
Public Hearing

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

*“Review issues related to the ‘Federal Clean Air Mandate Compliance Act’
that create a new motor vehicle emissions inspection and maintenance program”*

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: July 29, 1998
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator John J. Matheussen, Chairman
Senator William E. Schluter, Vice-Chairman
Senator John O. Bennett
Senator Nicholas J. Sacco
Senator Raymond J. Zane



ALSO PRESENT:

Jeffrey T. Climpson
Judith L. Horowitz
Office of Legislative Services
Committee Aides

John Hutchinson
Senate Majority
Committee Aide

Patrick M. Gillespie
Senate Democratic
Committee Aide

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SENATOR JOHN J. MATHEUSSEN (Chairman): Just a real quick announcement for any of those who think they might be in the right place or the wrong place: the Tyson hearing is not going on here today. (laughter) That's over at the other building, but we'll be getting underway very shortly if you're here for the environmental Clean Air Act hearing.

Just a few more minutes, folks. The Senate President asked that he address this Committee, and I'm giving him that courtesy. He'll be here in just a few short moments.

I call the Committee to order. Roll call, please.

MR. CLIMPSON (Committee Aide): Senator Sacco?

SENATOR SACCO: Here.

MR. CLIMPSON: Senator Zane?

SENATOR ZANE: Yes, here.

MR. CLIMPSON: Senator Bennett?

SENATOR BENNETT: Yes.

MR. CLIMPSON: Senator Schluter?

SENATOR SCHLUTER: Here.

MR. CLIMPSON: Senator Matheussen?

SENATOR MATHEUSSEN: Here.

First, let me thank the Committee members today. I know that this may not be the most convenient time nor, obviously, a lot of warning about this, and traditionally this is a time when the Legislature can handle the many affairs that it has to do with constituent offices. But I want to thank them for taking the time to be here today. I think this is an important issue, and I'm glad that they were all able to attend.

Let me first start off by saying a few words, and then I'll invite the rest of the Committee members, if they so feel, to say a few words, and then the Senate President has asked that he speak to the Committee. So without any further adieu, let me just wish everyone good morning, and, personally, I'd like to thank everyone for attending, including the public, today because I think truly that this is a very important issue that the State needs to look at. The so-called legislative veto of the administration regulations is perhaps what everyone thinks this is. However, this Committee also performs a vital, general oversight function on behalf of the Senate, and that is what the Senate President asked that we do today. The Senate President has instructed the Committee to undertake a review of the topic of today's hearing.

When the Legislature enacted the Federal Clean Air Mandate Compliance Act in 1995, it did so under the imminent threat of sanctions from the Federal government and from the Environmental Protection Agency, sanctions which Washington imposed on this State in April of 1998. Simply speaking, the State of New Jersey will not be able to allot any Federal funds to transportation projects relating to highway construction and rehabilitation; although, certain mass transit and air pollution reduction projects could still go forward.

I believe that this Committee should engage the Department of Treasury and the Department of Transportation officials and the representatives of Parsons Infrastructure and Technology in a candid discussion of the following legitimate areas of legislative oversight.

Number one, was the contract awarded by the State Treasurer to Parsons Infrastructure and Technology Group -- awarded pursuant to the standards set forth in the law passed in 1995?

Number two, was the economic analysis of the contract undertaken by the Department of the Treasury carefully done, and does it actually reflect the costs associated with this massive project?

Number three, are the consumer safeguards that this Legislature wrote into the law going to be implemented? The Legislature placed very specific requirements in the law which require shorter waiting times, convenient weekend and evening hours, computerized signage informing motorists of waiting times, climate-controlled waiting areas, and the establishment of a public information campaign to acquaint motorists with the new inspection program.

Number four, does the contract with Parsons Infrastructure and Technology reflect the protections from DMV employees that the Legislature wrote into the law? In 1995, it was represented that many DMV workers, who would be displaced by the award of a private contract, should the Treasury decide to go with a private contract -- that they could be transferred to other functions within the DMV such as school bus fleet inspections and antifraud activities.

Much as I and my colleagues wish if it were possible, we are not here to debate whether New Jersey should go forward with an enhanced inspection and maintenance system for the automobiles and all the vehicles that drive within this state. Unfortunately, the administration in Washington, Congress, and the EPA bureaucrats have all decided that question, a point that

is often lost in all the posturing on this issue. Such criticism is rightly directed at the Congress that passed the inspection mandate and the Washington administration, the Clinton administration, EPA, which administers it.

If the Federal government is committed to imposing this new program on New Jersey motorists, then the least we can do is to ensure that it is designed and constructed in a fiscally prudent manner and that it is administered in a way that causes the least amount of inconvenience for the drivers of New Jersey. I believe that all Senators irrespective of political party want to achieve this goal, and I hope that this hearing can result in the implementation of a program that has the confidence of the Legislature and more importantly the confidence of the public.

I would ask now that any members of the Committee who would like to make a statement, please do so.

Senator Schluter.

SENATOR SCHLUTER: Thank you, Senator Matheussen.

I commend the Senate President for the candor and the openness in his instructions to this Committee to examine this issue, and I think this is good and healthy.

I just wanted to confirm with you, Mr. Chairman, and for the people attending here that our role in this hearing is advisory, as opposed to our role in overturning an administrative regulation. Is that basically correct, or could you elaborate on that?

SENATOR MATHEUSSEN: Senator Schluter, I'll be happy to reiterate and elaborate if you so require that. In fact, there are two charges that this Committee has: One, of course, as you all know, is somewhat of a

veto. Under the constitutional amendment that was passed by the State of New Jersey a number of years ago by the voters, this Committee has, in fact, that authority to do so, but there's a procedure set forward in doing that. And that's the requirement of resolutions being passed by both Houses of the Legislature, time being given to the executive branch, the bureaucracy which may be in question at that point in time, to react, and then time again for the Legislature to vote again if, in fact, the reaction that they've gotten is not adequate and does not meet the legislative intent. Because of the timing of this issue, we are not in that mode. We are in a mode basically of overseeing to make sure that the implementation of this contract meets with the requirements under the law passed in 1995.

Should we go into the other mode? Should someone put in a resolution? And that's a far different question, but we have no resolution pending before us today, but we certainly have, I think, the obligation. Under the constitutional amendment that was passed, I believe that this is the kind of dialogue that was envisioned -- that both branches of government would, in fact, enter into a dialogue when there was concern over legitimate issues and that both would heed to the questions and concerns that either branch may have. And, I think, that's what today's hearing is about.

SENATOR SCHLUTER: Thank you.

SENATOR MATHEUSSEN: Anyone else?

SENATOR BENNETT: Just for a moment, Mr. Chairman, I would like to also applaud the way that I believe that you have set forth the questions that this Committee will be dealing with today. I for one-- I'm concerned that we would go with much of the things that have been in the

newspapers that -- the review of this contract and the procedures as to whether or not they were -- the contract and the terms of it are being in compliance with what our legislative intent has been with respect to the implementation of the '95 law is one issue. Certainly, to go and to debate whether or not the '95 law is an appropriate one or not is something else. I think that it's good that the public is to understand the scope of what the hearing is in front of us today. I think that it's very important to keep it in that consensus that we certainly want to continue in that vein, and so I'm very supportive of your efforts in trying to have that accomplished.

SENATOR MATHEUSSEN: Thank you, Senator Bennett.
Senator Zane.

SENATOR ZANE: Yes. I'm concerned actually about a couple of things. Number one, I don't know where the parameters came from as to what the scope of this Committee's review is of the subject matter. I certainly would hope that we would have an opportunity to see whether or not this is a good contract for the State of New Jersey. I certainly would hope that we have the opportunity to determine whether or not the economic comparisons made between what the State could do and what Parsons could do are aired here today. At the same token, I believe -- and I'd like to get a clarification on this from someone. My understanding is that once a letter of intent was issued by the State Treasurer, there was a 10-day period of time for the filing of any objections. Is that correct?

SENATOR MATHEUSSEN: Senator, I'm not absolutely certain--

SENATOR ZANE: Okay.

SENATOR MATHEUSSEN: --but what we will certainly do -- and the Treasurer has come here today to testify, and I think that would be an appropriate question for the Treasurer.

SENATOR ZANE: And my further understanding about that is that we have passed that period of time, and I would like a clarification on that from someone. If we have not, then I certainly would like to know that.

At the same token, I don't know that we really have, as a Committee, any authority to do anything with this particular contract. And that's not to suggest that I think it's anything other than a good idea that this be aired, especially in light of all the controversy. I don't know what authority -- and could someone clarify for me -- this Committee has. Number one, can we stop the contract? Number two, can we call for its modification? Number three, can we call upon the entire legislative body, both Houses, to in fact have anything of legal effect to stop the contract if, in fact, we collectively are not satisfied with what we hear here today?

SENATOR MATHEUSSEN: Senator Zane, I think they're good questions, some of which I will allow later on when the Treasurer gets up here, and I'm sure you'll be inclined to ask some of those same questions of him. But as to the prerogatives and the authority of this particular Committee, it is my impression and, number one, we were asked by the Senate President to convene to look at this issue. Number two, what authority do we have from here on today, it would be my inclination and my request, as Committee Chair, that when we conclude today that this Committee as a body come up with suggestions as to where to go from here. That's only a conclusion that can be drawn, in my opinion, after we hear the testimony today. And then from

there, obviously -- and I give you credit as being one of the authors of the constitutional amendment -- there are several options which would take place, one, by resolution by any member of the 120 members of the Legislature to put in a resolution or to act further and give recommendations to the leadership of both the Senate and the Assembly. But certainly I would, at a minimum, ask this Committee to come up with suggestions by the time we are done here today.

SENATOR ZANE: Okay.

SENATOR MATHEUSSEN: Senator Sacco.

SENATOR SACCO: My concern is that the contract could be signed as early as Monday. And if we're to act, we have to act today. And if we are the Legislative Oversight Committee and we are listening to the testimony, if we feel that there is any way that we have authority, if they have somehow stepped out of the bounds of what we would feel is acceptable to the Legislature and they are not acting within our intent, I feel today we should have a resolution to try to prevent this signing. Again I'll wait for the testimony to see where-- I would hope that that's what we're doing here today.

SENATOR MATHEUSSEN: With that, Senator DiFrancesco, you're our first witness.

SENATE PRESIDENT DONALD T. DiFRANCESCO: Thank you. Thank you, Senator, and again-- I know last week I testified before a different committee with respect to open spaces, and I thanked them for taking the time and revising schedules to travel here in the dead of summer to deal with -- in that case, they dealt with a potential ballot issue. In our case, I asked you to come here to deal with an issue I thought was important to all

residents in New Jersey and to have a public hearing, a public forum so to speak.

This New Jersey inspection system, we all know that -- I mean, Ray's been here longer than I have. You've all been here pretty long. It's so sensitive to people around our state and has been always. It deals with your car. And the system that is proposed by virtue of this contract is new. It involves a lot of money -- a tremendous amount of money. It will impact everyone in this state that drives a car. And like Friday -- last Friday when I spoke to that committee, there is kind of a deadline looming, and as we pointed out already, that requires perhaps our immediate attention, and thus, I asked you to be here as best you can by the end of this month.

Now, why are we here today, and how did we get here? I know there could be a lot of questions asked of the Treasurer about that, but you will recall that our Federal Clean Air Compliance Act, which was our reaction to Federal mandates, was a difficult measure to pass back in 1995. We struggled with that -- with that Act that we did pass, and it wasn't because of obvious opposition to clean air. It wasn't because of that, but it was because the Federal mandate was complicated, it was burdensome, and expensive. So we were concerned then, and we're concerned today -- at least I am.

So after numerous discussions and legislative hearings and after the Legislature and the Governor actually won certain concessions from the Federal government, we passed that legislation. Now I want to just quickly remind you of some of those concessions because I think that we haven't talked about this in quite a while -- that we received from the Federal government.

Motorists will still have the option of taking their vehicles to a central testing facility or private garage for inspection. Cars will need to be inspected only once every two years. New Jersey was granted permission to use the less cumbersome ASM 50-15 instead of the more expensive and lengthier IM-240 test -- remember that was a big issue -- a major concession and significant cost saver. John Bennett was, I think, the sponsor, and Bob Littell was very active in getting this bill passed in that form so that it wouldn't result in confiscation of older vehicles and classic cars. We dealt with that issue, so it would not impose an undue financial burden on motorists, particularly the poor and the elderly, and so it wouldn't create waiting lines of nightmarish proportions at inspection stations. We all worried about all of these issues, and I think we dealt with it legislatively at that time.

So let me also remind you that the debate over complying with that Federal mandate was held three years ago. So it's not our topic today, I don't believe, with respect to whether or not we should comply with this Federal mandate. That's not the topic. That's not why I asked you to be here.

We interceded three years ago when we believed the Federal government was making unrealistic and burdensome demands. Our goal was to protect our New Jersey motorists. Today I've asked you to intercede to determine whether implementation of the new system and the contract with Parsons does fulfill our legislative intent. Again, our goal is the same -- is to protect the New Jersey motorist.

In 1995, recognizing the difficulty of passing that compliance law and anticipating the controversy that might surround implementation of the system, we included a provision in the law that required the Treasurer to notify

the legislative leaders prior to the awarding of the contract to operate the enhanced inspection facilities. I'm here today because the Treasurer complied with that provision, a provision included, I thought, to safeguard the public's interest.

Now, unfortunately, when I was notified of the pending contract on July 6, I had concerns at that time. I had immediate concerns following my initial reaction, and it really was following my initial reaction if anyone should question that. After I read the Treasurer's letter, I just -- knowing what we went through three years ago, I said we ought to look at this. We ought to think about this. We ought to try to figure out whether we should participate in some way. He did notify me. There's a reason why we put that provision in there.

Well, following that, of course, there were all kinds of newspaper stories alleging a number of improprieties by Parsons including fraud, pending lawsuits, political connections, exorbitant costs -- all issues that made great headlines while making the public suspicious of how we operate down here in Trenton and how government operates generally. So I thought the public deserves to at least have questions asked and questions answered in public. Thus, I thought this Committee was the right Committee to have this hearing. There were other options of the Transportation Committee, but I thought this was the Committee that ought to ask those questions about compliance with a law that we had passed three years earlier.

I know that it doesn't necessarily fall under the guidelines of the legislative veto rules and regulations, Ray, and I know I was here when the bill passed and then the court threw it out and then we had to put it in the

constitution, and you were the sponsor of that bill. I know it doesn't technically fit into that, but at least this Committee has the experience and, I believe, the expertise to ask the right questions, whether they be today or follow-up questions, to perhaps make recommendations individually or collectively, to make suggestions to -- so the public will be satisfied at least that we have asked the questions that they would want us to ask. That we have garnered the information about this contract, about this system, about the players that they would have wanted us to ask as their representatives, as people they send down here to ask those questions on their behalf. That's why I asked you to have this hearing.

We need to address these concerns that have been raised regarding this imminent signing of this massive contract, this \$600 million contract. It's \$600 million. That in and of itself demonstrates to us how major a project this is and why we should at least sit up and be concerned and be worried and ask questions. Most importantly, I'd like to hear about the bidding process and learn how it came to be that only Parsons bid on the contract. That's a legitimate question. I'd like to know specifically how the Treasurer can be so confident awarding a contract to Parsons, the only bidder, is preferable to having the State implement the inspection system internally, especially without being able to compare that, Parsons's proposal, to any other bids. And that's not to say he doesn't have those answers. I'm sure he's been asked that question many times. I'd like to have the Treasurer explain to the Committee how the economic analysis was conducted and give us a comparison of the per car cost of inspection under both the Parsons proposal and the State-run program. I think he's prepared to do that. I'm interested in an explanation of

the inflation clause and exactly how much that will cost in subsequent years and whether these increases were calculated into the costs of the Parsons operating the system. Because in spending taxpayer dollars, we have to be accountable to the public, and this is \$600 million.

But besides the lack of competition for the project, you are, I'm sure, as troubled as I am about the allegations surrounding the awarding of this contract. We cannot allow who you know to be part of the criteria for awarding State contracts of any kind, and that's not to say that I believe that's the case. I ask this Committee to be diligent in its efforts to evaluate the specific criteria used in selecting the contractor in this case. That would answer those questions, if you ask the right questions.

Finally, I ask you to review all the testimony and determine what, if any, legislative options might be pursued so as to ensure that compliance with the Federal Clean Air Act mandate is being accomplished in the most cost-efficient and consumer-friendly manner possible. So I also probably and should ask at this time, and I do ask, that no decision be made with respect to that contract for the time being to give lawmakers, not just yourselves, but our colleagues, an opportunity to review today's testimony, as well as material presented, to receive clarification on issues and questions raised subsequent to the hearing, and to allow lawmakers an opportunity, if they so desire, to formulate recommendations.

So for that, I thank you for being here, and I ask you to take the time necessary to at least allow the public to be enlightened in this regard. And with that, I'll stop.

Thank you, Mr. Chairman.

SENATOR MATHEUSSEN: Thank you, Senator.

With that, I'd ask that the Treasurer-- I saw him before.

PRESIDENT DiFRANCESCO: And I know that it's been said he's a bureaucrat. I know he's proud of it--

SENATOR MATHEUSSEN: Lifelong I think he says.

PRESIDENT DiFRANCESCO: --and I can attest to the fact that he's in the office every day. He's the worst golfer I've ever golfed with. (laughter) I like to follow him and collect all the balls that he hits into the woods.

But, Jim, I know you've spent a lot of time on this, and I know this is -- may seem like a headache to you, but as you know, this is as important to us as a Legislature, as a Senate. We think that we need to play an additional role here and have an opportunity to ask the questions that you've been answering, that you've been dealing with for three years really, and expound upon the letter you sent myself and the Speaker -- presuming the Speaker -- and the economic analysis that you prepared along with that letter so that we have a better understanding so that we can also explain to the public what's going on here. It's a very sensitive area, and I appreciate your taking the time to be here.

TREASURER JAMES A. DiLEUTERIO JR.: I'm happy to.

SENATOR MATHEUSSEN: Mr. Treasurer, just before you begin to testify, I noticed that the Speaker is here as well, and I would give him an opportunity if he desires to say anything. I don't want to put him on the spot, but-- (Assembly Speaker Jack Collins declines from audience)

I don't think I ever heard that, Mr. Speaker. Thank you.

Mr. Treasurer.

TREASURER DiELEUTERIO: Good morning, Mr. Chairman and members of the Committee. I want to thank you for inviting me to discuss my decision to award the bid for the State's enhanced motor vehicle inspection system to Parsons Infrastructure and Technology Group, of Pasadena, California. With me this morning is Lana Sims, Director of the Division of Purchase and Property; Ellen Casey, Deputy Director of the Division of Purchase and Property.

I'd like to begin my remarks this morning by making this clear: My decision to award the contract to Parsons Infrastructure and Technology Group is based solely on the findings of the Evaluation Committee; the results of the background investigation performed by the Division of Purchase and Property; and on my determination that it's in the best interest of the State to award this contract.

Last year, we received only one bid for this project, which I rejected on the grounds that it was not technically compliant with the RFP. Following that action, the Division of Purchase and Property, at my instruction, provided every participant in the pre-bidders' conference with the opportunity to identify their concerns with the project specifications. Our goal in this process was to write a new RFP that addressed the concerns of the entire industry. We addressed questions raised by every participant with exactly the same degree of consideration.

In February of this year, the Division issued a new RFP. A mandatory pre-bidders' conference was held in March, and as you can see by

the list of attendees included in your handout, numerous companies expressed an interest in the project. As a matter of fact, I was, frankly, surprised that we received only one proposal on June 12 when the bid was officially opened.

Nevertheless, the Parsons bid underwent the same process which governs the consideration of every public bid. A team of career State officials from the Department of Transportation, the Division of Motor Vehicles, the Division of Purchase and Property, and the Department of Environmental Protection reviewed the proposal to ensure that it was technically responsive to the RFP. I would like to note here that officials from the Federal Environmental Protection Agency and the Federal Highway Administration participated in the development of the RFP and the review of the proposal. After a careful review of the bid, the Committee advised me that it was responsive to the technical specifications of the RFP.

In addition to the technical review, the Division of Purchase and Property undertook a comprehensive review of Parsons Infrastructure and Technology. This review focused on two critical questions: Is the company qualified to do this work, and is the company free of any legal encumbrances which may affect its ability to execute the terms of the contract?

What we found and what in my opinion has been grossly underreported is that not only Parsons is a leader in the field of engineering and construction, but that it has the kind of legal record of which virtually every other major corporation would be envious.

On the question of whether Parsons has the financial resources and experience to undertake this project, consider this. The company is ranked fourth in the country in the category of design and engineering, and it is

ranked twenty-ninth in the country in the category of construction. By any measurement, Parsons's qualifications and its experience are quite impressive. This is a critical point because it is absolutely necessary that a project of this scope and significance be entrusted to a company with a proven track record. Based on these facts, I have total confidence in the ability of Parsons to execute the terms of the contract.

You may find it interesting to know that the California Department of Transportation feels the same way. In fact, it gave Parsons its Excellence in Transportation Award for outstanding achievement in the development of a major state-funded project in Los Angeles County in 1997.

Let me quote a letter to Parsons from the Project Development Supervisor in the California Department of Transportation. "It gives me great pleasure on behalf of Caltrans, to congratulate you and your staff for outstanding achievement in the development of the Metro Red Line Wilshire Extension. The California Department of Transportation is proud to acknowledge the achievements of everyone whose professional talent, dedication, and commitment to excellence contributed to our state's continued leadership in transportation system design, development, maintenance, and operation," signed, R. P. Weaver, Deputy Director, Project Development, June 20, 1997.

Incidentally, Caltrans gave the award and commendation to Parsons for the very MTA project which is now at the center of so much discussion. And if you will note the date on the letter, you can see that it did so after the so-called whistle-blower lawsuit was filed.

In the course of its research, the Division of Purchase and Property contacted the Federal government with whom Parsons is a major contractor. The Federal government does not hesitate to fine, penalize, or seek judgments against companies which it believes have violated Federal contracts or performed unsatisfactorily. Once again, the Division found a remarkably clean record. The Federal government had no claims against Parsons, it had taken no actions to suspend or debar Parsons, and it continues to contract with Parsons on major construction and engineering projects around the country.

Now I would like to discuss that part of our evaluation which focused on civil matters. The State conducted a thorough search of the number and nature of civil judgments rendered against Parsons. The Division of Purchase and Property commissioned Dunn and Bradstreet to perform a computer search for all judgments over \$1 million levied against Parsons in the past 10 years.

What we found is that with over 100,000 contracts in force during this period, there were only two such judgments rendered. One of them was subsequently overturned. The only remaining judgement was for \$3 million, and it came as the result of a personal injury suit, which had nothing to do with the company's performance or integrity. That is a remarkable record for a company of this size and complexity. Incidentally, Parsons has performed 18 projects for the State of New Jersey in the past 10 years, and we have been more than satisfied with its performance in all of those cases.

The suits in California which have become the focus of so much controversy are also worth mentioning. First, let me clarify something. These pending suits are not criminal cases. They are civil matters. Under New Jersey

standards, a pending civil matter is not in and of itself a reason to disqualify a company. The executive order and regulations governing debarment and suspension do not permit such an action against the firm based on the existence of these allegations.

With respect to these suits, it would be inappropriate for me as State Treasurer to characterize the litigation. The question of whether a charge has legal merit is not mine to answer. However, it is my job to determine whether litigation involving a potential or current State contractor reflects negatively on the company's integrity or whether the outcome of the litigation could place the State or the project in jeopardy.

It was clear to me based on all of the facts at my disposal and based on a comprehensive review by the State that this litigation would not affect Parsons's ability to meet the terms of the contract. Indeed, the unproved allegations made in these cases appear to be inconsistent with Parsons's international reputation and record of performance.

The fact that the state of California and the Federal government refused to join the lawsuit against Parsons, despite the use of state and Federal funding for the project, is instructive, particularly in view of the California Department of Transportation's Excellence Award, which I mentioned earlier in my remarks.

It should also be noted that the kind of overbilling alleged in the California cases would be virtually impossible under the terms of this contract. In the California case, the contract in question was a cost-plus contract. A cost-plus contract essentially permits the contractor to bill the state for allowable costs and allowable overhead. In other words, it does not set a firm

price for the project. It allows the contractor to be reimbursed by the state as the project advances.

The contract which we are preparing to award, like most of our contracts, is what we call a firm fixed price contract. In this type of contract, the cost to the State is firmly established. There is a firm fixed price established for the cost of capital construction and a firm fixed price for each inspection performed.

The State will not be liable for reimbursing Parsons for any unanticipated cost increases it may incur either for designing and building the facilities or for operating and maintaining the system. This form of contract ensures that there will be no surprises. Both parties are bound to the prices and conditions established in the contract.

The only way our costs could be increased is if the vendor identifies an unanticipated change in conditions. For example, if during the building phase of one of the facilities Parsons and the State discover an anticipated (*sic*) condition which requires, for example, environmental remediation, Parsons could request a contract modification. The basis for that modification would have to be verified by the project managers, and the contract modification would then have to be approved by me. If, on the other hand, Parsons determines at some point that it must hire more employees to handle an unexpected increase in volume, the company, not the State, would be responsible for the additional cost.

Now I would like to shift your attention to the State law under which I have proceeded to this point. The Clean Air Compliance Act of 1995 enacted by this Legislature mandates the use of an enhanced motor vehicle

inspection system for bringing New Jersey into compliance with the Federal Clean Air Act. When you consider the alternatives to this system -- a federally imposed ban on new highway construction or, even worse, sweeping Federal restrictions on new business construction or expansion -- it is clear that this law was necessary. Under that law, the New Jersey State Treasurer is charged with some very clear responsibilities, and I have been careful to meet them at every stage of this process.

First, I was charged with coordinating the issuance of an RFP which sets ambitious but realistic goals. That we have done -- twice -- with the explicit approval of Federal regulators. Secondly, as Treasurer I am responsible for ensuring that the review process is comprehensive and exhaustive. As I demonstrated earlier in my remarks, this bid, as well as Parsons Infrastructure and Technology, was examined with painstaking scrutiny. Thirdly, the law requires that the Treasurer award this contract. This provision is unique because that responsibility normally falls to a purchasing officer within the Division of Purchase and Property.

In carrying out this responsibility, the Treasurer must choose between three possible contract scenarios: to design and build only; to design, build, operate, and maintain; and a hybrid combination of the two previous scenarios. I would also note that a series of meetings were held with the affected unions to provide them with sufficient information to prepare a proposal.

We received one bid -- this bid -- to design, build, operate, and maintain a new motor vehicle inspection system. In my judgment, it is a responsive bid from a responsible bidder. Therefore, in the absence of a legally

sustainable basis for rejecting the bid, I am left with two choices: to award the contract or to reject it and place the State in jeopardy of Federal sanctions, including the loss of substantial Federal funds and legal action by the bidder.

Based on the findings of our review and investigation, I believe that there is no compelling legal, technical, or practical reason for rejecting this bid. I am also certain that throughout this process, I have been faithful to the letter and spirit of the Clean Air Compliance Act of 1995, as well as the purchasing laws under Title 52 of the New Jersey statutes.

That concludes my remarks, and I would be happy to answer any questions at this time.

SENATOR MATHEUSSEN: Thank you, Mr. Treasurer.

Before I embark on any questions, just let me note -- as I did see a couple people out in the audience. I think I saw dead ahead Senator Turner. I know Senator Vitale is here, and I think at the beginning of the meeting or prior to starting I saw Assemblyman Cohen here. If I've missed anyone, let me know, but I plan on giving those legislators -- if they so desire to speak to the Committee after the questioning of the Treasurer. So if they wanted to make a statement, we'd be happy to acknowledge them.

Mr. Treasurer, I have a couple of questions for you, if I could. First, just very basic, how do we know-- In a bidding process, obviously, the invitation is to try and solicit and get as many people -- qualified people -- as possible to come in. The basis for that is so that whoever is doing the bidding can have an opportunity to examine them all and choose the best responsible bidder, hopefully, for the lowest cost possible. What is troubling in this whole process -- and I've read the material that's been provided by the Office of

Legislative Services that the criteria that's gone in -- listened to your testimony today about how much time you spent in really trying to get bidders to bid. How do we know with only one bidder that in fact we're getting the best price?

TREASURER DiELEUTERIO: It is somewhat unusual but not unprecedented that we would end up with a single bid on a contract. That does happen on occasion. As you take a look, though, at the various components of the specification, there's roughly \$62 million of this contract is for capital construction. That is-- Capital projects are relatively easy to project the cost. So we do have expertise in -- available to us that can take a look at those specifications and decide that an estimate of *X* number of dollars is reasonable for this project.

As I mentioned in my testimony and I would reiterate, this is a process that has been going on for a couple of years now, since the enactment of the Clean Air Compliance Act. As we've talked to the industry over the course of those few years, we can also get a rough feel for what we expect the bid to be -- the bid prices to be. So we've also, during the course of this process, taken a look at what the State spends to perform this function and then project out what the State would have to spend to perform this function under the new scenario. So I think, based on all of those things, we can get a fairly good idea of what we would expect a bid to be. So again in looking at the Parsons bid, we believe that it is not only responsive to the spec, that it is a reasonable bid at a reasonable price.

SENATOR MATHEUSSEN: Based on your projections?

TREASURER DiELEUTERIO: Right.

SENATOR MATHEUSSEN: One of the other areas that concerned me that -- when I first heard of it was the fact that there was this pending litigation in California. And much has been made about that, and I've heard from a number people about it. I think I understood in your testimony, but if you could -- if there's someone who-- If you can't, then perhaps we need an answer from someone who does know. Wouldn't it be wiser to wait for that litigation to work its way through the courts before making an award of a contract here? And if not, did your Department do some form of investigation? Do you have a written report of that investigation? What do we have to justify moving ahead when there's this pending litigation out in California?

TREASURER DiELEUTERIO: Well, Senator, I think one of the things that we have to take a look at is the subject matter of the litigation and what its potential influence on the ability of the contractor to perform the contract here in New Jersey. As I mentioned in my remarks, I think there are sufficient differences in the way the California contract -- it's the subject of the litigation -- was structured and ours to make sure that we've sufficiently responded to those fears. The other thing I mentioned, though, is that, as I think we're all familiar with -- the fact that sometimes litigation can take a very, very long time as it goes through the courts. And that's not to say that I don't think that the litigation should proceed. It should. But it could be several years before that litigation ends up ultimately being settled. I would also mention that if we use that as a standard and did not do business with any company that had pending civil litigation, frankly, we would not be able to do business with just about anybody that we do business with.

SENATOR MATHEUSSEN: The other area, perhaps, is the area of privatization, basically, we doing it ourselves or, in fact, in this case, hiring the contractor to do it. And by your estimates, we should save approximately \$4 million by moving ahead under the Parsons contract as opposed to doing it ourselves. Now there have been some analyses done by the people who work day to day, the unions, organized labor, who have given us analysis that -- perhaps that projection will cost \$11 million or \$12 million more than, in fact, we're spending today. What's your justification, if you could?

TREASURER DiELEUTERIO: Well, I think, as we've taken a look at some of the figures that the union analysis contain, there are certainly differences in terms of the number of lanes that are going to be operated under the new system, the amount of supervision that we believe would be necessary under that new setup. We'd be happy to share with the Committee any of the details of that analysis, but we believe that, even giving the benefit of the doubt to the State side of it, that operating the new system with the existing State setup would end up being approximately \$2 per car more expensive than the Parsons' bid.

I know some of the differences between the two analyses deal with the amounts assigned for overtime. Again, we believe our estimate on overtime and employee benefits and clothing allowances are reasonable considering that under the new proposal, we're requiring Parsons to operate the lanes 55 hours, as opposed to the current 50.5 hours, per week.

SENATOR MATHEUSSEN: So your projection is at 55 hours?

TREASURER DiELEUTERIO: Yes. So again there are differences -- I recognize that there are differences in how the calculations were made, but

I stand by our projections and I believe they're reasonable under the circumstances.

SENATOR MATHEUSSEN: I'm sure there will be some people who try to scrutinize and say differently this morning. We're going to let them testify as well.

This morning's Newark *Star-Ledger* has a story, though, that is troubling to me, and it goes directly to the cost analysis that you've done. And that story this morning indicates that -- what I suspected, that Parsons will, in fact, be running the normal inspections that we are used to doing in New Jersey for the last number of years. They'll be doing those for the next 14 months, if in fact this contract were to be awarded by the State. What is troubling is the fact that the *Ledger* is reporting that Parsons will charge the State three times what it now costs to have the State workers conduct these tests. Do you have any comment? You're not quoted in this story, so I thought I'd give you the opportunity to comment now.

TREASURER DiELEUTERIO: Well, I think part of the inaccuracy in the *Star-Ledger* story this morning relates to how the money was budgeted for the inspection system going into the '99 budget. And one of the comments, I think, also dealing with this on a macrolevel for a second -- one of the comments has to do with the fact that there was \$25 million budgeted in the '99 budget for the inspection function that would ultimately end up costing \$45 million. And we've known from the beginning-- I would just respectfully remind the Committee that while the '99 budget was being prepared, I was certainly aware of the fact that there was this RFP process going on and a potential negotiation on a contract dealing with the inspections.

In that case, in a situation like that, as well as where we have labor negotiations going on, I don't budget for the full amount of money up front in a display in the budget. I've known all along that the cost of running the inspection system, whether it's with Parsons or whether I have to switch to a new system using State employees, would increase. But the money was not displayed in the budget as a single line-item total because I wouldn't want to give a potential bidder the opportunity to look in the budget and know what I'm budgeting for this function while they're preparing a bid. So I think that's part of the issue.

The other part of the issue, of course, still deals with the controversy of and the disagreement over what does it cost the State to perform that function as opposed to what does it cost Parsons to perform that function. Again I would stand by our analysis.

SENATOR MATHEUSSEN: One final question, and then I'll open it up to the other Committee members, and that -- still in the area of privatization that there are really two shoes that drop when you talk about privatization. One, the cost analysis to the State. Do we save money? Do we spend the same? Do we spend more money? Obviously, that impacts on the decision. The second is displaced workers. And that question to you today is, what happens to the State's inspection workers? How many are being displaced? How many will be offered jobs within the State government? How many will be offered jobs by Parsons? What's the outlook, what's the prognosis for people who will be directly impacted? Obviously, the motorists are going to be impacted, but I'm also concerned about people who are going to lose their livelihood. Can you answer that?

TREASURER DiELEUTERIO: At the moment, we have roughly -- I believe it's 450 workers involved in the existing inspection function. If you take a look at what Parsons is proposing, to operate the 129 lanes, as well as in the Department of Transportation we're starting up the internal school bus inspection facility, and as well as some inspection programs within the Division of Motor Vehicles-- So if you take a look at the new inspection system, plus the programs that would be starting up in DOT, you're looking at about 1000 jobs in total. We have roughly 450 workers involved in the function now. I would have to believe that given the fact that there are substantially fewer workers than the number of jobs that are available that virtually every one of those workers would be provided an opportunity either with Parsons or with the State to continue employment at the same level of benefits that they're looking at now.

SENATOR MATHEUSSEN: Are there contractual provisions to assure that?

TREASURER DiELEUTERIO: Yes, there's a requirement that Parsons offer employment to those workers at the same level of benefits that they're receiving now. And, again, I recognize that there might be some workers that would prefer to stay with State employment, and there are sufficient new programs surrounding this that they would be offered opportunities to remain employed by the State.

SENATOR MATHEUSSEN: Questions from the Committee?
Senator DiFrancesco.

PRESIDENT DiFRANCESCO: Couple of questions, and I don't know the answers to them, so don't presume that I do. Your letter to me, I indicated, was July 6. Is that accurate?

TREASURER DiELEUTERIO: Yes.

PRESIDENT DiFRANCESCO: And this RFP that you keep referring to, who prepared that?

TREASURER DiELEUTERIO: That was-- Senator, that was prepared by a committee of people who were from Treasury, Department of Transportation, including Motor Vehicles, DEP, as well as representatives from the Federal Highway Administration and Federal EPA.

PRESIDENT DiFRANCESCO: Are any of those people here today?

TREASURER DiELEUTERIO: The Treasury people are here, and I'll be happy to make them available to you.

PRESIDENT DiFRANCESCO: How long did that-- Are you familiar with that process?

TREASURER DiELEUTERIO: This has actually been going on, frankly, for a couple of years. In preparing the first bid that ultimately -- we ended up with the bid from Dynamometer which got rejected, and then--

PRESIDENT DiFRANCESCO: When was that?

TREASURER DiELEUTERIO: That was -- when did we actually reject that? -- last summer. About a year ago. It was right after I became Treasurer.

PRESIDENT DiFRANCESCO: And then you went through a process that led to the second bid.

TREASURER DiELEUTERIO: We actually asked the companies to come in after we rejected the first bid. We asked the companies to come in and talk to us about -- from their perspective what did they see as problems with the specification that we had put out on the street that ultimately we only got one bid and that had been ruled noncompliant. As a result of that information and our own people taking a look and trying to make some adjustments -- because some of it had to do with the way the schedule for delivery was originally laid out in the first RFP. We made some adjustments to the RFP and then put the second one out on the street.

PRESIDENT DiFRANCESCO: You were concerned because you only got one bid the first time and that was from another company. And then you had a meeting among various companies that might -- invited people to come to the meeting.

TREASURER DiELEUTERIO: We invited everybody. All the bidders that had attended the pre-bid conference from the first process were invited to come in and sit down with us.

PRESIDENT DiFRANCESCO: As a result of that, did someone -- this group prepare another RFP?

TREASURER DiELEUTERIO: That's right. And again based on the information that was presented by the industry, we made some adjustments to the original RFP and changed the specifications somewhat and then put it back out on the street and then held a pre-bidders' conference and went through all the normal process for the second time.

PRESIDENT DiFRANCESCO: Do you know if the people from Treasury worked with Parsons in developing the RFP?

TREASURER DiELEUTERIO: No. I mean, no, they did not work with Parsons in developing the RFP.

PRESIDENT DiFRANCESCO: After the first bid process occurred and it was rejected, did you notify me of that? I have no -- I don't know the--

TREASURER DiELEUTERIO: No. As I recall, I did not formally notify because the requirement in the statute was that I would notify you if I was going to proceed. In that case, I was rejecting the bid.

PRESIDENT DiFRANCESCO: Did you notify me at any time during the last year or so what the process was in writing?

TREASURER DiELEUTERIO: No.

PRESIDENT DiFRANCESCO: So that the first communication I received from you was the July 6 letter because that's what the statute required?

TREASURER DiELEUTERIO: That's right.

PRESIDENT DiFRANCESCO: Now, with respect to these pleadings -- not to the pleadings, but with respect to these lawsuits that Senator Matheussen referred to, who did you hire or who did you request to review these lawsuits, if anybody?

TREASURER DiELEUTERIO: I'm going to ask Ellen Casey to answer that question.

E L L E N M. C A S E Y: Senator, as required by the RFP, Parsons disclosed the existence of the litigation in California. We have taken copies of the pleadings and referred that to our Attorney General, who reviewed the

pleadings, had conversation with various people in California, and provided us with the advice in the capacity as the Attorney General.

PRESIDENT DiFRANCESCO: Okay. I want to get back to this RFP for one moment. Was it substantially the same as the first bid process? Was the RFP, the second, on the basis or potentially the same as the first one?

TREASURER DiELEUTERIO: In terms of process, the first and second were handled exactly the same. In terms of the specifications themselves, there were some adjustments made to -- between the first and the second, but it was substantially the same process. For example, the first RFP permitted a bid as a design, build only; a design, build, operate, and maintain; and also permitted a combination of the two -- a hybrid, if you will. The second RFP simply called for design, build or design, build, operate, and maintain. There were also some adjustments made with respect to scheduling the delivery of the system in response to some of the information that the industry gave us in that meeting that occurred between the two processes. But overall, it was essentially a second bid for the same system with just some modifications to the spec.

PRESIDENT DiFRANCESCO: Based on what I've read, this is an all-encompassing proposal. I'm trying to say this stealthfully, but this covered lots of different areas. Was that true of the first bid?

TREASURER DiELEUTERIO: Yes, in terms of the first bid, as well as the second bid, required a driver education component and it included some public relations along with that. Also had design and engineering components required with it, as well as computer systems components. So,

yes, in terms of the major components of the two RFPs, they were pretty much the same.

PRESIDENT DiFRANCESCO: When did you receive the second -- the bid? When did you receive the Parsons bid? What was the date of it?

TREASURER DiELEUTERIO: June 12 of this year.

PRESIDENT DiFRANCESCO: So that June 12 you knew you received one bid?

TREASURER DiELEUTERIO: Right.

PRESIDENT DiFRANCESCO: There were some questions about timing at this point, and you made reference to the legality of not moving forward -- the potential legal issues with respect to not moving forward with this bid. What do you mean by that?

TREASURER DiELEUTERIO: Well, the Clean Air Compliance Act, as I understand and I interpret the statute, has certain requirements that are made my responsibility to ensure that the system gets up and operating. While not directly related to the bid process, it's certainly been discussed enough that we are staring at Federal sanctions as well.

PRESIDENT DiFRANCESCO: Well, you mean compliance. How about with respect to Parsons?

TREASURER DiELEUTERIO: With respect to Parsons, I would find it very difficult now to have put a specification on the street, to have a compliant bid from a responsible bidder, to then withhold the award, and then two or three months from now put another RFP on the street to try to buy the exact same thing that I've just not awarded. I mean, I do have the right to not award the contract under the specification, but--

PRESIDENT DiFRANCESCO: Today you have that right?

TREASURER DiELEUTERIO: Yes. But I think what you're potentially facing as a result of that is the fact that-- Again we have a spec that we put on the street, we have a responsible bid, we have a responsive bidder. I don't believe that there's a way for me to delay this that -- without exposing the State to litigation from Parsons, as well as the Federal government.

PRESIDENT DiFRANCESCO: Well, we're not in compliance now. So as far as the Federal government is concerned, you have been attempting to comply. There's no question about that. You've been through this process. You've been working on this RFP. You have records.

TREASURER DiELEUTERIO: Right.

PRESIDENT DiFRANCESCO: I mean, I don't think anyone is going to -- you have made good faith effort to comply.

But I want to get back to the June (*sic*) 6 letter. Now, as a result of that letter, I eventually asked Senator Matheussen to schedule a hearing.

You were aware of that, correct?

TREASURER DiELEUTERIO: That's right.

PRESIDENT DiFRANCESCO: There's been some speculation, some press coverage over-- Even though I did that, you move forward with this contract by sending out some notice of intent. Is that correct?

TREASURER DiELEUTERIO: I issued a notice of intent to award Parsons.

PRESIDENT DiFRANCESCO: Why did you do that?

TREASURER DiELEUTERIO: The notice of intent to award essentially starts the clock running on a 10-day protest period, and what I

believed appropriate and still believe is appropriate is that the protest period would run at the same time that we were getting ready, frankly, for this hearing. So that if there was any information that was relevant that it would be brought out the same time. That 10-day protest period expires at the close of business this Friday.

PRESIDENT DiFRANCESCO: Well, what obligation did you have to send out that notice of intent?

TREASURER DiELEUTERIO: Again, I have-- What I had was a desire, I think, and a legal responsibility under the Compliance Act--

PRESIDENT DiFRANCESCO: No. No. Where in the statute, where in the RFP, where in the regulations? Somewhere there must have been something that told you, you had to do that. Or you wouldn't have done it, I assume.

TREASURER DiELEUTERIO: Under Title 52, I have a requirement.

PRESIDENT DiFRANCESCO: What's Title 52?

TREASURER DiELEUTERIO: Basically, the purchasing statutes. I'll get you the cite.

PRESIDENT DiFRANCESCO: I would appreciate that because that's what I was told, that you had an obligation to do that. I would assume that you wouldn't have done it otherwise, correct?

TREASURER DiELEUTERIO: I'm sure I wouldn't have.

PRESIDENT DiFRANCESCO: Okay. Because when you start talking about potential -- allowing -- like a cause of action, perhaps, coming to being, I mean, the fact that you filed this note of intent actually aids in that

process, doesn't it? The fact that you did that gives Parsons even more of an opportunity than they had before. Wouldn't that be so? That's what I would think.

TREASURER DiELEUTERIO: No. I would suggest that under my requirements to act promptly in awarding contracts and based on--

PRESIDENT DiFRANCESCO: Why do you think we have the notice provision in the law in the first place about notifying the Senate and Assembly of the awarding of the contract? Why would we have put that in there?

TREASURER DiELEUTERIO: Well, again the requirement in the Clean Air Compliance Act was that I notify the legislative leadership seven business days prior to issuing a notice of intent.

PRESIDENT DiFRANCESCO: Can you guess as to the purpose of that?

TREASURER DiELEUTERIO: Well, I'm sure to let the legislative leadership know that I was proceeding with the implementation of the Clean Air Compliance Act.

PRESIDENT DiFRANCESCO: Well, I'm assuming that you would have let us know anyway regardless of whether the law required you now. But the fact that the law required you to do that, wouldn't you think that the reason for that was to allow us some time to review whatever it was you were doing with respect to New Jersey motorists in this state, to give us some opportunity to review the process you were going through and the system that was going to be put in place that would affect all of our constituents? I would assume that -- having been here -- that was one of the reasons why that

provision is in the law. Even if that wasn't in there, I would have expected you to let us know what was going on. And the fact that I didn't get a letter until July 6 -- some would argue that that's pretty late -- that that's something that legislators should have been aware of as an ongoing process in terms of notice and some of the problems surrounding the implementation of the Act, etc. So I'm a little confused by why it was thought to be just some kind of routine letter that had to be sent out and that therefore, once that letter was sent out, we weren't involved. So therefore we wouldn't be involved. That involved us.

And I'm a little confused by the reaction that -- following that letter and my suggestion that we take a look at this -- that then notice of intent was sent out. And that's apparently the way -- what other people think because I'm getting the feedback that-- If you want to take a look at this proposal, this process, this proposal and if you want to compare the economic analysis of one with the other, that you want to do that within a couple of weeks, why would the administration then move forward and send this notice of intent? I mean, I get that question to me. I couldn't answer that question other than, as she wrote down before, that you have some legal requirement that you had to do it. If there is a legal requirement, then perhaps we would understand better and was suggested that there was. If you could give me another letter that says you're legally required to do that, I would appreciate that. Then show me where it's legal.

TREASURER DiELEUTERIO: I'll be more than happy to give you the cite.

SENATOR MATHEUSSEN: Senator Zane.

SENATOR ZANE: Mr. Treasurer, at the outset, you heard the Senate President make his comments. Am I correct?

TREASURER DiELEUTERIO: Yes, I did, Senator.

SENATOR ZANE: And you heard the Senate President ask this Committee to not really take any action until such time as the entire Legislature, both Houses I think he meant, had the opportunity to review the testimony from today's hearing. Did you not hear him say that?

TREASURER DiELEUTERIO: Yes, I did hear him say that.

SENATOR ZANE: And for any of this then to be meaningful and assuming that all the members of both Houses are not going to read this all tonight or tomorrow, would you be willing to delay, consistent with the Senate President's comments -- would you be willing to delay this proposed signing which I believe you have scheduled for possibly August 3?

TREASURER DiELEUTERIO: Senator, I've asked by phone call this morning -- I've asked the Attorney General to review what my legal options are under not only the purchasing statutes and Title 52, but under the Clean Air Compliance Act of 1995 and the responsibilities that were given to me then. So I would ask the Attorney General to not only make that review, but to make it quickly so that I could make that determination as to what my legal options are. As soon as I receive that information, I'll be happy to let the Committee know.

SENATOR ZANE: Assuming in the hypothetical that he says you can delay it beyond August 3, my question then would be, in the hypothetical, would you, until such time as the Legislature has had the opportunity to digest

consistent with the Senate President's request the testimony gathered here today?

TREASURER DiELEUTERIO: With all due respect, Senator, I would prefer to wait and see what the Attorney General's advice to me is in terms of what my legal options are and then make a determination at that point.

SENATOR ZANE: I understand what you would like to do, but I give you a hypothetical, which doesn't necessarily mean what you would like to do. It's if you had circumstances that said, yes, it's okay to delay it. Would you delay it?

TREASURER DiELEUTERIO: I can't answer that question right now, Senator, not without the advice.

SENATOR ZANE: In all due respect, I think any reasonably thinking person could only conclude from that that you have no intentions of delaying it.

TREASURER DiELEUTERIO: Senator, I'm certainly not trying to get you to draw conclusions based on my remarks. All I'm asking is that I think I have the right to seek the advice of counsel in terms of what my legal options are under the statutes that are governing this. And I'd like the opportunity to do that.

SENATOR ZANE: So I will take it that you will not answer my question either yes or no?

TREASURER DiELEUTERIO: I will answer your question as soon as I receive the advice from the Attorney General that I've asked for.

SENATOR ZANE: I think in all due respect, sir, and I have to say this, that in light of the lateness of the hour in dealing with this that I really think that position is arrogant. I think we should be entitled to some view as to what you, as the Treasurer, with the sole discretion to sign or not sign that document -- what you would do. And to come before a legislative committee and being given a hypothetical and not answer it, I just think honestly is not fair to us.

TREASURER DiELEUTERIO: I'm sorry you feel that way, Senator, and that's certainly not my intent here. But as I've stated, I'd like to have the opportunity to review this with counsel.

SENATOR ZANE: When you received only one bid, did you consult with the Attorney General's Office as to whether or not you had a right to reject that one bid?

TREASURER DiELEUTERIO: We didn't specifically ask that question, Senator, but they did participate in the process with us.

SENATOR ZANE: Were you advised then -- even in the absence of asking the question, were you advised that you could have rejected the one bid?

TREASURER DiELEUTERIO: Under Title 52, Senator, if there is a finding that is in the best interest of the State to reject a bid, I do have the right to do that.

SENATOR ZANE: But is that right under Title 52 precluded once you send out the letter of intent to award?

TREASURER DiELEUTERIO: No, not necessarily. If there was-- Part of the reason for sending out the notice of intent again is to get the

10-day protest period started that would bring to light information presumably that might be a legally relevant reason that I would not make that award.

SENATOR ZANE: I notice that you're seeking advice, and that's fine. I don't have a problem with that, but I would like to know who it is that's giving you the advice.

TREASURER DiELEUTERIO: Ellen Casey is the Deputy Director of the Division of Purchase and Property and a former deputy attorney general.

SENATOR ZANE: Okay. So she's counsel?

TREASURER DiELEUTERIO: Yes.

SENATOR ZANE: Okay.

TREASURER DiELEUTERIO: Well, not in a formal sense.

SENATOR ZANE: She's an attorney.

TREASURER DiELEUTERIO: She is an attorney, but the Attorney General is my lawyer.

SENATOR ZANE: So what I believe you are telling us in response to that question is that you still, even at this point, even after the letter of intent has been issued, would have the right to reject this bid.

TREASURER DiELEUTERIO: Again for a legally sustainable reason, yes, I can reject this bid.

SENATOR ZANE: Does the requirement of a legally sustainable position -- did that arise once the letter of intent was issued, or was that previous to that?

TREASURER DiELEUTERIO: Yes, that requirement is throughout the process, Senator.

SENATOR ZANE: Was there actually an engineering estimate prepared as to what this entire project -- I'm going to call it an engineering estimate -- what this entire project would cost? Was that prepared for you for some guidance?

TREASURER DiELEUTERIO: If you'd bear with me just a second, Senator. (speaks to associates)

Senator, I'm advised that there were several specific estimates prepared in DMV and DOT with respect to the various components of what we were requiring under the specification.

SENATOR ZANE: Can you tell us today whether or not this bid is under those estimates?

TREASURER DiELEUTERIO: It is in line with the estimates, Senator.

SENATOR ZANE: That's not my question. Is it under?

TREASURER DiELEUTERIO: Overall, it is slightly under the estimates. There are various components that maybe more or less. Again, I'll be happy to provide you with a breakdown, component by component.

SENATOR ZANE: My understanding, again only from reading newspaper accounts, is that there's roughly \$63 million worth of construction within the contract.

TREASURER DiELEUTERIO: That's right.

SENATOR ZANE: And the numbers, depending upon which paper you've bought that morning -- the numbers vary from 400 million to 599 million or \$600 million to administer this over a seven-year period of time.

TREASURER DiELEUTERIO: That's right.

SENATOR ZANE: The engineering estimates that we're speaking of, which number-- The amount that was bid was roughly \$400 million. Am I correct with that?

TREASURER DiELEUTERIO: That's right.

SENATOR ZANE: Okay. Is that what the engineering estimate is or-- Maybe I'm not calling it the right thing saying engineering estimate, but the estimate that you were guided by to have some sense as to whether this was a good deal or not, was that \$400 million or more?

TREASURER DiELEUTERIO: The engineering estimates specifically would have had more to do with the capital construction program -- the \$63 million part of the contract. There were also cost estimates on the program in running beyond the enhanced program as you go out over the seven years.

SENATOR ZANE: Okay.

TREASURER DiELEUTERIO: But the engineering estimates, specifically, would have had more to do with the capital side.

SENATOR ZANE: So I can assume that from what you're saying is that the \$63 million bid was slightly lower than the engineering estimate for construction, and that still leaves us then with the question about the \$400 million -- the cost to operate this. Was that bid less than or more than your cost estimate that you had as a guide to determine whether this was a good deal or not?

TREASURER DiELEUTERIO: Senator, I don't have the specific numbers with me. I'll be happy to get them for you before the end of the day,

but my understanding is that again overall that the cost of operating this system was slightly lower. And let me just clarify, the 400 million total includes the 63 million.

SENATOR ZANE: Okay.

TREASURER DiELEUTERIO: Okay. And the capital construction ended up, I think, a little bit higher. So again overall the total contract comes in at slightly lower than we had projected, but as you look in the various components of it, some are higher and some are lower. And again I just don't have it, I apologize. I just don't have it with me, but I'll be sure to get that to you.

SENATOR ZANE: Are there two separate contracts? The one for the 63 million and the one for the 400 million less 63 million?

TREASURER DiELEUTERIO: It's one contract that includes design, build, operate, and maintain.

SENATOR ZANE: Weren't you tempted to just say, "Hey, wait a minute. How do we know what kind of a deal we have or we only have one bid"? Weren't you just tempted to say, "You know, in the open market I've got to have more than one bid to go by"? Didn't that tempt you to just reject on that basis alone?

TREASURER DiELEUTERIO: Not on that basis alone. Certainly, when you get one bid, you have a tendency to step back and say, "Okay, what" -- as we did last year, to say, "Okay, what's the problem here?" But again as you take a look and you start to go through the details of it and see that particularly when the Evaluation Committee advises me that it is compliant with the specifications in the RFP, we then take a look at and

compare the costs as proposed with the costs as estimated. You start to get a picture that the company is capable of performing the specifications of the contract and that the price is reasonable based on the estimates that were prepared and the engineering studies that were prepared. So certainly, as I said, I have cause to step back and take a detailed look, and I think we've done that.

SENATOR ZANE: Were the specifications prepared by your Department?

TREASURER DiELEUTERIO: It was a combination of Treasury, DOT, DEP, as well as the Federal Highway Administration and the Federal EPA.

SENATOR ZANE: Can you say unequivocally that it was done without the assistance or consultation of Parsons?

TREASURER DiELEUTERIO: Yes.

SENATOR ZANE: Okay. Was part of the specifications or did part of the specifications -- because I've never seen them. I don't know if any member of the Committee has or not. That part of the specifications call for a public relations component?

TREASURER DiELEUTERIO: It was a driver education component that was required in the statute in the Clean Air Compliance Act of 1995.

SENATOR ZANE: And was it then your decision to do that by using a public relations firm?

TREASURER DiELEUTERIO: That was a requirement of the specification.

SENATOR ZANE: That required that?

TREASURER DiELEUTERIO: Yes.

SENATOR ZANE: You talked in terms of approximately 450 jobs initially affected by this over that period of time, and I believe that you said that the specifications required Parsons to offer employment to each and every one of those employees with the same benefits, which to me means also the same compensation as they are presently making. Is that accurate? And full-time jobs, not part-time?

TREASURER DiELEUTERIO: I believe the technical wording, and I'll double-check that for you, Senator, is substantially equivalent compensation and benefits to qualified employees.

SENATOR ZANE: So then the definitions qualified and substantially equivalent will really control what happens?

TREASURER DiELEUTERIO: Well, certainly one would presume that employees that are currently working in the inspection lanes would be qualified for jobs that would continue in the inspection lanes.

SENATOR ZANE: Fair to say that in light of only receiving one bid, you could not sit there and say, "I absolutely have the best deal for the State of New Jersey that could be obtained"? Fair to say?

TREASURER DiELEUTERIO: No. I'm not sure I would agree with that, Senator. Again we've been through this process twice now over the last couple of years, and I think we've put a very careful, crafted specification on the street and have now received a bid from a bidder that has not only experience in the field, but experience in all related fields. The prices that they've proposed are in line with the estimates that we had developed

internally. No, I think we have the best deal that we can get for the State at this point.

SENATOR ZANE: Parsons is involved in litigation with the commonwealth of Pennsylvania. Are they not?

TREASURER DiELEUTERIO: There is a different subsidiary of the Parsons Corporation that is involved in litigation. And our information is that it is not the commonwealth of Pennsylvania, but a corporation in Pennsylvania over a Pennsylvania matter, but it is not the commonwealth.

SENATOR ZANE: Parsons is also involving a number of their subsidiaries in this contract. Are they not?

TREASURER DiELEUTERIO: I don't have that information in front of me, Senator.

SENATOR ZANE: Well, let me ask you this question. Did Parsons reveal to you that they were involved in litigation in the state of Pennsylvania?

TREASURER DiELEUTERIO: Not in their bid. That, the litigation in Pennsylvania, does not involve the subsidiary of Parsons that is bidding on the I and M contract. It is a different part of the Parsons Corporation.

SENATOR ZANE: Were you aware that there was litigation of that magnitude with a subsidiary, if you're correct about that, that it's a subsidiary?

TREASURER DiELEUTERIO: No. We were not aware at the time of the Pennsylvania litigation in its whole. I had seen it reported in the press.

SENATOR ZANE: If you knew about that beforehand, would that have changed your opinion as to whether or not to award this contract?

TREASURER DiELEUTERIO: Again the information that I have indicates to me that the litigation in Pennsylvania does not have a direct bearing on the subsidiary of Parsons that is bidding on the I and M contract or their ability to perform under the terms of the contract.

SENATOR ZANE: Isn't it true that there will be an initial period -- I'm not really sure what you call it, but it's going to last approximately 18 months whereby Parsons will be charging-- It's not the enhanced inspection. I guess it's the regular one that's being done today. They'll be charging at the rate, I think, of \$20.61 per vehicle. And isn't it accurate that the State can perform the same, based upon estimates that I'm sure you've had the opportunity to review, of less than \$8 per vehicle with State employees?

TREASURER DiELEUTERIO: Well, as I stated in response to prior questions, there are-- We stand by our economic analysis. We do-- I will acknowledge that there is some disagreement over what it costs the State to run the existing system. But, yes, it is accurate that during the phase-in period that Parsons will be performing the nonenhanced inspections for, I believe, it's \$20.61 -- whatever the bid price is. But, no, I would not acknowledge that that is anywhere near three times the cost that the State spends to perform the same functions.

SENATOR ZANE: Is that in any way-- I heard Senator Matheussen ask you a question, and if I heard him correctly, that the total savings to be realized by the State is \$4 million.

SENATOR MATHEUSSEN: I think that's what the Treasurer has given us, yes.

SENATOR ZANE: And over what period of time is that \$4 million to be realized as a savings?

TREASURER DiELEUTERIO: Our analysis indicates that it's \$4 million a year over the seven-year life of the contract.

SENATOR ZANE: So we're going to privatize for the sake of a projected \$4 million, which over seven years would be around \$600,000 a year.

TREASURER DiELEUTERIO: No, it would be \$28 million -- \$4 million a year for each of the seven years.

SENATOR ZANE: Oh, okay. Okay. So it's not a total of \$4 million?

TREASURER DiELEUTERIO: No. The difference in the annual operating costs.

SENATOR ZANE: Twenty-eight million annually. And that's the projected savings?

TREASURER DiELEUTERIO: That's the projected savings.

SENATOR ZANE: I have no other questions.

SENATOR MATHEUSSEN: Senator Schluter.

SENATOR SCHLUTER: Thank you, Mr. Chairman.

Mr. Treasurer, following up on Senator Zane's question and, I think, also, Senator DiFrancesco, when you issue the RFP, does that contain a general estimate of the magnitude in dollars of the project such as 400 million?

TREASURER DiELEUTERIO: We generally don't tell vendors in the RFP what we expect the cost to be.

SENATOR SCHLUTER: So that your estimates of 400 million or whatever it was, was in-house?

TREASURER DiELEUTERIO: That's right.

SENATOR SCHLUTER: Was it generally known in the street, as you would characterize it, that this project would go into the hundreds of millions of dollars--

TREASURER DiELEUTERIO: Well, I think--

SENATOR SCHLUTER: --by the respondents?

TREASURER DiELEUTERIO: I think-- While certainly there would be nothing in writing and, in fact, some of the things that I talked about earlier in terms of the budget display for what amounts were budgeted-- We don't want to play our hands so that a vendor would be able to look at a public document and say, "Oh, okay, they have \$400 million budgeted for this, that's what our bid is going to be."

SENATOR SCHLUTER: I realize that.

TREASURER DiELEUTERIO: But I don't think-- Anybody that is associated with the industry would certainly realize just taking a quick look at the spec that this is a pretty substantial contract.

SENATOR SCHLUTER: Do you believe that the magnitude of this undertaking would have scared some potential bidders away?

TREASURER DiELEUTERIO: Very certainly because part of the proposal the vendor has to demonstrate that they have the financial capacity to perform this contract. And that's also part of our evaluation, to make sure

that we're simply not awarding a contract to a company that just does not have the financial backing.

SENATOR SCHLUTER: Does that consideration include uncertainties about the process that a contractor might have to stand behind?

TREASURER DiELEUTERIO: Well, certainly in a firm fixed price contract there's -- the contractor is trying to make their best estimate of unforeseen circumstances and their potential financial exposure. So, yes, I guess to answer your question, yes, our evaluation would include the ability of a company to absorb some financial uncertainties that may occur during the life of the contract.

SENATOR SCHLUTER: Were the subcontractors identified in the bid submitted by Parsons?

TREASURER DiELEUTERIO: Yes, that was a requirement of the RFP, and Parsons did identify their subcontractors.

SENATOR SCHLUTER: As well as the value of their service in the overall contract?

TREASURER DiELEUTERIO: The specific contract value for each subcontractor was not a requirement to be identified in the proposal.

SENATOR SCHLUTER: How do the newspapers then come on these figures that we hear about? Seven-point-whatever it is million for public affairs or institutional relations or whatever it might be and so many million for retrofitting and--

TREASURER DiELEUTERIO: There was a requirement in the Clean Air Compliance Act that a percentage of the contract be spent on a driver education and public relations component, and I believe the figures that

have been reported in the press are their calculation of the percent of -- by applying a percentage to the overall bid price.

SENATOR SCHLUTER: So that what we read in the press with respect to, and will be, specific public relations that might not be an accurate figure--

TREASURER DiELEUTERIO: Well--

SENATOR SCHLUTER: --that 7 million or whatever it is?

TREASURER DiELEUTERIO: That's right. And the other point I would make is that at least a substantial portion of that -- of those dollars would be spent on media buys anyway.

SENATOR SCHLUTER: Mr. DiEleuterio, you speak of, in the contract, design -- the word design. Now, can you describe what that means with respect to this system? I'm trying to zero in now on the uncertainty of inspection systems and what has plagued inspection systems around the country in the past as far as their reliability.

TREASURER DiELEUTERIO: Well, a portion of what needs to happen here involves retrofitting existing inspection lanes with the new enhanced inspection and maintenance equipment. So as I'm sure all of us as New Jersey residents are familiar as you go around the state and you look at the different inspection facilities, they were built in different eras. They're all different ages, all different shapes, all different sizes. So there's a pretty substantial engineering component that has to go into taking a look at each specific physical inspection lane and trying to come up with the blueprints and specifications that would be required to convert that lane into a new system. There's also going to be certainly some new lanes associated with the process

as well but also a need to have different considerations -- but certainly complex engineering and design requirements and architectural requirements. We need to go through permit approvals that may be required.

So there's also a requirement in the contract from a data processing perspective to get all of the various locations throughout the state to be able to send the data through a telecommunications system to a central location so that all of the statistical data associated with the system can be accumulated and processed in one place. That communications and data component also requires substantial engineering and architectural services to get that up and running. So that's part of the design component.

SENATOR SCHLUTER: More specifically on design, I can understand what you've just said about retrofitting and communications and all, but I'm wondering about the actual nature of the emission evaluation system. Is there any need for the contractor to do more design work to be sure that that is foolproof? Is that part of design?

TREASURER DiELEUTERIO: Part of what is included in the design of this system is the use of a standardized test that has already been approved by EPA, the ASM 50-15, I believe, is the designation for it. So certainly there is a piece of this that requires design services to incorporate that testing equipment into a lane and to ensure that as it is designed into the lane that it is operating up to the standards provided by the manufacturer and approved by the EPA. So there is a-- I'm not sure if I'm getting at the heart of your question, but there is a component to that that--

SENATOR SCHLUTER: I'm talking specifically about the state of the art with the ASM 50-15. Is that equipment that can be reproduced

uniformly and -- or is there any additional design that's going to have to go into that to take care of emission problems that might exist here?

TREASURER DiELEUTERIO: No. We buy the equipment from the manufacturer. It is -- other than calibrating it to make sure that it is operating up to specification, no.

SENATOR SCHLUTER: Couple more brief questions. On Page 4, you spoke about -- at the bottom, when you were evaluating Parsons, you said, "But that it has the kind of legal record of which virtually" other-- What do you mean by legal record? Does that mean with respect to lawsuits or litigation--

TREASURER DiELEUTERIO: Litigation--

SENATOR SCHLUTER: --or--

TREASURER DiELEUTERIO: --judgments that have been rendered against it.

SENATOR SCHLUTER: So that's what you mean by legal record in that context?

TREASURER DiELEUTERIO: Right.

SENATOR SCHLUTER: Some of the newspaper reports, if I am correct, have said that there is a suit or there is an action with respect to fraud in Los Angeles, which is coming up in June of 1999, with the Los Angeles Metropolitan Transit Authority. And would you care to comment on that as far as your analysis of that, since that is fraud, and it's not a civil legal action?

TREASURER DiELEUTERIO: Well, again, being very careful about not characterizing the specifics of the litigation, as we looked into it, my understanding is that it is a civil action that involves allegations of overbilling.

And again as I've mentioned in my remarks, I think it has more to do with the fact that if you take a look at the way that contract was structured as a cost-plus contract and then take a look at what we're attempting to do here with a firm fixed price contract -- that we've set up this contract so that the possibility just simply does not exist. For even assuming that it might be true, and I have no information to indicate that it is, we're not being billed on the same basis, and certainly it is much easier for us in a firm fixed price per inspection to verify the number of cars that have been through the inspection station and then to be able to pay a bill that way.

SENATOR SCHLUTER: But you are satisfied that that is not a matter of significance with respect -- or a deterrent?

TREASURER DiELEUTERIO: I don't believe that it has any legal relevance or practical relevance to the contract that we're attempting to award here.

SENATOR SCHLUTER: Two of the previous Senators have asked about the report in this morning's *Star-Ledger* with respect to 14 months continuation or whatever it is with the present Dynamometer testing or the present static testing -- or whatever it is -- versus the 20-some dollars that Parsons is getting. It was very hard to follow that, and I don't want to have you repeat it, but could you have your Department produce a one-sheet explanation of an answer to that?

TREASURER DiELEUTERIO: I'd be happy to.

SENATOR SCHLUTER: And fax it to at least the Committee members tomorrow.

TREASURER DiELEUTERIO: I'd be happy to provide it.

SENATOR SCHLUTER: Thank you.

On Page 15, at the bottom of -- and this is near the end of your testimony, you say you're left with two choices, to award the contract or to reject it. Let's look at the second alternative. If you reject it, as you explained, you place the State in jeopardy of Federal sanctions. We all understand that. I'm not talking about that. The second aspect of rejection is including the loss of substantial -- well, that's Federal sanction -- and legal action by the bidder. When bidders respond to an RFP, it costs them considerable amount of funds to get all of their facts together and to do all that work and then make a presentation, and they have no assurance of success. What right does the bidder have, if you've got this notice of intent, to sue the State for breach of faith or bad faith or whatever if they have not been finally awarded?

For example, if during this period of intent a competitive bidder -- some other bidder -- came in and was able to prove impropriety in the procedures and had the whole thing rebid, you would not be subject to any kind of cost or termination cost.

TREASURER DiELEUTERIO: You're absolutely right, Senator. In fact, that is one of the reasons for getting the protest period started so that any information like that would come forward. But I'd like -- with respect to the specifics of where you're headed with that, I'd like to ask Ellen Casey to jump in here and comment.

MS. CASEY: Senator, if your question is what right would Parsons have to bring any kind of legal action against the State if the State rejected its bid either prior to issuing a notice of intent or subsequent to the issuance of the notice of intent, existing law gives Parsons the right to challenge

that decision. Parsons would have the right to seek a hearing on the decision to reject the bid, which is why the Treasurer stated he would have to have a legally sustainable reason to reject the bids under existing State law. The bidder could take the results of the hearing and if the bidder disagreed with that, the bidder would be able to go to the Appellate Division to challenge the State's decision. And it is possible that the Appellate Division or a hearing officer could determine that the reason for rejecting the bid is inappropriate, it's not sustainable, it's a gross abuse of discretion and compel the State to go forward with the contract.

So there is some discretion available to the Treasurer in this instance, but it is not unlimited discretion. And the Treasurer still must act with a legally sustainable reason should he reject the bid in the present circumstances.

SENATOR SCHLUTER: I don't mean to get into a whole litany of examples, but, for example, if the Legislature took action of whatever it might be to direct you not to accept the bid, is that the type of thing that Parsons would still have the ability to sue the State for?

TREASURER DiELEUTERIO: I certainly wouldn't want to speak for any court of competent jurisdiction in a matter like that, but I think it would certainly make for an interesting court case. And although I am not an attorney, my impression and my interpretation of the Clean Air Compliance Act at this point is that -- and that is one of the reasons I've asked the AG to look at my options at this point -- is that the Legislature would need to pass specific legislation to have me take a specific action that is not outlined in here right now.

SENATOR SCHLUTER: I would just comment, and I don't mean for you to answer this, that this sort of puts us in a lose-lose situation. In other words, if the contract is not beneficial or there are reasons not to have it, really, there's not much that you can do, and you try to do take any action, we might suffer some major financial charges.

TREASURER DiELEUTERIO: I would-- Senator, if I could, with all due respect, I would just suggest the compliance with the Clean Air Act--

SENATOR SCHLUTER: That's another--

TREASURER DiELEUTERIO: --doesn't put us in a lose position.

SENATOR SCHLUTER: That's another threatening situation.

I'm going to just digress a little bit on another tact, and I think it's relevant. And, incidentally, I do commend you for being here, and I think what we're talking about is a public perception and public confidence in this project. You also heard me talk about and other Senators talk about the reliability of this testing procedure. What we and I'm sure the administration is looking on several years down the road, if some equipment is installed and it's state of the art and it is a major fiasco with respect to doing the job of inspecting cars that we all want it to do, this is going to reflect adversely on our job as overseeing the awarding of this contract.

I have had a lot of personal experience in RFPs on both sides. I've also had personal experience in very technical, technological, and unreliable projects and how they're bid and how they come to fruition. And I can see about this Pennsylvania situation with Parsons, if they've got a contract on a private matter to take recycling materials and to produce fiberboard, there's a lot of uncertainty there. And this is what many of us are concerned with, with

a big project is the uncertainty and the limitation on costs and the projection that there are only going to be 9 percent or 8 percent rejections in the first cut on emissions. Having said that, was any thought given by Treasury and by the Division of Purchase and Property to intentionally bifurcating this contract into two contractors so that you could have one person do one half and one person do the other half, either geographically or number of states (*sic*), because then you would have a built-in synergy which would have competition, and you would have one sort of setting a standard which the other would have to meet, and you would be able to judge these things.

TREASURER DiELEUTERIO: Well, in actuality, Senator, we did give some thought to that, and that's why the first RFP allowed for what we were calling a hybrid option. That hybrid option would have permitted us to award some of the lanes to a private contractor and keep some of them in-house or, frankly, to award portions of the lanes to multiple contractors. We received no bids for that alternative and, in fact, have been operating some pilot lanes at Wayne, Bakers Basin, and I believe there's a third one, maybe Deptford if I'm not mistaken. So we've been operating some pilots out there for quite some time now. So, yes, there was some thought to trying to do that, but the industry, based on their lack of response, obviously, was not interested in that.

SENATOR SCHLUTER: If that could be accomplished with two contractors at \$200 million and maybe they would have a little more because of the economies have scaled, it would seem to me to be a good insurance policy for the State to get the best possible service.

That's all I have, Mr. Chairman. Thank you.

SENATOR MATHEUSSEN: Senator Sacco.

SENATOR SACCO: Concerning legal action by the bidder, I could see if there were three bids, if the low bid was within range of economic efficiency, and if that bidder was rejected, I could see a standing in court. A single bidder with the type of questions being raised I think would last about four minutes before being tossed out. I don't think, as a State, we should be concerned about the legal action. Anybody can sue anybody for any reason. I think the merits of the case would be very weak and that we shouldn't proceed based upon the concern of what the bidder would do or not do. They would have the right to sue. I just don't think they would be at all successful, and I don't think that should be a concern of ours.

In speaking about decisions, how to bid, if we would have bid out the construction, the facilities and let our own State man power man them, that would be a different way to approach it. It wouldn't be a privatization, but it would be a different way and there probably would have been competitive bidding because it would be a much lesser position.

TREASURER DiELEUTERIO: Well, Senator, both RFPs that we had issued allowed for design, build bid, and we did not receive bids either time for that option.

SENATOR SACCO: I do not understand why we are having such problems getting people in here into this state, especially for such a lucrative contract. And not being involved with it, I'm not questioning anybody's integrity. It just seems to be a problem that we didn't have a lot more competition. And to me, I would be very comfortable removing the single bid again and going out again and find out why we're not getting this type of

competition for such a large contract. But be that as it may, we're taking a lot of time, and I guess we'd like to proceed. So thank you for coming.

TREASURER DiELEUTERIO: Thank you, Senator.

SENATOR MATHEUSSEN: Mr. Treasurer, just as a follow-up to what Senator Schluter had brought out. Some thought could be given or could have been given then to basically divide up the state, so to speak, and have multiple contractors or as well multiple options. There were three options under the law in 1995. One granting you in-house, one granting you design, build, and operate, which is what we eventually had gone with, with Parsons. But had it not been available, we could have had a comparison, so to speak, of-- I'm sure there are other people because I know they've signed up to testify who will say that the State could have done this or would liked to have done this and do a better job at it. We could have divided the state up could we not in some form of a bid process?

TREASURER DiELEUTERIO: Well, again that's one of the reasons that the first RFP was structured to include what we were -- for lack of a better term -- calling the hybrid that would have allowed us to do that. The difficulty -- and I think what we heard from the industry when they came in after that first RFP and the bid that came in was rejected -- was that it was difficult if not impossible for them to have prepared bids without having a specific designation by the State up front as to these lanes would be yours, these lanes would be vendor *B*, these lanes would be vendor *C*. And, frankly, one of the things that we wanted out of this process was to get the vendors who have experience in the field to come in and tell us how they believed it should be done. So to designate that up front would have made it impossible for a

vendor to prepare a reasonable bid. Again, in theory, you're right. We could have made multiple awards here and kept some of it in-house based on how the first RFP was set up. We simply got no bids.

SENATOR MATHEUSSEN: The decision that this was, in fact, a responsive RFP I'm concerned with because I'm also concerned about ongoing litigation should your answer come back from the Attorney General that you, in fact, have that right or we ask that you do that. Are you solely the person who decided that this RFP was responsive?

TREASURER DiELEUTERIO: Yes, based on the recommendation of the Evaluation Committee and again the background information that we were able to gather through the Division of Purchase and Property. But under the statute, it was ultimately my decision.

SENATOR MATHEUSSEN: Who is the Evaluation Committee? What is that?

TREASURER DiELEUTERIO: The Evaluation Committee is a team of career State employees. Some of them were from the Division of Purchase and Property, which just has the purchasing mechanism, always participates in evaluation committees; DOT and DMV, since that is the Department that's impacted by the implementation of the enhanced I and M; DEP obviously because of clean air credits and interaction with the Federal government participated in this as well; as well as FHWA and EPA were nonvoting members, but yet they participated in the Evaluation Committee; and OMB as exercising their normal role as the keeper of the dollars. But all career individuals.

SENATOR MATHEUSSEN: Career State employee individuals.

TREASURER DiELEUTERIO: That's right.

SENATOR MATHEUSSEN: Okay. Mr. Treasurer, there are a number of things that I think that have come out so far, and at the end of this meeting, I would anticipate -- I am not suggesting that it will happen, but I am anticipating that this Committee through its membership will have a number of questions that require follow-up. I see that already we have some of them, and one which you brought to the attention, I think, of the Senate President, and that was your citing of Title 52, which was later inquired about through Senator Zane what your answer would be. And that's relying on the Attorney General's opinion as to whether or not you can stop the process now, whether or not you have to engage and, in fact, sign the contract.

Another question that I think came about was an actual copy of the cost analysis, something more, I think, than that was provided under the statute given to the Senate President and to the Speaker, but the entire true cost analysis. Somebody referred to it maybe as engineering standards or whatever it might be. What you -- estimates -- had to look at or what the team had to look at in evaluating whether or not this was, in fact, a cost-effective bid. Even though there was only one, the competition at that point in time was your analysis of what it should cost.

TREASURER DiELEUTERIO: That's right.

SENATOR MATHEUSSEN: I think we need to have that so we can evaluate under the same terms whether or not Parsons is, in fact, in the ballpark, since we can't compare them to any other outside bidders.

What else, John, I--

The one that is troubling and I think that's made significant press that all of us to some degree have some concerns with, and that is, the ongoing litigation, whether it's in Pennsylvania, whether it's in California. You mentioned in your testimony that you were given advice from counsel through the Attorney General's Office. If that advice-- We'd like to share in that advice. We'd like to know what it was and what the findings of the Attorney General were so that we can, in fact, analyze it ourselves. And I'm sure that the Committee, either now or at the end of this hearing, will have some further-- I'm going to ask that staff prepare these questions or these requests in writing to you, share them with both the Speaker and the Senate President, and direct that they be sent immediately to you.

Does anyone else want to add anything now?

SENATOR ZANE: Yes. I just wanted to ask one question.

SENATOR MATHEUSSEN: Go ahead, Senator.

SENATOR ZANE: Was there any type of analysis done-- Let me say this -- make a statement first. Obviously, the smaller the project, the greater likelihood that there will be more participants in the billing -- or in the bidding simply because of bonding requirements that we would have. Would you agree with that?

TREASURER DiELEUTERIO: Yes. That's kind of a general statement, but, yeah, I think I would agree.

SENATOR ZANE: Right. Was there an analysis done that you're aware of as to what size companies would be the only ones that would be able to bid because of bonding requirements? In other words, when you're looking

at companies that had to be in excess of 10,000 employees of net worth in excess of a zillion dollars, whatever.

TREASURER DiELEUTERIO: The statute-- The Clean Air Compliance Act essentially, I think, if I could come up with an example-- What you're referring to is a process that the Division of Property Management and Construction normally uses in prequalifying people, if you will.

SENATOR ZANE: Correct.

TREASURER DiELEUTERIO: And the statute told us not to use that process, so we did not have a list of standards, if you will, to say you had to jump through the hoop this high before you could make it to the next process and actually submit a bid. So the issuance of the RFP was -- has been a process as possible in that bidders did not have to prequalify to submit a bid.

SENATOR ZANE: But in hindsight, the bond has to be for -- what? -- \$63 million at least?

TREASURER DiELEUTERIO: You're right, Senator, it is 63 million.

SENATOR ZANE: And as a result of that, is it really fair to say without actually counting them that hundreds and thousands of companies were therefore precluded from even having a shot at this?

TREASURER DiELEUTERIO: Well, no, because they would have been able -- if a group of companies wanted to form a consortium or a partnership and bid on the contract as a combined entity, that they would have been able to demonstrate financial capacity.

SENATOR ZANE: But, individually, they would have been precluded.

TREASURER DiELEUTERIO: Individually, you're right.

SENATOR ZANE: Hundred, thousands.

TREASURER DiELEUTERIO: You're right. I mean, individually, there are a lot of companies out there that simply do not have the financial resources to perform this.

SENATOR ZANE: So what I'm really saying is, when -- the last question. When the inner circle making these decisions about this project -- when they were meeting, wasn't it obvious and wasn't somebody saying, "You know, we're probably only going to have maybe 10, 15, 20 people throughout the country that could bid on a project of this size"?

TREASURER DiELEUTERIO: As a specific individual company?

SENATOR ZANE: That's right.

TREASURER DiELEUTERIO: You're right. I think there was some limitations placed just based on the size of the contract. However, let me just say that there are a variety of functions that the State purchases services for. For example, telephone services that -- there are a handful of companies that are capable of providing that service, but yet that still does not preclude us from having an open competitive process and being able to award a contract that's in the best interest of the State.

SENATOR ZANE: But there's no question -- I don't think you would refute the fact -- and this is the last question -- that the more competition you have, the better the price that you're going to get. Wouldn't you say that's fair?

TREASURER DiELEUTERIO: Generally, that's a fair statement.

SENATOR ZANE: And the point I'm trying to make is that there's a whole group of people out there who are absolutely precluded from being potential participants just by virtue of the sheer volume of this contract, which could have been, as Senator Schluter suggested, broken down into a number of smaller contracts which would have been able to attract a number of other contractors, hopefully many of them from New Jersey.

TREASURER DiELEUTERIO: Well, let me point out in response that in breaking it down into a lot of small contracts, you very often have the difficulty of coordinating and acting as your own general contractor, if you will, to coordinate the activities of all the different contractors. Let me just also point out that Parsons in preparing their bid or any vendor in this particular situation has the exact same bid due date as any other potential competitors and would have had no way of knowing in preparing their bid that no one else was ready to bid or had decided not to bid for whatever reason. So in Parsons's mind-set and again any vendor that finds themselves in this situation, there is competition in the fact that they are at least competing against themselves on the potential that there would be other companies, albeit a handful of companies, but there would be other companies that would be out there ready to submit a proposal.

SENATOR ZANE: We then are acknowledging today that this process and this RFP and these specifications really limited this to a handful of companies nationwide to bid.

TREASURER DiELEUTERIO: There are a handful of companies that are qualified to perform this contract in its totality.

SENATOR ZANE: Okay. Thank you.

SENATOR SCHLUTER: I've taken over by virtue of Senator Matheussen having to leave.

Are there other questions from the Senators? (no response)

Senator Sacco? (no response)

Thank you very much, Mr. Treasurer and Ms. Sims and Ms. Casey. We appreciate your testimony, and I'm sure you're going to have somebody here to monitor this for the rest of the day for additional questions that will come up.

SENATOR ZANE: Mr. Chairman, can I ask one more?

SENATOR SCHLUTER: Yes.

SENATOR ZANE: Who's going to own these buildings when they're done?

TREASURER DiELEUTERIO: The State.

SENATOR ZANE: The State will. Okay, thanks.

SENATOR SCHLUTER: Senator Vitale.

He is with you. We have another Senator, and we wanted to have the Senators -- in a way of ordering this -- to have the Senators go first--

SENATOR JOSEPH F. VITALE: Thank you.

SENATOR SCHLUTER: --and then Assemblyman Cohen.

Thank you for being patient. If you can proceed.

SENATOR VITALE: There are just a couple of points I'd like to make, and I think that unfortunately, from my point of view, I'm at a slight disadvantage not having been a member of the Legislature when this legislation was debated and then approved.

There's one specific concern I have regarding the amount that the State is going to spend on public relations campaign in addition just to -- a brief observation of the Treasurer's testimony regarding the difficulties that Parsons has experienced over the past few years in California and then in Pennsylvania. Of particular note, I think, is the fact that Parsons did not disclose certain information, lawsuits, in that state as well. And I think that it's more than just, as the Treasurer put it, and this is not verbatim, this is the kind of experience that large companies undergo from time to time. It certainly doesn't reassure me. And while it may not be an analogy that fits, if someone were to offer to reconstruct my home, and I went next door to my neighbor who used the same contractor and found out that they had overbid or had not performed or done some things that were potentially illegal or were illegal, certainly wouldn't hire that contractor. But overall of Parsons's behavior, particularly with a contract of this magnitude, is troubling.

In addition, the way I understand it is, is after the seven years expires that the Treasurer has the ability to extend the terms of the contract, and I don't know if this is true, without the advice or consent of the Legislature. And then lastly -- and I think that we all experience our political campaigns -- we know what it's like to have to spend and raise money to get our message out. But in the legislation it says that no less than 1 percent shall be spent on advertising for this particular project. It seems as though it's 2 percent -- will be 2 percent to the tune of nearly \$6 million. And while I believe that at first blush that this is just an ungodly amount of money to spend on the project of this magnitude, there are existing mechanisms I believe in State government, within the DMV, within the halls of this particular

branch of government, and the administration to provide for an appropriate amount of advertising and education to the public.

Now, \$6.2 million may not be a lot of money to the State of New Jersey. They may think of it as just chump change, but I don't know how much of that will go to advertising, what goes to the buy, what goes to the consultant, and how much they're going to make in the final analysis. And I don't care whether it's a Democrat or it's a Republican or it's a hybrid consulting firm. Six-point-two million dollars is inappropriate and in my view a ridiculous amount of money to spend -- taxpayers' dollars -- on a project. And I don't care how big this project is. It's a lot of money, and I don't approve of it. And, unfortunately, I wasn't here when this was done, and I would have raised those questions a few years ago. But it's another thing to consider as we proceed.

I know that Assemblyman Cohen is here with testimony, and many of my questions were answered earlier, but I appreciate the opportunity and the time you've taken to educate all of us, particularly the public.

Thank you.

SENATOR SCHLUTER: Before you leave, Senator.

Senator Zane, do you have any questions?

SENATOR ZANE: No.

SENATOR SCHLUTER: Senator Sacco? Any questions? (no response)

Thank you very much. You raised a question, Senator, about extending the contract. I've been advised by staff that the law/statute does not automatically allow the extension. We will have to check and get a report back

from the Treasurer if the contract has an automatic extended -- extender or what the terms of that are. So you raised a good point, and we appreciate it.

Thank you.

If the members of the Department of Treasury are still here, there was another item that we asked for that wasn't asked for by the Chair before. And that was a one-page analysis or commentary on today's story in the *Star-Ledger* with the explanation of why the cost for the first 14 months would be one-third of what the State is reimbursing Parsons for. So that was another thing to add to the list of what we required.

The next witness is Senator Turner. Senator Turner is not here right now.

Senator Cohen -- or Assemblyman Cohen. Jeepers, I-- (Assemblyman Neil M. Cohen declines to speak now from audience)

Well, if you've got the time to wait, we will be happy to bring them in. (referring to Communications Workers of America witnesses)

Is there one spokesperson for CWA? Three different, all right. Who is-- Alan Kaufman will-- Ask Alan Kaufman to come up. And there is Kenneth Peres and Jerry Jagger are all as a unit. If you can come up and identify yourselves and proceed, please.

Identify yourself, please, and--

A L A N K A U F M A N: My name is Alan Kaufman. I'm a National Staff Representative with the Communications Workers of America. It was actually my good fortune, I think, to be assigned to this project. It's been very interesting, and I've had the pleasure of working with a really good crew of

people who have been very helpful in compiling the information that we have provided to you and doing the cost analysis that we're providing to you.

I had prepared comments that are in the packet, but I'm going to depart from them based on what I've heard here already. I don't think that-- It may be better if I just address some of the things that come up and get into some of the issues that have been identified rather than go through the prepared speech.

To my left is Dr. Kenneth Peres, who is the District I CWA Research Director, who prepared the economic analysis. And to his left is Jerry Jagger, who is a Supervisor in the motor vehicle inspection program, a CWA member.

It's very interesting when you get into these type of battles. I read in the press that an employee of the Parsons Corporation, named Carl Golden, made a comment that in response to some of the things that we had brought out that CWA did not represent any inspection workers, that we just throw numbers around, and that we go around just opposing privatization. I would like to set the record straight that we do represent and have represented motor vehicle inspection workers for quite a while. And unlike the corporation that Mr. Golden represents, that the supervisors we represent are not under any cloud of suit or being charged with -- anywhere, in any state -- fraud. As for numbers being thrown around, people that have dealt with us know that we have prepared research documents over the years on the budget and on the State Health Benefits Plan, documents like *Do the Right Thing, Putting People First*, and *Good Medicine*. These documents have been used as OLS documents and in legislative budget hearings. If anybody would like to check with the

Director of the Division of Pensions, Marge McMahon, she'll tell you that the document to be prepared on the State Health Benefits Plan was used to save the taxpayers millions of dollars with suggestions we made on how money could be saved.

So those comments aside, I'd like to start off with a few points, and after that, I would like Dr. Peres to go into the economic analysis.

I think even if Parsons or any corporation were totally squeaky-clean, there was nothing -- absolutely nothing -- out there, any allegations of anything, we'd be opposed to privatization. Let's say Parsons is squeaky-clean. Why should a corporation in Pasadena, California, be handed over a system which the taxpayers of New Jersey with their money bought the land, had the buildings constructed, employed the workers who were then trained at their expense to run the system -- why should they be handed this whole thing? In addition to that, be able to make a bid that does not include the responsibility to pay for gas, water, electric, which will be very substantial bills under the electric bills because of the new equipment. They will not have to pay for nonroutine maintenance. They will not have to pay for trash pickup. And they will be able to inspect cars of New Jersey residents who've built this system and take the profits back to California, while at the same time taking career service employees, like Mr. Jagger to my left and all the other workers in the other unions -- and take them and use them to make profits to send back to California. I don't see how that makes absolutely any sense. Design and build the new lanes, yes. Operate the lanes, no.

This is not a squeaky-clean company, Parsons. And if you look at the -- there are a lot of-- I provided you with a whole list -- package of the suits

there and some articles that we got off the Internet. And let's just deal briefly with the Pennsylvania case. That came to light because one of our CWA members spent days on the Internet searching for things, and she shouldn't have had to do that. Do you know why? Because if you look at the RFP, RFP Section 5.5.5 -- and this is all detailed in the letter to the Treasurer by our counsel, Steve Weissman, which I won't go into all the content of that letter. I think that is really worth reading, and it's an excellent document. But 5.5.5 says they're supposed to disclose anything that could impact on the ability of the State to determine whether or not the contractor in doing the RFP is up to the task -- has any type of record that they should know about. They are supposed to disclose that. That's a nonwaivable requirement of the RFP. It took a CWA computer guru on the Internet to find that. They did not disclose that. That's a material noncompliance with the RFP right off the bat. Right off the bat that's a material noncompliance with the RFP. And this is not the first time they didn't disclose something. They didn't disclose something in California which led the -- one of the officials out in Los Angeles to reject a bid.

So this is not the first time, and this is a major, major lawsuit that Ponderosa Fibres has, and it deals with issues of design flaws, failure to correct design flaws, and then walking away from the whole contract leaving the system not operating correctly. And I know these are allegations. These are allegations, but they haven't been proven, but they're supposed to reveal that. It's a requirement of the bid. They didn't reveal that. That's a material noncompliance. It could be rejected right off the bat just on that basis alone, and we have asked the Treasurer to do that. That's one instance. And it's not

a squeaky-clean organization, and they're up to things that they've done before.

Just a little bit more on the legal stuff just to point out a couple of our thoughts about that. The Treasurer said that the -- it was just cost overruns and that this wouldn't happen here because we have -- and I forget the legal term -- but it's the-- Whatever they did, that's what they have to do so they don't get more money. They can't charge you more money. So it's not like they bid six and can charge you seven, but one of the reasons that was alleged in the suit -- it's all in those documents I provided -- is that it wasn't just that they charged six when they should have charged five or seven when they should have charged six, which is sort of the implication that was given. It was that they claimed that they did things-- There was overbilling because they were claiming they were doing things that they weren't really doing. And so there was overbilling, not just the jacking up the prices, but in claiming that they were doing things that under the contract they were supposed to do, but they weren't doing. So these are the type of issues that should be looked into because to get a system up and running it has to be designed and built correctly and that everything that they say they're going to do has to be done. And there's information that we provided that that's not the case.

The Treasurer also talked a little bit about having met with the unions, and there were a couple issues that came up about the unions. Somebody over here asked about what type of assurances there were that what people would be paid and all that. If you look at the Parsons bid, and that's why I really hope that this Committee and the rest of the Legislature does have the time, if you read the words closely-- And we negotiate contracts and many

of you are attorneys, so you know that words are picked and chosen very carefully and they mean very specific things. It talked about similarity of benefits for current employees and that new employees would be in the same union. It didn't say that new employees would get the same benefits as the current employees. So the way I read it, I think they're probably going to try to two tier things.

And similar and substantial equal is not the same as equal. So that there's no reason whatsoever to assume that people who have given their years and years of service -- worked to make a system work, are in the trenches doing a difficult, hard, and dirty job -- are going to end up with exactly the same thing. They're not going to end up with exactly with the same thing. They're going to end up with less.

The other question, the other aspect of the Treasurer's comments was about the information provided to the union. I was at a meeting -- I think Jerry was there, too -- at the Department of Transportation, and the Division of Motor Vehicle Director, Mr. Kamin, came in, and we asked him, "How much does it cost to inspect a vehicle now?" And you can ask anybody who was at the meeting -- it doesn't sound possible, but it's true -- he said, "I don't know." And we requested the information, and we never did get the information ever on how much it cost to inspect a vehicle. I don't think, when you tried to get the answer today, you got the cost of it.

So what we did was we looked at the budget for -- on the budget line, we saw for the DMV inspections, which includes more than just inspecting vehicles, there's driver testing and all kinds of other things, but we just flipped a number there. It was like \$20 some-odd million, and I took the

time to call OLS and I said, "Is that it? Is that the expense? Is there anyplace else I should be looking?" "Not that I know of." I called up the Department of Transportation. I asked to speak with the person who does the budget for the DMV, and I got that person on the phone. I'm sorry, I can't remember the person's name, but he told me-- I said, "Is this it? If I use that number, is that the number?" "That's the number." So we divide the number of cars into what everybody in OLS and then the DOT -- is the cost of the program, and it's overstated because they do other things than inspect cars, and that's how we got the figure of around \$6.30. That's how we did it. We took the budget and we tried to corroborate the amounts by talking to OLS and the Department.

The other thing that they're trying to say here is that-- The Treasury is trying to say here is that they're sort of stuck on the time line here in terms of they'll be sued by -- they might be sued by Parsons if they don't give the contract. I can't see that Parsons is going to sue the State of New Jersey because the law states -- the law of 1995, as I read it -- that the Treasurer had three options -- one to keep the whole thing in-house, one to put it all outside, or one to do some sort of a split -- and that the decision -- the bottom-line decision -- had to be made in the interest of the New Jersey citizens. So this decision that the Treasurer makes, whether or not to award a contract, has to be made, and the bottom line is not necessarily some narrow, legal thing that they violate some aspect of the contract, which as I said earlier they did of the bid. They did because they didn't reveal what they were supposed to reveal under here. So they did violate the bid.

On a broader issue apart from that, the decision to do this has to be made in the best interest of the taxpayer. I would think that the citizens of New Jersey would not be upset if the Parsons Corporation was suing the Legislature because the Legislature made a decision that said that it was not in the interest of the New Jersey taxpayers to have this company come in and do this. So I don't think that that is something that should have any weight whatsoever.

Those comments out of the way, I would like to get into the question, and it's an important question, on the cost of this contract. I didn't hear anything from the Treasurer that really in any way was a serious criticism of the documents that we have put together. If you look at the figures real closely, as Dr. Peres goes through it, I think that you will see that this bid understates -- seriously understates -- what the Parsons bid will actually cost and overstates -- jacked up the price of what the State cost would be. Please keep in mind that they were never able to give us the information on how much it cost to inspect a car, but now they're saying that to do something that they've never done before is going to cost them exactly \$2.07 more than the Parsons bid.

So with those comments aside, I would like to turn the mike over to Dr. Peres, who will go through the cost analysis.

KENNETH R. PERES, Ph.D.: Thank you, Alan.

For the record, my name is Ken Peres. I am Research Director for District 1 of the Communications Workers of America, and I have a Ph.D. in economics. I want to express my appreciation to the Committee for holding these hearings in the first place and asking questions that really should have

been asked and answered long ago in this process. Also, I want to express my appreciation to Assemblyman Cohen for graciously offering us his spot or getting in front of him.

I want to address one of the charges that Senator Matheussen gave to this Committee, and that was to look at and address the economic analysis, whether an economic analysis was carefully done that accurately reflects the cost associated with the project. In terms of what information is publicly available, there has been no economic analysis. If you look at what's called an economic analysis that a company -- the statement of intent from the Treasurer, you'll see just a few lines that mention that the resulting bid is 63.2 million. Parsons bid \$24.25 for each enhanced--

SENATOR MATHEUSSEN: Doctor--

DR. PERES: Yes.

SENATOR MATHEUSSEN: --not to cut you off, but I want to let you know that I specifically asked them for a much more detailed analysis.

DR. PERES: That's my point. That's the extent of the economic analysis. It's a statement, and there is no analysis publicly available.

SENATOR MATHEUSSEN: That's why I asked for more detailed.

DR. PERES: No, I appreciate that. I just wanted to reiterate that what they gave out so far has not been done.

SENATOR MATHEUSSEN: We recognize that.

DR. PERES: Thank you.

Moving ahead now, the State Treasurer again issued a statement that the figures for enhanced inspections by the State -- it would cost the State

\$26.32, while the Parsons bid amounts to \$24.25, a savings of about \$2.07 per car. Now, that figure of 24.25-- Senator DiFrancesco asked about inflation factors. And in Section 8.10.2 of the RFP, it specifically refers to an inflation factor. This 24.25 is only for the first year of the program. And that is also stated in the cost proposal by Parsons, Page 6-4, which says the State considers the current inspection rates bid under 1 and 2, which relates to the enhanced and nonenhanced, to be the first-year cost, and that there is an adjustment of cost for operation and maintenance. It turns out that those adjustments for cost is an inflation factor of the CPI in New York and Philadelphia.

And if you look-- Just doing some figures, if there's a 3 percent increase in this inflation factor, then the price would rise by the fourth year to 26.49, which is greater than what the State says and which I will analyze later at 26.32 per car that the State cost is. So by the fourth year, Parsons's cost could be over and above what they say the State will charge. By the seventh year, it's up to \$28.96 per car, assuming a 3 percent inflation rate. That was a question asked, and I just wanted to respond to that. That it's a firm fixed price in the Treasurer's words but not so firm, not so fixed.

Our analysis of the figures supplied by the State and Parsons does not substantiate the State's conclusion nor their figures. On the one hand and what I'll go through is that the Parsons bid actually will cost the State an additional 8.87 million per year, or \$4.39 per car. On the other hand, the State overestimated its own cost for enhanced inspections by at least 7.6 million, or \$3.76 per car. So putting those two together, revised State figures are that the State cost is at most \$22.56 per car, while the cost of the Parsons contract is at least \$28.64 not including any of the inflation adjustments. So

rather than benefitting the taxpayers with savings, the Parsons contract will actually cost taxpayers an additional \$6.08 per car, or 12.28 million per year, or 86 million over the life of the contract.

Now what I'll do and what the State has not done is now go through and provide an analysis of how I derived those figures. If you have any questions, please ask them. What I'll do in the firsthand is look at the cost of the Parsons bid and how they are underestimated by 8.87 million, or \$4.39 per car. As was indicated by many of your questions and the Treasurer also agreed that the cost of \$20.61 for nonenhanced inspections in the Parsons bid is what they have. And looking at what Alan said earlier, the State has never provided us with a cost for nonenhanced inspections by the State -- astounding that they would not provide that information or have that information at hand given that they're supposed to have an economic analysis.

Looking at \$6.30 and looking at \$20.61 is \$14.31 difference. And assuming and based on the State's figures of 2,020,000 inspections per year, we calculated that this is an additional 24.28 million. If you look at Exhibit No. 1, first page of that just goes through the assumptions that were used for looking at the nonenhanced, enhanced, and the schedule is also assumed to be kept by Parsons, assuming no glitches or obstacles and they do everything on time and all the car owners opt to have the enhanced inspections before the mandatory, as per the schedule. So it's very conservative assumptions, and the cost is \$24.28 million. If you spread that over the life of the contract, that's \$1.72 per car additional. That's not really included. It's a cost to the State. It's not included in the Parsons proposal per se, but it's additional to what the State would have to pay if the State workers did it.

There's also-- The Parsons bid did not include 5.4 million in annual ongoing operational and indirect costs that the State will still be required to pay. If you're looking at what the cost of the Parsons contract will be to the State, you have to look at those figures to get a good comparison going. The State included 7.169 million for additional operating costs. The Parsons bid included 1.764 million of these. There's a balance of 5.4 million that is left unexplained. And unless the State proves otherwise, we're assuming that that 5.4 million includes the operational costs for which the State, not Parsons, is responsible. And there is in one of the exhibits, Exhibit 4 -- you'll see a statement that the State will continue payment of utilities and facility maintenance except as stated above -- that 1.764 million -- for all retrofitted facilities. And the continued payment of utilities by the State could be substantial. You can imagine the utility bills for electricity just to run the electronic enhanced emissions equipment. So these costs and others that will be borne by the State, even if Parsons gets the contract, is a cost to the State and should be included as part of the cost to the State or the Parsons contract. It is not.

There are other costs which are also not included. And those include the cost of preparing and administering negotiating the contract and the important cost of monitoring the contract, which the State will have to continue to pay and which nowhere has been quantified or identified. So just looking at those, we see an additional cost of 8.87 million a year, or 4.39 per car.

Now we go to the other hand, and that is, the State has -- just like the Parsons bid is underestimated, the State has overestimated its own costs.

And in working papers supplied to CWA for '94, there are 470 safety specialists including salary adjustments to 1/99. That amounts to \$18.9 million, almost 19 million. And you'll see that again in Exhibit 1. In this whole part -- it's after Page 2 of Exhibit 1 -- I go through each of these wage and salary, overtime benefits, clothing, and show you how I derived this information from what was available to us.

The State overestimated the salary and wage costs by 3.3 million. And if you look again, sorry, but, Exhibit 2 provides the extent -- the total extent of any analysis given to us by the State, and that's the derivation -- not derivation, but just a list of statements at how they derived their analysis of the State cost. We contend they overestimated the cost of wages and salaries, you can read that, that the 94 lanes-- They have five safety specialists when experience teaches us that they only need three plus one for-- They have a 33 percent overestimation of what is prudent by experience. And they also overestimate the wage cost for supervisors. Taking that, they also overestimated the overtime requirements by \$2.92 million because they have this gigantic balloon of employees that really will not be needed. It's overestimated its employee benefits by \$984,000, almost a million. It's overestimated the clothing allowance by almost 60,000. These are overestimates in their derivation or in their calculation of what the costs of the -- to the State if the State did the enhanced inspections.

And very interestingly, as part of these costs that were listed by the State and which are exhibited in Exhibit 2, they say, "Using Parsons's throughput and efficiency assumptions," which basically means in many instances they just copied and took Parsons's data and plucked it into what it

would cost the State. Now, that's not doing a detailed economic analysis that accurately reflects costs associated with the project. And it becomes-- I was startled with some of the language that -- even in the Parsons proposal, it states that "all budget categories that would be required to provide the State with a full cost breakdown have not been requested." So they didn't supply them.

So you have a lack of information, and also, the information that they do include have some real problems. One example is the emissions equipment maintenance -- that it costs 19.28 million to purchase this emission equipment. Yet, according to the Parsons bid, it will cost 7.29 million per year to maintain the emissions equipment. So if you look at the purchase of the equipment at 19.28 million over the seven-year life of the entire contract, it comes to 2.75 million per year straight-lined depreciation over the useful life, which this is seven years.

The maintenance is 7.29 million. That means that the cost of maintenance is 2.69 times greater than the cost of purchase. So you can imagine buying a car for \$15,000 and having to expend 39,700 for maintenance over a seven-year period. That's \$5,672 per year. That's an astounding maintenance charge that is not explained. Not only is it not explained, it's adopted by the State in calculating its own figures. That's not what I would consider detailed analysis, and it throws in the questions of State acceptance of Parsons's data system operations and maintenance costs and public information cost figures that were basically lifted from the Parsons proposal.

There are exhibits that, as I stated before, that look at how I derived this information with the information that was available. And there's

parts of the Parsons capital and operational costs that come from their own cost proposal, and there's also a statement that the State will continue payment of utilities and facility maintenance that I've referred to above.

The upshot is that with the information that was publicly available and that we have, the State's figures which they nowhere really examined and gave an analysis and where they came from-- With the information we have, they overestimated their own costs, underestimated the costs of Parsons, and therefore, you get that \$2 savings, which is not real according to the information available. In fact, it's just the opposite. Instead of \$2 savings, it was a \$6 cost to taxpayers.

Thank you.

SENATOR MATHEUSSEN: Any questions? (no response)

Doctor, I have a comment for you.

Senator Schluter, do you have a question? I'm sorry. Go ahead.

SENATOR SCHLUTER: Yes, Dr. Peres, when you say overestimates-- When you said Parsons overestimates its costs, can you explain how that inflates or what does that do to the total contract cost?

DR. PERES: Their contract cost is their contract cost.

SENATOR SCHLUTER: Yes.

DR. PERES: And they're locked into 24.25 with the escalation clause factor. And the problem is there are other costs to the State that are not included. So if the State does nonenhanced inspections right now for \$14.31 less than Parsons, that means that Parsons is getting a windfall of 24.28 million in the first year at least. That's very conservative. And that 24.28 million is not for the enhanced inspections, which they're getting all this new equipment

to do, this is just for their nonenhanced, which the State can now do for \$6.30. That's a cost to the State that Parsons -- giving money to Parsons up front.

SENATOR SCHLUTER: Are you saying that the overestimation is what they're basing their total contract price on and they are not going to be incurring that cost, and therefore, they're going to make a greater profit? Is that the process?

DR. PERES: They're underestimating. Yes.

SENATOR SCHLUTER: I just want to be sure.

Thank you.

SENATOR MATHEUSSEN: Doctor, I have a -- perhaps by way of comment and question at the same time. The information that you provide-- It's difficult enough sometimes, at least in my opinion, to follow analysis as detailed as yours, and I compliment you on what you've done.

DR. PERES: Thank you.

SENATOR MATHEUSSEN: But if my eyes seem to glaze over while you were doing it, it's not because I wasn't interested. It's because there are a lot of numbers here and comparisons. Is it fair to say that your testimony, and I was following along as you were giving it, is fairly conclusive as to the questions that you would have raised with the Treasury on this particular issue?

DR. PERES: I would have had a lot more questions. The way I work is I like to get as much information as possible -- a detailed breakdown. Nowhere in the documents that we had available was a profit percentage indicated.

SENATOR MATHEUSSEN: If I supplied-- Now, I'm only speaking for myself, this is the director from the Committee. The rest of the Committee members, when we're finished here today with testimony, we'll make some determinations as to where we want to go with this. But if I were to suggest that we would include your questions or these analyses and ask that the Treasurer respond to these, would that be something that you would then be comfortable with in taking a look at those answers?

DR. PERES: Absolutely. I'd appreciate that because we have asked many questions and have not gotten responses.

SENATOR MATHEUSSEN: All right. Thank you.

Senator.

SENATOR ZANE: Yes, just very, very quickly. I had asked before what the savings were per year and picked off on something that Senator Matheussen had either asked or discussed with the Treasurer, and he said \$4 million a year to the State.

DR. PERES: Correct.

SENATOR ZANE: What do you say to that?

DR. PERES: Well, based on the assumption of 2.02 million inspections per year and a savings, according to their figures, of \$2.07, that comes to a savings of a little more than \$4 million per year, according to their figures. Now, what this testimony does is raise significant questions about their figures both in terms of the cost of the Parsons contract to the State and their overestimation of the State if the State provided that service.

SENATOR ZANE: I heard you say that the \$2 is actually the other way. From what--

DR. PERES: It's \$6. According to our calculations, it's \$6 the other way. Instead of benefitting \$4 million, it's a cost of 12.28 million.

SENATOR ZANE: Annually?

DR. PERES: Annually.

SENATOR ZANE: To the State?

DR. PERES: To the State.

SENATOR ZANE: So where the Treasurer said \$28 million over seven years, you're going to be talking about \$85 million, \$87 million the other way?

DR. PERES: That's correct.

SENATOR ZANE: Okay. Thanks.

SENATOR MATHEUSSEN: Mr. Jagger, I presume.

JERRY J A G G E R: Yes. I'd like to introduce myself. My name is Jerry Jagger, and I'm a Supervisor with the Division of Motor Vehicles. I started on the inspection lanes as an examiner in '75 and have worked through the ranks with the various duties of inspection of vehicles, light trucks, buses, motorcycles. I've served on the mobile inspection teams, done the field audits of private garages, investigations of dealerships, junkyards, body shops, and whatever. I have quite a large expertise in the inspection field. Through my 23 years of service, I have worked through the ranks into supervision of multilane facilities, and I do value my career as a New Jersey State employee.

Never would I have ever thought that I would be facing the loss of my job through privatization. I had always hoped for a long career with the State of New Jersey, which has in the past afforded me the possibility of providing for my family. Now that I am in my mid-40s with a wife and two

young children, I am facing the possibility of losing all that I have worked for and am faced with the reality of having to start all over again. The stress of worry over providing for my family can be overbearing at times, and my hopes of a future that I had previously planned for have been greatly diminished. I see my fellow workers' concerns about the threats of the impending layoffs, and it is hard to comprehend how hundreds of families' lives will be affected by the privatization of the State inspection system.

While you may hear that many jobs are being created, we have been promised nothing. And if there are more jobs, it's not because of Parsons or any other private company, it's because of the new system. There are absolutely no guarantees that our pay and benefits would be exactly the same. How can a private company pay us exactly the same and still make a profit?

We are the ones that make this system work. If Parsons or any other company tried to make the system run by hiring a totally new workforce, they couldn't run the system. And why should Parsons get the years of experience that I and my fellow workers have for free that we've been trained and gained experience at the expense of the New Jersey taxpaying public? It is a slap in the face to even contemplate turning over any workers to a private company that have done absolutely nothing to train them and in no way will provide us with the same level of wages and benefits.

There is no way Parsons deserves this contract. They can't do it cheaper. They can't do it better. They can't do it with the same level of trust that the public has for us State workers. I have dedicated my working career to the State inspections, and the inspections should not be privatized.

On a different note, I'd like to speak a little bit about the design and safety that I've seen in the bid. I have seen the bid. I've read it. Inside the bid there are drawings of Phase I of the stations. I've worked many of those stations, and looking at the drawings, they're actually drawn backwards. The equipment is backwards and the flow of traffic is backwards. And then we stood here this morning and listened to the Treasurer say Parsons is number four in the nation in design and engineering. But, yet, in the first phase, they've actually drawn a good majority -- almost half of these stations -- backwards.

SENATOR MATHEUSSEN: Are you sure that it's not a trick question?

MR. JAGGER: It's not a trick question, Senator, no.

In particular is the station in Washington. It's located on Route 31, major highway, four lanes undivided, and if you change the traffic flow, you're coming from the major highway with no stacking area into a station. Jersey City is located between two one-way streets. You change the flow of traffic and the motorist is going to be totally, totally confused. Morristown is backwards. Newton is backwards. Monclair is backwards. I'm sure there's other ones. These are the ones that I've worked in. That's why I'm familiar with them, and I just don't know how they can do this if they're a quality engineering firm.

Thank you.

SENATOR SCHLUTER: Being familiar with the Washington inspection station and having gone through there myself, are you saying that

they made a mistake and assumed that it was from the Route 31 in, or are you saying that they designed it to go that way?

MR. JAGGER: The actual drawings as presented in the bid, Senator, are backwards. They enter from Route 31 and exit out the back.

SENATOR SCHLUTER: Now, are these drawings of the proposed--

MR. JAGGER: That's the proposal for Phase I because they did not include II or III. So I only saw Phase I in the bid. The equipment is actually installed backwards.

SENATOR SCHLUTER: So is that because of the nature of the equipment that it would have to be reversed, or is it because they didn't understand which way the traffic goes?

MR. JAGGER: My honest opinion is they probably just had a drawing, they looked at it, and they just drew what they thought it should be rather than actually visiting the site.

SENATOR SCHLUTER: Thank you.

MR. KAUFMAN: I think that's a note on which we can thank the Committee for its close attention, and that's a good reason why the value of having State workers overseeing this system.

SENATOR MATHEUSSEN: Mr. Kaufman, before you leave, I have to ask this question. It's not meant to put you on the spot, but it's a question only because it's a response that I've gotten from the Treasury. And I know it's a response that other legislators have gotten so I think it needs to be addressed here. And that is, while the State employees had an opportunity to bid on this, why didn't they? Can you respond to that?

MR. KAUFMAN: Well, from-- We're going to design and build a whole system? We're not going to design and build--

What happened here -- in 1995, I think there was a frenzy around the notion of privatization and the Legislature put something in the law about privatizing the actual operation of this system. It didn't have to do that. It's not a Federal-- It was not a requirement of the Federal mandates for clean air. You have to clean up the air, clean up the cars, you have to design and build a system. But because of the politics at the time, it was put in there the whole thing about privatizing the actual operation.

There has been a political shift in the public perception of what the values are of privatization. People have seen the downside of privatization, and you can see it in every area whether or not it's prisons or what happens in the schools or whatever. People don't see the benefit of it now, and people haven't really seen the benefit of subcontracting jobs overseas that used to be done here. And just like the public doesn't save any money whatsoever when we privatize a public service, in the private sector the consumer saves absolutely nothing because some poor person in another country where they don't have the same rights as we do here is getting paid a dollar an hour. And it may cost the corporation \$5 to produce a Nike shoe, but when you take your kid to the discount store, it costs \$125. Right.

So that no one is saving from this. And we are not in the business of bidding down the living standards of the workers we represent nor should anybody or any elected representative be in the business of bidding down the living standards of the American people. The machines cost what they cost. Everything costs what it costs. What are we talking about? That we are going

to go in there and say that we'll take a wage cut and this and that. That's going to cost money. It's going to cost the economy money if I said I will come in and agree to pay the workers I represent less. It's going to cost the economy money. Because what do the workers do with the money? What do they do with the money? They go on vacations. They go to the movies. They go out to eat. They do all those things. If they have less money -- if we agree to pay our workers less money so we can compete with something that we don't even know what the costs are, we're just going to ratchet down the whole economy of the whole society. It's not in anybody's interest to do it. We're not going to bid against ourselves, and frankly, they never came to us to do that. Right.

SENATOR MATHEUSSEN: That's where I'm headed actually. I don't mean to engage you in a discussion about privatization because to some degree I think you and I agree on a lot of that. But what I was trying to get from you was the answer that, first of all, you're in the business of representation if you want to call it that -- a representation of people. You're not in the business of design, build. You might have been in the business of operate. Had the bid been put out -- RFP been put out so that you could have bid strictly on the operation, would you have been in that position to do that at that point in time?

MR. KAUFMAN: Would we be in a position--

SENATOR MATHEUSSEN: Just to operate.

MR. KAUFMAN: Just to operate? We already operate. We already operate.

SENATOR MATHEUSSEN: Okay. But you didn't get that opportunity, though, did you?

MR. KAUFMAN: No. We didn't get an opportunity.

SENATOR MATHEUSSEN: Okay, thanks.

DR. PERES: And just to reinforce that, the State never really came in with what we would consider a rigorous and comprehensive analysis of what it would cost us, what it costs the State right now, much less what it would cost the State with the enhanced inspections. They never have provided the information for that, and that contradicts the statement by the Treasurer that he made that the affected unions -- meetings were held with the affected unions to provide them with sufficient information to prepare a proposal. We got what you see.

MR. KAUFMAN: I mean, there weren't any discussions on how maybe you could run things differently or organize the work schedules differently to even save money that way without saying there won't be a wage cut or maybe we could do it a little bit differently. And just the way we organized it, there was never even discussions about that. Well, if-- They couldn't even tell us how much it cost to inspect the vehicle.

SENATOR MATHEUSSEN: Thank you.

DR. PERES: Thank you very much.

MR. JAGGER: Thank you.

MR. KAUFMAN: Thank you.

SENATOR MATHEUSSEN: Laurel Brennan, AFL-CIO.

LAUREL BRENNAN: Good afternoon.

SENATOR MATHEUSSEN: Good afternoon.

MS. BRENNAN: My name is Laurel Brennan, and I'm the Secretary Treasurer of the New Jersey AFL-CIO. And on behalf of the 1

million members that we represent in this state, I want to thank Senator Matheussen and the Committee for conducting this hearing.

We're here today specifically to support our brothers and sisters in organized labor, particularly the SCIU and the CWA, who represent workers for the Motor Vehicle. But we're here today to talk a little bit about the privatization and asking this Committee to give special and very careful consideration and real protection against privatization for profit. This is a situation that we believe has gotten totally out of control by creating an uneven playing field for companies who want to play by the rules.

Now, we've heard testimony today that there will be more jobs created. But just let me give you a little bit about privatization for profit and what it usually results in, and that's, downsizing, decreased wages, elimination of health and other benefits. And it not only hurts, as you heard earlier, the workers that work for a particular agency, but it hurts the entire economy. And we should acknowledge and honor the work that our State employees do to keep the State agencies running. They're the ones that do the work. They're the ones that run the agencies, and we should respect their role and the quality of services that they provide.

We're hoping that after you hear their testimony from the workers, from the agency, from the union representatives, that you will study carefully the negative impact that privatization has had on the standard of living of the affected workers and the inferior services that I know I've experienced after privatization and the poor quality that we receive.

Just a real quick recent example of a previous case of privatization is in the Paterson school district that was privatized -- where they privatized

the maintenance and the custodial workers. And some of these workers had 10 years or more of service. They were privatized, then they were fired, and then they were rehired at a reduced -- and I talk about a greatly reduced rate of pay. They were stripped of all their health benefits and most of their other benefits. And after all of that, the School Board of Paterson fired this particular contractor because of poor quality of the services that they provided and their administrative policies, which were at times unethical.

Now we've heard the Treasurer state today that the current jobs are secure and that they will be probably hiring more workers. But we should have some evidence of that, whether it's in a union contract or some sort of written agreement. So we're urging you, the members of this Committee, to listen carefully to the testimony by the other unions, protect the future of all the working families of New Jersey and the motorists who travel the roads in our state.

When I heard the projected cost of savings for the State, which is \$4 million a year, in a budget of \$18 billion-- We're going to save that \$4 million at the risk of endangering lives of the New Jersey motorists. And we think that the quality of work, the commitment, and the dedication of our State employees who work in the inspection stations around the state is priceless, and we thank you for your time.

SENATOR MATHEUSSEN: Thank you, Laurel.

Any questions? (no response)

Thank you.

Assemblyman Cohen. I misunderstood. I thought you wanted to go at the very end, but apparently you wanted to go at the end of the CWA's testimony. So if you'd like to come up now.

A S S E M B L Y M A N N E I L M. C O H E N: Where's the bartender?

SENATOR MATHEUSSEN: We lack a bartender. We also lack a luncheon crew so--

ASSEMBLYMAN COHEN: Thank you, Mr. Chairman.

Sometimes when you continue to peel back the onion, other layers show up that raise questions in your mind. As I've been dealing with this for a few weeks, every time one issue is raised, another twelve pop up. Now, I would probably be happier if we had answers as those issues pop up in response from the State Treasurer's Office.

Let me go through one thing to begin with. As the Chair indicated earlier on in setting the tone for the Committee, one of the questions evolved was whether or not the legislative intent of the Littell-Bennett bill/law has been complied with. Now, this is the bill. We've gone through it, and I can't find a specific authorization in this statute that permits the State of New Jersey through any agency to give our existing nonenhanced inspection and place it in private hands. That is not authorized by this State's statute. So, therefore, our position is that the proposed contract does not comply with the legislative intent as set forth in the 1995 statute. There's nothing there.

What is disturbing-- Not only does it not comply with our statute and does not provide this authorization to the Treasurer, but one would think, why would you want to turn over your home that you've paid the mortgage on,

that you've done the landscaping on, that you've put the blood, sweat, and tears and money on -- simply turn it over to them and have them charge you three times the amount of money? I mean, that is simply an outrage.

It's such a fiscal recklessness that most of the time I can't even find a word to describe it. Triple the dollars -- they put no money into this. They haven't built the system, they haven't trained the people, but we're going to turn it over to them free. The benefit to us is that we get to pay three times what we already -- costs us now. It's between \$19 million and \$40 million that this taxpayer tip is being provided. And, yet, we don't have answers from the Treasurer's Office. We've been sending letters to the Treasurer's Office since the beginning, reasonable letters asking for information in a reasonable tone, in a nonpartisan tone, and in an informational tone.

One would think because this is really not about privatization, this is about profitization. We asked from day one, look, you can have your mixed philosophy on whether privatization is good, bad, whether it should be a supplement to services or shouldn't exist at all. That's a public policy philosophical question. My first question was, which remains unanswered as of today -- is show me the documents, show me the proof, show me the calculations as to how you determine you're saving money. And it has really not been forthcoming. Sometimes you can answer-- Sometimes what we call is the sin of omission is probably worse than the lie.

For instance, it was repeated here again today by the State Treasurer -- the State Treasurer said to this Committee, "The Federal government did not join in on the California lawsuit," trying to convince you or show to you in some fashion that it was "frivolous." That's not the real

answer. The second part of that answer is the Federal government has a position that if there's 10 percent or less in Federal funds involved, they're not going to join the lawsuit, not that it is not without merit, not that it doesn't raise a substantial question, but you have a half-truth. The Federal government did not join, that's correct. But don't try to create the impression that they were not interested, and that's why they did not join. That's the other part of the story which remains unanswered.

You know, it's amazing. This is such a wonderful financial deal for Parsons. It's like a -- anyone who does leases, business leases -- net, net, net, net, net. This nets out across the world. They have to borrow no money from any bank to go forward with this project because we're going to be giving them \$62 million, essentially, up front to do the construction. We're the bank. We're the lending institution. Because I found it interesting when the Treasurer said, "Well, they're financially secure. They can do this." Well, so would I if you give me \$62 million from the State Treasury to go build this. I would take that in a heartbeat. No interest, no financials. You don't have to borrow any money. When we pay you to come out from California and you're including, you know, your trips and your hotels and putting people up in car rentals and head office staff -- all that's being written off of our contract.

Now, part of the danger in all this information is that we've heard language concerning the type of contract this is, which is a fixed term contract, fixed price which does not preclude change orders. Anyone who serves in local government, anyone who served as counsel to a contractor involving a public entity or even a private entity -- there's change orders. What's going to happen when this technology, which changes rapidly in a burgeoning cottage

industry -- when the technology changes in two years and we need to meet national standards for the new emission tests, the new equipment? There's going to be a change order. We're going to be paying for more new equipment. That's going to be a change order. There's going to be change orders on delays that may be caused by the State of New Jersey.

For instance, let's say, computer systems have to be on-line to provide Parsons with information. If those systems are delayed, we're going to be charged. They'll be change orders. They'll be change claims throughout this. And what you look at is Parsons's history. They are very good at change orders. They can turn a \$10 million contract into a \$100 million contract even if it's fixed price. It's a very good skill. It's a very good talent. But it still costs our taxpayers. That's what I'm concerned about. And part of what this hearing is, hopefully-- I was hoping, since there's an RFP one bidder, somebody could go back to the table and renegotiate this deal sensibly without holding a knife to our fiscal throats. And I don't know if those involved are smart enough to do that because this story and this issue is not going to play out just this week. This will play out for seven years.

You were initially told that this was a seven-year contract. It is not. Or six-year contract -- six- or seven-year contract. Under the contract, the director has the ability to give two one-year extensions, which turns it into a seven- or nine-year contract. Additionally, under the contract, there's a provision that says if there's a public exigency. And as we all know, inspection, cars create public exigencies. He can then extend it unlimited at an undetermined amount now. So you don't know exactly what the end line of this contract is going to be.

This is really a bad deal done in a very poor way on a very important issue. It is truly tragic and unfortunate this is how it has played out. Maybe no one thought the Legislature would watch. Maybe everyone thought that, oh, well, it's an accounting issue. It's not the Civil Rights Act. It's not romantic. It's numbers. It's the summer. Mike Tyson's going to be licensed or not? He takes a bite out of Holyfield's ear, and Parsons takes a bite out of our budget. Who's watching? Who's interested?

And you're right, Mr. Chairman, your eyes can glaze over because I've been reading all this stuff, unfortunately, the RFPs, the contracts, and your eyes do glaze over. That is what they rely upon to have it go away and confuse it.

Let me just make one comment, and I've tried to stay away from the dream team issues. I mean, anyone who's smart-- You hire the best possible people to get your goals accomplished in a lawful and appropriate manner. Someone has to explain to me why we're going to pay \$6.5 million or \$6.2 million over seven years to tell us we have to get our cars inspected. Now, that's not so bad. However, in the seventh year, Mr. Chairman, you may have had your car inspected three times already because you inspect it every other year. So by the time the media contract is finished, you will have inspected each of your cars on three separate occasions, gone to wherever you're going to go, three separate times, you already know. You'll probably already know after the first time. Why do we have to continue to pay this out? We don't spend this kind of money on media deals to tell kids they shouldn't use drugs. Governor Kean didn't use that much to take a walk on the beach.

Every governor has included in their administrative budget, and we all know it, dollars to push their ideas. We have newspapers that will print it for free. You have cable that will put it on for free. You have public service requirements where as a public service they will provide this information free of charge. We don't need anyone to get 10 percent of the media buy as an additional fee on. In fact, I think if we did one video that said your car will be inspected in '99, 2001, 2003, the cost of the video mailed to everybody who owns a car will be less expensive than this contract. Of course, there's nothing in the contract that says when you do the renewals and the extensions on the contracts that that media contract goes away. You really could have a nine-year media contract to continue to tell people how good it is that they're going every other year.

Another point in this contract-- And all this does is simply points out there's a lot of information. The reason I wanted to go at this time was to give some of the experts the opportunity to show you some numbers, what has not been responded to by the Treasurer's Office, what has been avoided, what has been omitted, what has been unstated, what has been unsaid. Someone has to explain to this Committee because I think we're basically all reasonable people.

If I have between 80 and 100 inspection lanes now, and I'm servicing 4 million people a year -- 4 million cars a year under the current system and 20 of those lanes are dormant -- they're not being used because the rest of the cars are getting to the rest of the lanes in a timely fashion, and that's servicing 4 million cars -- why would I want to build 35 more lanes to service half of the 4 million? So we're building more lanes where we have existing

dormant lanes to service half the people. We'll do 2 million cars a year while we're doing 4 million now, but we're doing 2 million with 80 lanes, 20 dormant. Why would we want to build more lanes to remain dormant and service less cars? There are so many pathetic issues that are involved that this casts a dark cloud on the whole fiscal process which has been involved.

Now, what was the peak of arrogance, from a legislator's standpoint, from a taxpayer's standpoint, was on July 6 when I found out at a quarter to five in the afternoon that the notice of intent had been signed. I don't know how you felt as legislators -- and whether it's Democrat or Republican is really of no moment. It's how you treat the institution and the representatives of that institution. I was just outraged that someone would have the arrogance, whether it was by his own initiative or whether he was prompted, because I just can't see that of all the questions that were raised by Republicans and Democrats in both Houses concerning this that someone would just simply go forward, take out their felt-tip pen, and commit fiscal suicide.

At the time that he had the RFPs, under the statute, and it's here, he had to make a decision with reasonable promptness. For any attorneys that are on the Committee, reasonable promptness can be six months, eight months, ten months. It could be a year depending upon the complexity of the issue. This whole problem could have been avoided. Instead, he took out his pen and he signed a notice of intent.

So where none of us had a window to change our daily lives to deal with this issue and read mounds and mounds of paper, we had an unlimited period of time for this body and the Assembly to legitimately and reasonably

and rationally in unheated fashion discuss it and review it. He gave us 10 days. He didn't have to do that. That was done intentionally. That was done by design to create the effect of doing the contract on Monday. And that's what he's going to do. He's not going to hold back because, by signing that piece of paper, he's now subjected us to a lawsuit if we now decline to go forward with it. They've created a \$400 million lawsuit or \$600 million lawsuit against us. So the gun to our head he put in his hands himself. That's the real problem. The merits can be discussed, but he's placed us in an enormous amount of jeopardy.

Now, I can't go through everything, and I wouldn't want to do that to the Committee, as I may not want if I was sitting on the other side. You've heard a lot of information. The lawsuits that exist and were not disclosed -- in California that was enough to rescind the contract with them for nondisclosure of the lawsuit. What those lawsuits point out is not whether they're culpable or not culpable. That will be determined at some point. There may be a settlement. Who knows?

Parenthetically, the Treasurer was reading a letter of how good Parsons was in a 1997 letter. It sounded like the letter my parents got when I was in Little League, "Dear Parents of Neil Cohen: Congratulations on your fine performance in Little League this year. We're proud of you. You've done a good job." It's essentially a form letter because they gave the same letter to Martin Gerlinger (phonetic spelling), their employee, that said your performance is wonderful, and then they dumped them. You should see the evaluations of the whistle-blower. His credentials are impeccable.

So letters of recommendation are -- should be noted. But what those lawsuits tell you is that they are very clever. Does anybody on the Committee know what profit Parsons is going to make? You see, in California they had a cap on them of 9 percent profit. So what they did because they're creative -- they created their own subcontractors. Not John Subcontractor from Johnston, Ohio, but they created their own subcontracting entities. So they could bill through those entities and create a 9 percent cap on profit to 43 percent. They're very good. They're very creative. And you need more than 10 days to review exactly how they do things and how they make their money. But there isn't anything -- and we've asked, how much money is Parsons making? And if you look at this, it's almost a pure net, net, net deal. They're making an enormous amount of money. Their expenses are limited. And besides, we're paying those expenses. We're giving them the money to construct, to design. We're giving them \$63 million up front. They don't have to put out a penny. They're going to make an enormous amount of money, an enormous amount of profitization on this.

This truly has been an unfortunate situation, but it's not going to end today, whether or not anyone files a lawsuit. I would just point out that under the statute, under the regulations, the only people who, I think, could object to the bid award are the other bidders and-- I don't see them. So there's no one to object and it almost becomes-- What did they think we were going to do as legislators -- be the silence of the lambs? We're not. This deal is bad. They should be smart. They won't be smart, but this deal should be completely rejected. Minimally, this entire deal should be renegotiated, if they're smart. They won't be because there's an enormous amount of money

here and profit to be made of untold amounts. It's a sad commentary on the process.

I had a great deal of respect for the Governor's appointment of this Treasurer. He's a gentleman. He has long-time experience, which made it even more distressing for me when I asked, after I heard what he had signed -- that I asked him to resign. I knew of no other alternative. I have been just slapped in the face.

Mr. Chairman, I don't know what may come out of the hearings. I do appreciate my good friend, Senate President DiFrancesco, for asking for this hearing. I do appreciate the time the members have given and all the time that everyone involved-- See, I've spoken to four or five of the attorneys on all these cases. I've spoken to the legislators in Pennsylvania and Connecticut -- are going through the same thing with lawsuits, and they can't get information out of their treasurer on this emissions testing. I'm at the State Legislators Conference and I'm discussing it with two senators from Pennsylvania. They can't get any information out of their treasurer under Governor Ridge. They had to file suit. Connecticut they're doing the same thing. This whole area of emissions testing, although it's a cottage industry, has an enormous amount of flexibility to be very imprudent for taxpayers. And, ultimately, when the phone calls come, they're not going to come to Parsons because our people don't have enough money to call California, but they're going to call us.

And I just hope that we can either stop this deal or change it dramatically in the new direction. But if he puts pen to paper on Monday without giving the opportunity to have this Committee, members of the

Legislature have input into changing the direction and to renegotiate this RFP, I will again ask for his resignation. Reluctant as it may be, I know of no other recourse.

Members of the Committee, thank you.

SENATOR MATHEUSSEN: Thank you, Assemblyman.

Any questions?

SENATOR SCHLUTER: Mr. Chairman, I'd like to, while Assemblyman Cohen is there--

You pointed out about the 80 lanes and the extra 35 lanes, Assemblyman, and we did have some research, and I'd just like to point out for the record. I appreciate what you said. You make a lot of good points, but the information we have is that the IM test lanes will handle 12 cars per hour. That's one every five minutes. The current average is 28 per lane hour, which is 2.14 minutes per car. So that's why they're-- And then, of course, you have the fact that it's every two years. So you have-- Instead of five minutes per car, if you want to do it this way, it's 2.5 minutes per car. It now takes 2.14. So I think you can't compare that one for one. I just wanted to point that out.

ASSEMBLYMAN COHEN: Yes. I just-- But, then, again, I'm thanking you for pointing that out, those, you know-- We're creating fiscal chaos for essentially three minutes' savings. It becomes an interesting view for three minutes where we're having all these problems. But you know something, I would rather be able to look at this over a three- or four-, five-, six-week period, 30 days, to try to figure out, is it a good deal? Should it be negotiated back down to something else where a company can make a profit

that does not create serious problems? So everybody should look in their mail over the next seven years for your letters that say, "Get your car inspected."

SENATOR MATHEUSSEN: I like the video myself, if that's a good idea.

You did raise a lot of good points, Assemblyman, and I appreciate your testimony.

ASSEMBLYMAN COHEN: Thank you, Mr. Chairman.

SENATOR MATHEUSSEN: Thank you.

Staci Berger, the New Jersey Citizen Action.

We've been given a lot of information so far. To the other witnesses, I--

STACI A. BERGER: I'm going to make it real brief.

SENATOR MATHEUSSEN: It's not a question of just making it brief. It's also a question of also not being redundant. I think the Committee has a lot to absorb here, and I assure you we're going to follow up on our responsibility. So redundancy is not what we need, but we do need your help and support and-- What are you going to give us? So with that--

MS. BERGER: I'm a hour and half away for a staff meeting, so I don't want to be here any longer you folks do.

SENATOR MATHEUSSEN: Go for it.

MS. BERGER: Just very quickly, we want to thank the Committee for holding this hearing today. We think it's really important that taxpayers have an opportunity to exercise their rights in a representative democracy. And in this case, that right is to have the decision that's made fairly and with the best interest of the majority in mind. Unlike Assemblyman Cohen, we are

really concerned about the dream team. We're concerned that those folks represent a nightmare for average taxpayers and that they've essentially sold the Legislature -- rather, the Treasury Department -- really a bill of goods and a deal with the devil.

We think that the legal action pending against Parsons that they failed to disclose should be enough for the Legislature to step in and say, "Hey, somebody wasn't watching the store." You should be, one, more mindful of your contracts, and, two, if you can't get this stuff filled out properly, then you shouldn't be operating our emission systems.

I did the numbers, and I have to disagree with some of the folks who testified before me on which I -- we agree with them on just about everything. My math is that Carl Golden's PR firm stands to gain \$178,000 per month. The life of the contract is -- nobody can seem to give me a straight number -- six years, seven years. Seven years times 12 months times \$178,000 per month -- my math may not be the greatest, but I think I can do this on the calculator -- is \$14,962,000 over the life of the contract. That's excessive. That's half of what we're proposed to save, and we think that that's just simply not allowable.

What we've come to know over the course of this being aired out in some of the newspapers, and we think that the papers have done a good job making what would otherwise have been a really backdoor deal come to light, is that it's impossible for an average working person in New Jersey to make the same kind of contributions and the same kind of political connections necessary to influence the decisions and to assert themselves in a competitive process. We want to know why there is only one bidder. That there was only

one seems to be-- Everyone can agree on that, but we don't seem to have any answers for why there was only one.

Some of the questions that we asked have been raised again but not answered. If the contract had been broken up, certainly smaller businesses could have competed for portions of it, particularly a PR firm. There's got to be about 3 billion in New Jersey, metro New York area. We've seen Parsons -- prove that Parsons has essentially contributed large sums of money to campaign committees around the state, and we think that that raises some questions as to why they were the only people that were able to put in a bid.

Essentially, this contract represents closed-door politicking and foul play instead of open competition and fair play, and we think that the Legislative Oversight Committee should do really everything in its power including letting Parsons potentially take you to court. If that's what they want to do, then that's on them. You can't, as we well know, stop anybody from suing anybody.

We also hope that you'll take this opportunity -- not today because obviously everyone has a lot of stuff to look over, but at some point, as the Oversight Committee, to kind of put a stick in the revolving door that's operating in front of the State House. We think it's of grave concern to regular folks in New Jersey that the people who sold this deal all have some relationship to the State apparatus and the political parties and, in particular, the Republican political party that is running the government and that that, I think, to your average person makes it look just really sour. And it's incumbent on the legislators who don't want people to have that perception of their political system to do something about it. The increase in voter apathy

is mirrored by the increase in campaign contributions. One certainly is related to the other.

People feel left out of the process, and when you have a “dream team” running essentially motor vehicles emission standards, that’s a problem from a working person’s perspective. We think that this Committee and the rest of the Legislature should take a step forward and try to eliminate that problem from the jump. Certainly a five-year ban on folks who have worked for the State, working for industries, representing them for the ones that they, you know, had a relationship with would go a long way to restoring public confidence in the system. Otherwise, you may as well hang a for sale sign down the street.

So I’ll let you folks get back to the rest of your day. I’d be happy to take questions if there are any.

SENATOR MATHEUSSEN: Any questions? (no response)

MS. BERGER: No. Thank you for the opportunity to speak.

SENATOR MATHEUSSEN: Thank you.

Rae Roeder, the CWA to Local 1033. (witness declines from audience)

SENATOR MATHEUSSEN: Thank you. We appreciate that.

You’re up next. I take them as they come.

ROBERT ANGELO: My name is Bob Angelo, and I’m the Legislative Representative for the Service Employees statewide--

SENATOR MATHEUSSEN: See, thought I was kidding.

MR. ANGELO: --and I'm glad to see that we're next. We actually represent the 470 people who are out in the lanes, and our President of our Local, Kevin Mattis, is going to make a statement.

KEVIN P. MATTIS: Hello, everybody. My name is Kevin Mattis. I am the President of the Local 518, who is the majority representative of the workers at the 35 State inspection stations. I've been employed for 15 years with Motor Vehicle in all functions. Currently, I am in the new program, the Emission Inspector Training Program and Technical Support. I have a statement here, and then I'd be glad to answer any questions. I'll try to not go over anything that's already been said.

For more than the last 10 years, the men and women of my Local have lived with the threat of contracting out over their heads. Governors, commissioners, and legislators of both political parties have from time to time called for the contracting out of motor vehicle inspections. Now it appears, that barring action by this Committee, a decision to privatize the State-operated auto inspection system will be carried out in the immediate future.

The members of our union strongly believe that motor vehicle inspections play a critical role in maintaining the quality of life in New Jersey. As such, auto inspections should be maintained and operated by government, not for a for-profit entity. Since 1938, the State of New Jersey has had an aggressive inspection program aimed at preventing unsafe vehicles from causing accidents, injuries, and deaths on our heavily congested roads. All our members take their jobs seriously. They know the danger that an unsafe vehicle presents to unsuspecting or unaware motorists.

The safety specialists working in our inspection lanes, as we sit in this hearing room, are an experienced and dedicated group of public servants. Six days a week, fifty-two weeks a year on the coldest days of winter and the heat and humidity of a day like today, these employees with only a bare minimum of training and support are saving lives by keeping dangerous and polluting automobiles off the road. We can and are doing the job efficiently and effectively.

As we saw prior to the election last year in July with the hiring of 120 interim employees, when given enough staff, there are virtually no waiting lines and the system operates conveniently and in a customer-friendly manner. Much of the support of the privatization of public services comes from those who claim that it will magically save the taxpayers money. In the case of the proposed privatization of New Jersey's auto inspection program, this is untrue. Privatization of motor vehicle inspection will be more costly than continued State operation.

The economic analysis prepared by the Treasurer's Office raises more questions than it answers. The cost comparison of State operation and that of Parsons is faulty in a number of areas. The overtime hours are inaccurate and grossly exaggerated. The cost of consultant contracts are inappropriately added to the cost of State operation, and the equipment prices may or may not be the most competitive.

But more importantly, over the past few months, Local 518 and the Governor's Office of Employee Relations has held a series of so-called cost-saving meetings. Our contract with the State of New Jersey provides for this process so that taxpayers can get the best deal for their money and so State

employees have an opportunity to ward off privatization by becoming more cost competitive. At the first session over a year ago, Local 518 presented a three-page list of revenue enhancing suggestions and productivity improvements. In addition, our union agreed then and now to consider any and all cost-saving proposals or other concessions that would prevent the contemplated privatization of auto inspections.

The State rejected each and every suggestion we offered and never made a single proposal or request for a cost-saving concession at any meeting. In fact, they refused to provide the current cost of State operations until after the Treasurer had announced his intent to award the contract to Parsons.

In closing, it is important that the Committee and the taxpayers of New Jersey understand that despite representations to the contrary, continued State operation could and would be more cost effective. The safety and health of every New Jersey resident is impacted by the vehicle inspection program. It can and should be one of our most protected public services. Instead, it has become a coveted enterprise.

I urge the Committee to use their oversight powers to protect the public interest and keep Motor Vehicles State operated. Thank you for your time and interest.

SENATOR MATHEUSSEN: Any questions? (no response)

I have one request. Do you have the suggestions -- the cost-saving suggestions that were made? Do you have them in writing?

MR. MATTIS: I'll supply them to you, sir. Yes.

SENATOR MATHEUSSEN: Can you submit them to us by latest maybe today's business day or latest tomorrow?

MR. MATTIS: Yes. I'll fax them this afternoon to you, no problem.

SENATOR MATHEUSSEN: Thank you. We'd appreciate that. Fax them to the Office of Legislative Services.

MR. ANGELO: Could I respond to your earlier question to the CWA regarding the option for the union to bid as a potential bidder on the contract?

SENATOR MATHEUSSEN: I think I knew the answer before I asked it, Bob. I wanted to hear it from--

MR. ANGELO: Yes, you got the right answer out of them that where a union represent workers, we're not managers who operate services, but there are several models across the country where unions compete with the private sector. The most often cited one is in Indianapolis. The Governor visited that. We tried a sort of variety of that in this cost-saving discussions that were provided for in our last labor agreement. The State ignored that entire opportunity to look for ways to make the public sector more efficient. And there wouldn't have been a question about whether or not there's any savings in this contract that there are.

SENATOR MATHEUSSEN: Can you describe that for us?

MR. ANGELO: The process?

SENATOR MATHEUSSEN: Not now, today, but--

MR. ANGELO: We can provide you with the language that's in the contract, a side letter of agreement that all the State unions have.

SENATOR MATHEUSSEN: Okay. I'd be interested in seeing it. Because it was mentioned by the Treasurer a couple of times, this "hybrid,"

and I'm not sure I understand what a hybrid is, but I think you might be the hybrid he's talking about.

MR. ANGELO: Okay.

SENATOR MATHEUSSEN: John Tomicki. He was here.

John.

SENATOR ZANE: The last speaker has to be extremely brief. The straws that were picked said that.

JOHN T. TOMICKI: And that's what I put-- I want to be the last to end and to be speaking very briefly.

John Tomicki, Executive Director of League of American Families. We represent about 100,000 households in the State of New Jersey, and I wish to associate my remarks in their entirety with your question, Senator Zane, at the earlier part of the session, as well as with most of -- almost 90 percent of the remarks made by Assemblyman Cohen, who I have also been working with on the phone.

I think it becomes very apparent that this Committee and the legislative chambers should both do everything that they can to say this is not the contract they should go forward with. I think the question you were asking earlier of the Treasurer was very apropos, as your hypothetical, and he refused to answer. He would not deal with it, which says to me that somebody's got a fixed idea on this. Maybe the contract should have been broken down to three parts so that other people could have then bid. This is the kind of process that I think was intended to go on when you put in the necessary legislation. So the Treasurer raised two issues. One, we're going to be sued. I'm not so certain. I don't think that's very clear that you're going to be sued.

I think there was enough evidence out here to say that there's an outside element concerning the lawsuits in Pennsylvania and California to say there's something called in the law force majeure, which therefore may get you unhooked from the Federal requirements -- was trying to deal with both Senator Lautenberg and Senator Torricelli's office to say, "Wait a minute. We may need an extra extension. There's an outside force."

For instance, supposing this contract was fine and everybody was happy and there was an earthquake in California and the equipment got destroyed. We couldn't meet the national standards. It wasn't our fault. The Treasurer may have gone the best way he thought was possible, but there has been evidence that's come up now that says this is not a good contract. This is not the right company. This is (indiscernible) the right bidding. So I believe you people have the legal foothold, as well as the State, and I would urge that the Governor be contacted directly, and that she direct the Treasurer not to execute this contract on August 3. And then if he does so, he does so at his own peril because she's the one that hired him.

Now, Neil I know is uncomfortable because I just shared with him. I said, Neil, I know because you have a great respect for the individual and you saw the teamwork that was going on up here. I don't know everybody that's on the Committee. I don't think everything has been provided for. I don't think the Senate President was promptly notified, and I'm glad the Senate President called this hearing so there could be an airing. So I wish to associate in closing with my questions with Senator Zane. It was not properly answered. I don't think it was fairly answered. And his press spokesman, as a matter of fact, said this whole thing was a big nonissue. Well, for a big nonissue, we've

been spending about five hours -- every major force has been down here trying to deal with it properly and diplomatically in a nonpartisan manner, and I think that's good. And I think the airing is absolutely necessary, and the contract should be held, and I believe the Governor should direct the Treasurer not to execute the contract. I'm finished.

If that's brief enough, Senator Zane.

SENATOR MATHEUSSEN: Good timing, John.

Any questions?

SENATOR ZANE: I just want to make a comment.

SENATOR MATHEUSSEN: Senator Zane, and then I'd like collectively the Committee-- I proposed before that I think we need to take some action and in the form of questions perhaps to the Treasurer, but this is an open pad right now and I need for us to fill in the lines.

Senator Zane, go ahead.

SENATOR ZANE: Yes. We've heard all the witnesses that asked to speak today. Am I correct?

SENATOR MATHEUSSEN: Yes, we have.

SENATOR ZANE: Yes, okay.

Several things that to me really are of great concern that I really wasn't aware of today or before today, and I have to tell you, in preparation for this, I read absolutely everything, every word that was sent to me and -- except these which were just handed to me today -- to try to have a pretty good idea of what's going on. And some things actually occurred to me while we were here. I was amazed that the Treasurer acknowledged that throughout the country this contract could only be fulfilled by a handful of people. And I

think that Senator Schluter's questions before which I think went to breaking down this contract into various parts of the state would well have expanded the opportunity for New Jersey contractors conceivably to bid and be in on this.

People were precluded because of the size of the bond. And if this isn't an elitist kind of contract, then I'm just really surprised. I was extremely disappointed that the Treasurer would not agree to stay execution of this contract. I am convinced he is going to sign it on Monday, notwithstanding the fact that the Senate President even asked us to hold back doing something, taking any action until everybody had an opportunity to digest it. And I would be a lot more comfortable if there were, in fact, additional bidders.

I think the Treasurer has dodged some very, very serious questions. One, I was amazed that he did not know what the engineering costs or the cost estimates for this project were. The closest he could give me is to say that the bids that were submitted by Parsons were in the ballpark. And for him to say that this is the best deal that the State could possibly get, I mean, I think is absolutely ludicrous. How would he know that with one bid before him when, in fact, today, as I said, he couldn't even call upon what those estimates were that he was to be guided by?

I'm almost afraid, notwithstanding the fact that most of us have stayed here through this entirely, nearly five hours, that what we have done today is waste our time and waste everybody else's. Because I think the Treasurer of this State is going to thumb his nose at each and every one of us that have concerns about this and go do his own thing. And I think that he will deliver this contract to Parsons on time. I'll be extremely pleased if he does not. I think he has a potential legal justification to reject the contract,

and that goes again to the engineering and the cost estimates, as to what those numbers really are.

I think any local mayor in a small municipality who is dealing with a public contract that was going to be let would be sitting there with the engineer's estimates in his pocket and have an idea whether or not the project was coming in on target, if you will, from the professionals that advised him. This Treasurer after having sent a letter of intent really had to struggle to give us that answer here today and, in fact, did not give the answer.

I can't help but say that the public today is scrutinizing all of us in public office. I think the coziness that exists -- and the political coziness is something that the people of this State are going to suspect. I think the prominent, well-connected members of the Republican party would certainly lose business if this contract were held or not awarded. I think the concept and the feeling that the people of this state are expressing towards those of us in political office really would justify for no other reason at all the holding of this until there can be some further clarification. I mean, maybe, just maybe, the 6 million or the 14 million or whatever million dollar contract it is that Carl Golden has -- maybe it is justified. But I sure as hell don't feel so today. I've had nothing in my mind that has convinced me. No one has stressed that point.

The points that Neil Cohen made-- I mean, when you look at it and analyze it, it makes it laughable that this is still going to be going on for a period of seven years after you've been inspected three times. I mean, you know something, with all due respect, it just smells like rotten fish.

You know, in my end of the state, when it comes to the CWA and the union employees and the language that's in the specifications in the contract that qualified and benefits that were close to or essentially the same, or something like that, people at my end of the state would say those are squirrely words. And that's exactly what I think they really are. I don't think, as the representative from the CWA said, they don't really nail it down. They don't tie it down. They don't give anybody any level of assurance.

And having said all that, I would like to make a motion that we pass a resolution or a motion that results in a resolution that would ultimately be presented to the entire Senate that tomorrow -- that would say that it's the wishes of the Senate of the State of New Jersey consistent with the request from the Senate President that this Treasurer not sign that contract until each and every member, as the Senate President said, has had an opportunity to digest this, the testimony that was given here today, and, again, the essence of it is to preclude the -- not with any legal force in effect because we don't have it, but I find it tough to believe that he would totally thumb his nose at the majority of the Senate if, in fact, the resolution were to pass. I think he would be hard-pressed to do that, but it would preclude him, hopefully, morally at least in signing it. And with that, I'm making a motion that we as a Committee take that position. And, hopefully, make sure that it finds its way before the entire Senate tomorrow.

SENATOR SACCO: I second the motion or I'm seconding the motion.

SENATOR MATHEUSSEN: I have a second on the motion made by Senator Zane.

Any discussion on it?

SENATOR ZANE: Senator Sacco did second it.

SENATOR SACCO: I did second it, yes.

SENATOR MATHEUSSEN: I said we have a second. I acknowledge that.

Any discussion on it?

Senator Schluter?

SENATOR SCHLUTER: Yes. I don't disagree with Senator Zane. I think we heard a lot of testimony today which says that this issue is unanswered. We don't have the answers. I would suggest that the Treasurer takes this testimony of Dr. Peres and answers it for us because this is very, very strong data in there, which goes to the core of the economic merits of the particular contract. This is going to take some time.

I don't know how the Chair feels. I would solicit your views. I don't think that Senator Zane's motion was confrontational, but just that we do need more time and that we would like to have that additional time so that everybody would be more informed about this particular plan.

Having said that, maybe the staff could recite the motion -- repeat the motion as it was made.

SENATOR MATHEUSSEN: Actually, let me just jump in here because I'm-- Senator Zane's points, I think, are well taken, and quite frankly, I agree with the intent. I'm not so sure we're getting to the end though in the proper legislative format. This was a public hearing. And I'm whispering here to OLS at the same time and asking the experts next to me what the advice would be. But my own general thinking is, and I'll ask for anyone to chime in

at any time -- would be that, first of all, this is a public hearing and not a committee hearing on a bill or a resolution, which would give us the authority to move the resolution along. It's a little bit cumbersome or unusual for a committee by way of a motion, and I'm not so sure how it would be received on Senate floor. However, having said that, it would seem to me -- at least in relying on things that I'm more familiar with -- that a resolution could be drawn, be sponsored by any member of this legislative body, including any one of us on this Committee, and be filed today to be asked to be heard by tomorrow. Any member of the Legislature that could join in as cosponsors of that resolution, and we could direct staff to write a letter to the Senate President asking that the matter be considered. But I don't know that we as a body can pass a motion and a -- without anything in front of us at this point as a public hearing.

But I still think we can reach the same conclusion as to where Senator Zane wants to go -- the motion that was made by -- and seconded by Senator Sacco.

OLS, anybody?

SENATOR SCHLUTER: Mr. Chairman, we should keep in mind that we have a session tomorrow--

SENATOR MATHEUSSEN: Right.

SENATOR SCHLUTER: --and we will be here and action can be taken. I have no problem associating myself with the remarks of Senator Zane. If this is an expression of feeling -- of how we feel and what should be done, I agree with you, Mr. Chairman, that we are not a standing committee as such and we are not--

SENATOR MATHEUSSEN: Well, we are a standing committee; however, we're not meeting--

SENATOR SCHLUTER: We're not--

SENATOR MATHEUSSEN: --as a standing committee at this very moment.

SENATOR SCHLUTER: --meeting-- This is a hearing. And in that context--

SENATOR ZANE: Let me maybe make it easier then, if that's the case, as long as we're all on board with it. Why don't--

SENATOR MATHEUSSEN: Does the Minority staff agree with that as well?

Anybody?

Yes.

MR. GILLESPIE (Democratic Aide): No.

SENATOR MATHEUSSEN: You don't agree with what -- the issue I'm raising?

MR. GILLESPIE: If the Committee were to-- I mean, the Committee could approve a resolution of the Committee pending the introduction of a full resolution to go to the Senate floor. We're still permitted to do that, John -- Mr. Chairman. I think--

SENATOR ZANE: So you're saying we can do what I was suggesting, in your opinion?

SENATOR MATHEUSSEN: It hasn't been publicly advertised as a resolution -- a hearing on the matter. The public hasn't had an opportunity to vote on the resolution, but having said all that and borrowing

a word from our end of the state, squirrely language here, the public would walk out of here and say today, "Well, thinking that there could be a resolution, I don't want it to fail because we procedurally didn't do it the correct way," number one. And number two, I don't want to do it in such a way that the public thinks, "These guys didn't do anything anyway." They had legitimate questions to be answered, and they're not being answered.

SENATOR ZANE: Can we do this? Can we have a resolution that comes out of this Committee that we, I guess-- The only person that could make it without reference would be the Senate President.

SENATOR MATHEUSSEN: Correct.

SENATOR ZANE: Is there anything improper-- I mean, I like what Patrick said, but if we have to get a consensus on this that the same resolution that I made stands except we modify it to some extent and direct that a resolution be prepared, cosponsored by all of us that are here, and introduced tomorrow and which we then do our begging of the President of the Senate to list it without reference, well, that can't hurt anything.

SENATOR MATHEUSSEN: No. It cannot.

SENATOR ZANE: They prepare it and we direct it. They prepare it. The public then has a sense of the direction we're going.

SENATOR MATHEUSSEN: And all of us, here -- I can't speak for Senator Bennett, but I'm certainly willing to go in on sponsoring that resolution, as well.

SENATOR SCHLUTER: I assume, Senator Zane, the resolution would be as you said that we need more time and we want more answers.

SENATOR ZANE: That's really it.

SENATOR SCHLUTER: Yes.

SENATOR ZANE: Yeah. Yeah.

SENATOR MATHEUSSEN: Well, in addition to that, I think that embodied in that resolution should be some of the findings that we were taking care of today. Let me just read them off because these-- I had asked staff if they would make some notations of some of the issues that collectively we raised during this hearing, and if there's anything that's missing or improperly worded-- But I would think that the resolution would embody at least these issues.

Detailed cost analysis of the cost -- these are things that we were asking for the Treasurer to provide to us -- of conducting inspections both by State employees and the bidder, number one.

The second issue, provide Committee with engineering estimates of the capital construction costs of the building system.

Number three, the Attorney General's legal analysis of whether the Treasurer may lawfully reject Parsons's bid.

Fourth, Treasurer's response to the CWA economic analysis provided to the Committee, which was provided by Doctor--

SENATOR SCHLUTER: Peres.

SENATOR MATHEUSSEN: Thank you.

Five, explanation of the cost of nonenhanced inspections that Parsons will conduct, as illustrated in the Newark *Star-Ledger* article as of today.

Explanation of whether there is an automatic extension in the contract, as I think Assemblyman Cohen had raised today.

Explanation of the supposed design flaws in the Parsons bid, i.e., the wrong-way designs that were given by the supervisor at Morristown, Washington, Jersey City, and Newton.

Eight, why did the Treasurer start the process -- in other words, why did he sign the letter of intent when he did. And I think those are at least a minimum of things that the Committee has been concerned with so far, and there could be other issues as this matter progresses.

SENATOR ZANE: The New Jersey contractor issue, I think, is very significant. Well, by virtue of the mere size of it--

SENATOR MATHEUSSEN: The decision to bid, as they did--

SENATOR ZANE: That's right.

SENATOR MATHEUSSEN: --that would have precluded--

SENATOR ZANE: I mean, he agreed and acknowledged that this limited it to a handful of potential contractors in the country. He said that it would cause administrative problems if it were broken down consistent with what Senator Schluter said. But nevertheless, that breakdown may well have enabled New Jersey contractors, which would please me to no end, be able to participate and get a chunk of the pie, if you will.

SENATOR SCHLUTER: I think that the thrust of the statement that we are proposing to put out would imply that if there is a delay that consideration could be given to rebidding under some situation where it is bifurcated or it is structured in a way that it is not a single bidder, with all the evils of a single bidder, and there are--

SENATOR MATHEUSSEN: Making that in a form of a question or a suggestion? Could it be done that way?

SENATOR SCHLUTER: Could it-- I'm just thinking out loud here, Senator, that if there is time and these other questions are analyzed and we get answers for them, and the Attorney General says, "Yes, he has a right to delay," perhaps that might even lead to rebidding.

SENATOR ZANE: Senator Matheussen, every one of those terms that you mentioned, plus the one we're talking about right now, would certainly be acceptable to me.

SENATOR MATHEUSSEN: Okay. Are you okay with that? I mean, you're the sponsor of the motion, and seconded, so you--

SENATOR ZANE: Perfectly acceptable to me.

SENATOR MATHEUSSEN: Then, I think then if you want to rephrase your -- is it in the form of a motion, or is it that you're going to ask in the form of the motion to have this resolution drawn--

SENATOR ZANE: I think what I--

SENATOR MATHEUSSEN: --that we, four members, would be cosponsors of?

SENATOR ZANE: Yeah. I think that's what I'm saying.

SENATOR MATHEUSSEN: And that we would ask the Senate President at that point in time to consider it as no reference tomorrow.

SENATOR ZANE: Would you be interested in being--

SENATOR SACCO: Although I seconded the motion, I would hope it would be bipartisan. I'd rather see the Chairman be the coprime with Senator Zane, and that, in fact, you could have four primes. We did that on the Superfund. I have no problem with that.

SENATOR MATHEUSSEN: I have no problem with that either.

And, Senator Zane, as opposed to a form of a motion and taking a vote on it, I think that collectively our agreement here today publicly because I don't know that we can, in fact, have a motion and vote on it today without the proper notice for a public hearing to do so. And I don't want this procedural mistake to prevent us from moving ahead tomorrow because I think that puts us four in a bad light in the public way. But if we collectively agree that we will ask for this resolution to be drawn, that it be given to us tomorrow to sign as cosponsors and move ahead with it.

I don't-- Do you understand what I'm saying? If we put it in the form of a motion, if we vote on it today, and OLS comes back with an opinion that says you didn't have the right to do that because of the Open Public Meetings Act, you didn't properly advertise that you were going to be doing anything like that today, I don't want that to prevent this resolution from moving ahead. So that's something--

It was your motion, Senator Zane, and I don't want to redirect it, but I am cautious to make sure that we operate in the proper manner.

SENATOR ZANE: I think what I amended it to say is that we, as members of this Committee sitting here, request OLS to have a resolution prepared for us tomorrow--

SENATOR MATHEUSSEN: Under those guidelines.

SENATOR ZANE: --consistent with what we've talked about. And I think that can be second and voted upon without--

SENATOR MATHEUSSEN: We didn't vote on the--

SENATOR ZANE: So are you seconding that?

SENATOR MATHEUSSEN: Yes. We didn't vote on the resolution. We just voted--

SENATOR ZANE: Right.

SENATOR MATHEUSSEN: --on asking the resolution to be done.

SENATOR ZANE: Right.

SENATOR MATHEUSSEN: Okay. Do we have a second on it?

SENATOR ZANE: Senator Sacco did.

SENATOR MATHEUSSEN: Roll call.

MR. CLIMPSON: Senator Sacco?

SENATOR SACCO: Yes.

MR. CLIMPSON: Senator Zane?

SENATOR ZANE: Yes.

MR. CLIMPSON: Senator Schluter?

SENATOR SCHLUTER: Yes.

MR. CLIMPSON: Senator Matheussen?

SENATOR MATHEUSSEN: Yes.

Okay. I think that concludes the business of this--

Anyone else have anything to add? (no response)

I think that concludes the business of this Committee, and we'll see where it takes us tomorrow.

Thank you. Thank you for the public.

(HEARING CONCLUDED)