



WISCONSIN LEGISLATIVE COUNCIL

NUCLEAR POWER

411 South, State Capitol
Madison, Wisconsin

January 29, 2007

9:15 a.m. – 2:00 p.m.

[The following is a summary of the January 29, 2007 meeting of the Special Committee on Nuclear Power. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Montgomery called the meeting to order at 9:15 a.m. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Phil Montgomery, Chair; Reps. Chuck Benedict and Mark Honadel; Sen. Dave Hansen; and Public Members Forest Ceel, Michael Corradini, Charles Higley, Katie Nekola, John Orth, Terry Pickens, Brian Rude, Pat Schillinger, Richard Shaten, Susan Stratton, Bill Ward, and Jack Weissgerber.

COMMITTEE MEMBER EXCUSED: Rep. Robin Vos.

COUNCIL STAFF PRESENT: David Lovell, Senior Analyst, and John Stolzenberg, Chief of Research Services.

Approval of the Minutes of the Special Committee's December 14, 2006 Meeting

Mr. Schillinger moved, and Mr. Ward seconded, that the committee approve the minutes of its December 14, 2006 meeting; the motion was approved by unanimous consent.

<p>*ATTENTION: This was the final meeting of the Special Committee on Nuclear Power. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.</p>

Description of Staff Materials Distributed

Mr. Stolzenberg described the materials that had been distributed to the committee for this meeting, noting in particular several new items that were at members' places.

Discussion of Committee Assignment

Chair Montgomery indicated that the committee would consider WLC: 0058/1 at the end of the meeting.

Mr. Stolzenberg described WLC: 0059/1, a joint resolution memorializing Congress and the President to speed implementation of the Nuclear Waste Policy Act of 1982 (the act), in particular the opening of a federal repository for spent nuclear fuel. He noted that the Assembly Rules do not allow the consideration of resolutions or joint resolutions to memorialize Congress or any branch or officer of the federal government, but observed that the draft could be recast as a letter from the committee chair to Congress and the President.

The committee discussed the failure of the federal Department of Energy (DOE) to take title to spent nuclear fuel and place it in a national repository, as required under the act and contracts between the DOE and operators of nuclear power plants. It also discussed the cost to nuclear operators of storing spent fuel and law suits in which nuclear operators are seeking to recover those costs from the DOE, claiming breach of contracts by the DOE. The committee debated the merits of the views expressed in the draft, in particular the merits of putting the State of Wisconsin on record in support of the DOE's proposed Yucca Mountain Repository.

Mr. Weissgerber moved, seconded by Mr. Rude, that the Special Committee direct the chair to send a letter based on WLC: 0059/1 and a copy of the Resolution on Permanent Disposal of Nuclear Waste adopted in 2006 by the 61st Annual Meeting of the Midwest Legislative Conference of the Council of State Governments to the Wisconsin congressional delegation, with copies to all members of Congress; the motion passed on a vote of Ayes, 12 (Reps. Montgomery, Benedict, and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Stratton, Ward, and Weissgerber); Noes, 4 (Sen. Hansen; and Public Members Higley, Nekola, and Shaten); and Absent, 1 (Rep. Vos).

Chair Montgomery moved that the Special Committee direct the chair to send a letter to the Public Service Commission (PSC) requesting that the PSC review the possibility that the state escrow payments from Wisconsin nuclear power plant operators to the Nuclear Waste Fund and to identify policy options for consideration by the Legislature.

Mr. Stolzenberg described s. 196.497 (11s), Stats., which directs the PSC to require the payment of fees from Wisconsin nuclear power plant operators to the Nuclear Waste Fund instead to an escrow account, if it determines that the DOE has failed to meet its responsibilities to open a waste repository and the DOE or a federal court has approved the escrowing of the funds. Mr. Lovell explained that there is no penalty to the state if the payments are not made to the fund, but that it would be a breach of contract on the part of the operators if they did not make the payments to the fund. Several committee members indicated that this is a very controversial idea within the nuclear energy industry, noting that it would put the operators in the position of breaching the same contracts that they are currently suing the DOE for breaching.

Chair Montgomery withdrew his motion.

Mr. Orth moved, seconded by Mr. Schillinger, that the Special Committee direct the chair to propose to the chair of the Senate Committee on Commerce, Utilities, and Rail a joint hearing of that committee and the chair's Assembly Committee on Energy and Utilities to review the implementation of s. 196.497 (11s); the motion passed on a vote of Ayes, 16 (Reps. Montgomery, Benedict, and Honadel; Sen. Hansen; and Public Members Ceel, Corradini, Higley, Nekola, Orth, Pickens, Rude, Schillinger, Shaten, Stratton, Ward, and Weissgerber); Noes, 0; and Absent, 1 (Rep. Vos).

Mr. Rude described WLC: 0060/1, which amends s. 196.497, Stats., relating to advocacy by the PSC on behalf of the state regarding the disposal of high-level radioactive waste, including spent nuclear fuel. He noted that the draft expands the subject matter to include interim storage of spent fuel, as well as disposal, requires the PSC to advocate in favor of any federal license application for the operation of the proposed Yucca Mountain repository, and directs nuclear operators to cooperate with the PSC in its implementation of s. 196.497. The committee debated the merits of the draft, including discussion of:

- The wisdom of requiring the PSC to advocate in favor of *any* application, regardless of its merits;
- The wisdom of advocating only with regard to the proposed Yucca Mountain repository, rather than any repository;
- The capacity of the proposed Yucca Mountain repository and the likely future need for additional repositories;
- The possible nature of interim storage, i.e., the current on-site storage and centralized storage, and whether state advocacy should apply to both or be limited to centralized interim storage; and
- The process of siting the Yucca Mountain Repository or any other repository.

Mr. Higley moved, seconded by Ms. Nekola, that SECTION 2 of WLC: 0060/1 be deleted; the motion failed on a vote of Ayes, 6 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, Shaten, and Stratton); Noes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber); and Absent, 1 (Rep. Vos).

Mr. Rude moved, seconded by Mr. Schillinger, to amend WLC: 0060/1 by: (1) adding, at the end of p. 2, line 6, "including any license application submitted to the nuclear regulatory commission for a license to operate a federal repository for the long-term disposal of high-level radioactive waste and transuranic waste"; (2) and deleting the sentence beginning on page 2, line 8 and ending on line 11.

Mr. Corradini moved, seconded by Mr. Ceel, to amend the preceding motion by inserting "centralized" before "interim storage" on page 2, line 5, and on page 3, line 2; the motion passed on a vote of Ayes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber);

Noes, 4 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Stratton); Absent, 1 (Rep. Vos); and Not Voting, 1 (Public Member Shaten).

The preceding motion by Mr. Rude and Mr. Schillinger, as amended, passed on a vote of Ayes, 9 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Pickens, Rude, Schillinger, Ward, and Weissgerber); Noes, 7 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, Orth, Shaten, and Stratton); and Absent, 1 (Rep. Vos).

Mr. Schillinger moved, seconded by Mr. Pickens, that the Special Committee recommend WLC: 0060/1, as amended, to the Joint Legislative Council for introduction in the 2007-08 session of the Legislature; the motion passed on a vote of Ayes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber); Noes, 5 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Stratton); Absent, 1 (Rep. Vos); and Not Voting, 1 (Public Member Shaten).

Mr. Corradini summarized WLC: 0061/1, requiring the PSC to investigate future energy supplies. The committee discussed:

- The adequacy of the seven-year planning horizon used in the biennial Strategic Energy Assessment and whether there is a need or value to requiring a one-time study with a 25-year planning horizon;
- The germaneness of the draft to the Special Committee's charge;
- The consideration in the proposed study of advanced coal and nuclear generation technologies;
- Who should be directed to conduct the study, including consideration of the PSC, the Energy Institute of the University of Wisconsin-Madison, and a study committee created by the Joint Legislative Council; and
- Whether the PSC should be barred from using factual conclusions from the study in deciding contested cases unless the conclusions are independently corroborated in that case.

Chair Montgomery asked for unanimous consent to replace the language of the draft on page 2, lines 7-10 with the following: "2. Include one or more scenarios that include electric generating technologies that use coal as a fuel and produce no or minimal emissions of carbon dioxide, or that use nuclear fuel in advanced light water reactors, separately and in combination." There was no objection.

Mr. Corradini distributed WLC: 0070/1, an amendment to WLC: 0061/1. He explained that the amendment bars the PSC from using factual conclusions from the study in making a determination on an application for a certificate of public convenience and necessity unless the conclusions are independently corroborated in that case; and directs the Energy Institute of the University of Wisconsin-Madison to assist the PSC in conducting the study.

Mr. Corradini moved, seconded by Mr. Orth, that the Special Committee adopt WLC: 0070/1; the motion passed on a vote of Ayes, 11 (Reps. Montgomery and Honadel; and

Public Members Ceel, Corradini, Orth, Pickens, Rude, Shaten, Stratton, Ward, and Weissgerber); Noes, 5 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Schillinger); and Absent, 1 (Rep. Vos).

Mr. Corradini moved, seconded by Mr. Orth, that the Special Committee recommend WLC: 0061/1, as amended, to the Joint Legislative Council for introduction in the 2007-08 session of the Legislature; the motion passed on a vote of Ayes, 11 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Shaten, Stratton, Ward, and Weissgerber); Noes, 5 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Schillinger); and Absent, 1 (Rep. Vos).

Representative Honadel suggested that the Special Committee not take up WLC: 0062/1, relating to requiring the PSC to study a carbon free resources portfolio standard. There was no objection.

Mr. Stolzenberg described WLC: 0058/1, relating to the repeal of limits on the construction of nuclear power plants (s. 196.493, Stats., the nuclear moratorium statute). He noted that the draft included two alternatives: the first alternative repeals s. 196.493 on the effective date of the draft; the second alternative delays the effective date of the repeal until January 1, 2015. In the committee's discussion of the draft, the following assertions and statements were made:

- By 2015, it will be known if the Yucca Mountain Repository will be opening, in which is an appropriate time to repeal s. 196.493.
- It will be necessary to build new base-load generation capacity before 2015; to be able to consider nuclear power as an option in that time frame, s. 196.493 should be repealed now.
- With growing concerns about emissions of carbon dioxide and climate change, all non-carbon based energy options, including nuclear power, must be available.
- Section 196.493 is not a moratorium, but standards that apply to nuclear power plant approvals by the PSC.
- The PSC is unlikely to approve a nuclear power plant without making the findings in s. 196.493, regardless, so the repeal of s. 196.493 will have no practical effect and will send the message that utilities should consider development of nuclear power plants in Wisconsin.
- New nuclear power plants will exacerbate the problems of spent nuclear fuel and other wastes, which were the subject of much of the committee's previous discussions.
- The standards expressed in s. 196.493 are reasonable and should be retained; their repeal would send the message that Wisconsin is putting development of nuclear power plants ahead of such reasonable, minimum standards.
- The repeal of s. 196.493 lacks support of the Senate and the Governor and cannot be enacted.

Mr. Corradini moved, seconded by Mr. Orth, that the Special Committee recommend WLC: 0058/1, as shown in Alternative 1, to the Joint Legislative Council for introduction in the 2007-08 session of the Legislature; the motion passed on a vote of Ayes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber); Noes, 6 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, Shaten, and Stratton); and Absent, 1 (Rep. Vos).

Mr. Corradini described a written motion, which staff had prepared at his direction, requesting that the Joint Legislative Council create a study committee to examine alternatives for ensuring that fuels used in the transportation sector in this state are sustainable. Mr. Schillinger observed that the Governor had recently proposed creation of an Office of Energy Independence and asked if this would be better addressed by that office. Chair Montgomery suggested that Mr. Corradini make the study request to the Joint Legislative Council himself, as a private citizen.

Plans for Future Meetings

This was the last meeting of the Special Committee.

Adjournment

The meeting was adjourned at 2:00 p.m.

DLL:ksm