

M I N U T E S

SERVICE COMMITTEE OF THE IOWA LEGISLATIVE COUNCIL

April 24, 1990

PRELIMINARY BUSINESS

The April 24, 1990, meeting of the Service Committee of the Iowa Legislative Council was called to order by Representative John Connors, Chairman, at 10:35 a.m., in Room 22 of the State House, Des Moines, Iowa. Members present in addition to Chairman Connors were:

Senator Calvin Hultman
Senator Bill Hutchins
Representative Kay Chapman
Representative Harold Van Maanen

Also present at the meeting were: Senator Joseph Coleman; Ms. Diane Bolender, Director, Legislative Service Bureau; Mr. Richard Johnson, Legal Division Chief, Legislative Service Bureau; Mr. Dennis Prouty, Director, Legislative Fiscal Bureau; Mr. Tim Faller, Deputy Director, Legislative Fiscal Bureau; Mr. Sandy Scharf, Director, Legislative Computer Support Bureau; Mr. William P. Angrick, Citizens' Aide/Ombudsman; Mr. Michael Elliott, Legal Counsel, Office of Citizens' Aide; Ms. Tina Eick, Assistant, Office of Citizens' Aide; Ms. Julie E. Livers, Director, Public Information Office; Ms. Julie Smith Craggs, Legal Counsel, Legislative Service Bureau; and Mr. Gary Thompson, Public Information Officer.

Also present were other members of the legislative staff and other interested persons.

Senator Hutchins moved that the minutes of the December 20, 1989, meeting be approved as distributed to the Committee. The motion carried on a unanimous voice vote.

PERSONNEL REPORT OF THE LEGISLATIVE SERVICE BUREAU

Chairman Connors recognized Ms. Diane Bolender, Director of the Legislative Service Bureau, for presentation of her report. A copy of Ms. Bolender's report is on file in the Legislative Service Bureau. Ms. Bolender noted that three persons had been employed by the Legislative Service Bureau since the last meeting of the Service Committee. She introduced to the Committee the two employees who had been hired during the last legislative session,

Mr. Gary Thompson, Public Information Officer, and Ms. Julie Craggs, Legal Counsel. Then Ms. Bolender introduced Ms. Julie Eivers, who was recently hired as the Director of the Public Information Office. Representative Connors welcomed the new employees to the central legislative staff of the General Assembly.

Ms. Bolender stated that, as of February 15, 1990, Ms. Susan Voss, Legal Counsel, had resigned, leaving a vacancy in the staffing areas of taxation and economic development. Ms. Bolender stated that she intended to fill that position as soon as possible. She also noted that, as of March 15, 1990, Ms. Vivian Haag, Executive Secretary of the Administrative Code Division, had retired. Ms. Haag's former duties, stated Ms. Bolender, were currently being distributed among current employees of the Administrative Code Division until a decision is made about whether to hire an Administrative Secretary. Some of the duties relate to the Administrative Rules Review Committee, she said. Ms. Bolender also reminded the Committee that the session employees have now finished their employment and noted which employees of the Legislative Service Bureau had completed their probationary periods and which had received merit salary increases.

Ms. Bolender requested that the Service Committee recommend approval for the employment of Ms. Bonnie King to fill the vacant position of Publication Coordinator in the Administrative Code Division, at grade 21, step 6. She noted that Ms. King is currently employed in the Administrative Code Division as an Administrative Assistant, at grade 20, step 6.

Senator Hutchins moved that the report be received and filed and that the hiring of Ms. King as Publication Coordinator be recommended. The motion carried on a unanimous voice vote.

PERSONNEL REPORT OF THE LEGISLATIVE FISCAL BUREAU

The Committee reviewed the personnel report of the Legislative Fiscal Bureau. A copy of the personnel report that the Committee received and considered is on file in the Legislative Service Bureau. Ms. Bolender noted that none of the items contained in the report were items which required approval of the Service Committee or the Legislative Council. Senator Hultman moved that the report be received and filed. The motion passed on a unanimous voice vote.

PERSONNEL REPORT OF THE LEGISLATIVE COMPUTER SUPPORT BUREAU

Chairman Connors recognized Mr. Sandy Scharf, Director of the Legislative Computer Support Bureau, for presentation of his

report. A copy of the report is on file in the Legislative Service Bureau. Mr. Scharf stated that he was seeking approval to fill a Microcomputer Analyst position. Mr. Scharf noted that there were sufficient funds for the position in this year's budget and that the position was also funded in next year's budget. Senator Hultman asked whether this position would assist in the networking of the various personal computers that are being used in the Capitol. Mr. Scharf replied in the affirmative. Senator Hutchins moved that the Committee receive and file the report and recommend approval of the filling of the position. The motion passed on a unanimous voice vote.

OFFICE OF CITIZENS' AIDE REPORTS

Chairman Connors recognized Mr. William P. Angrick, Citizens' Aide, for presentation of his reports. Copies of Mr. Angrick's reports and accompanying handouts are on file in the Legislative Service Bureau. Mr. Angrick stated that his reports contain two requests. The first request, he noted, relates to Mr. James Peterson's appeal from the administrative findings regarding his unemployment compensation claim to the district court. Mr. Angrick reminded the Committee that the Office of Citizens' Aide has been utilizing the services of outside counsel in the matter with the consent of the Attorney General's Office. He noted that, although the State is not specifically named in the unemployment compensation appeal, in any matter in which the State's interests are implicated, it has been the Attorney General's ruling that their office has the exclusive right to represent the state. He noted that, previously in this matter, the Attorney General had perceived a potential conflict of interest and that the Office of Citizens' Aide was permitted to retain outside counsel. The attorney who was retained, said Mr. Angrick, was Mr. Mark Bennett, an attorney with considerable experience and knowledge in unemployment matters. He also stated that, although his office was not specifically named in the unemployment compensation appeal, as the employing agency it behooved his office to make an appearance, in case the office's interests are affected. He noted that Mr. Bennett had agreed to perform services in the new matter at the rate of \$70 per hour, which is the same rate that the Executive Council pays for outside counsel in other matters. Mr. Angrick stated that he had already contacted the Office of Attorney General, for purposes of making an appearance in the unemployment compensation matter, but that he felt it necessary to secure additional counsel in the event that the Attorney General encountered a conflict of interest. Outside counsel could enter a substitute appearance at that time and, in any event, monitor the proceedings as they occurred, he said.

Mr. Angrick noted that the main issue relates to what transpires when the Attorney General withdraws from representation. Usually, he said, the Attorney General will

request the appointment of outside counsel from the Executive Council. However, stated Mr. Angrick, since the Executive Council is an executive branch agency and the Office of Citizens' Aide is a legislative branch agency, the effect of such a procedure is to have the executive branch control matters which are within the authority of the General Assembly and Legislative Council. Mr. Angrick noted that this matter could serve as a benchmark for further actions relating to legislative branch issues and problems and establish Legislative Council's prerogatives vis-a-vis these types of issues and problems.

Representative Chapman expressed her concurrence with the information and opinions expressed by Mr. Angrick, noting that she did not think that it was appropriate for the Legislative Council to be controlled by the will of the Executive Council in these matters. Chairman Connors asked whether the Attorney General was responsible for representing the Office of Citizens' Aide at this point and received an affirmative response by both Mr. Angrick and Representative Chapman. Representative Chapman added, however, that if there is a potential conflict of interest, the Attorney General would have to withdraw from representation. Senator Hutchins asked how many billable hours would be involved in the outside counsel representation. Mr. Angrick was unsure and asked Mr. Michael Elliott, Legal Counsel for the Office of Citizens' Aide, to respond. Mr. Elliott stated that Mr. Bennett's function would be to monitor the proceedings and perhaps enter an appearance if necessary, but that he did not think that there would be many hours involved. Senator Hutchins asked whether there was a timetable for the proceedings. Mr. Elliott responded that proceedings would begin in two to four weeks, but that with the time for filing of motions and briefs, no actual judicial proceedings would be held until mid-June or July.

Representative Chapman moved that the Committee receive and file the Legal Report and that the Committee recommend that the hiring of outside counsel, at the rate of \$70 per hour, be approved. The motion passed on a unanimous voice vote.

Chairman Connors asked about the recent Supreme Court ruling in the Rolfes case, in which the Office of Citizens' Aide was involved. Mr. Angrick noted that his office had won on a number of points which they considered significant, but that the Court had ruled that the Office of Citizens' Aide is an "agency" within the meaning of chapter 17A, the Iowa Administrative Procedures Act, and had said that the action taken by his office was "other agency action" within the meaning of that Act.

Mr. Angrick then proceeded with his second request, which was contained in his administrative report relating to the issue of air quality within his office. He noted that his office has already expended \$1800 to have the air system repaired and that he had asked the Department of General Services to perform some air

flow monitoring. He referred the Committee to a letter, which he had received from the Department, which indicated that an additional \$2000 worth of work would have to be done in order for the system to function appropriately. Several of his employees have become quite ill, he said, and one even had to be taken to the emergency room. He stated that he does not know why the repairs were not completed the first time and that it was his opinion that the Department should pay for the additional work itself and he asked for Committee support in the matter. After some discussion, Senator Hultman moved that the Committee recommend that the Department of General Services be instructed to perform the necessary work at the Department of General Services' cost. The motion passed on a unanimous voice vote.

Mr. Angrick next proceeded with his office's personnel report. He introduced Ms. Tina Eick, Assistant, to the Committee as a new employee in his office, as of February 5, 1990. The Committee welcomed Ms. Eick.

Mr. Angrick then announced that Mr. Michael Elliott would be resigning from his office, effective May 3, 1990, to accept a position at the Department of Personnel. He also noted that Mr. Elliott had successfully completed the time and performance requirements as of April 27, 1990, for eligibility for a one step merit increase. Senator Hutchins asked whether it is usual for an employee who is resigning to receive a merit increase immediately before leaving. Mr. Angrick stated that the personnel manual states that if an employee has been employed at a certain level for a period of time and has completed work duties to the employer's satisfaction, that the employee is entitled to the increase. Mr. Angrick also noted that, since Mr. Elliott had done an outstanding job in performing his duties, he, Mr. Angrick, did not feel that he had any discretion not to award the increase.

Chairman Connors pointed out that Mr. Elliott would have been eligible for the increase if he had stayed with the Office of Citizens' Aide and that Mr. Elliott has apparently earned the increase or Mr. Angrick would have opposed it. Senator Hutchins asked at what level Mr. Elliott would be employed in the Department of Personnel. Mr. Elliott stated that his employment level was already negotiated, and that this increase would have no effect on his future employment level. Representative Chapman noted that the practical effect of the increase was to indicate Mr. Elliott's supervisor's satisfaction with Mr. Elliott's performance and reminded the Committee that the increase would be in effect for only a few weeks anyway.

Senator Hutchins moved that the personnel report of the Office of Citizens' Aide be received and filed. The motion passed on a unanimous voice vote.

OTHER BUSINESS AND ADJOURNMENT

Chairman Connors asked whether there was other business to come before the Committee. No further business was presented. Chairman Connors then thanked Senator Hultman for his service on the Committee, noting that Senator Hultman was not going to seek Senate office again. Representative Chapman moved that the Committee adjourn. The Committee adjourned at 10:55 a.m.

Respectfully submitted,

LESLIE WORKMAN Legal Counsel