

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

* * * * *

House Bill 719

Employing Lifeguards in Pennsylvania
State Parks With Public Beaches

* * * * *

House Tourism and Recreational
Development Committee

K. Leroy Irvis Building
Room G-50
Harrisburg, Pennsylvania

Monday, May 11, 2009 - 11:00 a.m.

--o0o--

BEFORE:

Honorable Chris Sainato, Majority Chairman
Honorable Gary Haluska
Honorable Dom Costa
Honorable Mark Longiotti
Honorable Steve Samuelson
Honorable John J. Siptroth
Honorable Stephen Barrar, Minority Chairman
Honorable Brian L. Ellis
Honorable Keith Gillespie
Honorable Mario M. Scavello
Honorable Scott W. Boyd
Honorable Susan C. Helm
Honorable Rob W. Kauffman
Honorable Dan Moul
Honorable John D. Payne

1 ALSO PRESENT:

2 Angela Stalnecker
Majority Executive Director

3

Al Taylor
4 Minority Executive Director

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	C O N T E N T S	
2	WITNESSES	PAGE
3	Call to Order	4
4	Representative Chris Sainato, Chairman Subcommittee on Arts and Entertainment Roll Call	
5	Opening Remarks	
6	Representative Sue Helm (Sponsor HB 719)	5
7	Stephanie Maurer, Deputy Auditor General for Performance Audits	7
8	Office of the Auditor General	
9	John Norbeck, Director of State Parks Department of Conservation and Natural Resources	13
10	Bryan Heckle, Risk Manager	22
11	The Redwoods Group	
12	Phil McKnelly, Executive Director National Association of State Parks Directors	27
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHAIRMAN SAINATO: I'd like to call the meeting
2 of the House Tourism and Recreational Development Committee
3 to order. I'm Representative Chris Sainato. I represent
4 the 9th District in Lawrence County.

5 The first thing we're going to have done, we're
6 going to have the members introduce themselves and the
7 counties from which they're from. We will start on my
8 right.

9 REPRESENTATIVE HELM: Representative Sue Helm,
10 Dauphin County, 104th District.

11 MR. TAYLOR: Al Taylor, staff member.

12 REPRESENTATIVE BARRAR: Representative Steve
13 Barrar. I'm the Republican Chair for the Tourism Committee.

14 MS. STALNECKER: Angela Stalnecker, Executive
15 Director of the Committee.

16 REPRESENTATIVE SCAVELLO: Mario Scavello, Monroe
17 County.

18 REPRESENTATIVE HALUSKA: Gary Haluska, Cambria
19 County.

20 REPRESENTATIVE COSTA: Paul Costa, Allegheny
21 County.

22 CHAIRMAN SAINATO: We have one more joining us.
23 Introduce yourself.

24 REPRESENTATIVE PAYNE: Thank you. John Payne,
25 Dauphin County.

1 CHAIRMAN SAINATO: I'm sure we'll have more
2 members joining us as this hearing goes on. Today's hearing
3 is going to be on House Bill 719 which is Representative
4 Helm's bill dealing with lifeguards at state parks. Before
5 I call on Representative Helm, I'd like to introduce the
6 minority chairman, Chairman Barrar.

7 REPRESENTATIVE BARRAR: Thank you, Mr. Chairman.
8 I just want to thank the representative for bringing this
9 issue forward and giving us the opportunity to study the
10 issue. I know it's a very important issue. I've had
11 contact in my office -- I don't have a state park in my
12 district, but I've had some residents who have e-mailed me
13 in the past and expressed their displeasure with this
14 decision. So we will turn it over to Representative Helm

15 REPRESENTATIVE HELM: Thank you. And I'd like
16 to thank Chairman Kirkland and Barrar for making this
17 hearing happen today and also Representative Sainato, the
18 chairman of the Subcommittee on Arts and Entertainment for
19 chairing the committee.

20 My Bill 719 is a very simple bill and that is to
21 return lifeguards to state park beaches because I just
22 couldn't believe when I heard that lifeguards were going to
23 be taken away from the beaches. There's 59 beaches in
24 Pennsylvania. And I think as a representative, it's my job
25 to ensure the safety of my constituents and all the

1 constituents of Pennsylvania. People said, well, do you
2 have state park beaches in your area. No, I don't, but I do
3 have constituents that travel to the state park beaches and
4 I think tourism, being the number two industry in
5 Pennsylvania, I think we should make sure that everything is
6 safe for people to come here and visit the district and
7 spend their money and have a good time in Pennsylvania.

8 And there is -- there's two state park beaches
9 that have lifeguards now, and that's Presque Isle, which
10 because of the conditions there they did not take them away
11 from that beach. But when this bill happened it was said
12 that for the last nine years there's only two drownings and
13 we probably didn't need lifeguards. However, within a short
14 time of lifeguards being away someone drowned. And then
15 it's interesting, now they put a lifeguard back at Fuller
16 Lake beach. So do we have to have someone drown at every
17 state park to have this happen?

18 But we have testifiers today to the pros and
19 cons, but I just hope that we can see the need for this.
20 And, you know, money isn't the only thing in Pennsylvania.
21 Absolutely this year we're short on money, but it's more
22 important to save lives than it is to save a little bit of
23 money.

24 So we're going to hear from the testifiers
25 today. When I was looking last year to do this, because we

1 were supposed to have this hearing last year and then it was
2 canceled, I thought, well, it would be nice to have a
3 lifeguard to come that saved a life. So I had the one girl
4 that works for me call a Y and ask about this, and we found
5 out about the insurance, that the insurance is going to go
6 so sky high that the kids weren't going to be able to go to
7 swim at these beaches because they couldn't afford to pay
8 the insurance. So I did investigate the insurance, and we
9 do have a testifier here from an insurance company.

10 So we're going to start with the testifiers and
11 we'll be open for questions. Thank you.

12 CHAIRMAN SAINATO: Thank you, Representative
13 Helm. We've been joined by four other members of the
14 Legislature. We have Representative Keith Gillespie from
15 York County, Representative Dan Moul from Adams County,
16 Representative Scott Boyd from Lancaster County, and
17 Representative Brian Ellis from Butler County.

18 So at this time our first testifier is Stephanie
19 Maurer, Deputy Auditor General for Performance Audits. So,
20 Stephanie, do you want to start your testimony.

21 MS. MAURER: Thank you. Chairman Sainato,
22 Chairman Barrar, committee members, guests, good morning.
23 As Representative Sainato said, my name is Stephanie Maurer.
24 I'm the Deputy Auditor General for the Performance Audits
25 with the Department of the Auditor General.

1 Auditor General Jack Wagner is disappointed he
2 could not be here himself. He thanks you for seeking our
3 input, as I do. We place a high priority on public safety
4 and public communications.

5 What I'd like to do today is break down my
6 testimony into five brief points to explain how we became
7 involved in the state park lifeguard issue and exactly what
8 we've done.

9 First, you might be interested to hear a fact
10 about Auditor General Wagner's background and how it relates
11 to this hearing. Before entering the public sector, Jack
12 Wagner spent ten years as a safety engineer in the private
13 sector. He showed companies how to avoid potential
14 accidents, thereby keeping people safe. His experience was
15 of such consequence to him that it resulted in a special
16 emphasis on safety issues during his subsequent three
17 decades of public service. You may recall this emphasis in
18 some of our audit and report topics over the past four
19 years, restaurant inspections, school safety, dam and levy
20 safety, driver's safety on our turnpike, community safety
21 related to Megan's Law, and fire safety at state
22 institutions.

23 That background brings me to my five summary
24 points which are how our involvement began, the quiet
25 evolution of the no-lifeguard policy, what we found and

1 reported in our examination, how we've engaged the
2 Department of Conservation and Natural Resources, which I
3 will refer to as DCNR, and our continued concerns.

4 First, however, I'd like to say in the testimony
5 that we sent over last week I didn't catch that we called
6 DCNR Department of Community and Natural Resources. And, of
7 course, that's not correct so I apologize for that.

8 So my first point, our involvement. Our
9 involvement at the Department of the Auditor General began
10 in January 2008. We read a DCNR announcement about the
11 elimination of lifeguards at 37 of Pennsylvania's 38 state
12 parks with lake beaches. I know Representative Helm
13 mentioned 59 as the actual number of beaches, and the only
14 reason our number is different is because the 38 state parks
15 combined have 59 beaches all together. The lone exception
16 was and is the beaches at Presque Isle State Park on Lake
17 Erie, which would remain guarded because of the lake's
18 hazardous currents.

19 So we began to look further into this matter
20 because it didn't seem safe or logical to remove lifeguard
21 protection from all but one of the state parks. Lakes in
22 state parks where swimming is permitted present potential
23 hazards that do not exist in swimming pools, such as
24 variations in water temperature that can be extremely cold,
25 sudden variation in water depth, more isolated locations,

1 the lack of large numbers of swimmers at various times
2 during the day, and water that may not be clear enough to
3 allow visibility of someone under water. Any of these
4 issues and more must be considered in eliminating lifeguards
5 in favor of what DCNR calls its open-swim policy.

6 Second point, the evolution of this no-lifeguard
7 policy. We were surprised to learn it had actually started
8 about ten years ago, thereby spanning three administrations.
9 So, in effect, the policy had been validated by the passage
10 of our state budget each of those years. So while the
11 announcement in January 2008 looked sudden and sweeping, we
12 realized it marked the finish of a multi-year plan that was
13 implemented in stages, a group of parks at a time.

14 Third point about our examination of this issue.
15 We examined -- our examination took place between January
16 2008 and mid-May 2008, at which time we released our special
17 report of which you have copies. There are some additional
18 copies over on the table to your right.

19 You will see in the special report that we
20 questioned DCNR's rationale that unguarded beaches were a
21 national trend. In addition, we learned that children
22 between the ages of 5 and 15 typically drown not only in
23 swimming pools but also in open water such as lakes and
24 rivers. And we found research that supported common sense
25 that children need constant supervision in or near water and

1 that families should choose swimming areas supervised by
2 trained and certified lifeguards.

3 You will also see that we looked at DCNR's
4 performance in warning the public about the risks. We
5 reviewed communications both on line and on site, including
6 lakeside signage. We were especially concerned that DCNR
7 referred and still refers to its open-swim policy without
8 always explaining that open swim means no lifeguards.

9 Finally, we found that DCNR's Web site still
10 posted -- at the time still posted pictures of guarded
11 beaches or made mention of lifeguards on duty.

12 The fourth point, which is how we engaged DCNR.
13 As the result of our work, we discussed with DCNR our
14 findings and we recommended that DCNR reevaluate its
15 decision. We said that in the meantime DCNR must improve
16 its public communications.

17 I can report today that DCNR was indeed
18 responsive to us, both in writing and in face-to-face
19 discussions. Public communications on line and on site were
20 improved. DCNR was direct in telling us it had no plans to
21 restore lifeguards overall, but it did agree to consider
22 restoring them to unique swim areas. One such unique area
23 about which Auditor General Wagner is adamant is Fuller Lake
24 in Cumberland County at Pine Grove Furnace State Park.
25 Waters there are abnormally cold and part of the swim area

1 is more than 30 feet deep.

2 My last point summarizes our continuing
3 concerns. We cannot let this issue fade. We cannot stop
4 working to protect our swimmers at state park lakes. We are
5 concerned that the restoration of lifeguards at Fuller Lake,
6 for example, may be compromised in the face of budget cuts.
7 We are concerned that even Presque Isle beaches may lose
8 their guards, and we simply can't let that happen in light
9 of Lake Erie's hazardous currents.

10 We are also concerned about DCNR's difficulty in
11 recruiting lifeguards. We offered suggestions to DCNR, such
12 as contacting our State System of Higher Education about
13 granting course credit for guarding the beaches because
14 we're convinced that we are not doing all that we can do
15 with regard to recruitment. DCNR reported to us that it did
16 take our suggestion in approaching SSHE but found that the
17 idea was not feasible.

18 Still our concerns continue and others share
19 them. Our report resulted in widespread publicity that
20 illustrated real public interest, including editorials and
21 letters. We received just -- from what we tracked in a
22 short time received just pages and pages of opinions and
23 editorials and articles.

24 So I will close my testimony with something that
25 happened just last week. An area man, actually from Dauphin

1 County, visited us to share his passion about restoring
2 lifeguards, explaining that he and his family are frequent
3 users of one of our parks in Centre County, Black Moshannon.
4 He had ideas about lifeguard recruitment, such as granting
5 one-thousand-dollar vouchers to use for state college
6 tuition, of paying guards to perform other useful duties on
7 rainy no-swim days. He showed us how he and his wife
8 collected 132 signatures representing 383 visitors at the
9 park during three days last June. All but one of those
10 signatures indicated support for restoring lifeguards.

11 Was this survey scientific? I don't know. But
12 the point is this: This man is a great example of a
13 taxpayer who cares deeply and a great example of how our
14 park users can contribute new ideas for consideration. I
15 think we should listen. Thank you.

16 CHAIRMAN SAINATO: Thank you, Stephanie. We're
17 going to be taking questions at the end after we have all
18 four. But we've been joined by Representative Rob Kauffman
19 and also Representative John Siptroth.

20 So our next testifier is going to be John
21 Norbeck, Director of the State Parks. John, start your
22 testimony.

23 MR. NORBECK: Thank you, Mr. Chairman. First
24 off I'll go through the testimony a little bit. Maybe I can
25 address some issues that have been talked about a little

1 earlier. But I'd like to start off with I want to try to
2 make it clear that the decision within the department to go
3 into the open swim -- the no-lifeguard policy was not one
4 that we felt that there was no value in having lifeguards.
5 It truly was a recruitment and a retention issue that we had
6 and one of those systems where you've got to do it all or
7 none. And hopefully I can explain that as I go along.

8 We have 117 state parks within the Pennsylvania
9 state park system that provide a variety of recreational
10 opportunities which also include swimming in lakes. We have
11 millions of visitors that enjoy swimming at our beaches
12 without lifeguards since DCNR began the open-swim policy
13 eleven years ago during the Tom Ridge administration. Our
14 safety record during this time period is strong and our
15 customers tell us that they like the program.

16 Last year we completed the phase-in of the
17 open-swim policy at the remaining 15 state park beaches.
18 All pools and beaches at Presque Isle State Park and also at
19 Fuller Lake at Pine Grove Furnace will have lifeguards this
20 year.

21 Our first concern in the waterfront policy is
22 the safety of our visitors. There is no one more concerned
23 about visitor safety at state parks than the men and women
24 that work in the state park bureau. They're a dedicated
25 bunch of professionals who put public safety first.

1 When the department first introduced the
2 open-swim policy to Pennsylvania state parks, it was after a
3 lot of research concerning the safety implications of such a
4 decision, and we decided to continue to monitor the effects
5 within Pennsylvania state parks, as well as the impacts for
6 similar policies on a nationwide basis.

7 Under our open-swim policy, swimming is
8 permitted in lake beaches from 8:00 a.m. to sunset within
9 the designated swimming areas that are marked. The beaches
10 we operate are designed as swimming beaches. Generally,
11 they have sandy bottoms or river gravel bottoms that are
12 regular and slope off gently from 0 to 5 or 6 feet.

13 The beaches continue to be patrolled and
14 monitored by state park staff to ensure public safety. Our
15 managers and rangers receive extensive training in first
16 aid, CPR, water rescue and other specialized fields of
17 public safety. These members of our staff are in direct
18 contact with county emergency management staff by either
19 radio or by telephone.

20 In addition, beaches are clearly posted with
21 open swim area - no lifeguard on duty signs. I believe you
22 should have a copy of that in the packet that you received.
23 Ring buoy stands are marked emergency use only and also
24 provide for rescue purposes. We have patrol boats ready and
25 available for rescue if necessary. Public telephones are

1 provided with take-away hospital directions at our beaches.
2 There are also signs indicating the location of first aid
3 facilities in the area.

4 Our decision to institute the open swim is
5 primarily an operational decision and not a cost-saving
6 measure. It grew out of the lack of qualified lifeguards
7 being available to work the entire summer seasons. The
8 problem there is twofold. First, we have experienced
9 significant and increasing difficulty in hiring enough
10 guards to cover one shift per day seven days a week. The
11 second issue is that schools and universities start in the
12 middle to late August, now leaving many facilities without
13 guards or enough guards to operate for a substantial portion
14 of the swimming season.

15 As lifeguards are seasonal, most of them that
16 come to us are of school age. Becoming a lifeguard requires
17 forethought and extensive training which must be undertaken
18 months in advance of the swimming season. Park managers
19 have and continue to make numerous contacts with schools,
20 colleges and universities to encourage folks to become
21 lifeguards. We have also increased the pay rate for
22 lifeguards many times over the last decade trying to
23 encourage more applicants. Currently lifeguards get paid a
24 starting salary at our swimming pools of \$10.05 which is
25 above the state average.

1 The results of our recruitment effort have been
2 mixed. System wide we have not been able to hire and retain
3 enough guards to provide full coverage. The problem has
4 only increased over the last decade.

5 Initially, those parks that were unable to
6 secure a sufficient number of lifeguards were granted
7 permission for the full open-swim policy, that is allowing
8 unguarded swimming during park hours of 8:00 a.m. to sunset.
9 Prior to this change swimmers would be asked to exit the
10 water at 7:00 p.m. and would not be permitted to swim
11 without a lifeguard.

12 Between 1999 and 2007 full open swim was
13 incrementally expanded to statewide to include 23 state
14 parks by the 2007 season. This brings us to the present
15 with the 15 remaining state park beaches added to the
16 program that we have a total of 38 in open swim now.

17 The very basic tenet of the open-swim policy is
18 to clearly inform our visitors that we do not have
19 lifeguards on duty and for parents, guardians and friends to
20 watch out for the safety of their group. At parks where
21 open-swim program was initiated and put into place, we
22 received many encouraging, positive comments from swimmers,
23 most notably they commented favorably on longer hours and
24 longer seasons for swimming and increases through the
25 freedom and intrinsic value of the open swim.

1 It also has become clear to us in our review
2 that providing lifeguards at beaches sometimes and not at
3 others provides a false sense of security among our
4 beachgoers when they assume that there are guards.

5 And I can tell you a story about three summers
6 ago I was at Cowans Gap and a car pulled up, three doors
7 opened up, and three kids hop out, 15, 12, 13 years old,
8 something like that, with their beach equipment. They go
9 down to the beach, the car drives off. Luckily that day we
10 had lifeguards. But I can tell you there's many times
11 during that summer that either a guard called out, didn't
12 show up, or near the end of the season we didn't have
13 guards, and our assumption is that parents still drop kids
14 off without having adequate supervision.

15 In addition to evaluating the phase-in of the
16 program in Pennsylvania, we also looked at the experience of
17 others. More than 40 other states have instituted unguarded
18 or open-swim programs at many or all of their inland beaches
19 with great success. Numerous agencies, including the
20 National Park Service, U.S. Forest Service, the United
21 States Army Corps of Engineers and, most notably, Ohio and
22 Indiana state parks, have instituted an identical program.
23 I say most notably because their systems are extremely
24 similar to ours. They also do the same thing that we do in
25 retaining guards at pools and also at Great Lakes beaches.

1 As a whole, these agencies have observed, as
2 DCNR has observed, a greater attentiveness of parents and
3 guardians leading to a better overall family atmosphere, no
4 detectable increase in the number of drowning or safety
5 incidents since the switch from guarded beaches to open
6 swim. They also provide, as we do, greater public access to
7 beaches due to the expanded swimming hours and the length of
8 the season.

9 As the agency manages 58 beaches and many
10 hundreds of shorelines on streams, rivers and lakes, we know
11 that there's inherent dangers in water-related activities.
12 We encourage our visitors to know their limits and to be
13 mindful of others.

14 We manage over three million swimmer days per
15 year in our recognized swimming areas. In the past eleven
16 years we have unfortunately experienced three drownings, two
17 at beaches where there were lifeguards on duty and one last
18 summer at Fuller Lake that was unguarded.

19 We attribute our safety record to the overall
20 management of the physical facilities, our staff, and the
21 diligence of our park patrons in being watchful of their
22 groups. We believe that a consistent management practice is
23 the safest policy for managing our beaches and pools.

24 Each year we perform a detailed inspection of
25 each state park swimming facility. The inspections focus on

1 safety issues such physical conditions of the facilities,
2 staff readiness and public education and public
3 information. As a result of these inspections and our
4 experiences, we have adapted our program as we move forward.
5 As examples, last year the department assigned additional
6 staff to educate visitors about the open-swim program. We
7 standardized the facilities where practical and stepped up
8 law enforcement patrols at beaches.

9 In addition, we've contacted Pennsylvania System
10 of Higher Education in an effort to explore ways to improve
11 recruitment and retention of lifeguards. Specifically, we
12 asked if the training and experience as a lifeguard could be
13 used to gain academic credit and thereby increasing the
14 incentive for college students to become guards. After a
15 thorough review they determined that the work and the
16 training does not rise to the level to be considered for
17 education credit.

18 This upcoming season we'll continue to employ
19 seasonal rangers to augment our full-time staff to oversee
20 and manage our swim facilities.

21 If House Bill 719 passes as drafted, it does not
22 provide for sufficient funding to perform the mandate. The
23 cost of the compliance with the provisions of House Bill 719
24 is in excess of \$1.3 million annually. It is critically
25 important for the committee to understand that when

1 lifeguards are not available due to call-offs and retention
2 issues, as discussed above, the provisions of the house bill
3 will require us to close swimming facilities entirely. It
4 will also require us to ban swimming before 11:00 a.m. after
5 after 7:00 p.m. and before Memorial Day and after Labor Day.
6 Over the last decade thousands of swimmers have taken
7 advantage of the opportunities to swim during these time
8 periods. This will inevitably be a drastic reduction in
9 public service and will also impact visitation and tourism.

10 The safety of our state park visitors is always
11 our first concern as I said earlier. State park beaches
12 have been operating safely with an open-swim policy for over
13 ten years now while at the same time providing extended
14 recreational opportunities for visitors.

15 I thank you for the opportunity and your
16 interest in this issue. I know that it's not a simple
17 issue, that it can be fairly complex, and I appreciate the
18 opportunity to be here to explain this in my testimony.
19 Thank you.

20 CHAIRMAN SAINATO: Thank you, John. We
21 appreciate you being here today. The purpose of this
22 hearing is to try to get all views and all sides on this
23 issue.

24 At this time we're going to have Brian Heckle,
25 risk manager of The Redwoods Group present his testimony.

1 Brian.

2 MR. HECKLE: Thank you, Representative Sainato.
3 Thank you other committee members. My name is Brian Heckle.
4 I am a risk manager with The Redwoods Group. The Redwoods
5 Group is a specialty commercial insurer for YMCAs and Jewish
6 Community Centers across the country. Our mission demands
7 that we work closely with our clients to change behaviors
8 and to help them make their communities better and safer
9 places to live.

10 To that end we are committed to achieving a goal
11 of zero drowning deaths in swimming pools and open water
12 managed by YMCAs and Jewish Community Centers across the
13 country. And I would add to that not just within YMCAs, but
14 within the country itself to reduce the drowning deaths to
15 zero.

16 Nationally the YMCA is the largest single
17 provider of aquatic facilities and services and The Redwoods
18 Group is the largest insurer of YMCAs in the country with
19 over 530 client associations in 49 states. Our aquatics
20 exposures includes thousands of swimming facilities,
21 primarily pools and lakes, but also water parks, oceanfronts
22 and that entails millions of swimmers.

23 I've been certified from Ellis and Associates, a
24 nationally-accredited lifeguarding and emergency
25 accreditation. With The Redwoods Group I make frequent

1 visits to YMCAs, offer recommendations to change behaviors
2 and work with YMCAs on best practices in aquatics and
3 aquatic safety topics. I've also trained several thousand
4 YMCA staff, lifeguards, camp counselors, YMCA management and
5 executives, on the risk of drowning and how to keep swimmers
6 safe.

7 I have also worked with YMCAs following
8 near-drowning and drowning events that have occurred in our
9 clients' water. I assist as an outside consultant in an
10 on-site investigation of the incident within 24 hours and
11 provide follow-up recommendations to improve their aquatics
12 programs and facilitate training to management and aquatic
13 staff.

14 As I mentioned, we work closely with our
15 clients. We share best practices, the latest techniques and
16 science, and new technologies available to make their pools
17 and lakes as safe as possible. But we don't run YMCAs. The
18 client ultimately makes the decision of what recommendations
19 to implement or not implement. With one exception - to even
20 be eligible for our program -- our insurance program, a
21 certified lifeguard must supervise all swimming areas when
22 they are open. We believe so strongly in the importance of
23 trained and certified lifeguards that it is a strict
24 prerequisite for our insurance program.

25 Here is why. A drowning is silent and fast.

1 Unlike what we have all seen on TV, a drowning victim does
2 not yell for help, splash water, or wave their arms. They
3 cannot. When the victim panics, lack of buoyancy keeps most
4 of the body under water. The victims try to do only one
5 thing with their lungs - breathe, not yell. The involuntary
6 responses physiologically when a swimmer gets into trouble
7 actually force breath holding so at best the victim can't
8 yell, at worst he can't breathe. In fact, a child that is
9 drowning often looks just like another child playing in the
10 water to the untrained eye. And the child will only remain
11 on the surface for a matter of seconds before slipping below
12 the surface.

13 Water hides and it suffocates. This makes
14 lifeguarding lakes and other natural bodies of water even
15 more important because once a victim goes below the water
16 the chance that they will be seen is greatly diminished. A
17 trained lifeguard whose responsibility is to scan the water
18 for swimmers in distress will reduce the chance that a
19 swimmer will go underwater undetected and will be able to
20 initiate the park's emergency response immediately.

21 Now I'd like to go over a little bit of how a
22 lifeguard can reduce the chance of a drowning tragedy at
23 your Pennsylvania state parks.

24 First of all is supervision. Lifeguards need to
25 be trained in scanning. Properly-trained lifeguards should

1 be able to scan water and should also be trained to identify
2 swimmers that are in distress. New technologies do require
3 supervision and the use of advanced emergency techniques and
4 I'll get into that shortly.

5 The second part is rescue. The lifeguard can be
6 the very quick response to a person in distress in your
7 state parks. There is a dramatic need to get the victim out
8 of the water very quickly. Once a lifeguard identifies a
9 swimmer that is in distress, they should be able to get to
10 them and begin implementing the emergency action plan
11 immediately. A lifeguard should also be trained on victim
12 search protocols should a swimmer go missing. Finding a
13 victim quickly and beginning the emergency response
14 immediately will reduce the chance that a victim will become
15 a fatality in the water.

16 The second part to the rescue is the CPR and
17 oxygen administration as part of your emergency response.
18 As part of that emergency, the lifeguard should be trained
19 in handling an aquatic emergency scene. This will include
20 administering CPR and AED protocols as well as emergency
21 oxygen. This equipment should be available for lifeguards
22 to be used once a swimmer has been extricated from the
23 water.

24 The third step for the lifeguard is implementing
25 the emergency action plan as quickly as possible. They're

1 integral in this part of the emergency. The lifeguard will
2 be the one to initiate the emergency action plan and turn
3 over care to EMS, park rangers or other emergency personnel
4 once they've arrived. The lifeguard should be trained and
5 prepared to provide emergency care to a victim until EMS
6 arrives on the scene.

7 Quick time to advanced care. Once a victim has
8 been extricated from the water and the emergency action plan
9 is initiated, it is vital that the victim receive advanced
10 care as quickly as possible. This gives the victim the best
11 chance for recovery following a submersion event.

12 By passing legislation that requires lifeguards
13 at state parks, the State of Pennsylvania is taking a great
14 step forward in the advancement of aquatic education and
15 safety. Too many times parents and guardians don't give
16 their children the supervision that the aquatic environment
17 demands, placing them at unnecessary risk. By placing
18 lifeguards at state parks with appropriate rules and
19 signage, you can help to educate parents on the need for
20 proper supervision in this environment, while at the same
21 time greatly reducing the chance that a patron of your park
22 system becomes a fatality statistic that could have been
23 prevented.

24 Since Representative Helm also mentions the
25 insurance that YMCAs pay for and it is a direct correlation

1 to their insurance premium when they take their kids to
2 unguarded pools, waterfronts, lakes and beaches, there is an
3 increased cost for the YMCA. There's a cost in the
4 liability that the YMCA must pay, as well as the cost of
5 lifeguards that they must bring along with them in those
6 instances.

7 I appreciate the time that you've given to me
8 and the opportunity to speak in front of you, and I'll take
9 questions at the end.

10 CHAIRMAN SAINATO: All right. Thank you, Brian.
11 We appreciate your testimony.

12 Our fourth and final testifier today is Phil
13 McKnelly, Executive Director of the National Association of
14 State Park Directors. Before you begin, Phil, I'd like to
15 acknowledge that we've been joined by Representative Mark
16 Longietti from Mercer County. So go ahead, Phil.

17 MR. MCKNELLY: Thank you, Mr. Chairman and
18 members of the Committee. I am the Executive Director of
19 the National Association of State Park Directors. I assumed
20 this role after serving 15 years. I assumed this position
21 as the Executive Director of the National Association of
22 State Park Directors after serving as the director of the
23 state park system in North Carolina for 15 years.

24 What I would like to do today is to share with
25 you the results of a survey that we conducted with our

1 membership first back in 2004 at the request of the State of
2 Virginia. And then last year when this hearing was
3 originally scheduled, John contacted me and I resurveyed our
4 membership, and then again we tried again in April and we
5 have had 40 states plus Puerto Rico respond to this survey.

6 Of those 41 respondents, 7 still provide
7 lifeguard services at all swimming areas. New Jersey though
8 was the only state that specified that they require and
9 enforce the no-swimming policy during nondesignated
10 hours and during off-duty days. But the other states did
11 not expand on that except for Delaware and Maryland, and
12 they both encourage folks to swim in protected waters but do
13 not require it. They do allow free swim in areas that do
14 not have lifeguards.

15 Twenty-four states guard in some areas but not
16 others. Nine of those states indicated that they guard
17 swimming pools only, and four of those states distinguish
18 between pools that are open to the public and pools that are
19 associated with lodges or cabins. Those pools that are open
20 to the public are generally ones that do have lifeguards,
21 particularly if a fee is charged for swimming at pools. Two
22 states, Vermont and Wyoming, have only one pool in each of
23 their systems, and two other states, Louisiana and Oregon,
24 have pools in group camps that require the groups renting
25 that camp to provide lifeguards.

1 Of those states providing guard services at
2 beaches, five state encourage swimmers to use guarded
3 beaches but do not prohibit open swimming. Two states,
4 Hawaii and Massachusetts, guard only the most heavily used
5 beaches, and two states, Indiana and Ohio, guard only those
6 beaches on Lake Michigan and Lake Erie.

7 You have in the written testimony a history over
8 the last ten years of Ohio which shows that ten years ago
9 they did have guards at two thirds of their swimming beaches
10 on the Great Lakes and today they have less then 10 percent
11 of their beaches guarded in Ohio.

12 Nevada and New Mexico guard only one swimming
13 beach in their respective states. In Nevada it is at Lake
14 Tahoe and it is because of the high number of swimmers and
15 the temperature of the water, the cold waters there.

16 The bottom line as a result of this survey, the
17 result showed that more than 82 percent of the respondents
18 reported operating at least some of their swimming areas
19 without lifeguards.

20 In conclusion, I think in a perfect world
21 everybody would have lifeguards everywhere, and I certainly
22 can't disagree and I'm sure John would not either with a
23 zero-drowning goal that any agency would want to pursue. If
24 this survey had been conducted 10 to 15 years ago, I think
25 the responses would have been much, much different.

1 However, there have been a variety of issues that have
2 surfaced over the last ten years to make the provision of
3 lifeguards at all swimming areas extremely difficult, if not
4 impossible.

5 First of all, and I'm not familiar with the
6 situation in Pennsylvania, but in most states private pools
7 and many municipal and county pools have much higher pay
8 scales than state parks do. Many state parks are in remote
9 areas with relatively small pools of potential seasonal
10 employees. Many young people want to take the last few
11 weeks of summer off, leaving swimming areas without
12 lifeguards during much of the month of August and over the
13 Labor Day weekend. And it is my experience, and that was
14 borne out in this survey, that when you have a system that
15 has lifeguards part of the time but not other parts of the
16 time, I think you have the most unsafe situation you can
17 have.

18 One of the directors responding indicated that
19 he had stopped lifeguarding at one of the areas -- or that
20 state's areas when he realized that they were having
21 lifeguards from eight to five and then the lifeguards would
22 pull out a sign saying no lifeguards were on duty, put that
23 on their lifeguard stand and go home. What he realized is
24 he had campers and picnickers who would spend the afternoon
25 in a guarded pool, go for their evening meal and the parents

1 would let the kids return to the swimming beach assuming
2 there were lifeguards. The kids are not going to pay
3 attention to that sign, and those parents are going to be
4 under the misconception that the pool is still guarded or
5 the beach is still guarded and that the kids do have
6 supervision.

7 Based on these points I believe that if
8 Pennsylvania creates or enacts a statute that requires
9 guards at all pools and all beaches during all times that
10 they are open you are going to create a situation that is
11 unmanageable for the state park system and/or you will have
12 many of your areas that will be closed simply because guards
13 are not available, and that will happen particularly towards
14 the end of the summer even for those pools where they can
15 find guards early in the year.

16 I'll close with the quote from the Deputy
17 Director of New York which was one of those states that does
18 try to provide guards everywhere. He said, I dream of
19 following the California model and would hope something like
20 their reasonable policy would arise from our current budget
21 crisis.

22 With that I will end my testimony and will
23 certainly be happy to try to answer any questions you may
24 have. Thank you for this opportunity.

25 CHAIRMAN SAINATO: Thank you, Mr. McKnelly. I

1 do have a question. I have a question for John. John, how
2 many incidents have there been at our state park system over
3 the last few years?

4 MR. NORBECK: Like I said, we've had -- in our
5 swimming areas we've had three drownings since 1998. On
6 average we probably have five to eight drownings in state
7 parks every year. Many of those are boaters, folks that
8 swim outside the designated swimming area.

9 CHAIRMAN SAINATO: How many actually have
10 happened within the swimming area with a lifeguard present?

11 MR. NORBECK: Two.

12 CHAIRMAN SAINATO: Two?

13 MR. NORBECK: Yes. Over the last eleven years
14 we've had three drownings in designated swimming areas. Two
15 of those drownings were when we had guards on duty. One was
16 the one last year at Fuller Lake where there was no guards
17 on duty there.

18 CHAIRMAN SAINATO: Phil, you'd done a lot of the
19 research at a national level. In other states where do we
20 rank as far as incidents?

21 MR. MCKNELLY: I do not have statistics on
22 drownings from various states. I really can't respond to
23 that. I'm sorry.

24 CHAIRMAN SAINATO: Okay. But you're saying how
25 many states have lifeguards and how many states don't have

1 them?

2 MR. MCKNELLY: Well, 82 percent of these states,
3 and I can give you that number, indicated that they do not
4 provide lifeguards at every swimming area. There were only
5 seven that indicated that they try to provide lifeguards at
6 each area, and some of those indicated that they don't
7 require people to swim in those areas. Only 7 of
8 the 42 -- or 41, excuse me, responded that they do require
9 people to swim in guarded areas.

10 CHAIRMAN SAINATO: Okay. Thank you. We're
11 going to take questions. Our first question comes from
12 Representative Ellis.

13 REPRESENTATIVE ELLIS: Thank you, Mr. Chairman.
14 And first of all I'd like to commend Representative Helm for
15 her lead on this issue. I know since she got here last term
16 it's been a focus of hers. And although I do not have a
17 state park in my district, I am close enough to Moraine
18 State Park that many of my constituents have weighed in on
19 this issue.

20 First of all, Mr. Norbeck, if you can clear up a
21 couple things for me that I really didn't fully understand
22 when you testified. You said on Page 1, our safety record
23 during this period is strong and our customers tell us they
24 like the open-swim program. You went on on Page 3 to say,
25 we have received many encouraging positive comments from

1 swimmers. Are we going to be provided with that survey that
2 you did? How did you obtain those comments? Did people
3 just fill out a comment card or are you soliciting that
4 feedback, or is it, you know, a couple people came into the
5 office and said they liked it this way?

6 MR. NORBECK: As part of trying to understand
7 what the public response is to the policy, we've asked park
8 managers to make notations of comments. Some of those are
9 in writing, some of them are verbal.

10 I believe in your packet there's probably -- and
11 again we have not received that many letters, but I think
12 there are some statistics on a statistical page.

13 Also, as part of the process, we've actually
14 asked the park managers to report that back out, and I think
15 you'll see on Page 1 of the open-swim general statistics it
16 gives you some insight into the types of comments that were
17 given.

18 REPRESENTATIVE ELLIS: Okay. Well, do you know
19 does the department plan on doing a more formal survey of
20 their customers or is that -- you're just going to continue
21 down the path that you're on?

22 MR. NORBECK: We don't have any plans to do a
23 formal survey.

24 REPRESENTATIVE ELLIS: Okay. Well, moving on,
25 you say on Page 4 that the swim programs at many or all of

1 the inland beaches, more than 40 states have great
2 successes. What does that mean, great successes? No
3 drownings?

4 MR. NORBECK: I would doubt that. The level of
5 its success is what's been reported to us from those states.

6 REPRESENTATIVE ELLIS: Okay. And then another
7 that I'm unclear on, because again I'm going on comments
8 from my constituents who come in and say they're less likely
9 to go to Moraine and swim because they're not guarded
10 beaches, but you say if we go with this policy that you
11 create greater attentiveness on the part of parents leading
12 to a better overall family atmosphere.

13 How does not having a lifeguard make a family
14 atmosphere better?

15 MR. NORBECK: It requires the parent or
16 guardians to be with their kids in particular down on the
17 beaches. The scenario I gave you at Cowans happens hundreds
18 of times a day in state parks throughout the system where
19 the parents will drop the kids off.

20 What's been reported to me from my park
21 managers, and I have great trust in what they're telling me,
22 is that they're seeing much more larger family groups down
23 on the beach, that the kids are going down to swim, Mom and
24 Dad or Mom or Dad goes down with them. That's also
25 reported -- it's all antidotal, but it's also reported from

1 other states that have seen the same types of behavior.

2 REPRESENTATIVE ELLIS: Thank you very much. And
3 then just finally if I can move over to John, you had -- no.
4 Phil. Sorry. Phil, your survey, one of the issues we've
5 been wrangling with here in Pennsylvania is as far as how
6 are we going to operate our state parks going forward and
7 we've been over the last few years under Gary Haluska's lead
8 really been looking at the opportunity to take a
9 public-private partnership perspective in bringing in
10 outside companies to run the state parks. And we found in
11 other states that it really controls the costs as far as
12 employing -- you know, having employees at the state parks.

13 In your survey did you take into consideration
14 what states have already moved in that direction, and, if
15 so, do you have a report that says, you know, in West
16 Virginia they have a state park and all their beaches are
17 covered because it's privately run? And do you have any
18 kind of information along those lines, and, if not, can you
19 obtain that for us?

20 MR. MCKNELLY: The short answer is no. We did
21 not include a question about privatization in the operation
22 of the parks. My -- this is my assumption would be that if
23 it's difficult for the state to get those guards, it would
24 be difficult to make that profitable for a commercial
25 operation. And I have not heard of states who are trying to

1 privatize the management of their beaches.

2 REPRESENTATIVE ELLIS: And, Brian, have you had
3 any inquiries from any states that are interested in having
4 you come in and manage some of their swimming operations?

5 MR. HECKLE: We have not. But I would imagine
6 that that would be Ellis and Associates as well as
7 Starguard, another nationally accredited lifeguarding
8 program. They administer lifeguarding at many waterfronts,
9 wading pools, large aquatic centers and have had those kinds
10 of input. I can do some more research and get that to you
11 if you'd like.

12 REPRESENTATIVE ELLIS: I think the committee
13 would greatly appreciate it.

14 Thank you very much, Mr. Chairman.

15 CHAIRMAN SAINATO: Thank you, Representative
16 Ellis. Representative Siptroth.

17 REPRESENTATIVE SIPTROTH: Thank you, Mr.
18 Chairman. And I, too, want to applaud our prime sponsor of
19 the bill. But I have a couple of concerns. Number one,
20 certainly is our budgetary limitations that we're faced with
21 today.

22 John, do we -- do you know does Pennsylvania
23 charge a fee at all or most or none of our facilities where
24 swimming is permitted?

25 MR. NORBECK: In the parks that have lakes and

1 creeks where we have swimming also present, we do not charge
2 an entrance fee at those places. In some of our pools,
3 particularly the ones in the southeast part of the state, we
4 do have a pool fee there.

5 REPRESENTATIVE SIPTROTH: Okay. So it's sort of
6 a mixed bag at this time and the financial burden falls on
7 those facilities that we are charging a fee for to cover the
8 costs of guarding those particular facilities that we do not
9 have a fee?

10 MR. NORBECK: That certainly helps, but it does
11 not -- the fees that we charge do not pay for the overall
12 operation of the parks, if that's what you asked.

13 REPRESENTATIVE SIPTROTH: Another question is
14 what do you attribute the lack of individuals' interests in
15 becoming guards or is it just that because we have had so
16 many water parks open lately that the private pools have
17 guarded facilities and have a need for a number of guards
18 for those facilities? Is that basically what it is? Is it
19 really a wage disparity thing?

20 MR. NORBECK: I think that's a fair observation.
21 There's a lot more involved in getting folks particularly in
22 becoming a lifeguard. And I can tell you from my experience
23 and also, frankly, the things that I've read, you can look
24 at the American Lifeguard Association Web page, there's
25 articles in there that go back to the late '90s that refer

1 to the problem of recruitment of lifeguards and they cite
2 things such as fear of skin cancer, generally kids prefer to
3 take a job indoors instead of outdoors. So there's a number
4 of things that add into the ability to recruit guards.

5 But we have seen a dramatic shift over the last
6 decade. It's just become harder and harder to get guards.
7 And those places where we have been successful in obtaining
8 enough guards to staff, then we run into that problem of
9 actually being able to keep them on past say mid-August,
10 whether they go back to school because they're playing on
11 the football team and they start summer sessions the middle
12 of the month or whether they go on a summer vacation or they
13 just want some time off before they go back to school if
14 they're at a college or university.

15 REPRESENTATIVE SIPTROTH: Would it be beneficial
16 to -- and I think I'm a sponsor of Representative Scavello's
17 bill -- to limit the start of school until after the Labor
18 Day holiday? Would that help your cause in fact to provide
19 more guards or is it because of the age requirements of
20 guards that they start college and we certainly aren't going
21 to control that?

22 MR. NORBECK: I think I would just be
23 speculating on that. But I would think that -- we saw a
24 dramatic change in retention when schools started earlier.

25 REPRESENTATIVE SIPTROTH: Okay. That sort of

1 answers the questions. And just one more if you'll indulge
2 me. Do you have any statistics of assistance that has been
3 provided by guards at the beaches for the last ten years
4 other than the statistics that were provided so that we have
5 an idea of, you know, near drownings and other types of
6 assistance that they may have? And if you don't have it
7 today, do you have something, and, finally, could you get
8 that to us?

9 MR. NORBECK: Yes, that question has been asked.
10 And, no, we do not have that data.

11 REPRESENTATIVE SIPTROTH: You don't have it at
12 all. I see. Thank you very much. Thank you, Mr. Chairman.

13 CHAIRMAN SAINATO: Thank you, Representative
14 Siptroth. Representative Haluska.

15 REPRESENTATIVE HALUSKA: Thank you, Mr.
16 Chairman.

17 A couple comments, and there may be some
18 questions that arise out of this. I understand
19 Representative Helms' concern for this, but I think if you
20 look at the state park system, and I followed it for the 15
21 years that I've been here, the problems that the state parks
22 are having as far as keeping people on the ground and
23 keeping parks open and running -- I have a park, Prince
24 Gallitzin State Park is 4 miles from my home, and I had two
25 nephews and a niece that went through the lifeguarding

1 program and spent many years out there during their college
2 career. And some of the input that I get from them comes
3 back to what Mr. Norbeck said, that people have the tendency
4 when a beach is guarded to drop their kids off and leave,
5 and, you know, that's irresponsible for some parents but
6 it's a baby-sitting service basically.

7 And I think there's a big difference between a
8 pool and a beach area at a state park. Most of the beach
9 areas at a state park, as John mentioned, run up to 5, 6
10 feet of water. There's more wading than there is swimming.
11 In a pool situation there's diving, there's sliding boards,
12 there's deeper water obviously. You know, the dive, it's at
13 least 10 or 12 feet deep. So, you know, it's a whole
14 different ball game in pools. And I understand guarding
15 pools makes a lot more sense than guarding beaches.

16 And it's kind of ironic, but the federal
17 people -- at Lake Raystown it's 380 feet deep. I can take
18 my boat out in the middle of Raystown and I can swim
19 anywhere I want and the federal government doesn't have a
20 problem with that. Neither do they at Bald Eagle or
21 anywhere else in federal water.

22 And I think it just comes down to responsibility
23 for the people that are in the activity and, you know, it's
24 a huge cost. As John said, just to have the state
25 lifeguards in the Pennsylvania state parks is over \$1.2

1 million. If you look at the Senate budget that they just
2 kicked out a few days ago, the state park system is going to
3 take a horrendous hit. They are going to have to close
4 parks. Not only not have lifeguards at parks, they're
5 actually going to have to close some parks if that budget
6 actually gets passed into law.

7 So, you know, on those issues alone, you know,
8 trying to reinstate lifeguards at all of our beaches at our
9 state parks and I know Prince Gallitzin State Park in
10 the '50s when it was incorporated and came on line in the
11 late '50s, early '60s, the beach areas were very crowded.
12 Today when you have swimming pools in everybody's backyard
13 and you have a lot of country clubs and all of these other
14 places, the beach areas are not as crowded.

15 And I don't know about the rest of the parks.
16 I'm going by the one that's in my backyard. There were
17 three actual beach areas at one time and that's been
18 condensed to one swimming area basically.

19 So, you know, my thought, I would like to see
20 the state parks liberalize, you know, swim at your own risk.
21 They call it bobbing, you're actually allowed to jump off of
22 a boat and bob, they don't call it swimming. But, you know,
23 take the lead of the federal government and let people be a
24 little bit more responsible for what they do and make sure
25 parents, you know, watch their children. Thank you.

1 CHAIRMAN SAINATO: Thank you, Representative
2 Haluska. We have Representative Samuelson.

3 REPRESENTATIVE SAMUELSON: Thank you. Also, I
4 wanted to follow up with a budget question. I know you
5 testified earlier about the cost of this proposal possibly
6 being \$1.3 million to implement?

7 MR. NORBECK: Yes.

8 REPRESENTATIVE SAMUELSON: I also want to note
9 that the State Senate has passed a version of the budget
10 that reduces funding for state parks by 13.9 percent. And
11 I know there's also a house bill out there to reduce all
12 state appropriations by 10 percent across the board which
13 has about a dozen sponsors, including four of the sponsors
14 of this bill about the lifeguards.

15 So I guess my question is a two-part question.
16 Would it be possible to provide the lifeguards that are
17 requested in this bill if you had either a 13.9 percent
18 reduction as the Senate has proposed or a 10 percent
19 reduction as this one house bill proposes? And part two
20 would be what impact on existing state park operations would
21 you have in the coming year if the 13 percent or the 10
22 percent reduction would come to pass?

23 MR. NORBECK: To be quite honest, I'm not sure
24 that we could support the bill -- if we had the opportunity
25 to hire enough guards as outlined in the bill to cover all

1 of our beaches that we could support that with the existing
2 budget, let alone the 10 percent reduction budget or 13.41
3 percent budget reduction.

4 We have -- we're very early in looking at the
5 potential effects of the Senate bill which is a 13.5 percent
6 budget reduction, and we're looking at the possibility of
7 drastically reducing or closing facilities at 35 state
8 parks. Now, that's -- and that was a very quick assessment
9 of the bill. And my folks are actually looking at it right
10 now trying to further define that. But that would give you
11 a feeling for what a 13 or 13-and-a-half percent reduction
12 would do to the state park system in Pennsylvania.

13 REPRESENTATIVE SAMUELSON: Thank you. And I
14 encourage you to keep in touch with this committee. As you
15 know, the House will be having its own version of the budget
16 and I just wanted to ask about the impact of the Senate
17 version. Thank you.

18 CHAIRMAN SAINATO: Thank you, Representative
19 Samuelson. We have Representative Costa.

20 REPRESENTATIVE COSTA: Thank you, Mr. Chairman.
21 I guess my question is for Director Norbeck. One, the ages
22 of the drowning victims, do you know what they were? Were
23 they juveniles? Were they children?

24 MR. NORBECK: The young man that drowned at Pine
25 Grove Furnace was 17 I believe. The second one, I think

1 that young man was 12, and the third I don't remember.

2 REPRESENTATIVE COSTA: Could you get that for
3 us, please?

4 MR. NORBECK: Yes.

5 REPRESENTATIVE COSTA: And, secondly, with no
6 lifeguards, who warns people about lightening? It's a big
7 factor, and I know any beach that I've ever been on the
8 guards are the ones that get you off because some people
9 just don't comprehend the nature of the danger.

10 MR. NORBECK: We provide signage at the parks
11 for folks to seek shelter in lightening storms. We also
12 have park rangers, depending on the site location, that if
13 you need to make an announcement over a PA system or
14 actually go throughout the area to clear both picnic areas
15 and waterways.

16 REPRESENTATIVE COSTA: Can we trust that as much
17 as having someone on site saying you need to get out of the
18 water? I mean, like I said, I've been in Florida and all
19 over and people are swimming and guards are actually having
20 to go on their bullhorns. I mean if you're not on site,
21 people don't understand the danger.

22 MR. NORBECK: When there's lightening in the
23 area, we have our staff -- if we had guards on beaches we
24 would have our staff make the announcement and leave the
25 area also for their safety. Many of the beaches have PA

1 systems within the building structures so they would
2 actually come on.

3 REPRESENTATIVE COSTA: Is that automatic? Is
4 there a system in place that would warn swimmers to leave
5 the water and is it at every beach that we have that?

6 MR. NORBECK: There is not an automatic system
7 that triggers an announcement, no.

8 REPRESENTATIVE COSTA: Okay. Thank you very
9 much. Thank you, Mr. Chairman.

10 CHAIRMAN SAINATO: Thank you, Representative
11 Costa. Representative Longietti.

12 REPRESENTATIVE LONGIETTI: Thank you, Mr.
13 Chairman. If I understood the testimony correctly, a large
14 part of the decision to go to open swim was because of the
15 inability to recruit and find lifeguards, if I heard that
16 correctly. And I understand there is certainly a
17 significant difference and it's been illustrated here
18 between state parks and lakes versus private pools.

19 But I'm curious, maybe Mr. Heckle could shed
20 some light, do you know whether or not the YMCAs, the Jewish
21 Community Centers that your company insures, have they had
22 difficulty in finding lifeguards? How has that played out?

23 MR. HECKLE: Yes, YMCAs and Jewish Community
24 Centers, it is a nationwide problem, not just for state
25 parks, but for everyone to find and recruit and train the

1 lifeguards. It is a national problem.

2 REPRESENTATIVE LONGIETTI: And the ones that
3 have been able to successfully do that, are there any keys
4 in your mind to how they were able to find lifeguards and
5 keep lifeguards?

6 MR. HECKLE: It's finding lifeguards that come
7 back year after year. It's also finding lifeguards that
8 want to make it a profession. In Europe lifeguarding is a
9 profession and it's treated as such and that's how they
10 succeed on the other side of the pond. Over here it's not
11 and it's much more difficult. But having lifeguards that
12 come back over and over again instead of having to retrain
13 every year definitely helps.

14 REPRESENTATIVE LONGIETTI: In the case of your
15 customers, are they tending to employ people on a year-round
16 basis or is it part-time seasonal? How does that work?

17 MR. HECKLE: Most lifeguards are a part-time
18 seasonal. They are in college. They will lifeguard and
19 they'll have different lifeguards for the summer as they
20 would for other parts of the year. Those lifeguards who
21 they might have during the wintertime, they may go to
22 another YMCA as well and lifeguard when they get back to
23 their hometown YMCA.

24 REPRESENTATIVE LONGIETTI: I'm wondering, too,
25 is there -- is there any potential for partnerships between

1 say a YMCA and a state park that's located not too far away
2 where perhaps a person could be shared to some extent and
3 that could lead to a viable pool of people?

4 MR. HECKLE: I would foresee that being
5 something that the national YMCA would be willing to look
6 into. YMCAs also do a lot of -- most of the YMCAs do their
7 own lifeguard training, and they train for not just their
8 YMCA staff but for the country clubs, the other water parks
9 that might be in the town, they train those staff as well.

10 MR. NORBECK: Where there are YMCAs that are
11 located near the parks, that's one of the first places to
12 recruit. As a side benefit of that, we have and we
13 still -- we've had it in the past and we still have
14 currently some locations where the YMCA actually goes out to
15 the park and uses our facilities to teach their kids to
16 swim. And our hope is that is part of that recruiting
17 process.

18 REPRESENTATIVE LONGIETTI: Thank you, Mr.
19 Chairman.

20 CHAIRMAN SAINATO: Thank you Representative
21 Longietti. Representative Helm.

22 REPRESENTATIVE HELM: Thank you. Just a couple
23 comments. It just seems like -- I know we're in a budget
24 crunch, that we all know. But it still seems like
25 everybody's concerned about the safety. Everyone testified.

1 I don't think anyone up here has said that they weren't.
2 Lifeguard training, the recruitment and retention issue, I
3 just found out something now. I did not know that in Europe
4 that lifeguard is a profession. And that's why I was
5 thinking listening to everybody testify, why don't we look
6 towards something like that here.

7 Right now there's a lot of people complaining
8 about property taxes and they're paying a lot of money
9 because of the pools that are being put in schools. So I
10 mean obviously there's pools there. Why aren't the kids
11 being trained, you know, from high school on.

12 And, also, unemployment right now, I'm sure
13 there's a lot of people out there that would like to have
14 jobs that are older people. And we're talking about
15 retraining. Couldn't that be a program that we teach adults
16 to be lifeguards.

17 As far as, you know, the school time, we're
18 talking about maybe extending the school time so I don't
19 think we can always look at the student, you know,
20 graduating from high school and when they're in college
21 being a lifeguard, so then we'd have to look adults. So I
22 do think that's interesting because I had no idea that in
23 Europe it was a profession. I think that that's what maybe
24 we'd have to think about here. So just some ideas for us to
25 explore.

1 I think there was a lot of good testimony today,
2 a lot of ideas, and I think some we can correct and some we
3 can look into for the future and try and work on it to get
4 this. I'll always advocate that there should be lifeguards
5 at state park beaches. I'm not going to back down now. I'm
6 just going to have to figure out how it can be done and done
7 efficiently. So thank you.

8 CHAIRMAN SAINATO: Thank you, Representative
9 Helm. Representative Boyd.

10 REPRESENTATIVE BOYD: Thank you, Mr. Chairman.
11 I had -- unfortunately I was here in the beginning, I had to
12 step out for a brief meeting and came back so I missed a
13 little bit. So if this is duplication, I apologize.

14 I understand that you said roughly a little over
15 a million dollars to put lifeguards back. When there's an
16 incident, somebody gets hurt or dies, is the state liable?

17 MR. NORBECK: I think we have some liability
18 issues --

19 REPRESENTATIVE BOYD: What's that cost us?

20 MR. NORBECK: -- in an incident in any state
21 park.

22 REPRESENTATIVE BOYD: What do we spend on those
23 liability issues annually?

24 MR. NORBECK: I can't answer that.

25 REPRESENTATIVE BOYD: I think that's a pertinent

1 question, Mr. Chairman. If we're saving \$1.3 million and
2 we're spending 6 million or 10 million or whatever in terms
3 of legal fees and in payouts, it would seem to me that that
4 would be being penny wise and dollar foolish. So I think
5 that there should be an analysis that's provided for us to
6 understand as policymakers if we continue down this road of
7 an open swim what liability could we subject the state to
8 and ultimately the taxpayers to in that regard.

9 So the second part of the question I have is
10 have you ever looked into training and certifying full-time
11 employees in lifeguarding?

12 MR. NORBECK: No, we have not.

13 REPRESENTATIVE BOYD: Is there any reason that
14 that couldn't be done?

15 MR. NORBECK: It would be -- it would be
16 difficult to employ a lifeguard that's going to arguably
17 work for you for four months at a time.

18 REPRESENTATIVE BOYD: I guess the point I'm
19 trying to say is to the point the previous speaker made
20 about in Europe that's seen as a profession -- you know,
21 this may come as a surprise to you, but I've actually been
22 certified as a lifeguard. It's not that difficult to do.
23 And I would suggest that you may want to take a
24 different -- take a different thought process in this and
25 have full-time employees, state officers, and encourage them

1 to take lifeguarding classes and become certified and maybe
2 you can use staff on peak hours.

3 You know, as an example, you don't have to
4 provide guards from, you know, dawn until dusk so to speak.
5 There are locations where guards are on duty and I would
6 submit that they are well trained. Anybody who goes to the
7 Jersey shore over the summertime, those guards show up I
8 believe at ten or eleven in the morning and they're there
9 until about five o'clock. And when they leave they whistle,
10 everybody comes out of the water, there's flags waved, and
11 everybody knows those beaches are no longer guarded.

12 So there are potentially ways of implementing
13 policy. So just my two comments would be, one, is we
14 shouldn't be, you know, penny wise and dollar foolish. If
15 we're enduring substantial legal exposure, we should look at
16 that and we should have that as a cost analysis in the
17 decision-making process.

18 And, secondly, I don't think that it was
19 necessarily mutually exclusive that we can't train full-time
20 employees to -- that a part of their job description and
21 part of their responsibility of being a part of the parks
22 would not be to man beaches on peak hours. Just a couple
23 suggestions. Thanks, Mr. Chairman.

24 CHAIRMAN SAINATO: Thank you. Mr. Graci may be
25 able to answer that.

1 MR. GRACI: I don't believe a cost analysis
2 would be necessary because we handle all of these types of
3 cases with our in-house counsel. And I have spoken to them
4 about this issue and they said that over the last ten years
5 we've had almost nobody sue us over a drowning. So the fact
6 that it's in-house counsel the cost to the Commonwealth is
7 very, very minimal for this.

8 CHAIRMAN SAINATO: Thank you, Mr. Graci.
9 Representative Moul.

10 REPRESENTATIVE MOUL: Thank you, Mr. Chairman.
11 I was going to kind of finish up on that, but since we are
12 on that topic right at the moment, if I'm not mistaken,
13 Katie McGinty before she left DEP made many commercials I
14 watched on TV stating how you should stay away from quarry
15 holes and unguarded waters in Pennsylvania, how it could be
16 a risk and that you just shouldn't do it. And then here we
17 are providing swim areas that are unguarded.

18 Do you think that sounds hypocritical in any
19 way, shape or form? I mean I'm just throwing this idea out
20 there. On one hand we're saying, well, don't swim here,
21 we're going to provide you a place to swim, and then on the
22 other hand we're saying, swim here, we're not going to guard
23 you anyway. It kind of doesn't make sense to me.

24 But first question for John. By the way, do you
25 feel like you're on the hot seat today?

1 MR. NORBECK: It's not as bad as I thought it
2 was going to be, but it's not over yet.

3 REPRESENTATIVE MOUL: Well, I'm not done yet.
4 Just some informational questions I guess. What's the
5 youngest age you can be to be a lifeguard at a state park?

6 MR. NORBECK: We've hired some kids that are 15
7 years old.

8 REPRESENTATIVE MOUL: All the way back to 15.
9 Okay. Great. Great. And I did take notice that you pay a
10 little over \$10 an hour. I assume that's starting?

11 MR. NORBECK: Yes, sir.

12 REPRESENTATIVE MOUL: I guess in this day and
13 age -- you know, when I was a kid, ten bucks an hour was the
14 whole world. But in this day and age I guess ten bucks an
15 hour isn't that much. But one thing as an employer that I
16 noticed over the years, if I advertised low wages, I didn't
17 get anybody to apply. But if I advertised a higher wage,
18 you pay it and they will come so to speak.

19 So that is going to lead me right into my budget
20 question that you say that this would cost a little over a
21 million dollars to staff our state parks with lifeguards at
22 least during the peak hours?

23 MR. NORBECK: That's correct.

24 REPRESENTATIVE MOUL: And this is probably a
25 little out of your realm, but I'm going to throw it out

1 there anyway. I think the number was 57,000 acres that DCNR
2 leased for Marcellus Shale drilling this year, this past
3 year, to the tune of how many million?

4 MR. NORBECK: I think it was something like
5 74,000 acres, and I think the original bids were 190 but one
6 of the bidders dropped out so I think it's something like
7 \$154 million.

8 REPRESENTATIVE MOUL: So with that \$154 million
9 that wasn't in the budget that was kind of like bonus money
10 so to speak, you could pay for lifeguards for a hundred
11 years.

12 MR. NORBECK: Is that a question or a statement?

13 REPRESENTATIVE MOUL: If you divide \$150 million
14 by the 1.2 and calculate the inflation in, would that not be
15 enough to pay for lifeguards at our state parks for the next
16 hundred years?

17 MR. NORBECK: It would, yes.

18 REPRESENTATIVE MOUL: So obviously it's not a
19 money issue; it's a priority issue.

20 MR. NORBECK: I tried to make this clear very
21 early on, it has never been a money issue when we moved into
22 this policy. It was a recruitment and retention issue.
23 Certainly, there are some savings but that was never the
24 intent of moving to open swim.

25 I think very clearly if we had the ability to

1 recruit enough guards and retain enough guards in 1998 when
2 this started that we would be fully staffed today with
3 lifeguards. It's not been a question whether or not we
4 wanted to hire and employ lifeguards. It's an operations
5 issue is what it is. It's not a monetary issue.

6 REPRESENTATIVE MOUL: And I guess -- and I'll
7 finish with just this statement. I guess if we were -- we
8 were catching the lawsuits from instances, and lawsuits were
9 obviously being awarded, just awards were being awarded, I
10 guess we would then somehow figure out how to fix that
11 operational issue so that we would have lifeguards there.

12 I guess where I'm going with that is that if I
13 have on private land a pond or a lake and I had a sandy area
14 and I said, if you want to swim, swim, and some youngster
15 goes in there and gets hurt or, God forbid, fatally injured,
16 I would be open and probably sued, my liability insurance
17 would be tested to the max. Why is it that when someone
18 gets injured or fatally wounded in a state park that's not
19 the instance?

20 MR. NORBECK: We have a pretty good safety
21 record. As I testified earlier, we have had three drownings
22 over the last eleven years. And if you look over three
23 million visitors a year, I would consider that a good safety
24 record. We would like to have it down to zero absolutely.

25 As far as the liability goes, I only know of one

1 case that involves our waterfront management and that was a
2 lifeguard who sustained some injuries at one of our pools.
3 I don't know for sure about the other cases. I feel fairly
4 confident that if we have been sued because of a
5 water-related incident it's been minimal or some time ago.

6 REPRESENTATIVE MOUL: One last question, and
7 this is a hypothetical. When the day comes that we do enter
8 into public-private partnerships to allow resorts to lease a
9 piece of ground at a state park along a lake, would you
10 require that partnership, that entity, if they had a beach
11 at their hotel or whatever it is, that they staff it with a
12 lifeguard?

13 MR. NORBECK: I would not hold them to any
14 higher standard than I would hold the Commonwealth.

15 REPRESENTATIVE MOUL: Good answer. Thank you,
16 sir. I appreciate it. Thank you.

17 REPRESENTATIVE HALUSKA: Chairman. John, I've
18 got a question for you. On the Marcellus Shale, I understand
19 that the money that's brought in on the Marcellus Shale that
20 the Governor was taking a good portion of that money and
21 moving it over to the budget out of the Oil and Gas Fund.

22 Wasn't there a -- how do you want to say
23 it -- approach to DCNR or talk to DCNR about taking that
24 money out of the Oil and Gas Fund and moving it to the
25 general budget stream to help balance the budget?

1 MR. NORBECK: I'm certainly not an expert on oil
2 and gas. I wish I were so I can answer your questions. I
3 know there's been a number of folks very interested in the
4 oil and gas proceeds.

5 REPRESENTATIVE HALUSKA: Right. And that's a
6 separate fund within DCNR when they have any oil and gas
7 leases.

8 MR. NORBECK: That's correct.

9 REPRESENTATIVE HALUSKA: That the executive
10 director -- the Secretary wouldn't have the ability say
11 where the money is spent.

12 MR. NORBECK: Yes.

13 REPRESENTATIVE HALUSKA: And I understand that a
14 good portion of that money is moving over to try to balance
15 the general fund.

16 MR. NORBECK: That's my understanding also. I'm
17 not an expert.

18 REPRESENTATIVE HALUSKA: Representative Moul
19 asked that question and I just -- I did see something where
20 that money is not laying in DCNR, that's it going to be
21 tried to be used, the majority of that.

22 MR. NORBECK: I feel pretty confident that we
23 would not have access to that.

24 REPRESENTATIVE HALUSKA: Right. And on the
25 other comment about employees, I know the park that I

1 represent, obviously it's in my backyard, there are a third
2 of the amount of employees there that there used to be
3 twenty-some years ago so they've cut it to bare bones, the
4 staff at the park. So, you know, the idea of taking that
5 staff, making them do dual roles such as lifeguards and
6 maintenance people, people that are, you know, patrolling,
7 maintenance of the park, would be kind of hard to do with
8 the bare bones staff that they have now.

9 And I don't even know in the summertime what
10 it's going to look like at that park because it's always a
11 fight for each park director every year to even staff up for
12 the summertime to keep the grass mowed, to keep the picnic
13 areas in shape, to keep the rest rooms clean and all those
14 things. So, you know, if the budget is as dire as it is,
15 it's going to put a real strain on most of the parks and the
16 staff, the limited amount staff that we have now, to even
17 run the parks.

18 MR. NORBECK: Yes. And the only thing I can add
19 to that is that when we looked at -- when we did look at our
20 employees and we do have some other employees that -- say a
21 maintenance employee that has first aid training or CPR
22 training, that type of thing, we actually talked about the
23 possibility of requiring that as part of the jobs, and
24 certainly not part of their job specification. We do have
25 that in our rangers and we require that for our rangers and

1 our DCR rangers.

2 CHAIRMAN SAINATO: Thank you, Representative
3 Haluska.

4 I'd like to thank the four testifiers who came
5 here today. I'd like to thank Representative Helm for your
6 legislation, bringing it forward. This is an issue I think
7 that deserves a hearing and a chance to hear varying views.

8 And I would like to thank everyone for coming,
9 and this meeting is adjourned.

10 (Whereupon, the hearing was adjourned at 12:20 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me on the within proceedings, and that this copy is
4 a correct transcript of the same.

5

6

7

8

Pamela L. Packer

9

Court Reporter-Notary Public

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24