

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

January 23, 2024

Hank Hughes, Chair - District 5
Camilla Bustamante, Vice Chair - District 3
Justin Greene - District 1
Anna T. Hamilton - District 4
Anna Hansen - District 2

SFC CLERK RECORDED 02/14/2024

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1. A. This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:07 p.m. by Chair Hank Hughes in the County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

B. Roll Call

Roll was called by Deputy County Clerk Evonne Gantz and indicated the presence of a quorum as follows:

Members Present:

Commissioner Hank Hughes, Chair
Commissioner Justin Greene
Commissioner Anna Hamilton
Commissioner Anna Hansen

Members Excused:

Commissioner Camilla Bustamante

C. Approval of the Agenda

CHAIR HUGHES: Manager Shaffer, are there any changes to the agenda that we have?

GREG SHAFFER (County Manager): No, Mr. Chair.

CHAIR HUGHES: Okay, I'd like to entertain a motion on the agenda.

COMMISSIONER HANSEN: Mr. Chair, I move to approve the agenda as presented.

COMMISSIONER GREENE: And I'll second that.

CHAIR HUGHES: Okay, we have a motion from Commissioner Hansen, a second by Commissioner Greene.

The motion passed by unanimous [4-0] voice vote.

2. **Discussion and Potential Action Items**

A. **Second Session of the 56th Legislature: Updates and Potential Action to Express Support for or Opposition to Legislation that Has Been or May be Introduced**

CHAIR HUGHES: Who would like to start?

SFC CLERK RECORDED 02/14/2024

MANAGER SHAFFER: Mr. Chair, I just wanted to explain a little bit how we got to this point in time. The Commissioners had requested an opportunity to weigh in on pieces of substantive legislation and so we scheduled this special session. You can really manage it as you see fit. What we tried to do at the staff level in order to make sure that the Board had information was to solicit from individual Commissioners in advance bills that you were interested in discussing. So the ones that were identified for us by Friday at noon, we included packet material to include some analysis, either from elected officials or from staff as well as the bills themselves.

So I believe that Sara Smith included in BoardDocs a proposed order of bills, so if there's no objection from the Board we'll just proceed in that manner, and I believe that the first bill that was identified was House Bill-127, and our Sheriff and Undersheriff are both present to address that.

CHAIR HUGHES: That sounds fine to me. I don't see any objection from the other Commissioners so Sheriff Mendoza, go ahead and give us your comments.

HB-127

ADAN MENDOZA (County Sheriff): Mr. Chair and fellow Commissioners, we're here to – we asked for some input in reference to House Bill 127, which is one of several gun safety measures that are going to be proposed in the legislature this year. I will tell you, as a Sheriff, as an elected official, law enforcement officer, some of these issues and references to gun safety can become very delicate. There is a lot of contention and reference to how it relates to the second amendment, but it also relates to safety and public safety and welfare for our communities, for Santa Fe County and for the State of New Mexico.

Looking at and talking with other sheriffs across the state and talking about some of the gun legislation that's going to be proposed, when I saw this come up I think as the Sheriff I have to weigh my personal feelings about second amendment and gun safety and gun bills versus public safety. And with the rise of violent crimes where a firearm is utilized, you have to consider what's safe for the community and what's better for the State of New Mexico and what's best for Santa Fe County and how can these bills impact how we do our job as law enforcement officers and how we maintain safety throughout our county.

Then looking at several of these bills, I will tell you that House Bill-127 is a bill that I think I can support as the Sheriff and that I would suggest that the Board support in general. I can talk as an avid outdoorsman, a hunter, a rancher, there was some concerns that this bill may affect the youth that may be wanting to get involved in hunting or outdoors or shooting sports and I think this bill actually addresses a lot of those concerns, and there's a lot of exceptions in the bill that I think address a lot of my concerns personally and address concerns for youth and people that may be interested in sports and outdoors type activities.

One of the things that we did recognize is – and I'll have the Undersheriff talk to this, is the current regulations and laws when it comes to handguns. And so this bill to me addresses semi-automatic firearms, which could include long guns, rifles, and pistols. And I'll let the Undersheriff talk to this but we realized that state law is a little bit more restrictive when it comes to handguns and doesn't address revolvers, which aren't semi-

SFC CLERK RECORDED 02/14/2024

auto. Those are single pull firearms. But I'll have the Undersheriff talk to that and kind of what is not addressed in this bill and which I think should be, so I'll turn it over to him.

KEN JOHNSON (Undersheriff): Thank you, Sheriff. Mr. Chair, fellow Commissioners, I think the important thing to realize here is that, like the Sheriff said, a revolver is a pistol that can be possessed by an individual, according to the law, that's 19 and above. So they can still possess the weapon. They can't go purchase it because you have to be 21 in the State of New Mexico to purchase a pistol, but they can still possess it. It doesn't seem to make sense but that's what the law says. So I think if that one aspect could be addressed and I think all handguns you should be 21 to possess. I think that would be an option that would benefit everyone. If there's any questions.

CHAIR HUGHES: Thank you. Are there any questions from the Board? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Sheriff and Undersheriff for being here. I appreciate this. I agree with you wholeheartedly and I want to support what you're saying. And so what I'm hoping is by us supporting this that it will also help our lobbyists to lobby over at the Roundhouse on this behalf to get the bill changed. It's not too late to make these changes and I think that as a County that is progressive and recognizes the effects of handguns on our citizens that it should be consistent. So I'm wholeheartedly in support, and if there's not anybody else I'll make a motion to support. We can have under discussion, if that's all right.

CHAIR HUGHES: I think we're going to do all of these by motions so if you want to make a motion go ahead.

COMMISSIONER HANSEN: So I move to support House Bill-127 with the recommendation that Sheriff Mendoza and Undersheriff have made, that we lobby on that behalf.

COMMISSIONER GREENE: I'll second it and specifically, those were to limit the possession of revolvers to those over 21 years of age. Is that correct? No. To limit possession to over – or to make it illegal to possess any handgun. Correct?

SHERIFF MENDOZA: That's correct.

COMMISSIONER GREENE: Okay. Wonderful. And that's my second, for clarity.

CHAIR HUGHES: Okay, we have a motion and a second. Is there discussion?

The motion passed by unanimous [4-0] voice vote.

CHAIR HUGHES: Sheriff and Undersheriff, you have your endorsement.

SHERIFF MENDOZA: All right. Thank you. We appreciate getting some input into how Santa Fe County supports legislation, especially when it comes to public safety issues.

CHAIR HUGHES: And thank you for analyzing the bill and giving us a good overview. Thank you very much.

COMMISSIONER HANSEN: Mr. Chair, thank you so much for being here and taking the time to come. That means a lot to us. Thank you, Undersheriff also.

COMMISSIONER GREENE: And if I may.

SFC CLERK RECORDED 02/14/2024

CHAIR HUGHES: Commissioner Greene.

COMMISSIONER GREENE: And Sheriff, as I've learned over in the Roundhouse, do the homework ourselves, right? If you see in this bill where you would change a word or a passage to say, it's these three words to any firearm or any handgun to the 21 years, those corrections make life a lot easier. So right now, everything needs – if we want to change those words we should have the corrected words and then we can go present it to the sponsors and see if they're willing to accept it. Or they're going to tell us very quickly there's too much push-back on this. It won't go. Let's just see if this is good enough. So since you've read it and I've read it now too, we should go look and find those specific words, as limited as possible, to have our recommendations in there.

SHERIFF MENDOZA: I appreciate that, Commissioner, and I think, looking at every instance, the revolvers and how everything – there's nothing worse than a bill that doesn't cover the issues or different aspects of the law. And so if it's done properly I think it's accepted more broadly and enforced more broadly. So the clearer, more concise and I think the bill is the better.

HB-25

CHAIR HUGHES: Thank you, everybody and we'll go to whatever's next. Looks like Jordan. Go ahead. Welcome, Jordan.

JORDAN BARELA (Housing Authority Director): Thank you, Mr. Chair, members of the Commission. Good afternoon. The first bill that I will be speaking to today is House Bill-25 which aims at making housing discrimination based on a renter or buyer source of income an unlawful or discriminatory practice. And it attempts to do so by amending the New Mexico Human Rights Act.

So Section 28-1-7.G.1 of the Human Rights Act is currently the section of that statute that prohibits housing discrimination, and right now it covers a number of areas to include protected classes that are pretty commonly seen in fair housing legislation, such as religion, race, ethnicity, sexual orientation. This bill proposed to amend that section to include source of income, which would make it discriminatory for someone selling or renting a house to deny access to that transaction solely based on a renter's source of income.

Source of income, as described in the bill, is relatively broad. It covers all types and sorts of income, but one that's probably most applicable, and it's something that Santa Fe County deals with directly, is public assistance. So that would be federal, state or local public assistance in terms of rental assistance, and that's primarily administered via vouchers.

So the changes to this bill aren't substantial, but I will state that we, from the Housing Authority perspective, this is an issue that we see on a regular basis. As this Board is well aware, one of the largest federal programs that the County operates is the voucher program that's administered through the Housing Authority. And it is not uncommon through that process to, when we conduct landlord orientation or outreach to have landlords explicitly state that they do not lease to renters who are coming to the table to rent the unit with a voucher.

Now that being said, there may still be other reasons for not leasing to a voucher holder. Landlords or property management companies may have other priorities or

SFC CLERK RECORDED 02/14/2024

processes such as criminal background checks, rental history, but this bill in particular would prohibit a landlord from discriminating solely due to the fact that a voucher or any other particular source of income.

I would also state to the Board that this particular item was also listed in County Resolution 23-120, which was passed late last year outlining the BCC's priorities for affordable housing. Number 4 on the list of affordable housing items was enacting legislation to prevent source of income discrimination for rentals. House Bill-25 achieves that end and also goes a little bit further to effectuate all types of housing transactions that may be applicable in the market. And with that I will stand for questions.

CHAIR HUGHES: Questions from the Board? Commissioner Hamilton.

COMMISSIONER HAMILTON: So just for clarity, you're not recommending any wording changes in particular. Or are you?

MR. BARELA: Mr. Chair, Commissioner Hamilton, no.

COMMISSIONER HAMILTON: Thank you.

CHAIR HUGHES: This is something very near and dear to my heart and very important and I'm glad we voted on it earlier in general and I would entertain a motion on this if anybody cares to make one.

COMMISSIONER HANSEN: I will move to support House Bill-25.

COMMISSIONER HAMILTON: Second.

CHAIR HUGHES: Okay, I have a motion from Commissioner Hamilton, a second from Commissioner Hansen. Any discussion?

The motion carried by unanimous [4-0] voice vote.

HB-41

CHAIR HUGHES: I guess we will move on to Jacqueline.

JACQUELINE BEAM (Sustainability Manager): Mr. Chair, Commissioners, thank you. I am presenting on House Bill-41 first. This bill is in alignment with the goal to reduce greenhouse gas emissions by a minimum of 45 percent by 2030. It really focuses more on alternative fuels and encouraging the use and the market of alternative fuels, and it would allow fuel producers to use credits and trade credits based what's allowable. And they're changing from the 1970s rule to encourage lower carbon intense fuels. So it's also supported by the Coalition of Sustainable Communities, and we recommend that any time we're lowering carbon it's a good thing. So staff recommends it. Yes, Commissioner.

COMMISSIONER HANSEN: I'm kind of wondering why we're approving some of these bills that we've already approved earlier on. It's just a question like we passed the resolution early on for the Coalition for Sustainability and to me this would seem to fall under the broad resolution that we did pass earlier. So do you want to tell me why we're approving these things again?

MANAGER SHAFFER: Mr. Chair, Commissioners, if there is a specific bill we want the Board to see it in total, because you can outline a broad policy goal but the devil is often in the details, so by bringing forward the bills so that you can see them in total, that was the rationale. Nothing more than that.

COMMISSIONER HANSEN: That's great, and I appreciate that for sure,

but I just – I believe this falls under our broader sustainability goals that we have already set for the Commission and that we believe very strongly in. So I move to approve.

COMMISSIONER GREENE: And I'll second it, and just as a comment, as the County Manager mentioned, the devil's in the details. We have general policies but once we have the opportunity to actually read these things we can get behind something. And I think it's a good idea for us to read these and know what we're getting behind as opposed to something that many times the title can be not so aligned. So thank you.

COMMISSIONER HAMILTON: I fully agree.

CHAIR HUGHES: Okay, so we have a motion by Commissioner Hansen, a second by Commissioner Greene. Any more discussion?

The motion carried by unanimous [4-0] voice vote.

HB-108

MS. BEAM: So Mr. Chair, Commissioners, the next is local solar access found, House Bill-108. And again, this would increase the access needed to reach net zero emission goals as outlined in the Governor's Executive Order 2019-003. We are in support of this bill as well because it does increase access, specifically for low-income households as well as rural areas. That's the real focus in those key demographics and populations. So we support it and if you would like more details, it really just – it means that anyone can apply for a local solar program. If you're a government, if you're a tribal group or organization that is non-profit, is my understanding, and the administrative costs go to help fund various loan systems as well as a percentage of low-income households that would be required.

Since buildings are almost half of the emissions or resulting from almost half of the emissions in the county it's our recommendation that we approve this one as well.

CHAIR HUGHES: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you very much. Yes, I've often thought that if we were to make a rule or ordinance that every house in the county had to have solar on it we might not need large facilities, utility-scale. Just a thought. But also will the Climate Investment Center that the Coalition has been supporting, would this be a mechanism to help fund this?

MS. BEAM: Mr. Chair, Commissioner, I'm assuming so, but that's a detailed question I have not asked the Coalition. I do know the Coalition is in favor of this bill. But that's a great question, how would that interplay?

COMMISSIONER HANSEN: Because that is part of the idea of the Coalition of Sustainable Communities and the New Mexico Climate Investment Center is to begin to fund these low-income projects for sustainability. So I think this is great.

CHAIR HUGHES: Commissioner Hamilton has a question.

COMMISSIONER HAMILTON: Yes, thank you. For clarity, this is not directly funding low-income individuals or households. This is funding entities like local governments and what not to set up programs that would subsequently –

MS. BEAM: Correct. And with a requirement to focus on rural and low-income households.

COMMISSIONER HAMILTON: Okay.

SFC CLERK RECORDED 02/14/2024

COMMISSIONER HANSEN: Mr. Chair, that's why it seemed to me that the Climate Investment Center would be a really good mechanism to fund something like this.

CHAIR HUGHES: Right.

COMMISSIONER HAMILTON: It doesn't otherwise specify the funding.

MS. BEAM: It just states fund.

CHAIR HUGHES: I believe it says it funds counties and municipalities, mainly.

COMMISSIONER HAMILTON: Yes, but there is funding designated. This isn't an unfunded –

COMMISSIONER GREENE: \$110 million.

MS. BEAM: Yes. The amount is \$110 million. Right.

CHAIR HUGHES: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Mr. Chair. Jacqueline, do you have an idea how you would spend this money if you were given your allotment? Is there a program that you oh so wish you had funding for and this is just going to enable this?

MS. BEAM: Well, Commissioner, if I were to use a fund such as this I would really focus – being a homeowner of a fixer-upper with incredible electrical panel upgrade needs and all kinds of stuff before I can even move into the solar world, I would like to see some attention to that side of the areas that are needed before you can start installing PV. Because we have so many buildings that are not very well maintained and the panels are from the nineties or the eighties, so I think that that's something that really needs to be addressed, because many would love to move into the solar world and use that renewable source but if you're basics aren't set up then it's not possible.

COMMISSIONER GREENE: Thank you. As you read this, do you think that that is an eligible use of this? Or is that something that we would need to ask that sort of use and recognition that panel upgrades are the first step toward being able to adopt this? Or at least including that as part of like, Santa Fe County has a program to help people upgrade their panel if they –

MS. BEAM: Commissioner, Mr. Chair, it states solar energy systems, so it really depends upon the definition of if they're including electrical panel upgrades, if they're including reinforcement of roofs. Those are all very important details.

COMMISSIONER GREENE: Right. And I know that reinforcing roofs is eligible for the federal rebates. Is panel upgrades eligible for that as well?

MS. BEAM: The panel upgrades are federally eligible. I think it's \$2,000, if I'm remembering correctly, but they're running about \$6,000, I can speak from personal experience.

COMMISSIONER GREENE: Well, maybe you could get 30 percent anyway, so maybe it's \$2,000 or \$6,000 is your 30 percent. Thank you, Jacqueline.

MANAGER SHAFFER: If I could – I'm sorry to jump in. I think this fund, as I read it at least, is fairly targeted and the proviso is on page 2 of the bill that the solar energy systems have to be used to power buildings and infrastructure located within New Mexico that are owned and operated by an eligible entity. So this really isn't direct grant funding for household adoption of solar. It'll be coming forward to the Board in the first part of the current calendar year but our Community Development Department, of

SFC CLERK RECORDED 02/14/2024

which Sustainability is obviously a part, is working on a revamped and broadened form of an affordable housing grant program that is specific to owners of affordable homes. So income-eligible individuals that would be able to assist with a variety of energy efficiency and other upgrades, as well as looking at potential contamination of domestic drinking water, what have you. So it will be a very large program in terms of eligible expenditures, and that may be an opportune time for the Board to look at potentially allocating resources specifically for low-income homeowners.

CHAIR HUGHES: Go ahead, Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. Thank you, Mr. Chair. That actually makes a lot of sense to me, because what I was just going to ask was how they're getting around the anti-donation thing. It is because it is not for individuals. And so – which is fine; this is needed as well. I'm not sure how it makes it strongly applicable to low income unless you're focusing on County-owned low-income housing, or low-income service buildings, like medical facilities or what not. It's got to be worthwhile in general but I just want to mention that that makes a program that the Manager just mentioned that Director Barela is working on even more important in our county.

MS. BEAM: Commissioners, so it's also my understanding that the grants, this fund, is for grants that would go to organizations but those organizations could be, if they're public like us, we could have a building that we install PV in. I'm not sure how the Anti-Donation Clause is –

COMMISSIONER HAMILTON: Well, if it's a County building there's no anti-donation. It can't be an individual's home, because that would be counter to anti-donation. Obviously, there are some ways to get around it in this other program, but that's not the topic of discussion right now.

MS. BEAM: Well, Commissioner, if it's low-income housing then that's another route around the anti-donation.

COMMISSIONER HAMILTON: Right. The facilities. Right. Good point.

CHAIR HUGHES: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you. So when I installed solar on my house that was built in the late forties, I obviously had to have an upgrade. Otherwise it would have been impossible. So that was kind of part of the package. And so I think that if we need to be lobbying about this we need to be lobbying saying part of the package for putting solar on individual homes has to conclude this electrical upgrade to the panels. And many of the houses in Santa Fe County and city are built in the forties and the fifties and sixties and even way before that, for sure.

So – and I do think that we can get around this because it's low income, because of the Anti-Donation Clause and because of the work that Speaker Egolf did on that and the previous bills that he brought forward. Plus also the affordable housing of our own Housing Department.

CHAIR HUGHES: Thank you. My understanding is that this particular bill is not for individual homes, it's for County-owned buildings and such.

COMMISSIONER HANSEN: Those could still probably use electrical panel upgrades.

CHAIR HUGHES: Oh, of course. Yes. I'm sure there are some.

MS. BEAM: And Mr. Chair, the grants would have to be used by

organizations and there would be a requirement to service low-income households through those grants. So it's still reaching the individual homeowner but in a roundabout path.

CHAIR HUGHES: Okay. Commissioner Greene, did you have a comment.

COMMISSIONER GREENE: Just as a clarification, and maybe we should actually make sure that I'm not wrong in this, but I know that the Anti-Donation was changed recently to allow for utility upgrades. And so I would make a – I think somebody could make a pretty strong argument that adding solar to somebody's house would be eligible to some utility upgrade. So it would be great for us to actually get a legal recommendation on how far we could push this, so that maybe we could go get money and filter it through us to individual homeowners that doesn't interfere with the Anti-Donation Clause.

CHAIR HUGHES: Thank you. And it should like that's what our Community Development Department is going to bring forward to us is a program that does that.

COMMISSIONER HANSEN: I move to approve House Bill-108.

COMMISSIONER GREENE: Second.

CHAIR HUGHES: Okay. We have a motion from Commissioner Hansen, a second by Commissioner Greene. Any more discussion?

The motion carried by unanimous [4-0] voice vote.

SB-7

CHAIR HUGHES: I believe that takes us back to Jordan.

MR. BARELA: Thank you, Mr. Chair. The second bill that I will be speaking to today is Senate Bill-7, and to Commissioner Hansen's earlier point a previous BCC resolution did request adequate funding for the New Mexico Housing Trust fund, but the specifics of this bill, as proposed by Senator Rodriguez would be to appropriate \$500 million to the New Mexico Housing Trust fund.

So just for general background, the trust fund is a critical financing instrument for affordable housing projects within the state that provides low-interest loans that are primarily used as a source of gap financing. And those loans range between \$2 million and \$3 million, depending on the type of loan. From a staff perspective, we certainly support this. Housing investment is critical and this would be the single largest appropriation in the fund for quite some time. If staff would make any suggestions as far as changes it wouldn't be necessarily in relation to the appropriation bill, but more of an administrative role in terms of the maximum amount of funding eligible for any particular project.

There have been some discussions and we certainly had some direct experience with this with Nueva Acequia where even if we combined all of these sources of gap financing together it was still short of bringing the project to fruition. Now, I understand that's not going to be the case for any project where the trust fund would be a source to fund 40 or 30 percent of a project, but some variation to account for overall project costs would be good, but it is also my understanding that those discussions are being had and

SFC CLERK RECORDED 02/14/2024

those changes are in the works from the administrative perspective of the fund. So with that I think staff's recommendation would be to support SB-7 as it is in alignment with previous requests made from the Board.

CHAIR HUGHES: Thank you. Are there questions? Commissioner Hamilton.

COMMISSIONER HAMILTON: Are you following – you say you understand some of these administrative changes that you're thinking of, like under discussion some place. Are you following those? Do you feel like there's a possibility to influence them in the appropriate – in the desired direction?

MR. BARELA: Mr. Chair, Commissioner Hamilton, and my knowledge of that comes in some discussions with people who sit on the Trust Board that those discussions are happening now. From a practical perspective, given current maximum award amounts, if this allocation was provided, that's anywhere between 166 and 250 projects that could be funded. So solely from an administrative perspective it's not likely that you're going to have 166 to 250 projects to fund, so short of making adjustments to how much money is allocated per project it would be very difficult to get all of this money out the door in any reasonable amount of time.

COMMISSIONER HAMILTON: Which sounds good. Okay. Thanks.

CHAIR HUGHES: Thank you. I attended the hearing where this was heard in the Senate yesterday and it did pass its first committee. However, Senator Rodriguez said she does not expect to get the whole \$500 million; she expects to get something less, unfortunately. Housing is now so expensive that we could actually, I'm sure, easily spend the \$500 million and still have a need for more affordable housing. But it does sound like there will be some great increase over what has happened in previous times.

COMMISSIONER HAMILTON: Did you say it did pass the first committee, or it did not?

CHAIR HUGHES: It did. Yes. It was Health and Public Affairs, which is an easy committee. They pass it on to the Finance Committee which does the hard work of figuring out which of all these things we want money for they're going to fund.

COMMISSIONER HAMILTON: So, Mr. Chair, I move to support this.

COMMISSIONER GREENE: I second.

CHAIR HUGHES: Okay, we have a motion from Commissioner Hamilton, a second by Commissioner Greene. Any further discussion?

The motion carried by unanimous [4-0] voice vote.

SB-8

CHAIR HUGHES: Thank you, Jordan, very much, and we're back to Jacqueline.

MS. BEAM: Mr. Chair, Commissioners, the next bill is Senate Bill-8 which is an EV tax credit and EV charging infrastructure tax credit as well. This bill would allow for a credit of the amount of up to \$3,250 and unit credits for an EV charging units of \$300. Again, we're in favor of incentivizing EV ownership as much as possible. If I were to change this one in particular, I would add language around

SFC CLERK RECORDED 02/14/2024

encouraging used vehicles also, because the majority of vehicles that are purchased are used. And so I think it's like 80 percent. So it definitely feels like it's missing a mark here, even if it's a reduced tax credit, that would be a change I would recommend. Otherwise the staff, we support it. It is also supported by the Coalition of County Commissioners as well.

CHAIR HUGHES: Commissioner Greene.

COMMISSIONER GREENE: Thank you, Mr. Chair and thank you, Jacqueline. I too am in general support of this. I am on my seventh or eighth electric vehicle, both for my personal use and for my business use. And so one of my questions has to do with I've discovered that in most cases, if you buy them for corporate use there's no tax credit. And I'm wondering if there's an inclusion of fleet vehicles for companies to do the right thing. Right? And so I would also recommend that we ask for an amendment to include not only used vehicles but also commercial vehicles.

I don't buy new cars anyway, so, even for myself. So used cars are definitely – if you're going to work on a sustainability goal, used is recycling. So that's the first step of reduce your use. I'd make a motion with those two caveats to support your caveat for used vehicles as well as to see if we would have amenability to including fleet vehicles for commercial entities.

COMMISSIONER HANSEN: I'll second that under discussion.

CHAIR HUGHES: And I have questions as well, but Commissioner Hansen, did you have discussion?

COMMISSIONER HANSEN: Yes. This looks like it's brought forward by Bill Tallman. Are there any other sponsors at the moment? And has this had any hearings?

MS. BEAM: Commissioner, I did not see that it had a hearing. I have to admit, I was flying through all of this trying to get it done, so I can get back to you on that.

COMMISSIONER HANSEN: I think it would be good to know when it's going to be heard in the House or Senate. Isn't Tallman a Senator? To attend the hearing when this bill is read so we can suggest these amendments. It's nice for us to sit up here on the dais and say, yeah, this is a good idea, but unless we show up in the hearing room, or unless our lobbyists or Hvtce or somebody else also stands up in the hearing room and says these things they're not going to know that. We can always go to his office and hopefully catch him, but I find it a valuable thing to be in the hearing and I've had bills changed from being in a hearing room, by another Senator, or when I was chair of the Acupuncture Board, I killed a whole bill. So I do think it has validity in that regard and I think the more electrical vehicles we get on the road, or incentivize commercial industry, and used, that's probably the only thing I could ever afford is a used electrical vehicle, to be honest. That's all I have to say on that.

CHAIR HUGHES: I just have a quick question. Does this credit have the same restrictions as the federal one where all the parts have to be made in America in a certain way so there's only three or four cars that qualify, or does this really work for just about any electric car?

MS. BEAM: Mr. Chair, it really doesn't – from what I've seen it does not go into that level of detail. It describes an electric vehicle which is new and registered or

purchased in New Mexico, derives all or part of its power from electricity stored in the battery. And I don't see that there are any other restrictions.

CHAIR HUGHES: Okay. Well, at least it's a little broader. I'm counting on this in case I decide to buy a new electric vehicle. But I would much rather buy a used one, so I certainly support that part. Any further discussion? Okay, we have a motion and a second.

The motion carried by unanimous [4-0] voice vote.

SB-79

MS. BEAM: And Mr. Chair, Commissioners, the last bill I have to present is Senate Bill-79 and that is for a study. It's a working group for education and food waste diversion, feasibility for a program statewide, and it would be a statewide composting program, and it is a relatively small amount of money, \$65,000, and again, we are in full support, staff, of any type of diversion of solid waste and lowering emission and increasing our soil health. So we are in support of this one as well.

COMMISSIONER HANSEN: Mr. Chair.

CHAIR HUGHES: Very good. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you very much. I felt that we had already covered this in our big overview resolutions but I feel so strongly about what ReUnity Resource is doing, what many other people and models that we have in Santa Fe County and in the north that the more we can emphasize composting programs throughout the state the better. So that was why I asked this to be on here. Is there anything we need to do to this? Except for maybe ask for more money?

MS. BEAM: Mr. Chair, Commissioner, it is for a working group for a year, and if that money is not spent it goes back to the general fund, so I'm not sure that there's anything more to add. I think their goal is to create recommendations for the statewide program at the end of the year.

COMMISSIONER HANSEN: So what I've seen, if this is the same people, which I think it is, who worked on the soil, enhancing the soil, they have a very good, kind of effective lobbying group and effective group of people working with them, which were quite impressive when they got the first bill through in one session, which was great. So more power to them.

CHAIR HUGHES: Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: That answered my question.

COMMISSIONER HANSEN: I move to approve.

COMMISSIONER HAMILTON: Second.

CHAIR HUGHES: Okay, we have a motion from Commissioner Hansen, seconded by Commissioner Hamilton. Any more discussion?

The motion carried by unanimous [4-0] voice vote.

HB-6 and SB-3

CHAIR HUGHES: Manager Shaffer.

MANAGER SHAFFER: Thank you, Mr. Chair and Commissioners, and I

SFC CLERK RECORDED 02/14/2024

just wanted to acknowledge Jacqueline and Jordan as well as others who worked to put these materials together under a relatively tight deadline. So thank you for that very much, Jacqueline, Jordan, and the rest of the folks who helped. Thank you.

We saved the easy stuff for last, so we'll spend a little bit of time talking about House Bill-6 and Senate Bill-3, which are identical bills which would enact the Paid Family and Medical Leave Act. It's relatively complex bill with a lot of overlap with some existing leave programs as well as the federal Family and Medical Leave Act of 1993.

We'll start with how the leave would be funded. The compensation would be funded through a payroll assessment which would amount to .9 percent of the wages of employees that are employed by employers with five or more employees. That is divided initially .005 of the employees' wages paid by the employee and .004 of the employees' wages paid by the employer. If the employer has less than five employees, at least as Jeff and I read the law, the employee would still pay into the state fund but the employer would not. In addition, a similar assessment would be made against self-employed individuals based upon their net income.

All of those assessments would go into a newly created fund in the State Treasury called the paid family and medical leave fund. Employees who had paid into the fund for at least six months during any employment in the 12-month period prior would be authorized to apply for leave and leave compensation of up to 12 weeks for a variety of qualifying reasons. Those reasons include family leave, medical leave, qualifying exigency leave relative to active military service, as well as safe leave related to someone who is a victim or someone whose family member is a victim of domestic violence, stalking, sexual assault or abuse.

The amount of leave compensation that would be available from the fund is not 100 percent wage replacement but is instead the state minimum wage for non-tipped, wage-earning employees, plus 67 percent of the wages of the employee in excess of that minimum wage during the average weekly wages as calculated per the act.

Another important attribute of the law is that it would require an employer that has employed an employee for 90 days or more prior to the commencement of an employee's leave to restore that employee to the position held by the employee when the leave was commenced, or place the employee in a comparable position in terms of benefits, wages, and other terms and conditions of employment. So it's important to note here that this section of the law uses the phrase "defined term employer" which is defined as a person that has one or more employees within the state. So again, as we read it at least, the job restoration benefit that would be available under the law would be extended to eligible employees who are employed by an employer that has one to four employees.

There's a section of the law that prohibits an employer from requiring an employee to exhaust any other leave entitlements prior to granting leave pursuant to the Paid Family and Medical Leave Act, and that relates to a big component of the bills, which is that an employer who has adopted and operates a family and medical leave plan or program that provides substantially similar or greater leave and leave compensation as is required by the proposed act can apply for a waiver. The program in total would be administered by the Workforce Solutions Department which would have a variety of responsibilities including processing applications submitted by employees for leave

SFC CLERK RECORDED 02/14/2024

compensation, granting waivers to employers with substantially similar programs, hearing appeals and taking enforcement action.

As I mentioned, this bill, if enacted, would be similar to but would be different from the federal Family and Medical Leave Act of 1993 in certain respects, and we wanted to highlight a few of what we thought were the significant differences between the two. First, leave under the FMLA is unpaid. So in other words there's no requirement that employers provide paid leave under the FMLA, though employers can and the County does require employees to utilize accrued leave while they're on approved FMLA. The FMLA only applies to private employers if they have 50 or more employees, and the FMLA generally provides leave for the serious health condition of the employee and the employee's spouse, child and parents, as well as for childbirth and adoption. And then there is, I believe – and Jeff can correct me if I'm wrong – some additional leave for qualifying military-related exigencies.

But as it relates to the serious health condition leave, the FMLA is limited generally to the employee's spouse, child and parents, and under the proposed state law, the definition of family for whom an employee may take family leave includes grandparents, grandchildren, domestic partners and their children, siblings, and any other individual related by blood or affinity whose close association with the employee, employee's spouse or domestic partner is the equivalent of a family relationship.

Under the FMLA, to be eligible for the leave, in addition to being employed by an employer who has 50 or more employees, the employee has to work for the employer for a year, and then also have 1250 service hours during the 12-month period that is being looked at.

So again, that's a high level summary of the proposed bill and also some information as to how it lines up with the federal Family and Medical Leave Act of 1993. Before I move on to talk about where staff focus was, I would just emphasize that I think it's important on the policy side as the Board thinks about the bill to focus on two things. One is how the leave compensation is funded, which is again through a payroll assessment, and then the second part of it again is the job restoration component of it. Those are two very different ideas and you want to, in my view, think about how they work vis-à-vis employers of different sizes, but again, those are two different ideas with two potential different impacts that are worthy of consideration.

So at the staff level, what we really focused on thus far were the waiver provisions and in particular, we looked at it from the perspective of if this were to become law and the County was looking at how we could comply with the law in a way that recognizes the value of our existing leave programs, what would that begin to look like? And the reasons that our mind went there is because from the perspective of the County as an organization and our employees as a group, the cost of the payroll assessment is not insubstantial. We estimated that it would be approximately half a million dollars per year on a recurring basis. Again, not knowing what the future assessments might look like, the law sets them, as I indicated, at half of a percent to the employee. So that's coming out of the employee's wages, and .4 percent to Santa Fe County. So we just applied those percentages to our total gross wages that we actually paid our employees in 2023 to come up with that estimate.

For the Santa Fe County employees, that amounts to \$277,937.70 if you go out to

SFC CLERK RECORDED 02/14/2024

the cents. So again, those would be deductions from our employees' gross wages that would be remitted to the state fund. From the County's side it would amount to \$222,350. So that's not insignificant money relative to the cost of the program. When you break it down to the individual employee level, we estimate that the cost on an annual basis to employees is \$125 annually per \$25,000 in gross wages. So again, if you earn \$25,000 it would cost you out of pocket \$125 as an employee. If you made \$50,000 it would be \$250. So that's on the cost side.

In terms of the waiver provisions themselves, the law didn't provide a whole lot of guidance as we read it relative to what would be considered and what would be potentially disqualifying in terms of an employer provided leave program. And in particular, we were stuck with the provision in the law that says an employer cannot require an employee to exhaust any other leave entitlement prior to granting leave pursuant to the Paid Family and Medical Leave Act. And our concern was that if we enacted our own program, and we required employees to use their own leave as we do now for the FMLA, and provided some amount of what I call safety net leave, for lack of a better word, that our program wouldn't qualify for a waiver and we would be in a position of being required to, again, on a recurring basis, pay to the state \$220,000 and our employees would be required to contribute to that as well.

And I want to put that concept a little bit into focus. As you know from the employee calendar that we recently approved at the end of last year, we have fairly significant leave benefit programs, and they only get more generous, right? As you're more tenured with the County. We estimated for AFSCME 1782 employees as well as our non-union workforce, after three years of employment with the County, you would have in that period of time accrued 240 hours of sick leave, 320 hours of annual leave, and two personal leave holiday days. So the magic number you're looking for is 480 hours. Twelve weeks times 40 hours a week. If you have 480 hours of accumulated leave and you needed to take leave for the birth of a child, we already provide you with 12 weeks of paid leave, and it's paid for by virtue of your accrued leave and your accrued leave balances.

So when we thought about what a program could look like at the County level, we would want to be able to continue with the practice of requiring employees to use their accrued leave. That's a benefit that's very significant that we provide to County employees, and look to make up any shortfall, either for new employees who haven't had occasion to accumulate those leave balances or tenured employees who maybe are low on their leave balances because they've had to use their leave for medical purposes, what have you, so that they could have a safety net that, again, approximates what the state would have on offer, but it wouldn't cost the employee anything and it also wouldn't require the County to pay into the state fund.

So that again would all be subject to the Board of County Commissioners' approval, but as written, our fear is that the law doesn't allow for that. And because we would be proposing a program that requires County employees to utilize their accumulated leave, that it would be dead on arrival when we proposed it and as a consequence, but the County as an organization and County employees would be forced to pay into the state fund. And I believe that our resources could be better deployed towards other needs, whether that's additional FTE salary raises, what have you.

So we did write to one of the sponsors of the legislation, Representative Christine Chandler, who had spoken to county managers in early January about the proposed bill and we made some suggested revisions or suggested some revisions that would accommodate the type of program that I just described, which again, would meet the objectives of the bill of providing employees with up to 12 weeks of paid leave, but allow us to utilize and recognize the value of our existing leave accrual and benefit programs. In doing so I made it very clear that these were just staff level suggestions and didn't represent a formal position by the Board of County Commissioners, but we did want to at least start the dialogue as to how the waiver provisions might be able to be refined in a way that would allow for the program I described but also, frankly, be consistent with the FMLA.

So in other words, there are a variety of things that are well established under federal law that aren't really addressed in the bill. So is it a calendar year basis that you look at your leave entitlement or is it a rolling 12 weeks so that you're looking backwards? Under the federal law the employer has the ability to make that election. So in our proposed language we just said we want to be able to do the same, so that, again, we have one single set of rules that we're trying to apply under the federal law. Even if you take leave for a qualifying reason you're not protected from adverse employment consequences that would have befallen you even if you hadn't taken leave.

So if you engaged in egregious conduct as a law enforcement officer, and that as grounds for termination you could move forward with the termination even though you had requested FMLA leave. So those sorts of things that we thought – it should be as similar as possible to the existing programs we already have under the federal Family and Medical Leave Act of 1993. Again, we didn't want any such program to be disqualified from being substantially similar because those types of provisions weren't expressly authorized in the law.

So that really explains the suggested changes that Jeff and I had worked on and put forward to Representative Chandler. To the best of my knowledge I don't believe I've heard back from the representative at this point and that's really where I will end. If the Board wants to support the bill we would just respectfully suggest that we be given the leeway to advocate as it goes through the process for changes to the waiver provisions that would allow the County as well as other employers to meet the objectives of the bill, which is to again provide 12 weeks of paid leave at some level of pay in a way that doesn't impose a recurring expense on our employees and employers, but also that recognizes what I think is the very significant value of our existing leave programs and the fact that many, many of our County employees have well in excess of 480 hours of accrued leave that they could use to meet various leave needs as contemplated under the law. So I'd be happy to answer any questions to the extent I can.

CHAIR HUGHES: Questions. Commissioner Hansen.

COMMISSIONER HANSEN: So when you asked Representative Chandler about – I didn't see her response to your suggestions. Did she just not respond?

MANAGER SHAFFER: To the best of my knowledge, and I did try to just confirm in my email that I hadn't received a response, so I don't believe that I've received a response, and if I've overlooked it, then I'll own that, but again, I have tried to check to see if there was one and I don't recall receiving one.

SFC CLERK RECORDED 02/14/2024

COMMISSIONER HANSEN: Okay. So how many other counties or municipalities have the kind of paid family and medical leave that we have? Are we at the top end? Are we at the middle?

MANAGER SHAFFER: Mr. Chair, Commissioner Hansen, I would be lying if I told you had an actually factual-based answer in terms of where we are. The important thing I would emphasize, however, is that the things that we're talking about would just allow you to potentially qualify for a waiver. It wouldn't force a county or local government in or out. It just provides more clarity from the legislature that these things wouldn't be disqualifying. And so it wouldn't be a one size fits all approach. As I indicated, my fear – and I think Jeff concurs in this, is that if we applied for a waiver under the law as written, given the express prohibition on requiring employees to use their accumulated leave, the Department of Workforce Solutions would look at that and say, no. The law says you can't do this. So there wouldn't be that flexibility.

CHAIR HUGHES: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Mr. Chair. Sort of along those lines, I was wondering if maybe New Mexico Counties did any analysis of this that would give some hints about whether – like what the impact would be of how many counties or municipalities or cities or whatever would be eligible to opt out of this and whether that would – how that might hamstring the program in general. Because otherwise, having the modifications to the exemptions makes sense to me and I think that it would be reasonable to be able to – and I wonder if people, other Commissioners disagree. Did New Mexico Counties do any analysis that would help us think about it in terms of impacts to the program compared to the reasonableness of having those exemptions from our point of view?

MANAGER SHAFFER: Mr. Chair, Commissioner, if the question is the solvency of the fund and the ability of the fund to pay for leave and provide leave compensation for employees who aren't employed by an entity that was granted a waiver, I do not believe that New Mexico Counties has conducted any such analysis. I'd say with respect, if that is a reason, and I'm not saying that it is, to not entertain more waiver requests that meet the intent of the law, I would respectfully suggest that the state should pay for that, not local governments and not the employees of local governments who are able to provide a program that meets the objective of the law. Obviously the state has a lot of funds at this point in time and perhaps this would be a place that they could invest those to meet that overall goal of ensuring that the fund is solvent. But that would be, again, a respectful suggestion.

COMMISSIONER HAMILTON: Right. To be honest, that makes sense to me, and I generally support this but support lobbying to revise some of the waiver specifications. I hate to be the stupid one asking the questions. Does this only apply to government employees? It applies to all employers, right? Because there was a size limit. I was just confirming it. Yes. Okay.

CHAIR HUGHES: Commissioner Hansen.

COMMISSIONER HANSEN: On that point, I think that it's important throughout the state to have a paid family and medical leave plan, but I agree with Commissioner Hamilton in the fact that we need to think about our employees and why are we putting them in double jeopardy, so to speak. That's what I'm hearing is if we

have to abide by this rule then they're not able to use sick leave that they've already accumulated, that they've already kind of paid for, so to speak. And they're having to pay more on top of it.

So I think that we need to speak with Representative Chandler, Senator Stewart, and make sure that they understand that we believe in that. We have a good program. We just want to be able to have a decent waiver so that our employees – not that everybody has this level of benefits, and we recognize that. And we recognize the importance of making sure that employees do have these kinds of benefits but we don't want to put our County employees, or possibly City or other – in a double jeopardy situation.

That's how I see it. Maybe double jeopardy isn't the right word but it's what I could come up with at the moment. Because I am in favor of this. I think it is a good thing but I also think that if some employer is already providing sick leave that's adequate, almost more than adequate, then they should be give a waiver no matter what. Not like you have to use only this program. It just doesn't make sense to me.

CHAIR HUGHES: Commissioner Greene, did you have a comment?

COMMISSIONER GREENE: Thank you, Mr. Chair. I am concerned about how broad this is. There was a very similar paid sick leave law that came through the legislature about four years ago, or maybe two years ago, but it's just coming into play in its second year right now, and it became a de facto four percent tax for all businesses in New Mexico. These are just compounding these things and making this a sort of not so easy place to run a business or a government as it may be.

And so I ask a question on the other side of this. If this goes into effect, would we be able to look at our benefits package and downgrade it in a way that allows us to save that equivalence in collective bargaining in a way that allows us to pay. You've already got it through the state program. You're paying into it and we're paying into it. Why shouldn't we like take advantage of that program in the other direction, let's say? We're going to remove these in the next collective bargaining agreement, so it isn't double dipping or double jeopardy or double whatever, right. It's not the most good faith effort but it is to so say the state tied our hands with this and while we were a best practices leader on the front end of this it's costing us \$250,000 so we're going to engineer our thing to make up for that in a different way.

CHAIR HUGHES: Commissioner Hamilton.

COMMISSIONER HAMILTON: My first thought about that is that some of the leave you accumulate you can use as leave, but if you've accumulated it and you need FMLA you can take it for that whereas the state program, you're only taking it for long-term medical leave, which means people who never get sick now have less vacation time. I could be wrong on that. But that's my first response to that.

COMMISSIONER GREENE: No, I just wanted to discuss that and to understand if you're going to tax us and you're going to tax our employees maybe there's a way to say, well, we're going to give you that 25 cents an hour raise but we're going to take this away because you've earned it on this other way by the state. Just thinking out loud. I also think that the restorative issue – I thank the County Manager for bringing this up. When you run a very small company – two, three, four people. One person, one employee. And that person has to take advantage of this and take 12 weeks off. It's almost impossible to replace that person on a temporary basis. So you're screwed, right?

And so I think that there should be a caveat in here to say that this should be for larger businesses. It should be for business of ten, fifteen, twenty people. I think there should also be an equivalency added to this for part-time people versus full-time people, and also that for this job restoration provision that at least a ten person. You can mix and match and you can backfill with somebody if you have ten people in your company but if you're at five people you're probably stepping in to do the work yourself and sometimes you can't do that. So having more than one for sure. Probably closer to ten would be my recommendation on that.

I think it's too broad. I would like to see it reined in a little bit and as a proof of concept over the first few years it could be broadened out in future years but to start I think this is a little too broad.

CHAIR HUGHES: Commissioner Hamilton.

COMMISSIONER HAMILTON: Just a follow-up question. Do you have thoughts about where it's too broad? Where it needs to be developed a little?

COMMISSIONER HAMILTON: We need to be able to –

COMMISSIONER GREENE: Yeah, to provide the language and the specifics to it. I think County Manager Shaffer did mention some of the – lining it up with the federal thing, just as a – line it up, right? The paid time off, it is amazing. You did not have to prove illness. So this is nice; you have to prove illness and a reason to use this. But that's because it's ultimately going to be the state's money that is administering this. But in the case that they did a few years ago, you could call in and say my neighbor needs me to take them to the doctor, and with no proof that your neighbor actually needed it you could take two days off without having any support documentation. And it was literally not even family, right? It's my neighbor. My dog needs to go to the vet. Or my neighbor's dog needs to go to the vet. So I'm concerned that these too broad issues – and maybe recommending that it goes to align itself with the federal regulation and have – if you want to expand it beyond the 50-person small business, there's very few of those in Santa Fe or in Santa Fe County. So maybe it's ten or 15 people. There's an expansion beyond that. But I would hope that it would be tightened up a little bit.

CHAIR HUGHES: I have a question for Manager Shaffer, just about how our program works, because at my previous employment we did set up a paid family and medical leave program that's very similar to the County's and it was used by two people who had babies and in their cases they did not have quite the 12 weeks of vacation built up but we allowed them to receive donations from other people and I know that we occasionally get emails about people who've run out. Does our program allow – let's say someone has only ten weeks of leave built up. Would they be allowed to request donations of the other two weeks?

MANAGER SHAFFER: For existing leave entitlements, the answer is yes. Employees can solicit leave donations. In terms of new categories of potential eligible leave. That's something that we would evaluate if the law were enacted as to what we wanted our program to be. But I would imagine that leave donations would, yes, continue to be a pillar of our leave program as we attempted to come up with something that was substantially similar to what the legislature enacted as part of state policy. So I hope that answers your question.

CHAIR HUGHES: Yes, yes. Because I think in our case it worked very

well. People were able to get their full pay for 12 weeks and have their baby and come back to work. So agree with everybody else. I agree with Commissioner Greene. This is a very broad and very generous program and perhaps a little too generous. I like the idea of people saving up their leave if they're going to have a baby. And having some, as you might say, skin in the game, provided that an employer provides sick and vacation leave that can be built up. The state program, it seems, would be for businesses that don't have that and decide well, I'd rather just pay the tax and let the state take care of it and that would be an option. But it does seem like there should be lots of room for waivers for people that have programs that are working and are equivalent.

Anyway, does anybody have any further discussion? Would you like to make a motion?

COMMISSIONER HANSEN: I think that we could take many of the comments, because I think that we all basically agreed with your suggestions, Manager Shaffer, and that we support staff's position and want them to negotiate with the sponsors of this bill and explain to them our concerns about our own employees, because we see that we're doing a good job. And so we want other people to do a good job, of course, but we shouldn't be punished for doing a good job.

COMMISSIONER HAMILTON: Is that a motion?

COMMISSIONER HANSEN: Yes.

COMMISSIONER HAMILTON: I'll second that.

COMMISSIONER GREENE: Can I rephrase it for you? I can try. So the motion would, as I'm hearing it, is a motion to support staff negotiating a refinement of this and to bring it back to us at future meetings maybe next week, if a better solution comes forward, per this County Manager's recommendations of –

COMMISSIONER HANSEN: What they can negotiate.

COMMISSIONER GREENE: What they can negotiate. So we're not in support of it yet. We are –

COMMISSIONER HAMILTON: Can I make a – I have a question before I would second it.

CHAIR HUGHES: Go ahead, Commissioner Hamilton.

COMMISSIONER HAMILTON: I'm trying to think of a way – I'd rather word it so that they're free to support it with negotiated changes. In other words, if they get all the changes they're asking for they don't have to come back to us and say, well, now can we support the bill? Does that make sense?

COMMISSIONER GREENE: It does but what are those – we have another meeting in a week. And so maybe we'll know more about this in a week.

COMMISSIONER HAMILTON: That's true. That's fine.

COMMISSIONER HANSEN: So see what you can do in a week. Because I think everyone is well intentioned here. It's just it's a complicated issue. Something like, oh, paid family leave sounds nice, but it's the devil in the details and if we don't – if we're not responsible to really our employees – I'm trying to benefit the employee by making sure they have paid medical family leave, but if I'm punishing them, then that just seems like, why am I doing that, especially when we already have a good program that provides people family leave.

CHAIR HUGHES: Commissioner Greene.

COMMISSIONER GREENE: And I want to recommend that it's great for us to look at ourselves but we're also responsible for our community and the business owners in our community and so having the opportunity to talk to the Chamber of Commerce, who I know is pretty adamantly against this and so but to understand what would make it workable for them. And so not to just blindly say, okay, the Chamber's against this, but okay, please tell us what are your issues? Maybe they match the County Manager's issues. And we say that that should be – we're not always looking at ourselves. That's nice. That's probably the first place you look, but we represent a community here and so all of these businesses, whether it's non-profits or for profits, big businesses, small businesses, locally owned businesses, national business – whoever wants to come to us and say, look, all good intentions included in this, this works but this doesn't. And we should get those, we should solicit that input as well.

COMMISSIONER HANSEN: I don't know if there's really a motion here.

CHAIR HUGHES: I was wondering about that.

COMMISSIONER HANSEN: Of all the things that we've said, we suggest you move forward.

MANAGER SHAFFER: I'm just going to – so the waiver, I heard clear consensus relative to that. I believe I heard multiple people express some concern relative to the size of the employer and what job restoration leave would look like, but I don't want to state a position on behalf of the Board that doesn't align with a majority view. So is that something that you want us to speak to as well? That going down to – of somebody with just a single employee that that's going to create a potential hardship that the Board's concerned about?

COMMISSIONER HANSEN: Yes, but I thought this bill, I thought you said that it was five employees or less.

COMMISSIONER GREENE: Just to clarify, that was on for the taxing side of it, but for the restorative position, to give somebody their job back in their same position, it was only if there was a single employee.

COMMISSIONER HANSEN: That's really hard.

COMMISSIONER GREENE: That's very hard.

COMMISSIONER HANSEN: As a small business owner myself that would have been almost impossible.

CHAIR HUGHES: So it sounds like we do want to address the size of the employer that's required to restore.

COMMISSIONER HAMILTON: Yes.

COMMISSIONER GREENE: And maybe the size of the employer that isn't required to tax their side, right? So it could be a ten-person company and it could be a five-person employer for the restorative. But it seems to me to be tightened up a little bit.

COMMISSIONER HAMILTON: I agree with that. That's fine.

CHAIR HUGHES: Were there any other points, Manager Shaffer, that you needed us to clarify?

MANAGER SHAFFER: I think as a general matter, I heard the closer it can align to federal law the better relative to leave administration and potential

unintended consequences, but I don't want to go down that path if that's not the view of the Board.

COMMISSIONER HAMILTON: No, I thought that aligning with federal requirements made sense, the ones you specified.

CHAIR HUGHES: That's fine with me. Anybody have an objection to having it align as closely to the federal requirements? I think we're in support of that as well.

MANAGER SHAFFER: Jeff, did you take anything else? I think that covers it. Okay. Thank you.

CHAIR HUGHES: So is that your motion, Commissioner Hansen?

COMMISSIONER HANSEN: I think we've given them enough direction.

CHAIR HUGHES: I think we should have a motion so that they can –

COMMISSIONER HANSEN: Okay, so I move to approve the direction that we gave them.

COMMISSIONER HAMILTON: Second.

CHAIR HUGHES: Okay, we have a motion and a second.

The motion carried by unanimous [4-0] voice vote.

HB-11

CHAIR HUGHES: Okay, I think you have your direction. Is there something you wanted to say about House Bill-11, which is very similar?

MANAGER SHAFFER: House Bill-11 is similar but it has important differences as between the two. And again, I'm now contrasting House Bill-11 with House Bill-6 and Senate Bill-3 which we just talked about. Some of the significant differences are that the assessment is only applied to the employee, so employers under House Bill-11 are not required – are not assessed any contributions to the paid family and medical leave insurance fund.

Secondly, the reasons why one would qualify for the leave and leave compensation under House Bill-11 are narrower and they are for the birth of a covered employee's child, the placement of a child with the covered employee for adoption or foster care, to care for a family member of the covered employee if the family member has a serious health condition, or to recover from the covered employee's serious health condition. So if you recall from our discussion on the last bill, that list of reasons is small than that which is under House Bill-6.

It also calculates the amount of potential compensation differently. Candidly, I'd have to work through an example to see which if any is more beneficial to the potential employee. That was not so much our focus. It requires that if you're going to have restoration privileges you would have to have worked for your current employer for at least 120 days. It too has the same size issues that we were talking about in that employer is defined as one more employees within the state. So again, it would require a small employer to restore an employee who takes leave.

The amount of leave is different in that House Bill-11 would provide up to six weeks of paid leave rather than 12, and as indicated, only employees would contribute to the paid family and medical leave insurance fund. And finally, the qualifying reasons for

the leave are smaller in that it would not be available for safe leave or for qualifying exigency leave, and the family who would qualify would be broader than federal law but I think narrower, potentially, than under House Bill-6 in that this bill would define family member as a spouse, domestic partner, sibling, son or daughter, grandparent, grandchild, parent or person related to the employee by blood or affinity whose close association with the employee shows the equivalent of those family relationships.

So again, that definition makes it clear that the family relationships that you're trying to approximate are those that are articulated – a spouse, domestic partner, a sibling, a child, grandparent, grandchild, and parent. So those would be the major things that I would highlight. Everything that we talked about relative to the waiver is generally applicable to this bill as well, and so we certainly would want to be able to make headway on seeing modifications. But as indicated, it does deviate from federal law in certain respects and does have an impact on small employers relative to the restoration of employees who take leave.

CHAIR HUGHES: Questions or comments? Commissioner Greene.

COMMISSIONER GREENE: Thank you, Mr. Chair. I think a lot of the same issues come up with this one, and yet it seems like a little tighter bill. So some of the things are still a little loose and some of the things have been defined a little better and tighter. I think I would probably lean towards this one more than the first one, but there's still some work to go in there. So I'll let other people speak to this.

CHAIR HUGHES: Comments. Commissioner Hamilton.

COMMISSIONER HAMILTON: I would have the associated, concomitant question. Are there negotiations or modifications that the County would see in its best interest that are similar to the negotiations articulated for the first bill, the previous bill?

MANAGER SHAFFER: Mr. Chair, Commissioner, I think yes, is the short answer. As we talk about leave restoration and potential impacts to smaller employers I think that issue is exactly the same. As we talk about the waiver provisions, I think that issue is the same as well, even though the County as an organization wouldn't be contributing, our employees would be and so we'd want to at least preserve the opportunity to craft a program that would be 100 percent County paid and not have our employees pay into the state fund.

I think there's less divergence, but there's still divergence with the federal law and so there maybe areas in which as we start to expand into this area having some overlap, which would decrease the risk of non-compliance but also provide a start in this area. So I hope that answers your question and I think we'll follow, absent separate direction, if this bill is going to move forward we'll do our best to try and influence its final contours in a way that was consistent with the previous motion.

COMMISSIONER HANSEN: I think that works for me. I don't like that the employer does not contribute and that they're putting everything on the employee. It seems fairer if everyone contributes.

CHAIR HUGHES: Do we need a motion on this one, or Manager Shaffer, do you think you have enough direction?

MANAGER SHAFFER: I think we're good from the previous vote, but if you want to memorialize that in a motion then I'd defer to Jeff as our parliamentarian.

COMMISSIONER HAMILTON: Have you similarly talked to Representative Matthews about this one?

MANAGER SHAFFER: We have not. Frankly, we interfaced with Representative Chandler because she was pro-active in talking to the County Managers Affiliate. So we will, if that's direction of the Board, make our views known relative to this bill as well.

CHAIR HUGHES: Attorney Young, should we have a vote?

JEFF YOUNG (County Attorney): Mr. Chair, I would defer to you as Chair on this one, but I do think a vote is fine to give the same direction to the bill's sponsor as was discussed in the prior bill, HB-6 and Senate Bill-3.

CHAIR HUGHES: Okay, well, let's entertain a motion then. Anybody want to make a motion?

COMMISSIONER GREENE: Motion to give direction to the County Manager to pursue the similar recommendations as the previous motion in support of finding a workable solution to HB-11 that includes aligning it with the federal law and tightening up some of the language, including some of the carve-outs.

COMMISSIONER HANSEN: And making sure that we have a waiver.

COMMISSIONER GREENE: The carve-outs, yes. The waiver. That's a friendly amendment, yes. Thanks.

COMMISSIONER HANSEN: Okay, I'll second.

CHAIR HUGHES: Okay, any further discussion?

The motion carried by unanimous [4-0] voice vote.

CHAIR HUGHES: Okay, we have direction on that one. I believe that moves us along on our agenda. Yes, Commissioner Greene.

COMMISSIONER GREENE: If I may, if it is appropriate at this time, there's the items that have or may be introduced, and so while they're not necessarily on this list I do want to bring up some things that I've come across at the legislature that may not necessarily be directly but do impact us. So if I may.

CHAIR HUGHES: Go ahead.

COMMISSIONER GREENE: Thank you very much. So the Pojoaque and Santa Fe Soil & Water Conservation District, we support them with \$8,000 a year to go for their operations, barely for their maintenance. They are pursuing, if you saw in the paper last week, a \$7.7 million appropriation from the legislature to fix a dam that is in Rio Arriba County, but it flows into Santa Fe County. And there are 800 residents in the Santa Cruz Valley that are considered at threat to this dam. The proposal that they're asking for is \$7.7 million of state money that would be leveraged with about \$13 million of federal money that is already pretty much aligned and ready to go. The feds have already engineered and done a lot of the basic groundwork at their cost. And while this is in Rio Arriba County, this is something that impacts Santa Fe County, Chimayo, Santa Cruz, Española, and the Santa Clara tribal lands.

I would hope that we would give assistance to the Pojoaque, to the folks from that organization to have the maneuverability and the insight of our lobbyists to be able to call on them and say can you help us get this over the line. Most of it will be on the fourth

floor from the Governor's discretionary money but there is support from two legislators already and it's a life safety issue that is not necessarily in our purview but definitely, we are downhill from this.

COMMISSIONER HANSEN: I read the article in the paper but I don't know if we can actually vote on the agenda.

CHAIR HUGHES: I was just about to ask Attorney Young, are we allowed to vote on anything that wasn't on the agenda?

MR. YOUNG: Mr. Chair, I would not, as the item is not listed. It's certainly a point of discussion as brought about by Commissioner Greene but I would not recommend voting at this time.

COMMISSIONER GREENE: So if I may, it says opposition to legislation that has been or may be introduced. So they may be introduced is a title to this and we don't have a bill number necessarily for this. I would hope that even if we don't vote on this today that we have an opportunity to vote on this next week, one, and more information about it and how we can help them. Two, at least also for next week that we make sure that has or may be introduced is things that we bring forward at this meeting and may be introduced. I don't know.

CHAIR HUGHES: I think we're all in support of getting the dam fixed. It's been a problem for a long time, not just this year, and the danger is real. But let's make sure we get it on the agenda in the correct way for next week.

COMMISSIONER HANSEN: I have one – is BOR responsible for this?

COMMISSIONER GREENE: It is the Soil Conservation – not the BOR. It is another federal agency that actually built the dam in the 1960s who would be putting up the \$13 million of it, but the matching funds are \$7.7 million. And it's not the BOR. It is on BLM land and there's some complications with that as well.

COMMISSIONER HANSEN: Okay.

CHAIR HUGHES: Okay. Any other items before we move on to the County Attorney?

3. Matters from the County Attorney

A. Executive Session. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the Board of County Commissioners and Collective Bargaining Units, as Allowed by Section 10-15-1(H)(5)

1. Collective Bargaining Negotiations with AFSCME 1782

MR. YOUNG: Mr. Chair, I would ask that we go into executive session, I think a brief executive session to discuss bargaining strategy preliminary to collective bargaining negotiations between the Board of County Commissioners and collective bargaining units as allowed by Section 10-15-1(H)(5), particularly as it related to collective bargaining negotiations with AFSCME 1782. Again, I think it will be a brief discussion, so I'd recommend that we come back after to conclude business with announcements and adjournment.

CHAIR HUGHES: So you recommend we do come back after the executive session. Okay. Can I have a motion to go into executive session?

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COMMISSIONER HANSEN: So moved.

COMMISSIONER GREENE: And I'll second.

CHAIR HUGHES: Okay, we have a motion and a second. Can we have a roll call?

The motion to go into executive session passed by unanimous roll call vote as follows:

| | |
|-------------------------|-------------|
| Commissioner Bustamante | Not Present |
| Commissioner Greene | Aye |
| Commissioner Hamilton | Aye |
| Commissioner Hughes | Aye |
| Commissioner Hansen | Aye |

[The Commission met in executive session from 3:53 to 4:05.]

COMMISSIONER HANSEN: Mr. Chair, I make a motion that we come out of executive session where the only thing that we spoke about was what was presented to us by the County Attorney.

COMMISSIONER GREENE: I second.

The motion carried by unanimous [4-0] voice vote.

4. Concluding Business

A. Announcements

COMMISSIONER HANSEN: I have an announcement. Today was feast day at San Ildefonso Pueblo and it was incredibly beautiful. They did the deer dance and a form of Comanche dance, I believe. I'm not positive. But it was incredibly beautiful out there and the sun was shining. It was warm and we're incredibly fortunate to have such a rich cultural life her.

CHAIR HUGHES: Indeed we are. Any other announcements?

COMMISSIONER GREENE: Just a reminder for all of us here. We basically have 48 hours from right now for our capital requests to be really locked in. I recommend that we all spend a couple hours in the next few days. Because after that it's only maintenance. After that our lobbyists can really do the work, but right now, if we can go spend the time with our delegation and anybody over there that you have a relationship with, that's between now and Thursday at 5:00 pm.


CHAIR HUGHES: Thank you for that reminder.

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B. Adjournment

Upon motion by Commissioner Greene and second by Commissioner Hamilton, and with no further business to come before this body, Chair Hansen declared this meeting adjourned at 4:07 p.m.

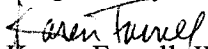
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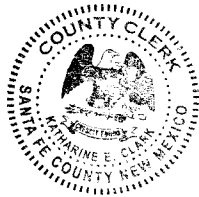

Hank Hughes, Chair
Board of County Commissioners

ATTEST TO:

KATHARINE E. CLARK
SANTA FE COUNTY CLERK


Respectfully submitted:

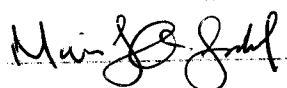

Karen Farrell, Wordswork
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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 28

I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy  County Clerk, Santa Fe, NM

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