans that subsidize by virtue of the category you fit in. In our state, we have decided to have two categories: one for retirees and one for actives. It was clear to me at the beginning that the amount given for actives was not only to furnish health care for the actives, but to help subsidize their family care, instead of doing it with a more complicated rate structure.

Through A.B. 286 of the 72nd Legislative Session, you say any public entities that are going to participate in the State plan have to agree to subsidize retirees to the same extent that we do. You have stuck with the two-category way of funding money into the plan, and then the PEBP Board has to decide how to expend the money and how to set up rate structures. I think that is the best place to leave it, but with a bit more transparency on what those rates are going to be in a given year, that might be useful.

Marty Bibb, Legislative Advocate, representing Retired Public Employees of Nevada:

The self-funded plan was created in 1983 as a result of a legislative study, but it wasn't an interim legislative study, because a group of legislators heard this issue during the session and then—before the session was over—passed legislation to create a self-funded program. After reviewing the 1983 legislative study, retirees were not to be considered as a separate cost entity in the program, but as a part of the group as a whole. That was one of the original intents of that study.

The issue of commingling was one that this Committee heard in 2001, and the reason was a financial crisis. Lawmakers and the public felt there was about $35 million in the form of plan reserves in the bank. That was true, but Mr. Thorne's predecessors weren't paying the claims. When everyone thought there was a great deal of money, the first thing that happened was that the Governor cut the subsidy for the plan, because it looked as if the plan was flush. We got into an issue where you have highs, lows, and you have either zero money in the bank or $43 million in the bank, then the next day you have forty-seven cents elsewhere, which was the case between February and March, 2005, in terms of plan reserves.

One of the issues that lead to the bill on commingling was of great concern to retirees, because the plan managers in 2001 had to take on commingling. That was particularly devastating for retirees. Their view was to take the State retirees and put them in the same pool as the non-State retirees and call it a

group. That is considered a "dead man's group," because you have no age range, no spreading of age and premium among the group, and that led to the commingling bill.

[Marty Bibb, continued.] I don't believe the issue of commingling is a black and white issue; I believe it is a gray issue. It's how the commingling is accomplished that makes a difference, because, as Assemblywoman McClain pointed out, what is presently commingled in this plan today are the things that PEBP offers that Medicare doesn't offer. In that instance, the Medicare retiree, the non-Medicare retiree, and the active all have PEBP as a primary payer for those types of plan benefits. Everyone shares, they are all paid in the same fashion, and I don't see that they shouldn't be commingled. At the same time, in regard to the parts that are not the same, the medical benefit—the 80 percent primary pay by Medicare—is different for Medicare retirees and anybody else. That is why we are in this situation today.

We are proposing eliminating the Medicare retiree category. That rate category builds into its rates for Medicare retirees the understanding that there is another primary payer besides this plan, and it adjusts those rates accordingly. In the anomaly, every year, some classes seem to be up, down, or affected differently in the plan year, but in this instance, you are talking about a Medicare retiree and spouse, who is a State employee, with an out-of-pocket of $78 a month going up to an out-of-pocket of $470 per month. That's a lot of money. If that person happens to be a non-State retiree, the issue is worse; we are going from a premium of $558 a month to $1270 per month. That's a difference of $600 or more. There are offsets in terms of a small credit for Medicare, but anyone asked to pay $600 more per month for health care premium is going to have a difficult time doing it. That is the reason we have such concern about this. I think the issue is stability.

We talked about it today in a PEBP board subcommittee meeting; we talked about it before the PEBP board several days ago. The issue is stability and trying to find some ways to take out the extreme highs and the extreme lows—to bring them to the middle—so we don't find ourselves here each time the Legislature meets. It is an important task, addressing the financial concern of trying to take the huge increases to some point that is more reasonable and may keep people in the plan. That is something that does need to be done. I agree with Dr. Richardson that it is going to take continuing legislative study to find out why we are where we are. What other states commingle? Which ones don't? How do they commingle? Do they give credit to their Medicare retirees for the fact that somebody else besides their plan is the major provider of benefits? I think those are questions that need to be addressed. We really do need to work collectively toward a stable system.

Assemblywoman McClain:
Since the law was changed in 1986 for public employees hired after a certain date, they are all going to qualify for Medicare. In the next 10 years, most of the retirees will have Medicare benefits. Eventually, the non-Medicare people will be phased out. At that point, it will be much easier to decide what benefits to offer. One of the things that Fiscal staff thinks we can do is to establish a rate-stabilization fund with some of the surplus money, and they think, maybe, the feds might approve. I think that IFC should be doing some oversight on this issue before rates are determined and sent to the PEBP board.

Marty Bibb:
We were asked a few years ago if we enjoyed coming here and debating this issue before the Assembly Government Affairs Committee, and I would have to say, "Not exactly." But, at least we have real people to deal with, as contrasted, in some instances, to insurance executives who may not have the same interest in the program as you do, because you are hearing from your constituents on a regular basis.

Assemblywoman Ellen Koivisto, Assembly District 14, Clark County:
I support the idea of rate stabilization; I think it is essential. As a participant in the plan and as a taxpayer for years, last year was the first tax return that I have ever filed where I had enough medical expenses that I could deduct them on my income tax.

Assemblyman John Carpenter, Assembly District No. 33, Elko and Humboldt (part):
We have to do something with the Medicare people. It's difficult to pay a $1200 premium per month and have any money left over to live on. There is a lot of merit in this, and I think that this Committee is going to be able to work something out.

Assemblyman Grady:
When Will Keating was the Executive Officer at PERS, he had an idea of putting a 1 percent fee toward helping retirees.

> ASSEMBLYWOMAN PARNELL MOVED TO RECOMMEND THAT THE ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS AMEND AND DO PASS SENATE BILL 479.
>
> ASSEMBLYMAN GRADY SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

Assemblyman Grady:
There was an interim committee to study insurance issues. I would like the Committee to write a letter to that group to meet and bring back something of substance.

Chairwoman Pierce:
The Subcommittee will suggest to the full Committee that a letter be written. [The meeting adjourned at 6:41 p.m.]

RESPECTFULLY SUBMITTED:

_____
Paul Partida
Transcribing Attaché

APPROVED BY:

_____
Assemblywoman Peggy Pierce, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Subcommittee on Government Affairs

Date: May 10, 2005 **Time of Meeting: 5:16 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A	********	Agenda
SB 479	B	Gary Wolff / Teamsters Local 14	Amendments
SB 479	C	Assemblywoman Parnell	Conceptual amendments