

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Third Session  
March 14, 2005**

The Committee on Government Affairs was called to order at 9:08 a.m., on Monday, March 14, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. David Parks, Chairman  
Ms. Peggy Pierce, Vice Chairwoman  
Mr. Kelvin Atkinson  
Mr. Chad Christensen  
Mr. Jerry D. Claborn  
Mr. Pete Goicoechea  
Mr. Tom Grady  
Mr. Joe Hardy  
Mrs. Marilyn Kirkpatrick  
Mr. Bob McCleary  
Mr. Harvey J. Munford  
Ms. Bonnie Parnell  
Mr. Scott Sibley

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Eileen O'Grady, Committee Counsel  
Nancy Haywood, Committee Attaché

**OTHERS PRESENT:**

Jenny Welsh, Policy Analyst, Nevada Association of Counties (NACO)  
Tim Smith, Member, Douglas County Commission, Douglas County,  
Nevada  
Tod Carlini, District Chief, East Fork Fire and Paramedic District,  
Gardnerville, Nevada  
Daniel C. Holler, County Manager, Douglas County, Nevada  
John J. Slaughter, AICP, Legislative Affairs Manager, Office of the  
County Manager, Washoe County, Nevada  
Mary C. Walker, Legislative Advocate, representing Douglas County,  
Nevada  
Nicole Lambole, Legislative Relations Manager, Office of the City  
Manager, City of Reno, Nevada  
Ted Olivas, Manager, Nevada Public Purchasing Study Commission

**Chairman Parks:**

[Called meeting to order. Roll taken.] This morning, we have two bills to hear, A.B. 141 and S.B. 114.

**Assembly Bill 141: Increases maximum balance allowed in district fire emergency fund of certain fire protection districts. (BDR 42-593)**

**Jenny Welsh, Policy Analyst, Nevada Association of Counties (NACO):**

At the request of Douglas County, NACO has asked for A.B. 141, and it has been approved by our Board of Directors. Due to the increased cost of wildland fire suppression, emergency response, and the potential declining financial support from the federal government for fire suppression, NACO feels that it is necessary to request an increase in the amount of fire district emergency funding in order to fund emergencies locally.

Specifically, A.B. 141 increases the current limit in NRS [*Nevada Revised Statutes*] 474, Fire District Emergency Fund, from \$250,000 to an amount not to exceed \$1 million, which would be funded through currently existing fire district financial resources. I'd like to introduce Tim Smith, Douglas County Commissioner; Dan Holler, Douglas County Manager; and Tod Carlini, East Fork Fire Protection District Chief. They will be happy to respond to any questions the Committee might have.

**Tim Smith, Member, Douglas County Commission, Douglas County, Nevada:**

At the end of 2000, I retired as fire chief for the Tahoe Douglas Fire Protection District, which is in the Lake Tahoe portion of Douglas County. About 6 months before my retirement, I hosted an early retirement party, known as the Gondola Fire, to which I invited 1,500 firefighters, 92 engines, 6 air tankers, and 8 helicopters. Over that Fourth of July weekend, the cost of fighting this particular fire was \$3.5 million. One of the first things you do as you enter into a large-scale fire situation—what we call a campaign fire—is that you enter into a cost-sharing agreement with all interested parties. In this particular case, there were two parties: the U.S. Forest Service and the Tahoe Douglas Fire Protection District, because the fire was in our jurisdiction. Part of that cost-sharing agreement states that when a fire is over, the costs of that fire are routinely distributed based, minus a few minor items, on the percentage of acreage that fire burns. In this particular case, we would look at it as a relatively small fire, only 672 acres.

By comparison, right across the street last summer, the Waterfall Fire was in excess of 9,000 acres. Because it was at Lake Tahoe and because of the resources at risk, we actually got an abundance of resources to help fight this fire; consequently, the cost of that particular fire was increased. One of the items the federal government does not pay for on these large-scale fires is structure protection. It is national policy. That policy goes back to even before I became a fire chief in 1996. Structure protection can be and is, next to the cost of aircraft, one of the most expensive aspects of fighting a fire. Structure engines are divided into what are called strike teams, which consist of five engines and a leader, a strike team engine leader. One strike team's cost to fight that particular fire was \$7,000 to \$10,000 a day. Fortunately, because of agreements we have through the Lake Tahoe Regional Fire Chiefs, there was no billing by the local governments for engines that came to that fire for structure protection.

The way the federal government distributes the costs puts a tremendous burden on local government. The Tahoe Douglas Fire Protection District, on this relatively small fire, received a bill for just under \$350,000. We were fortunate enough to have set money aside in our reserves for that particular purpose. The check wasn't cut until after I retired, but we were in a position to pay that particular bill. It is blatantly obvious how easily, had we not been lucky in this particular case, that \$350,000 could have tripled, quadrupled, or even been greater than that at that particular time.

Speaking in support for this bill, the existing bill of \$250,000 is, quite frankly, chump change when it comes to paying for a fire of this magnitude. Raising that reserve amount to \$1 million seems like the only right thing to do.

**Tod Carlini, District Chief, East Fork Fire and Paramedic District, Gardnerville, Nevada:**

I'm just going to reinforce a lot of what Commissioner Smith has offered. It is very true that federal policy has changed with respect to what the federal government will pay on these large urban interface fires. The cost to suppress a major wildlife and/or urban interface fire can easily surpass \$3 million or \$4 million within the first 2 to 3 days of the event.

Under that new policy, cost apportionment between agencies involved—either the state, local agencies, and/or local government—is generally being discussed and documented during the latter stages of the initial attack. In some cases, these cost estimates for suppression and the discussion of who's going to be responsible are taking place on the hoods of command vehicles. Delegation-of-authority documents are being prepared, and checkbooks are starting to open.

The three recent examples that I want to note have been mentioned: the Gondola Fire certainly, for Douglas County, is of a more personal nature; the Andrew Fire in Washoe County; and the Waterfall Fire in Carson City. Under the FEMA [Federal Emergency Management Agency] reimbursement program, local government is still responsible for a minimum of 25 percent of the suppression cost, and that depends, of course, on the decision the federal government makes as to reimbursing some portion of the cost of that fire. There is no guarantee that they will do that. While the federal government may decide to pick up 75 percent of a \$4 million fire, for example, that would still leave local government with a balance of 25 percent, or \$1 million.

The passage of A.B. 141 will allow those NRS Chapter 474 fire districts, most of which are standalone agencies, an opportunity to build the financial resources within their emergency funds that can be used in the event of a large dollar, urban interface-type fire. While I'm sure there is not a single fire district that could fund the proposed maximum within a single year, districts would be able to allocate funds from existing revenues over a period of time to generate funds for this specific purpose. Even at the current maximum, it has taken my current fire district almost 4 years to generate that. We've done it very judiciously in terms of putting money away each year. To get to that amount, we would continue. Your support of the proposed modification of this law would be appreciated.

**Assemblyman Goicoechea:**

How many fire protection districts do you have in Douglas County?

**Tod Carlini:**

In Douglas County, there are actually three fire protection districts. The Tahoe Douglas Fire Protection district covers about 17 square miles, mainly in the Lake Tahoe Basin area of Nevada. There's the East Fork Fire and Paramedic District, which covers about 600 square miles, and the state's NRS Chapter 473 district, the Sierra Front Fire Protection District, which covers a portion along the front of the Sierra. We do have a contract to provide, in particular, the structure protection for that service area of the Sierra Fire District, so there are 3 fire districts.

**Assemblyman Goicoechea:**

As I read the bill, would the \$1 million emergency fund extend to each fire protection district? Would you have \$3 million in the emergency fund for Douglas County? Would it be that the three districts would have \$1 million combined?

**Tod Carlini:**

The way the bill is written, it actually amends just those districts that are provided for by law under NRS Chapter 474. In this case, it would be just the East Fork Fire and Paramedic District.

**Assemblyman Goicoechea:**

It would just be the one, then.

**Tod Carlini:**

Correct.

**Assemblywoman Parnell:**

I want to publicly thank you. Those of us in Carson City, I represent the entire district that was affected by the Waterfall Fire wish to thank everyone who came for all of their cooperation and their work. It was amazing.

**Assemblyman Grady:**

Is this the only thing you can use those emergency funds for, or can you use them for something else?

**Tod Carlini:**

The law isn't really specific in terms of what you can and can't use the monies for. The law defines the fund as an "emergency" one. If you had a piece of fire equipment that wasn't entirely covered by an insurance policy, and that was damaged—that's the case with Carson City when we lost a major piece of equipment—I assume you'd be able to use monies in that fund for those types of things.

[Tod Carlini, continued.] I'm not sure who would protect any legal liabilities if you were involved in some kind of a lawsuit. I'm sure that would be open to interpretation. The part that's significant for us is within our founding legislation; they actually do create this fund. It actually allows us that opportunity to dedicate money to that and not have to build a certain reserve fund or some other type of fund within our general operating budget.

**Dan Holler, County Manager, Douglas County, Nevada:**

I think that the commissioner and the fire chief have touched on the primary issues for the bill. The one thing that I'd like to highlight is about the financial planning aspect, as we look at how we reserve monies for emergencies and emergency funds.

As was mentioned, we have \$250,000 set aside, and it's tied into just that emergency response. From a practical standpoint, I believe Assemblyman Grady's question was a good one. I think you're looking at those issues when you respond to an emergency. We've had several area fires that we've sent responses to, the Waterfall Fire being one. We've had the Walker/Topaz fire and the Autumn Hills Fire in the last several years in Douglas County. We are able to set those funds aside, as you generate them over time, to build up that emergency reserve, so that when you do have the wildland fires, a major fire, you can actually respond to it without depleting your operating revenues—in our case, come back to Douglas County and ask, "Can the county grant or loan money to the fire district to help offset the cost of the fire?" Because it is its own separate district that we have to work within. The financial structure of our own district allows us the ability to set those funds aside and to do it over time, to build up that reserve fund and not have to rely on other resources. We don't have to come to the State to request funding. I believe that's happened in other counties in the past.

How do we pay for a major fire? That goal allows us to be more efficient in our financial planning, given the amount of urban interface land we have around us as federal land, BLM [U.S. Bureau of Land Management] land and Forest Service land, primarily. I fully anticipate in the next few years, we will have a catastrophic fire, because we're not able to handle the fuel loading in an effective manner. The Waterfall Fire was a good example and a good wake-up call, not just for Carson City, but for Douglas County, Washoe County, and others in this region. We will be facing those types of fires in the future.

**Chairman Parks:**

Presuming this bill passes, and the ceiling on the fund is increased to \$1 million, would you try to fund that reserve all in one year? Would you gradually try to build it, given our available funds? How do you propose doing that?

**Dan Holler:**

We would build it over time. You're looking at taking a capital savings if you have a project that comes in under budget. You have staff turnover, and you have salary savings. We were looking at those types of dollars to build a reserve. You're not letting additional taxes for it. You're not asking for that type of revenue for it. It should be taken out of your existing revenues to allocate dollars to it. You may forego replacing a piece of equipment for a year to extend its life, giving a year or half year to put dollars into the fund. My guess would be that it is a three-year to a five-year process to build up that fund, depending on what gets hit in the next few years.

**Chairman Parks:**

I guess I'm also struck by the fact that A.B. 141 says, "Any interest earned on the money in the fire district emergency fund that causes the balance in the fund to exceed \$1 million must go to the operating fund." So, do you not, as it is now, generally leave any interest income you receive from this fund in that fund?

**Dan Holler:**

Currently, until you reach \$1 million, or in the current case the \$250,000, that would be the case. You'd help the interest build to that. We ran into the problem when it was capped. The question was raised, I think, in the last session as to what you do with the interest. It's earned on a restricted fund, and you were capped at \$250,000. There's a question whether you can earn interest, and the language is there to address that issue in this bill. If you have \$1 million, where does the interest go when you have a capped fund? We wanted to go back into the operating fund, which seemed to make the most sense at the time.

**Chairman Parks:**

My history has always been that interest income always follows the source of that revenue. I was curious as to how many different funds might there be, statewide, that would avail themselves of this statute. Does anybody have that information?

**Dan Holler:**

We could track it down, but we don't know.

**Assemblyman Hardy:**

If you don't have an increase so you can take care of yourselves, who picks up or bails you out? This is a good idea, because whoever would have been the person—in the legal sense of the word—to bail you out would not have to do that.

**Dan Holler:**

With a fire of that nature, you would look at three different things. One, on federal lands, we would have an argument with the federal government. If that failed, we would be looking at our own funding capability within the fire district. You can deplete your operating revenues, so you would be asking taxpayers to pick up the tab by either decreasing levels of services or through a higher tax rate.

If we had the ability in the coming years, I would possibly come to the Legislature for appropriations from the State and say, "Here's a government agency that's going to go belly up." In our case, the fire district would also come to the county, I'm assuming, as well as request money out of the county's general fund, to help offset the cost of some of those types of fires. So, you're looking at federal, state, and county levels and, hopefully, to the taxpayers to bail out the cost of those fires.

**Assemblyman Hardy:**

Would this would be a good idea to let the locals be in charge of themselves?

**Dan Holler:**

Yes.

**Assemblyman Grady:**

I would like to complement Mr. Carlini and his crew. They were one of the finalists in the Cashman Good Government Award for building some of their own equipment, saving money, and when Mr. Carlini was our fire chief in southern Lyon County, he did the same thing. Congratulations, Tod.

**John Slaughter, Legislative Affairs Manager, Office of the County Manager,  
Washoe County, Nevada:**

I simply want to go on the record as supporting the bill.

**Chairman Parks:**

Is there anyone else who would like to speak on A.B. 141? Does anyone have an answer to my question of how many potential fire districts this would apply to?

**Mary Walker, Legislative Advocate, representing Douglas County, Nevada:**

The only ones that I know of are in northern Nevada. Washoe County has the Truckee Meadows Fire Protection District, and Douglas County has the East Fork Fire Protection District. Those are the only two that I know of in this region.



[Mary Walker, continued.] There are actually two NRS Chapter 474 districts. One is with an elected official body, which this doesn't pertain to. The other one is an NRS Chapter 474 that has the Board of County Commissioners, which is also the Board of Fire Commissioners, and that this does pertain to. These laws are 50 to 60 years old. Actually, at some time, we just need to clean out the entire NRS Chapter 474 log, because it's so old and antiquated. That's part of the problem that we're facing right now.

**Chairman Parks:**

We will close the hearing on A.B. 141 and open the hearing on S.B. 114.

**Senate Bill 114 (1st Reprint): Clarifies that certain hiring preferences apply to all circumstances under which persons are employed in construction of public works. (BDR 28-532)**

**Nicole Lamboley, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada:**

This was a bill we submitted to clarify some provisions in Assembly Bill 425 of the 72nd Legislative Session by this Body. It resulted from a contract that the city councils in Reno and Sparks were preparing to award. There were some questions about the applicability with the new language in the bill that said, "NRS 338.130 would apply in all cases where persons are employed in the construction work; preference must be given by the public body." There were some questions by council members, and we sought the opinion of the Labor Commissioner (Exhibit B). The Labor Commissioner opined that the change in the law now only applied when the public body was the actual employer on the contract, and not to the contractors or the subcontractors on a public works project.

If you go down further in the statute, there is actually a penalty phase for contractors or subcontractors who fail to comply. So, we decided to bring forth legislation to clarify that. In fact, the removal by a public body would actually make the supply to contractors. I've passed out the Labor Commissioner's opinion for you to review. As he goes through his opinion, you can actually see the legislative intent of this statute back in 1971. It changed, but the original statute started in 1929.

All we're seeking to do is remove the words "by a public body," to ensure that the preference standard does apply to contractors when they are working on a public works project. I will note that there was an amendment made by the Senate Government Affairs Committee. They clarified or expanded, in Section 1,

that preference would also be given to those who were honorably discharged from the army, navy, air force, marine corps, coast guard, or any other reserve component of the National Guard, because the previous language only talked about soldiers, sailors, and marines, and left out some of the other branches of the armed forces.

**Assemblyman Goicoechea:**

I don't have any problem with the bill. I wasn't really aware how this fit in. It just seems to me, in reading it, that if a local entity—an entity of government—did enter into a contract, and the contractor hadn't complied, the language in this bill still allows for that contract to become null and void. Is that correct?

**Nicole Lamboley:**

Yes, if we remove the words "by a public body." If the words "by a public body" remain in the statute, it only applies to a public body who actually employs the workers on a public project. It does not apply to the contractors or subcontractors hired to do the public works project.

**Assemblyman Goicoechea:**

With the removal of "by a public body," it does come right back to the contractor. When local government enters into a contract, I don't believe they go down through their subcontractors' list or the list of all the employees on that contract to determine if a veteran had been hired first. So, they start a project, and down the road 30 days, somebody comes along and says, "Hey, I was discriminated against. I was a veteran. They hired a nonveteran in my place. We had the same qualifications; therefore, I challenge that the contract is null and void." What does that do to local government?

**Nicole Lamboley:**

I think, as I understand it, and in talking with our attorneys, this would, in setting the conditions of the contract, create a hiring protocol. You can require certain forms of checks with the contractors to make sure. In fact, in the example of the wastewater treatment plant that we let the bid on, there are actually specific conditions in the contract that contractors have to provide a report. What we're really trying to see is good faith effort. There is some concern that we may have potential employees working in the state who are not given the opportunity to work on a job by an out-of-state contractor. That's all this does, is try to ensure that you are trying to hire local residents, Nevadans, and those who are honorably discharged from the armed forces on the projects, if they meet all the qualifications.

Again, we just feel that, since we're the employer on a public works project very rarely, the contractor should. There's no way to really check. If there's a

penalty phase, but if it doesn't apply to them, then there's a little incongruity in the statute right now. Again, the Labor Commissioner did opine that the addition of those words in Assembly Bill 425 of the 72nd Legislative Session changed the whole nature of the statute.

**Assemblyman Goicoechea:**

I agree with the concept. I can just see some real heartache coming down the road. In the right scenario, I think you can see a contract deemed null and void over an employee grievance.

**Nicole Lamboley:**

We did not have any instances in the past before this law was changed of that nature. I understand your concern. We didn't have any experiences with that in the past, at least in the city.

**Assemblyman Hardy:**

I'm wondering if we left out merchant marines on purpose, knowing that they may be unarmed, but they have been in harm's way many times in history. Did we leave them out on purpose?

**Nicole Lamboley:**

This was not our amendment. Senate Government Affairs directed their committee counsel to put in the appropriate language, so I think they were trying to cover everybody. There was no discussion specifically of merchant marines, so I don't know why that might have been left out.

**Assemblyman Hardy:**

Being an amateur historian of sea stories, I have been impressed with the merchant marines being literally in harm's way, unarmed. If we're going to be inclusive, I probably would be interested in putting that kind of thing in. I don't know how other people feel.

**Nicole Lamboley:**

We don't have a problem. That was not a discussion at the city council level.

**Chairman Parks:**

I think that that language was probably picked up and is consistent with other language within NRS. Quite often, the persons who apply for or submit a bid for a public works project are corporations. How would they be treated differently if the owner of such a corporation were a veteran? Would they also get a preference? I'm a little vague on that.

**Nicole Lamboley:**

I think it has to do with the actual individuals hired. I don't think it's the corporation. The corporation submits the bid. It's based on the corporation, not on the individuals, particularly, who come before. If they send their project manager, who may be a veteran and a resident of the state, I don't think that weighs in. It's the people who actually work—the employees on the job.

**Chairman Parks:**

Mr. Olivas is sitting in the back of the room, and since Assembly Bill 425 of the 72nd Session was his bill at the last session, would you care to comment?

**Ted Olivas, Manager, Nevada Public Purchasing Study Commission:**

Mr. Chairman, you are correct. Last session, we had a bill, Assembly Bill 425 of the 72nd Session, that made some sweeping changes to NRS 338. It basically clarified who could do what on the contracts relating to public works. In that bill, these four words, "by a public body," were taken out of this section of the law. No one caught that. It was not our intent to make the public body responsible for monitoring this section in NRS 338.130. As Ms. Lamboley mentioned, it's something that has been in the law for a long time. We do put it in our contracts. The intent was that the contractor is responsible for monitoring the hiring practices. As I sit before you, I am in support of this bill. Our group is in support of this bill as amended. We think that the change is necessary and will make the process much better.

**Chairman Parks:**

Is there anybody else who would like to testify in favor of S.B. 114 or who would like to testify in opposition to S.B. 114? Not seeing any, I'll close the hearing on S.B. 114. That concludes the items that we had posted on the agenda, unless Ms. O'Grady or Ms. Scholley had anything else to come before us. We are adjourned [at 9:43 a.m.].

RESPECTFULLY SUBMITTED:

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Nancy Haywood  
Committee Attaché

APPROVED BY:

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Assemblyman David Parks, Chairman

DATE: \_\_\_\_\_

<b>Bill #</b>	<b>Exhibit ID</b>	<b>Witness</b>	<b>Description</b>
	A		Agenda
SB 114	B	Nicole Lambole, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada	An opinion written by Labor Commissioner Michael Tanchek, 4 pages