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March 13, 2003

Senator Ann O'Connell
Chair, Senate Committee on Government Affairs
Nevada Senate
401 So. Carson Street
Carson City, NV 89701

U.S. Regular Mail
and

Electronic Mail: aoconnell@sen.state.nv.us

Re: Senate Bill 225

Dear Senator O'Connell:

Thank you for this opportunity to offer comments in writing on the effect of Senate Bill 225 on holders of debt instruments issued by general improvement districts created under Chapter 318 of the Nevada Revised Statutes and predecessor statutes.

If Senate Bill 225 is not enacted and if the result would be that a GID existing under NRS Chapter 318 is not able to petition for reorganization under Chapter 9 of the federal Bankruptcy Code, then in the event that such a GID suffers a severe financial emergency, the provisions of NRS Chapter 354.685 would be triggered if the State of Nevada Department of Taxation ("DOT") determined that the district has incurred debt beyond its ability to repay. I am not aware of a circumstance where a Nevada GID suffered a final judgement which involuntarily imposed on the GID debt beyond its ability to repay but, it would seem reasonable to assume that such a final judgement would trigger the NRS 354.685 process just as a voluntary debt would. Following the hearings conducted pursuant to that process either the DOT or the County Commission in the county where the GID is located would eventually be forced to take corrective action, either under NRS Chapter 354 or under NRS 318.515. In either event, NRS 318.490 should protect holders of outstanding debt of the GID who should be paid or whose debt should be assumed by the resulting responsible unit of government. Assuming that the State and the county are not insolvent at that time, the opportunity to use Chapter 9 of the Bankruptcy Code to resolve the situation would be lost.

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EXHIBIT G Senate Committee on Gov't Affairs

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Senator Ann O'Connell
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If Senate Bill 225 is adopted and if a Nevada GID does have access to Chapter 9 of the Bankruptcy Code, then the holders of revenue bonds issued by the GID would enjoy the special status accorded to them under the Bankruptcy Code. Section 928 of the Bankruptcy Code preserves the status of revenue bond holders. They are not elevated to the status of holders of general obligation bonds (Section 927) and cannot expect to be paid back from the taxpayers of the municipality, but they do retain their lien on project revenues post petition and so, unlike secured creditors in other bankruptcies, revenue bond holders of a municipality which has filed under Chapter 9 retain their status as lien holders on post petition project revenues. Similarly, Section 926 of the Bankruptcy Code allows revenue bond holders to keep bond payments made within 90 days of the bankruptcy filing, unlike other creditors of non-municipal bankruptcy debtors. Section 922 of the Bankruptcy Code provides that revenue bond holders are not required to go through the process to modify or terminate the automatic stay imposed on other secured creditors under other chapters of the Bankruptcy Code.

In summary, because Chapter 9 of the Bankruptcy Code accords a holder of municipal revenue debt special status under the code as compared to any other creditor of any other debtor in bankruptcy, which special status preserves the rights, including lien holder status, that such debt holders had prior to the bankruptcy, their status does not appear to be diminished by the bankruptcy proceedings. Since the bankruptcy proceedings are designed to provide a more orderly and organized method of reorganizing the debts of the petitioner, it may actually be true that the holders of municipal debt may enjoy a higher probability of receiving an uninterrupted flow of the debt service payments they were expecting.

If a purchaser of a future debt instrument of a Nevada GID takes the ability of the GID to petition under Chapter 9 of the Bankruptcy Code into consideration in determining whether or not to purchase the debt instrument and what interest rate it is willing to accept, it would seem that the availability of Chapter 9 reorganization should be a positive factor among those potential buyers who understand the details of Chapter 9 but could be a negative factor among those buyers who do not understand Chapter 9 and assume that they would do better outside of the bankruptcy context.

Very truly yours,

JONES VARGAS



RICHARD F. JOST

RFJ/yg

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EFFECT OF PASSAGE OF SENATE BILL 225

A. PURPOSE

1. to clarify existing Nevada law, i.e. that a general improvement district (GID.) is and has heretofore been a municipality
2. to authorize GIDs to file a case under Title 11 of the United States Code, and specifically under Chapter 9

B. THE NEED

GIDs may, at one time or another, and for reasons which may not be foreseeable at this point in time, need to readjust their debts.

C. OPTIONS WITHOUT BANKRUPTCY AUTHORITY

1. Either the State Department of Taxation or the County where the GID is located can step in and take control
2. Service rates, charges, and fees are likely to increase. Taxpayers may be forced to bear some of the costs of providing continued service.

D. BANKRUPTCY PROCESS

Under 11 U.S.C Sec 109(c) of the Bankruptcy Code, a GID. is eligible to be a debtor if, and only if:

1. the GID is a municipality
2. it has statutory authority to file a petition in bankruptcy
3. it is insolvent
4. it desires to effect a plan to adjust its debts
5. it has obtained the agreement of at least a majority of the creditors in each class of creditors (by amount)
6. it has negotiated in good faith and cannot obtain such an agreement
7. It cannot, for some reason, negotiate with the creditors

E. WHY BANKRUPTCY PROCESS IS BETTER

1. The Bankruptcy system is set up to deal with debt adjustment
2. State and County agencies are not involved if the bankruptcy reorganization is successful
3. If the reorganization is not successful, the creditors are no worse off
4. The process of payment of debt is orderly, overseen by a bankruptcy judge (consistency), the rules are known and apply to everyone, no creditor can take undue advantage.

F. EFFECT ON BONDHOLDERS

The rights of special revenue bond (SRB) holders are unimpaired in the bankruptcy process. The SRBs will not turn into general obligation bonds either. Please see letter of March 13th from Richard Jost, a copy of which is attached hereto.