



Legislative
Research
Council

MINUTES

State and Local Government Task Force

Second Meeting
2004 – 2005 Interim
May 4 & 5, 2005

LCR 1 & 2
State Capitol Building
Pierre, South Dakota

Wednesday, May 4, 2005

The second meeting of the State and Local Government Task Force was called to order by Matt Adamski, Chair, at 1:05 p.m. on May 4, 2005, in LCR 1 & 2 of the State Capitol Building in Pierre, South Dakota.

A quorum was established. The following members were present at all or part of the meeting: Matt Adamski, Chair, Brenda Barger, Rod Bowar, Arlene Ham-Burr, Lyle Hendrickson, Susan Humiston, Jim Hutmacher, Curt Jones, Christopher Maynard, Patty McGee, Bill Peterson, Jim Shaw, Elizabeth Smith, Sam Tidball, Debra Vedvei, Dean Wink, and James Zweep. Senator Garry Moore, Representative Mike Kroger, Kenneth Blanchard, Tom Helland, and Will Walter were excused. (**NOTE:** Jim Hutmacher was in attendance on May 4, 2005, and excused on May 5, 2005; Christopher Maynard was excused on May 4, 2005, and in attendance on May 5, 2005.)

Staff members present included Jacquelyn Storm, Principal Legislative Attorney, Fred Baatz, Principal Research Analyst, and Reta Rodman, Legislative Secretary.

(**NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the master minutes.)

Opening Remarks

Mr. Matt Adamski, Chair, welcomed everyone to the meeting and asked the members of the task force to introduce themselves. He also encouraged the committee to be thinking about the focus of this task force.

Cooperation and Consolidation of Services

Planning District Directors:

Van Lindquist, Black Hills Council of Local Governments (District 6), **Dick Edenstrom**, First District Association of Local Governments (District 1), **Greg Henderson**, Planning & Development District III (District 3), and **Lynne Keller**, South Eastern Council of Governments (District 2) shared in the presentation describing the planning districts' role in local

government. They distributed a handout entitled, "Local Government Cooperation by South Dakota's Planning and Development Districts" (**Document #1**). There are two additional planning districts called Northeast Council of Governments (District 4), and Central South Dakota Enhancement District (District 5).

Mr. Lindquist affirmed that during Governor Frank Farrar's term of office planning districts were authorized, and the initial boundaries were established under an Executive Order on December 4, 1970. Planning districts are voluntary associations of city, county, and tribal governments that operate under a joint cooperative agreement.

Mr. Lindquist explained to the task force members that the state is divided into six districts, and they have some things in common such as service flexibility, geographic orientation, local ownership, and staff effectiveness. He also noted they differ in funding, specialty services, board membership, and management styles. The planning districts receive funding from several sources such as state and federal contracts, local dues, project administration, specialty services, and fees for services.

Ms. Lynne Keller noted that the planning districts' financial success depends upon local buy in, contract flexibility, ability to leverage outside resources, and performance accountability. She also noted that there are future financial challenges that the planning districts will have to face. Ms. Keller reported that planning districts often help local governments put together applications package for specific projects, research the zoning laws, prepare surveys and studies, cut through the red tape, and aid communities in assessing state and federal infrastructure programs.

Ms. Keller continued by stating that the Regional Leadership Plenty Training program was started last year. She contacted Citibank in Sioux Falls, and they agreed to allow the use of their facility as a place to conduct the training and to permit Citibank's work force to participate in the program. Thirty percent of Citibank's work force lives in the outlying communities. Ms. Keller noted that the program to date has been very successful.

Mr. Dick Edenstrom stated that the districts are in a good position to help the local governments cooperate in various areas:

1. Land use planning;
2. Emergency preparedness which is working with cities and counties in regards to emergency planning;
3. Transportation infrastructure;
4. Housing which is an issue that all districts are diligently working to solve;
5. Recreation facilities;
6. Tourism; and
7. Water issues.

Mr. Edenstrom stated that that one of the cooperative programs that his planning district is working on is the Big Stone II Community Impact Study.

Mr. Henderson recognized that the communities must look beyond themselves and not be concerned just about themselves. He stated that economic development, successful

cooperation, community infrastructure, and entrepreneurship all play a large part in the success of any local government. Mr. Henderson said that state and local government must work together in order to get anything accomplished. He noted that the Regional Housing Initiative found that private developers aren't building new homes in small towns, and some communities equate housing to keeping their school districts alive. Mr. Henderson noted that the planning district under the Housing Initiative is acting as a public developer. The planning district and the SD Housing Development Authority have entered into an agreement to allowing the districts to use Home program funds. This agreement allows the planning districts to purchase Governor's homes, hire a local contractor to add a basement, a bedroom in the basement, and attach a garage which then makes the home more marketable. Mr. Henderson pointed out that these homes once completed will be sold to eligible buyers at virtually no profit to the planning districts.

Ms. Shellie Baker, Hughes County Finance Officer, apprised the task force members that her position is a combination of Auditor, Treasurer, and Register of Deeds. She distributed three handouts entitled "Commissioners Consider Consolidating 3 Hughes County Offices" (**Document #2**), "Hughes County to Combine Offices" (**Document #3**), and "Hughes County Ordinance No. 98-3 for the Combining of the Offices of County Auditor, County Treasurer and County Register of Deeds" (**Document #4**). She explained to the members that there was not necessarily any budget savings by combining all three offices, but acknowledged they have not had to hire additional employees to complete the workload. Ms. Arlene Ham-Burr questioned if it is necessary that Ms. Baker's position of Finance Officer be an elected position. Ms. Baker responded that she believed it was good to be elected because the election insures the confidence of the voters.

Jacquelyn Storm, Principal Legislative Attorney, distributed handouts entitled the following: "Issue Paper: Funding Solutions for 9-1-1" by the Association of Public Safety Communications Officials (APCO) International (**Document #5**), "Article IX, Local Government, of the South Dakota Constitution" (**Document #6**), "South Dakota Legislative Research Council Issue Memorandum 98-16, Constitutional Amendment D-Intergovernmental Cooperation" (**Document #7**), and "Salaries and Compensation for County Officials" (**Document #8**).

9-1-1 Service

Aaron Olson, Legislative Research Council Fiscal Analyst, distributed Issue Memorandum 04-03, "9-1-1 SYSTEM" (**Document #9**). He noted that 9-1-1 is the official national emergency number in the United States and Canada. Mr. Olson also stated that when a caller dials 9-1-1 they are quickly connected to a PSAP or Public Safety Answering Point who then routes the call to local emergency medical, fire, and law enforcement agencies. South Dakota has three types of service levels. The levels are Pre-Basic, Basic, and Enhanced with each level of service delivering different amounts of information to a PSAP.

Mr. Olson stated that In 2000, 30 percent of the 9-1-1 calls nationally were made by wireless telephone users, and it is anticipated that by 2005, the majority of the calls will be from wireless callers. The Federal Communications Commission (FCC) passed rules in 1996 that required all wireless carriers to provide pinpoint location formation to the PSAPs or 9-1-1 dispatch centers by December 31, 2005. Mr. Olson affirmed that South Dakota is in the

process of taking the necessary steps to be eligible for the federal match grants. Due to the consolidation of some PSAPs over the past year, there are currently 36 PSAPs in South Dakota. There are two phases to the FCC's 9-1-1 rules. Phase I provides the PSAP with the wireless phone call back number and the location of the cell tower that picked up the call. Mr. Olson stated that Phase II allows call takers to receive both the caller's wireless phone number and specific location information accurate to within 50 to 100 meters, depending on the technology used.

On a statewide basis, Mr. Olson noted that it is estimated that the 9-1-1 emergency surcharge covers 50 to 60 percent of the costs for implementing the existing 9-1-1 system, with the balance being paid from the local government's general fund. The 2005 Legislature allocated \$50,000 from general funds which will allow the Association of County Commissioners to fund the 9-1-1 system. The federal government has also allowed PSAPs to apply for Homeland Security funding through the South Dakota Department of Public Safety to help pay for upgrades in 9-1-1 equipment.

Mr. Olson continued with his presentation to inform the members that Voice over the Internet Protocol (VoIP) allows a person to make telephone calls using a computer network, over a data network similar to the Internet. This process converts the voice signal into a digital signal that travels over the Internet and then converts it back at the other end, which allows the caller to speak to anyone with a regular phone number. However, an FCC ruling does not permit South Dakota to impose a 9-1-1 surcharge on such Internet services.

Mandates: Identification of Burdensome Requirements

Public Testimony

Mr. Ken McFarland, Minnehaha County, stated that court costs and law enforcement expenditures are very large ticket items in a county's budget. He distributed a handout entitled "Minnehaha County Court Costs & Law Enforcement Expenses, May 4, 2005" (**Document #10**). Mr. McFarland reported that Minnehaha county population is the largest county population in South Dakota which is approximately twenty percent of the state population. Minnehaha county has an estimated population in 2004 of 160,500. Mr. McFarland described the expenses and income items in the Minnehaha county budget. The expenses of a large trial could break a county with millions being spent on legal and court costs. Mr. McFarland stressed that sometimes only 50 percent of the expenses are collectable from fees paid to clerks, fines, court costs, forfeitures, and civil penalties, to mention a few. His recommendations are to develop communications, give counties the ability to use and prioritize existing funds more efficiently, allow counties to establish fees, and provide counties new revenue sources such as a portion of the liquor tax.

Mr. Alvin Fjeldheim, Campbell County Commissioner, stated that the largest amount of their budget is spent on roads. Law Enforcement is also costly. His county does not have a county jail and must contract for that service with an adjoining county. Another concern of counties is the medical expenses of those in jail. Former legislator Bill Peterson asked Mr. Fjeldheim if the 3 percent property tax cap was lifted and the counties were allowed to raise taxes, how

would the people of his county respond. Mr. Fjeldheim said in his county that action would not be viewed favorably, and neither would a wheel tax.

Yvonne Taylor, South Dakota Municipal League, stated it is extremely difficult to quantify the expenses of mandates. Cities and towns have been paying for the mandates imposed by the EPA. She distributed proposed language for a bill (**Document #11**) that would grant municipalities all powers except those specifically denied. Ms. Taylor acknowledged that the municipal league is proud of creating risk sharing pools for the purchase of insurance for the local governments of South Dakota. She also emphasized that municipalities are extremely dependent on the sales tax and oppose sharing it.

In response to a question, Ms. Taylor stated that only 10 municipalities have Home Rule because there is no great compelling reason to pass a Home Rule charter, and it is not an easy process.

Mr. Hank Kosters, Associated School Boards of South Dakota, distributed handouts entitled "State and Local Government Task Force Meeting, May 4 & 5" with "ASBSD Preliminary Summary of South Dakota Facilities Report" attached (**Document #12**), "A Proposal To Study School Finance and Education Adequacy in South Dakota" (**Document #13**), and a National School Boards Association Issue Brief "NSBA's Bill To Improve No Child Left Behind" (**Document #14**). He emphasized that joint powers agreements are not an option for school districts because they are precluded by statute, which he believes should be rectified.

The task force recessed at 5:05 p.m.

Thursday, May 5, 2005

The State and Local Government Task Force reconvened at 8:15 a.m.

Costs of Law Enforcement & Fees Charged by Counties

Mr. Marty Guindon, Auditor General, Department of Legislative Audit, introduced **Mr. Deene Dayton**, Department of Legislative Audit. Mr. Guindon distributed handouts entitled "County Law Enforcement and Court-Related Expenditure and Revenue Summary" (**Document #15**), and "County Fees Summary" (**Document #16**). In review of Exhibit #1 of Document 15 he explained that for the year 2003 the total county law enforcement and court-related expenditures was \$82,721,631.49 which was an increase of 6.20 percent from the previous year.

Law enforcement and court-related expenditures include Judicial System (jury fees, witnesses, transcripts, and exhibits), Legal Services (states attorney, public defender, court appointed attorney, and abused and neglected child defense), Law Enforcement (sheriff, county jail, county-wide law enforcement, juvenile detention), and Communications Center (law enforcement, E911, dispatch, fire protection, and flood control).

Mr. Guindon presented a document showing a county fees summary. It included exhibits describing charges for goods and services, register of deeds fees, and sheriff fees.

Public Testimony

Kelly Serr, Perkins County Sheriff, explained how his law enforcement budget has escalated over the last several years. In reviewing his budget he attributed the increase to the increased costs of personnel, gasoline, litigation, and county-wide law enforcement, to mention a few. Sheriff Serr stated that the courts are now sentencing people to the county jail rather than sending them to the state institutions which places an additional financial burden on county budgets. He noted that methamphetamine use is on the rise, which results in jail time along with medical expenses for that individual. Sheriff Serr is seeing that methamphetamine use is also having an impact on the mental health of the individuals that are being jailed, which is also resulting in additional expenses.

Dan Limoges, Union County Sheriff, expressed his concerns regarding the increase in the law enforcement budget for his county. He advocated for raising the fees that may be collected by sheriffs. Their jail averages 40 inmates daily, and the female inmate population has ballooned to 18 daily. Sheriff Limoges noted that his department is working on various areas to bring income into his budget with the areas as follows: promote work release which earns \$25 a day (\$40,000 a year); charging \$10 a day fee to be in jail (\$9,000 a year); housing federal prisoners (\$233,000 a year); and finger printing commercial motor vehicle drivers for the state (\$19 per card) resulting in an annual income of \$319,000.

Both **Sheriff Serr** and **Sheriff Limoges** emphasized that several areas need to be addressed: better communication between state and local law enforcement agencies; the methamphetamine problem; making people more accountable; enhancing the state radio system; joint training classes; and increasing fees.

Funding

Sources of Funding Used in Other States

Mr. Fred Baatz, Principal Research Analyst, Legislative Research Council, distributed a handout entitled "Certain Local Government Fees" (**Document #17**), a document describing how taxes are distributed (**Document #18**), and "State Excise Tax Rates" (**Document #19**). Document #17 contained statutes providing some examples of outdated fees as well as fees commonly charged. Mr. Baatz indicated that some of the laws date back to the 1800's. He stated that South Dakota's tax system is a lot more straight forward than systems found in many other states and consists of many of the same type of taxes except personal and corporate taxes. However, South Dakota does have the contractors excise tax which no other state imposes.

Responding to questions from the task force members, **Nancee Johnson**, South Dakota Beer Wholesalers Association, addressed the committee with statistics on the alcoholic beverage taxes per barrel of beer nationally and statewide which for South Dakota is \$8.50 per barrel.

Mr. Fred Baatz emphasized that gaming issues on instant tickets, lotto tickets, video lottery, bingo tax, and bingo license fees all raise revenue, a portion is returned to the local governments in the form of state aid to education. He also stated that the motor vehicle registration fee is distributed between local government, the state highway fund, and other special funds. Mr. Baatz informed the committee that 37 states permit a local sales tax; 17 states allow local governments to impose an income tax; and 15 states have a state-wide property tax. He stated South Dakota does not have the inheritance tax, corporate income tax, or a personal income tax.

Sources of Funding for Education Used in Other States

Ms. Clare Charlson, Senior Research Analyst, Legislative Research Council, presented a handout entitled "Overview of K-12 Education Finance" (**Document #20**). Ms. Charlson explained that \$501.3 billion was spent during the 2003-04 school year on education. She stated that, with the exception of Hawaii, revenue from property taxes is the main source of revenue used to support local schools. In Ms. Charlson's presentation she stated that the majority of funding from state government comes from the state's general fund. Most states use a foundation plan to distribute funds to the school districts. Ms. Charlson indicated the plan includes a per-student funding amount along with a specified local tax rate that school districts must levy. The state pays the difference between the revenue raised and the foundation funding level. She directed attention to the fact that school districts face the possibility of litigation, and 45 states have already been involved in some type of school finance litigation.

Ms. Charlson stated that funding from the federal government is modest and that is not likely to change. When the funding is available, it is usually designated for specific student populations such as special needs children or children in poverty.

Public Testimony

Mr. Ron Buskerud, Pennington County, testified that he would like to see enforcement of the statute that requires the state to fund any mandates it passes down. He suggested the counties go before the Legislature and ask for an increase in fees that the counties are able to collect.

Hank Kosters, Associated School Boards of South Dakota, informed the committee that state aid varies dramatically from school district to school district, and the opt out safety valve has been used to keep school districts functioning. He also added that the ASBSD organization took over the South Dakota Teacher Placement Center, which was developed to help teachers find jobs in South Dakota. He also confirmed that school board members may not be recalled.

The task force meeting recessed at 11:20 a.m. for lunch and reconvened at 12:30 p.m.

Committee Discussion

A multitude of ideas were forthcoming from the committee members regarding what the task force's focus should be. Mr. Matt Adamski, Chair, commented that after listening to the testimony and the questions asked from the task force members, the members appeared to be interested in the areas of communication, management flexibility, intergovernmental cooperation, and funding. More specifically, the task force will examine the issues of red tape; communication between agencies; fee structures; creating a standing local government commission; and joint powers agreements for school districts.

Mr. Adamski instructed the Legislative Research Council staff to check with the surrounding states to see if they have a State and Local Government Task Force already in place, and what their focus has been.

There being no further business Chair Adamski adjourned the meeting at 2:10 p.m.

