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## LEGISLATIVE MANAGEMENT

Thursday, October 6, 2022  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Chet Pollert\*, Glenn Bosch, Joshua A. Boschee\*, Michael Howe\*, Kim Koppelman\*, Mike Lefor\*, Alisa Mitskog\*, Jim Schmidt\*, Robin Weisz\*; Senators Randy A. Burckhard\*, Joan Heckaman\*, Jerry Klein\*, Merrill Piepkorn\*, Donald Schaible\*, Terry M. Wanzek\*, Rich Wardner\*

**Member absent:** Senator Jessica Bell

**Others present:** Emily Thompson, Legislative Council, Bismarck

*\*Attended remotely*

**It was moved by Representative Lefor, seconded by Senator Wardner, and carried on a voice vote that the minutes of the September 12, 2022, meeting be approved as distributed.**

### RETENTION OF OUTSIDE LEGAL COUNSEL

Chairman Pollert noted the purpose of this meeting is to consider authorizing the Legislative Council to contract for outside legal counsel to represent the legislative branch in matters relating to litigation brought challenging the redistricting plan adopted during the special session last November. He indicated North Dakota Century Code Section 54-35-17 gives the Legislative Management the power to authorize the Legislative Council to appoint or retain legal counsel to protect the official interests of the legislative branch.

Mr. John Bjornson, Director, Legislative Council, noted:

- Two lawsuits have been filed in federal court challenging the creation of subdistricts in Districts 4 and 9.
- In one suit, the plaintiffs are asking the federal court to create a new district which would combine the Spirit Lake Reservation with the Turtle Mountain Reservation.
- In that lawsuit, certain members of the interim Redistricting Committee, leadership, and another legislator, as well as a former attorney from the Legislative Council who worked on the redistricting process, have been subpoenaed to turn over various documents relating to the redistricting process.
- Although the Attorney General's office is representing the state in the lawsuit, the defendant is the Secretary of State and the Legislative Assembly is not a party to the lawsuit.
- The Attorney General is not able to represent the legislators and former staff member who were subpoenaed.
- As a result of discussions with Chairman Pollert, this meeting was called to request the Legislative Management to authorize the Legislative Council to obtain legal representation to respond to the subpoenas.

In response to questions from committee members, Mr. Bjornson noted:

- Legislative Council attorneys could be subpoenaed in the redistricting lawsuits and it likely would not be wise for the Legislative Council staff to be involved in the matter as attorneys for legislators who were subpoenaed.
- If retention of counsel is authorized, the Legislative Council would contract with a local attorney.

- At this point, additional funding is not necessary for retention of legal counsel, but depending upon the status of the two lawsuits and the amount of involvement by outside counsel, additional funding may need to be considered during the 2023 legislative session.

**It was moved by Representative Koppelman, seconded by Senator Wanzek, and carried on a roll call vote that the Legislative Council be authorized to retain outside counsel for the purpose of responding to subpoenas issued in the redistricting litigation.** Representatives Pollert, Bosch, Boschee, Howe, Koppelman, Lefor, Mitskog, Schmidt, and Weisz and Senators Burckhard, Heckaman, Klein, Piepkorn, Schaible, Wanzek, and Wardner vote "aye." No negative votes were cast.

### **LEGISLATIVE SESSION HOUSING REIMBURSEMENT**

Chairman Pollert noted:

- Section 54-03-20 allows the Legislative Management to establish a policy to reduce the legislative session housing reimbursement when legislators share housing.
- The Legislative Management has not set a standard policy, but previous Legislative Management chairmen have handled those types of reimbursement requests in different manners.
- A policy allowing full reimbursement for the first occupant and 50 percent of the reimbursement amount for additional occupants would seem fair.
- If he did not receive any contrary feedback from members of the Legislative Management within the next week, he would establish the policy as he proposed.

Members of the Legislative Management commented that although it is not the intent of the Legislative Assembly to set market rental rates, the Bismarck rental market during legislative sessions seems to conform with the amounts set by law for legislator housing allowances.

No further business appearing, Chairman Pollert adjourned the meeting at 9:27 a.m.

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John Bjornson  
Director