

MINUTES
TENNESSEE HIGHER EDUCATION COMMISSION
Winter Quarterly Meeting
November 17, 2005, 1:00 p.m. CST

The meeting was called to order by Chairman Jim Powell with the following Commission members present:

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| Ms. Dawn Blackwell | Mr. Jim Powell |
| General Wendell Gilbert | Mr. Dale Sims |
| Mr. Ransom Jones | Ms. Katie Winchester |
| Ms. Debbie Koch via telephone | Dr. Brad Windley |
| Mr. John Morgan | Ms. Eleanor Yoakum |
| Mr. Jack Murrah via telephone | |

Adoption of Agenda

Mr. Powell asked the members if there was any objection to the agenda as previously circulated. Hearing no objection Mr. Powell noted that there was a consensus to accept the agenda.

Approval of Minutes, July 14 and September 7, 2005 Meetings

Mr. Powell asked for a motion to approve the minutes of the July 14 and September 7, 2005, Commission meetings. Dr. Brad Windley made the motion which was seconded by General Wendell Gilbert. The motion was duly adopted.

Chairman's Report

Mr. Powell began his report by noting the productive discussion on higher education fiscal issues at the work session earlier in the day. He commended each of the presenters for their informative remarks that enhanced the discussion.

To continue with the tradition of utilizing the Chairman's report to highlight successful public/private ventures to make the most of private giving, Mr. Powell recognized Dr. John Petersen, President of the University of Tennessee, for a report. Dr. Petersen reminded the Commission that last year UT reordered its capital outlay priorities as a result of what he termed as a "transformational gift." The donor, Dr. Min Gau, donated \$17.5 million. Dr. Gau is a native of Taiwan and graduate of UT in 1975 and 1977 with a masters and doctorate in electrical engineering, and is currently Chairman and CEO of Garmen International, a leader in global positioning technology. He explained that \$12.5 million of the donation was matched by \$25 million from the state for the Electrical and Computing Engineering Building on the Knoxville campus. The remaining \$5 million gift was matched by UT to create a \$10 million endowment. Dr. Petersen said that he anticipates

the leveraging of funds in this manner will translate into additional initiatives through the new facility, as well as through greater opportunities as similar arrangements are developed.

Executive Director's Report

Dr. Richard Rhoda, Executive Director, began his report by welcoming all to the meeting. He specifically welcomed Dr. Roy Nicks and Dr. Angelo Volpe to the meeting and expressed his appreciation to them for the assistance they have provided the Commission staff with various projects. Dr. Rhoda also expressed appreciation to Dr. Shirley Raines, President of the University of Memphis, for initiating the effort to assist students displaced by Hurricane Katrina. He noted that the public universities and ten community colleges enrolled over 600 students, most of whom had planned to attend Louisiana institutions.

Dr. Rhoda also informed the Commission that on December 12, Mr. Powell would be hosting a workshop at his home to include legislative leaders and Dr. Petersen and Chancellor Charles Manning to discuss higher education funding issues. One item to be specifically addressed at the workshop is the tuition model that the legislature directed the Commission to prepare. He thanked Russ Deaton for taking the lead in developing this model which will assist both legislators and higher education officials project tuition costs over a five year period based on actual and expected factors.

Systems' Reports

University of Tennessee

Dr. Petersen took the opportunity to note progress on completion of his staff and noted the search for the last position to be filled, Dean of the Agriculture School, has narrowed down the list to a group of finalists and expects the search to be completed soon. He also noted the upcoming opening of the Baker Center that will include a number of guests including U.S. Vice President Dick Chaney.

Dr. Petersen also advised the Commission of several initiatives being undertaken at this time including working with Commission staff in preparation for the Governor's budget hearing which will be held next month.

Tennessee Student Assistance Corporation

Mr. Powell asked Dr. Rhoda to introduce Dr. Robert Ruble as the new TSAC Executive Director. In doing so Dr. Rhoda noted that Dr. Ruble comes to Tennessee from Indiana where he has a background in fiscal matters.

Dr. Ruble gave the Commission a brief overview of recent TSAC activity, including the reorganization of the office to create four Associate Executive Director level positions. Two of those positions have been filled: the internal auditor and the legal and compliance officers. Both are scheduled to begin the first of the year. Two additional positions will oversee the loan programs and the grant and scholarship programs.

Tennessee Board of Regents

Mr. Powell postponed the TBR report until Chancellor Manning was able to join the meeting.

Academic Affairs

Status of the Tennessee Institute of Public Health

Dr. Linda Doran, Senior Policy Advisor, updated the Commission on developments on this project. Among the developments was the anticipated search for an interim executive director of the institute. She indicated that this position would be filled by contracting with a current higher education faculty member who will begin the process of seeking grants and other sources of funds to make the Institute self supporting, while serving as a clearing house to foster collaboration throughout the state and begin developing policies and initiatives.

Postsecondary Education Authorization

Temporary Authorization of New Institutions, Approval of New Programs Under the Postsecondary Authorization Act

Dr. Ronald Williams, Assistant Director of Postsecondary School Authorization, presented the recommendation of the staff and the Postsecondary Education Institution Advisory Committee to grant temporary authorization to new institutions and approval of new programs. These are found in Attachment A to the official copy of the minutes. Dr. Williams reviewed with the Commission the extensive review process each institution is subjected to by both the postsecondary staff and the Postsecondary Education Institution Advisory Committee. Dr. Windley moved to approve the recommendations. The motion was seconded by Ms. Eleanor Yoakum and duly adopted by the Commission.

Status of University of Phoenix Appeal of Civil Penalty

Will Burns, Associate Executive Director for Legal and Regulatory Affairs, provided the Commission an update on the status of the University of Phoenix appeal of a civil penalty issued for improper advertising. He noted that the university placed an advertisement in *The City Paper*, which in effect advertised for programs and campuses that are not

authorized to either provide classes or recruit Tennessee citizens. Mr. Burns noted that an initial civil penalty was assessed in the amount of \$11,000 pursuant to Rule 1540-1-2-.22(1), which authorizes a civil penalty of \$500 per each day of the violation. The civil penalty reflected a 22 day anticipated life of the advertisement.

Mr. Burns noted that the University of Phoenix timely appealed this matter to Dr. Rhoda, who upheld the finding of a violation, but reduced the civil penalty to \$3,500, reflecting a shorter period during which the advertisement would likely be in circulation. In response the University of Phoenix filed an appeal to the Commission, which will be heard by an administrative law judge from the Administrative Procedures Division of the Secretary of State's office.

Fiscal Affairs

2006-2007 Appropriations Recommendations: Operating, Capital Outlay, and Capital Maintenance

Mr. Powell next recognized Mr. Jim Vaden, Associate Executive Director of Fiscal Affairs, to provide an overview of the appropriations recommendation for FY 2006-2007, which is Attachment B to the official copy of the minutes. Mr. Vaden noted that there was little expectation of a significant increase in operational funding this year over last. He stated that in any event, the new funding formula was used to generate this year's operating needs and that it generated a smaller state share than the previous formula generated for the FY 2005-06: \$1,574,658,800 for FY 2006-07 as compared to \$1,595,768,200 for FY2005-06.

He further noted, however, that under the likely circumstance of a continuation budget, the punitive consequences of redistributing existing state appropriations through the new formula outweigh the positive effects. Absent additional appropriations for general operating funds, he stated that it is not feasible to implement the new formula for the distribution of state appropriations.

Mr. Vaden next outlined the staff recommended improvement priorities, which include:

Priority 1

- Maintain buying power for TSAA need based aid award - \$6.7 million; and
 - Fixed cost adjustment for non-formula units - \$8 million.
- Total: \$14.7 million.

Priority 2

- UT Research Initiative for ORNL - \$7.5 million; and
 - TBR Access Initiative at community colleges - \$10 million.
- Total: \$17.5 million

Mr. Vaden next presented the capital outlay and maintenance requests. The FY 2006-07 capital outlay recommendation totals \$332,565,000, compared to the FY 2005-06 THEC recommendation of \$273,610,000, of which \$155,240,000 was appropriated by the Legislature.

The capital maintenance recommendation totaled \$87,625,000, which compares to \$399,680,000 recommended in FY 2005-2006. The FY 2006-2007 recommendation includes 23 projects for UT totaling \$37,605,000 or 43 percent of the recommended total, and 75 projects for the TBR totaling \$50,020,000. More detailed information concerning the FY 2006-2007 recommendation is found on Attachment C to the official copy of the minutes.

Mr. Vaden suggested that the staff recommendation be adopted and that the staff be authorized to transmit the recommendation to the Governor and Commissioner of Finance and Administration, and that Dr. Rhoda be granted the authority to make technical adjustments and other necessary adjustments. Dr. Windley made the motion and Ms. Yoakum seconded the motion. The motion was duly adopted by the Commission.

Appropriations, Tuition and Financial Aid Study Status Report

Mr. Russ Deaton, Director of Fiscal Analysis, was recognized by Mr. Powell to provide an update on the status of the tuition model study required of the Commission by virtue of language in the Appropriations Bill. Mr. Deaton provided the Commission with an overview of the process followed in developing the model and the resources relied on to assist with the project. He also demonstrated how enrollment growth, the level of state appropriations, and inflation will impact tuition revenue needs.

Tennessee Board of Regents

Mr. Powell welcomed Chancellor Manning and recognized him for his report. Chancellor Manning advised the Commission of the TBR strategic plan, which he noted is consistent with the Commission plan. He also expressed his approval of the tuition model developed by Commission staff.

Policy, Planning, and Research

Fall 2005 Enrollment and Lottery Scholarship Update

Dr. Brian Noland, Associate Executive Director for Policy, Planning, and Research, was recognized to present enrollment data for the fall 2005 semester. Among his observations, Dr. Noland reported that total headcount exceeded 200,000 for the first time for a total of 200,424, or a 0.3 percent increase over fall 2004. The total FTE for fall 2005 was 155,987, representing a 0.8 percent increase over fall 2004.

Dr. Noland also noted that over the past 10 years headcount decreased by 3 percent while the FTE increased by 7 percent. It was also noted by

Dr. Noland that the total African American headcount for fall 2005 was 37,817, which accounts for 19 percent of the state's overall headcount enrollment in 2005, whereas African Americans comprise approximately 16 percent of the state's general population.

GEAR UP Status Report

Dr. Noland reported that the Commission has been awarded this grant for the U.S. Department of Education for a proposal developed in collaboration with the TBR, UT and state Department of Education. The grant program compliments the Commission's Master Plan by providing a means to facilitate the college preparedness of students in participating performing counties by working closely with students in the 9th through 12th grades. The funds will also provide scholarships for students in those counties who graduate from high school.

Dr. Rhoda introduced Dr. Sonja Smith, the recently hired director of the GEAR UP program. He noted that in addition to having a Ph.D., Dr. Smith has a law degree and comes to the Commission after serving in positions at the TBR and Vanderbilt University, among other institutions.

Improving Teacher Quality Grant Program Awards, 2005-2006

Mr. Powell recognized Dr. William Arnold, Director of Academic Programs and Interagency Grants, to make a report on Improving Teacher Quality Grants for 2005-2006. Dr. Arnold noted that of the 39 proposals submitted for these federal grant funds, the advisory committee identified 18 for funding. The projects recommended for funding are included in Attachment D to the official copy of the minutes. Dr. Windley commended Dr. Arnold on his handling of this process and moved for approval of the recommended awards. Mr. Ransom Jones seconded the motion, which was duly adopted.

Education Leadership Commission

Dr. Rhoda announced the establishment of the Education Leadership Commission, which was first discussed at the 2005 joint meeting of the State Board of Education and the Commission. At that time, Dr. Gene Bottoms of the SREB staff lead a discussion of efforts underway to improve preparation and professional development of school principals in the SREB states. Through a grant to the SREB from the U.S. Department of Education, SREB will work directly in Tennessee and other states in this regard. Dr. Rhoda noted that East Tennessee State University and Tennessee Technological University will serve as the lead institutions in this project.

Dr. Rhoda noted that during an organizational meeting with Dr. Bottoms earlier this Fall, it was determined that the appointment of the state's Education Leadership Commission for this project should be appointed jointly by the State Board of Education and the Tennessee Higher Education Commission. Responsibilities of the ELC shall include:

recommending policies and standards to guide the redesign of the system of principal preparation, licensure, and professional development; preparing an implementation plan for the new system; and overseeing implementation of the plan. Dr. Rhoda stated that he and Dr. Gary Nixon, Executive Director of the State Board of Education, identified prospective ELC members, who are listed on Attachment E to the official copy of the minutes. The State Board of Education adopted the appointments at its October 21, 2005 meeting and Dr. Rhoda asked the Commission to approve the appointments also. Ms. Winchester made the motion for approval, which was seconded by Dr. Windley. The motion was duly adopted.

Policy Revisions

New Policies and Reorganization of the “Other Policies” Section

Revision to the Rules of the Commission

Mr. Burns was called upon to present the next two agenda items. He noted that as a part of an on-going process to update the Commission policy manual, staff is recommending changes to the “Other” policy section of the policy manual. Specifically he stated that it is recommended that the section be referred to as the “Legal and Regulatory” section and that certain obsolete provisions be deleted. It was recommended that the following items be deleted:

O1.0 Private Education – Obsolete

O2.1 Desegregation Monitoring Committee – Obsolete by the terms of the 2001 Consent Decree

O3.0 Reporting and Public Information-General – Adequately covered by statute

O3.1 Release of Salary Information – Adequately covered by statute

O4.0 Government and Industrial Relations – Not relevant

O6.0 Library Technology Policy – Obsolete

Additionally, Mr. Burns recommended that a new rule on “Workplace Harassment” be adopted. He noted that the policy closely tracks the state policy on this matter and has been altered to reflect the operation of the Commission, and is attached to the official copy of the minutes as Attachment F.

Mr. Burns also made a staff recommendation that the rules of the Commission be changed to authorize the Executive Director to act in the absence of the Commission. Specifically, Item VII of the *Rules of the Commission* should be amended to add a new third sentence to the policy to read, “The Executive Director shall be empowered to act for the Commission in the Interims when the Commission is not in session.”

Mr. Dale Sims made the motion to adopt the staff recommendation on these items and it was seconded by Ms. Winchester. The motion was duly adopted.

Revised Policy on Disclosed Capital Projects

Mr. Powell called on Mr. Vaden to present the next item. Mr. Vaden noted that members of the legislature had indicated a concern over frequent additions to the disclosed projects listing that led to a group effort of all stakeholders to clarify the means of establishing disclosed capital projects. The policy revision, attached as Attachment G to the official copy of the minutes, is the result of that effort and he recommended that the Commission adopt the change.

Mr. Sims expressed his appreciation to Mr. Vaden, Mr. Alvin Payne, Executive Director of Capital Projects for UT, and Mr. Jerry Preston, Executive Director of the TBR Office of Facilities Development, for their work in fine tuning this process. Mr. Sims then moved to accept the staff recommendation. Mr. Ransom Jones seconded the motion which was duly adopted.

Geier Status Report

Mr. Powell called on Mr. Burns to make a report on the status of the *Geier* lawsuit. Mr. Burns informed the Commission that the TSU had submitted a letter of intent to establish the College of Public Service and Urban Affairs. TSU will also seek authorization to establish a B.S. in Urban Studies as part of the College of Public Service. Each of these initiatives will be supplemented with *Geier* funding.

Administrative Items

Schedule of 2006 Commission Meetings

Dr. Rhoda advised the Commission that the Commission's 2006 meeting dates will be:

- Thursday, January 26, 2006;
- Thursday, April 20;
- Thursday, July 27; and
- Thursday, November 16.

He specifically reminded the Commission that the January meeting will include a joint meeting with the State Board of Education, at a time and location to be determined.

Creation of an Audit Committee of the Commission

Mr. Vaden was called upon to make a recommendation to the Commission regarding compliance with Public Chapter 310, Acts of 2005, requiring each state agency to create an audit committee. The staff recommendation that the current ad hoc committee chaired by Ms. Winchester also including Mr. Ransom Jones and General Wendell Gilbert, become the audit committee. Mr. Morgan indicated that pursuant to the public chapter, his office will soon issue compliance guidelines and that the Commission's action is consistent with what will be included in the guidelines.

There being no further business, Mr. Powell declared the meeting adjourned.