

Minutes

Nevada State Emergency Response Commission (SERC)

Policy and Legislative Committee Meeting

Thursday May 17, 2018 9:00 a.m.

Tele-Conference

Phone-in # 775-687-0999 Carson City
702-486-5260 Las Vegas
Participant's Collaboration Code: 47516#

Carson City

State Emergency Response Commission
107 Jacobsen Way, Room 51
Carson City, NV

Committee Members Present: Caleb Cage-Chair, Jon Bakkedahl, Richard Brenner, Bart Chambers, Matthew Griego
Committee Members Absent: Susan Crowley, Stacey Giomi, Dennis Nolan
Staff Present: Wendi Wyatt, Christina Wilson, Nathan Hastings

1. CALL TO ORDER

Mr. Cage called the meeting to order at 9:06 a.m.

2. ROLL, CONFIRM QUORUM AND INTRODUCTIONS

Members and staff introduced themselves as above. A quorum was present.

3. PUBLIC COMMENT

Mr. Cage asked for Public comment, there was none.

4. APPROVAL OF THE MEETING MINUTES FROM JANUARY 11, 2017

Mr. Brenner motioned to approve the January 11, 2017 minutes of the Policy and Legislative Committee meeting; Mr. Griego seconded. Motioned passed unanimously.

5. REVIEW DRAFT POLICY FOR UTILIZATION OF THE CONTINGENCY ACCOUNT FOR REIMBURSEMENT OF HAZARDOUS MATERIALS COSTS

Mr. Chambers updated the Committee that staff was still working on the draft policy. One of his concerns was that it will be in line with any county ordinances, or not making it less stringent on the county ordinances that are already in place. The staff has been provided a template for cost recovery and hopefully, we will have something within the next ten days to give to the Committee. Mr. Hastings stated that the reason this matter came to this Committee is that the full SERC had a discussion on Douglas County's request. Douglas County had framed their request in terms of requesting assistance by the Office of the Attorney General for obtaining recovery of cost under NRS 459.748 through 773 about the use of contingency account on responding to spills, accident, motor vehicle crashes, and

incidents. Mr. Hastings stated at that time he had reviewed the statute and gave legal advice that the function under the Attorney General only arises if a state agency accrues expenses in responding to the event. Then NRS 459.760 provides for the Attorney General to initiate the process in seeking recovery in legal action for amounts that the state agency accrued, which might be initially paid out of the state's contingency account. Then the AG's Office could go after the responsible party if they did not do the reimbursement in a timely manner. In contracts under NRS 459.770, when a county or city accrues cost in responding to an incident that the county or city has to adopt an ordinance authorizing its own legal representative to initiate recovery by legal action. This issue has been discussed by the full SERC and legal advice was provided at that time. The contingency account can be used to pay these costs but at that time the full SERC decided it would be better to have a policy or even potentially a regulation. Mr. Chambers stated his issue with Douglas County's request is that they had the ability to go after the responsible party to pay for the incident but instead is requesting it from SERC contingency fund. Mr. Hastings stated the full SERC had the same issue. Mr. Cage recommended moving forward with the policy and trying to create regulation for the reimbursement of hazardous material cost as a part of the overall regulation changes under NAC 459 and let LCB come back and tell the Committee if they have the authority under NAC 459 to create those regulations. Mr. Chambers said he supported the recommendation this way they would at least have a policy in place. Mr. Brenner and Mr. Bakkedahl also agreed to the recommendation. Mr. Cage motioned that the SERC Policy and Legislative Committee will create a recommended SERC policy for using the contingency account for reimbursement for hazardous material cost with the intention of moving forward to create regulations under NAC 459; Mr. Chambers seconded the motion. Motioned passed unanimously.

6. UPDATE ON NAC 459 REVISIONS

Ms. Wilson stated that with the regulation already in progress, and the last version submitted to LCB was on November 13, 2015. They sent it back with very few changes to be made and it flatlined after that. They reached out to LCB and were approved for an extension. They are now able to start working on this to move it forward to get it finalized as a regulation and adopted. Mr. Chambers stated they would need to do a public workshop for any recommendation and/or changes made within this Committee and once that is done it will be submitted to LCB for their corrections and then if we need another public workshop or hearing. Ms. Wilson stated that with the extension they could start with the draft copy and move forward, and they would need another workshop. Mr. Cage recommended not starting from scratch but starting over with public rulemaking. He suggested starting with the public workshop. Mr. Chambers made a recommendation for the public workshop on Monday, July 16th or Tuesday, July 17th, and the SERC Commission meeting on Thursday, July 19th. This will give staff time to prepare everything. Mr. Cage stated he agreed on holding both the workshop and meeting the week of the 16th. The public workshop would be held first and the SERC Committee meeting second to be able to provide an update to the whole committee. Mr. Cage motioned to vote on holding a public workshop in the coming months to cover NAC 459 to include the development of regulations for reimbursement through the contingency fund as discussed in agenda item number five. In the meantime, work with staff to get all relevant documentation, markups of the regulations, the policy that has been developed to have a fully informed and public discussion at the workshop. Mr. Brenner seconded the motion. Motioned passed unanimously.

7. PUBLIC COMMENT

Mr. Chambers stated one thing he wanted to bring to the Policy and Legislative Committee is that they started a public workshop on NAC 477. There is the money split for hazardous materials that go to SERC. They are looking to increase those fees from a \$60/\$90 split to a \$100/\$150 split due to seeing a growth in the state and agencies potentially needing additional funding as cost increase.

8. ADJOURNMENT

Mr. Brenner motioned for adjournment; Mr. Chambers seconded. Meeting was adjourned at 10:06 a.m.

DRAFT