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Law Enforcement and Criminal Justice Subcommittee

July 20, 2016

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Law Enforcement and Criminal Justice Subcommittee meeting was called to order by Chair Kirkman Finlay, III, on Wednesday, July 20, 2016, in Room 110 of the Blatt Building. The following members of the Subcommittee were present: Chair Finlay, Representative Raye Felder, and Representative Edward R. "Eddie" Tallon, Sr.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

II. Representative Tallon moved to approve the minutes from the Subcommittee’s meeting on July 13, 2016. A roll call vote was held, and the motion passed.

Rep. Tallon’s motion to approve the minutes from July 13, 2016:	Yea	Nay	Not Voting
Rep. Bowers			✓ (Not Present)
Rep. Felder	✓		
Rep. Finlay	✓		
Rep. Tallon	✓		

Discussion of the Department of Public Safety

- I. Chair Finlay reminded those present who intended to testify on behalf of the Department of Public Safety who had already taken the oath that their oaths were still in effect.
- II. Committee staff provided an update on the progress of the Department through the oversight process.
- III. Director Leroy Smith testified about aspects of the agency’s strategic plan that the Subcommittee members had questioned at the previous meeting.

Questions asked by Subcommittee members, and answered by agency personnel included, but were not limited to, the following:

- Explanation of the difference between a “diverse workforce” and a “diversified workforce,” as the two terms were used in the Department’s strategic plan;
- Number of applicants in the Department’s current training class;
- Series of questions about the application process for the Department’s training program with concern expressed that the Department was experiencing a high turnover rate in officers who had been working for five or fewer years at the agency;
- If the Department had polled staff members to determine the reasons for the high turnover rate;
- If the Department allowed agency employees to submit anonymous comments or complaints;
- If the Department had a program to gauge and improve the rate of job satisfaction at the agency;
- Asked for comments on the fact that it was perceived by one Subcommittee member that the morale among the Department’s troopers was the lowest that he had ever seen;
- If it would be more cost efficient to perform the low cost portions of the application process before the high cost portions with concern

expressed that the Department's hiring process had elements that appeared arbitrary;

- Series of questions about the Department's hiring practices including whether the Department should spend a portion of the money it spends on recruitment on employee pay increases instead;
- The Department's policy on the proximity of the residences of troopers to their posts, if the Department employs any troopers who live farther than 30 miles of their duty station, and if the Department employs any employees, from lieutenants to colonels, who live farther than 30 miles of their duty station;
- If management was aware that the Department employs majors who claim to have a temporary residence within 30 miles of their duty stations who sleep at the temporary residence only one night a week, while driving to their permanent residence, which is more than 30 miles from their duty stations, the remaining nights of the week;
- If the Department employs a supply captain who lives in Aiken and commutes from his home to work each day;
- If there was a process by which a trooper who has been employed at the Department for a long time can be exempted from the 30-mile residence requirement if he moves to a new residence or is transferred or promoted to a new post;
- Explanation of the reasons a supply captain would be given more favorable treatment than a trooper with regards to the 30-mile residence requirement and suggestion that the Department change its 30-mile residence policy so that the troopers do not feel that there is an unfair double standard at the agency;
- An explanation of the method the Department used to calculate that the agency's employees rated workforce morale and to submit information to the Subcommittee about the agency's employee's workforce morale, broken down by each department of the agency; and
- The Department omit prospective troopers who were still undergoing initial training from its reporting of the total number of troopers employed at the agency and noted for the purposes of reporting, counting them had an adverse effect on the Department's trooper turnover rate.

Representative Tallon moved that the Department of Public Safety distinguish between the number of troopers who have graduated and the number of troopers who are still in training when it reports relevant data to the House of Representatives. A roll call vote was held, and the motion passed.

Rep. Tallon’s motion that the Department of Public Safety distinguish between the number of troopers who have graduated and the number of troopers who are still in training when it reports relevant data to the House of Representatives:	Yea	Nay	Not Voting
Rep. Bowers			✓ (Not Present)
Rep. Felder	✓		
Rep. Finlay	✓		
Rep. Tallon	✓		

Additional questions asked by Subcommittee members, and answered by agency personnel included, but were not limited to, the following:

- If the Department tested the ability of trooper applicants to run a certain distance in a given amount of time during the application process;
- The date of the change from the Department’s use of a running physical fitness test to its use of the Physical Abilities Test;
- If the Department had stopped using the results from a running test to gauge the physical ability of trooper applicants so that the success rate of applicants on the physical fitness test would increase; and
- For the number of troopers who had already resigned from their employment at the Department in 2016.

Representative Tallon expressed his belief that many of the troopers working at the Department do not share their opinions or concerns to the agency’s leadership because they fear retribution.

Chair Finlay said he heard the Department engaged in a “witch hunt” after the Subcommittee in a previous meeting played a recording that seemed to contradict the testimony of a Department employee in an effort to find the employee who made and submitted the recording to the Subcommittee. Chair Finlay said the witch hunt allegations, if true, concerned him because they showed the Department cared more about punishing whistleblowers or concerned employees than improving the agency.

Chair Finlay asked if Colonel Oliver could explain why some Department employees felt that the agency engaged in a witch hunt after the recording was given to the Subcommittee by an agency employee.

Representative Tallon moved that the Subcommittee adopt a recommendation in its study of the Department of Public Safety that the Department investigate and adopt a process by which its employees can provide feedback to the agency anonymously about topics including, but not limited to, ways to improve the retention rate of troopers and all employees, and that management decisions regarding the feedback be posted in a manner that allows employees to know that their feedback has been heard. A roll call vote was held, and the motion passed.

Rep. Tallon’s motion that the Subcommittee adopt a recommendation in its study of the Department of Public Safety that the Department investigate and adopt a process by which its employees can provide feedback to the agency anonymously about topics including, but not limited to, ways to improve the retention rate of troopers and all employees, and that Department’s management decisions regarding the feedback be posted in a manner that allows employees to know that their feedback has been heard:	Yea	Nay	Not Voting
Rep. Bowers			✓ (Not Present)
Rep. Felder	✓		
Rep. Finlay	✓		
Rep. Tallon	✓		

Representative Tallon moved that the Subcommittee Study of the Department of Public Safety include a recommendation that the agency adopt a clear policy as to which employees are required and which are not required to live within a certain distance from their troop headquarters or assigned post. A roll call vote was held, and the motion passed.

Rep. Tallon’s motion that the Subcommittee Study of the Department of Public Safety include a recommendation that the agency adopt a clear policy as to which employees are required and which are not required to live within a certain distance from their troop headquarters or assigned post:	Yea	Nay	Not Voting
Rep. Bowers			✓ (Not Present)
Rep. Felder	✓		
Rep. Finlay	✓		
Rep. Tallon	✓		

Representative Felder asked Director Smith what changes the Department had made in the way that it conducts investigations of its employees.

Representative Tallon requested that the Department continue to report the number of days involved in investigations of its employees as it has been since he said that he felt that the method showed the true length of time during which an employee under investigation had to endure the stress.

- IV. The Subcommittee recessed for a short break.
- V. After the break questions asked by Subcommittee members, and answered by agency personnel included, but were not limited to, the following:
 - If the Department had closed its investigation of its Director of Human Resources;
 - Why the Department had already closed its investigation in spite of the usual process by which the Department typically handles other investigations;
 - For an explanation of the ways in which the Department’s closed investigation would be affected if the South Carolina Law Enforcement Division were to conclude in its investigation that Ms. Autry had committed a crime;
 - If Ms. Autry had been placed on administrative duty;

- If Director Smith would allow a trooper who was being investigated for allegedly committing perjury in a court of law to continue on normal active duty;
- If Director Smith had ever had a trooper charged with or investigated for perjury, and if so, was the trooper placed on some type of administrative or paid leave, or allowed to continue in his normal course of work; and
- For information about any cases in which the Department had allowed a trooper who had been charged with or was under investigation for perjury to continue in his normal course of work.

VI. Chair Finlay administered the oath to Eugene Matthews, an attorney who was representing the Department in employment matters.

Questions asked by Subcommittee members, and answered by the agency's private counsel, but were not limited to, the following:

- Whether the attorney would advise the Department to allow a trooper who was being investigated for allegedly committing perjury in a court of law to continue on normal active duty, or whether he would advise the Department to place the trooper on some type of administrative or paid leave;
- If an employee could be reassigned administratively in cases of criminal accusations so that the agency could mitigate potential future damage to itself; and
- Advice on the ways in which Director Smith could act with regards to the Human Resources Department so as to prevent future damage to the agency's reputation or future criminal activity.

Chair Finlay asked Director Smith if he was aware of any investigation conducted by the Department into the allegations that Ms. Autry perjured herself before the Subcommittee and Director Smith answered in the negative. Chair Finlay expressed his understanding that the Department had not investigated the allegation that Ms. Autry committed perjury before the Subcommittee.

VII. Director Smith provided a presentation to the Subcommittee. During the presentation, questions asked by Subcommittee members, and answered by agency personnel included, but were not limited to, the following:

- If it was correct that the Director did not have any restructuring recommendations;
- If Director Smith believed that the Immigration Unit should remain under the Department, rather than being moved to SLED;
- If Director Smith would lobby against legislation that would move the Immigration Unit from the Department to SLED and noted it was the Subcommittee's impression from previous meetings that Director

Smith had been in favor of moving the Immigration Unit from the Department to SLED;

- If the electronic collision reporting system begins when a trooper arrives at the scene of a collision with the computer he carries inside his vehicle;
- Explanation of the condition of the computers that the troopers and other employees are assigned at the Department;
- Explanation of the Department's stance and progress on the acquisition of body cameras for troopers;
- Cost per officer for body cameras, including the cost of the equipment and of the storage and maintenance; and
- Date on which Colonel Oliver expected to have the Department's troopers fully outfitted with body cameras.

Chair Finlay expressed his position that, if the Department was truly prioritizing the use of body cameras agency-wide, then the Department's budget was big enough to allow the agency to outfit its troopers quickly.

Additional questions asked by Subcommittee members, and answered by agency personnel included, but were not limited to, the following:

- Amount of the Department's carry over funds;
- If the Department had the authority to use its carry over funds for body cameras;
- Amount of the Department's carry over funds for the previous year;
- Last year in which the Department employed more than 780 officers;
- Department submit the estimated per officer cost of body cameras for discussion at the agency's next meeting with the Subcommittee, noting it was at least one Subcommittee's opinion that the Department would have enough funds available from multiple sources to at least begin outfitting its troopers with body cameras at the end of August, as soon as the state closed its books for the year;
- Date on which the Department would finish paying for the overtime lawsuit;
- Series of questions about the way in which the Department categorized and reported its budget and expenses to the Subcommittee, with one Subcommittee member expressing his concern that the budget figures the Department presented to the Subcommittee in past months were not properly categorized and the Subcommittee needed better data in order to accurately assess the situation at the agency;
- Submit to the Subcommittee in writing an explanation of how carry over funds were spent by the agency in the previous two or three years;
- Submit to the Subcommittee information about the condition of the troopers' computers and vehicles and the estimated cost of updating

those computer and vehicles, as well as the number of trooper computers and vehicles that are out of service;

- If the Department's consolidation of the communication centers had caused any problems in the agency's operations, and about the technological developments in the way that the agency is able to route and dispatch incoming calls;
- Department's failure to achieve an "Excellent" rating from the Commission on Accreditation for Law Enforcement Agencies (CALEA), but recognized the fact that achieving the rating was very difficult to do; and
- Explanation for the low number of trooper and civilian contacts throughout the year.

VIII. The meeting was adjourned.