

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

**Seventy-Third Session
April 25, 2005**

The Committee on Government Affairs was called to order at 8:09 a.m., on Monday, April 25, 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
Michael Shafer, Committee Attaché

OTHERS PRESENT:

Kathy Augustine, Controller, Controller's Office, State of Nevada
Christi Thompson, Chief Accountant, Debt Collection Division,
Controller's Office, State of Nevada
Kathryn Besser, Chief of Staff, Office of the State Treasurer, State of
Nevada
Mark Winebarger, CPA, CTP, Deputy Treasurer-Cash Management, Office
of the State Treasurer, State of Nevada
Nancy Ford, Administrator, Welfare Division Department of Human
Resources, State of Nevada

Chairman Parks:

[Meeting called to order and roll called.] We'll go ahead and start with S.B. 112.

**Senate Bill 112: Requires State Controller to apply fee for returned checks to
other methods of payment that are returned or dishonored. (BDR 31-164)**

Kathy Augustine, Controller, Controller's Office, State of Nevada:

[Read from Exhibit B.]

I've come before you today to provide a brief overview of the State Controller's Office request for an expansion of NRS [*Nevada Revised Statutes*] 353C.115, which allows State agencies to charge a \$25 nonsufficient funds fee on returned checks. NRS 353C.115 was added to the statute in 2003 by the 20th Special Session of the Nevada Legislature and requires the State Controller to adopt regulations establishing a fee of \$25 that the agency shall charge a person for each draft or check returned to the agency because the person had insufficient money or credit with the drawee to pay the check or the draft, or because a person stopped payment on the check or the draft.

The State Controller's Office seeks to expand this statute in order to allow the \$25 in nonsufficient funds fee to be levied against any return against method of payment, including credit card and electronic payments. These returned electronic payments are known as "chargebacks." We had believed that the bill that was passed during the 20th Special Session would have allowed us or all agencies to charge that \$25, but what we found from LCB [Legislative Counsel Bureau] research after the fact is that it

applied to only returned checks. I have with me today Christi Thompson, who is our chief accountant of debt collection, to explain the details of the bill and answer any questions.

Christi Thompson, Chief Accountant, Debt Collection Division, Controller's Office, State of Nevada:

[Read from [Exhibit C.](#)]

As the State Controller said, we are here today to seek an expansion of NRS 353C.115 to allow State agencies to add a non-sufficient funds fee to any returned method of payment. S.B. 112 makes the \$25 fee established by the State Controller applicable to any method of payment returned or otherwise dishonored. This will ensure consistency in the handling of returned forms of payment whether they are checks, credit cards, or electronic.

Additionally, Bank of America charges Nevada a fee for all forms of returned payments, some as high as \$15 per returned transaction. Staff time is also spent tracking and collecting these chargebacks. This statutory change will allow the State a way of recouping associated costs when credit card and electronic payments are returned. In summary, the Controller's Office requests the authority to extend fees to cover all types of returned payments.

Chairman Parks:

I have one associated question. When we allow people to use credit cards to make payments, are we absorbing that transaction fee? I know that the IRS [United States Internal Revenue Service] has a process where they bill everyone every time you make a payment using a credit card; they bill you 2.5 percent. Any thoughts on that?

Kathy Augustine:

Currently, we do absorb them. As a matter of fact, the DMV [Nevada Department of Motor Vehicles] has had a huge absorption of those fees to the tune of about \$10 million, as you know, now that we allow people to renew their driver's license and vehicle registration, et cetera, on the Internet. We are absorbing it; right now, we're not doing the fees. It's not something that we're looking at. I don't think Governor is really amenable at this time to adding the additional fee to the public's cost for doing business with the State.

Chairman Parks:

But it is a fee that the State does absorb.

Kathy Augustine:

Yes, and it is a fee that all the credit card companies do charge.

Chairman Parks:

That's correct. Do you know the range of the fees that credit cards charge?

Kathy Augustine:

I don't really know the range. I know American Express is on the high end. I do believe that Mark Winebarger from the State Treasurer's Office is very up on that. When he comes up to testify, he could probably give you the details.

Assemblyman Grady:

Your question sparked one in my mind. Will NRS 353C.115 spread to all agencies, or just the Controller's Office?

Kathy Augustine:

It would allow all State agencies, because we set the regulations, and that's why we came before the Legislature last time for the \$25 returned check fee. We had some agencies that were only allowed to charge \$10. Some were charging \$20. They were all over the board. This made the returned check fee uniform across the state at \$25.

Chairman Parks:

We'll go ahead and close the hearing on S.B. 112, and open the hearing on S.B. 113.

**Senate Bill 113: Revises various provisions relating to Office of State Treasurer.
(BDR 18-579)**

Kathryn Besser, Chief of Staff, Office of the State Treasurer, State of Nevada:

Our bill, S.B. 113, is hopefully the easiest one you'll have today. It changes two titles. It changes the "Assistant State Treasurer" title to "Chief of Staff" to more accurately reflect the job duties. It changes the title of "Director of the Millennium Scholarship Program" to "Deputy Treasurer of the Millennium Scholarship Program" to more reflect the person's position among the senior staff in the office. It changes the language requiring deposits to be made on a Thursday to "on or before Thursday."

Assemblywoman Parnell:

My only question would be the renaming of the one individual as "Deputy of the Millennium Scholarship Program." Is that their sole duty, working with the scholarship funds and that program?

Kathryn Besser:

Yes, it is the only thing they do. Currently, they are the director of the Millennium Scholarship Program, and that is their only focus and their only job responsibilities.

Assemblyman Goicoechea:

Can you tell me why NDOW [Nevada Department of Wildlife] does not have to deposit theirs when they accumulate \$10,000 and they get 10 days, and everyone else has to do it? It doesn't make any sense. It looks like it should be even across the board.

Mark Winebarger, CPA, CTP, Deputy Treasurer-Cash Management, Office of the State Treasurer, State of Nevada:

I'm not sure. I've seen that, and I've questioned that many times. I believe that it may be because they have outlying areas where they cannot collect their funds and get it to a local area for deposit.

Chairman Parks:

I'll go back to my last question on the issue where the IRS charges a 2.5 percent transaction when a person uses a credit card. Any thoughts or any comments you might have relative to that?

Mark Winebarger:

Visa and MasterCard charge approximately 1.9 percent. It varies because of the premiums that the cardholders have. That gets passed onto the State as part of their fee. American Express, I believe, is 2.3 percent, and I believe Discover is somewhere around 2 percent. It may be a little bit more; I'm not quite sure. Right now, all State agencies are absorbing that cost, but there is discussion—I don't know where that is right now—on trying to pass on a convenience fee to the cardholder as we move toward online transactions more and more for State agencies.

Chairman Parks:

We'll go ahead and close the hearing on S.B. 113 and open the hearing on S.B. 301.

**Senate Bill 301: Revises duties of Director of Department of Human Resources.
(BDR 18-240)**

**Nancy Ford, Administrator, Welfare Division Department of Human Resources,
State of Nevada:**

I am here to present S.B. 301 on behalf of the Department of Human Resources. I have a handout for you so that you can have my written testimony on the record ([Exhibit D](#)). What this bill basically does—and the main change in this bill—is to allow the Director of the Department of Human Resources to adopt regulations on how to distribute federal funds that come in and how to assess and pass on possible penalties and sanctions to local governments that we now contract with for our programs.

Many of these federal programs are required to be operated on a statewide basis as a condition of receiving federal funds, and if there is a problem with the program in some way, the federal government can assess penalties. What they do is they reduce the next straw from the federal government to collect that penalty back. This allows the Director to adopt regulations on how to pass on that penalty. That regulation process would go through public workshops and public hearings, so chances are it will be distributed based upon relative responsibility, size of the local government, and those types of things, but those would all be subject to a public hearing and public workshop before it would be adopted. That is the main change in this particular bill.

Chairman Parks:

Is this consistent with federal statute as far as the applicability and as far as it's operated in other states?

Nancy Ford:

Yes, it would be. Because more of our programs are being operated through contracts with local governments, what it does is help protect the State coffers, to ensure that if a penalty is caused by local government, we have an ability to help share that penalty in some way.

Assemblywoman Pierce:

Have there been penalties?

Nancy Ford:

Yes, there have been penalties in the Child Support Enforcement program. That program is operated through contracts with our local district attorneys' offices, and our performance standards with the federal government did not meet based upon debtor liability. We've received penalties against our Temporary Assistance

to Needy Families (TANF) program two years in a row. There is legislation pending in Congress to waive those penalties, because we have no opportunity for corrective action, but in the meantime, we have been assessed those penalties and would like the ability to pass it on to responsible parties.

Assemblywoman Pierce:

How much were the penalties?

Nancy Ford:

The first year penalty was \$428,000 against the TANF block grant. The second year, the penalty was \$856,000, once again against the TANF block grant.

Assemblyman Grady:

Who would have the oversight or consultation on what penalties your department can assess? Remembering back several years, the Department of Taxation used local government to pay their entire funding source, because all of their money went to the General Fund. What checks and balances do we have that your penalties won't get carried away to fund your whole department?

Nancy Ford:

The method for allocating the penalty would be done through regulations. That would be through public workshops and public hearings, and all the local governments participate in those hearings. Currently, we have a new child support that took effect January 1, and we have in there that the penalties will be passed on based on relative responsibility of the parties. So, we have an assessment that would have to go through to determine who is responsible for the penalty. If it's a system issue, it's very likely that it is the State's responsibility. If it's a data input issue, it's likely to be a local government responsibility. We all go through this public hearing process to ensure that any mechanism for passing on penalties will be fair and equitable.

There's also the concern about small counties versus large counties, because if there's a penalty against the State, a small county may not be able to absorb that. So, that's an additional consideration in the regulations, to make sure that it's a fair and equitable distribution of whatever the penalty might be.

Chairman Parks:

It kind of brings to mind some of the programs I was involved in back in the 1970s and early 1980s, where quite often you would get a grant and you would think you were doing everything properly. I know the EPA [United States Environmental Protection Agency] was, perhaps, the worst in the group. They would disallow certain charges two years after the grant and after that, they'd

send in their pirate auditors to look for something. As far as the disallowance goes, would that come into play as far as this regulation applies?

Nancy Ford:

Not at the federal level, because when they disallow, they just withhold the money. They make themselves known immediately, because when they look at the State as the whole state, they don't look at how the program is administered.

Assemblyman Hardy:

Aren't the small counties under the State anyway? Do they have their own organizations? Which of the counties are self-sufficient or have a joint agreement with caring for children?

Nancy Ford:

There are several programs that are administered through local government. In the child welfare area, that's Washoe and Clark Counties, and the small counties are under the State auspices, so the State would be responsible if anything happened to the small counties. The Child Support Enforcement program has contracts with local district attorneys in some of the small counties, and they would have some proportionate responsibility for any penalties that might be assessed against the child support program.

There's also what's called the county match program. These are the three that I'm aware of and there might be more. There's the county match program, where, for people that are institutions in counties—such as nursing facilities—the county picks up the state's share above 150 percent of SSI [Supplemental Security Income], and then there's federal matching. But the program has to be statewide. Every county has to participate in that program or that program falls. Those are the three that I'm aware of, and there might be others. It appears that the State is moving toward that more local administration in the statewide programs.

Assemblyman Hardy:

I'm looking out here, and I don't see a lot of local governments. How do they feel about this?

Nancy Ford:

The ones that I've spoken with feel that through the regulatory process, they'll have a lot of say as to how actually this comes out, and it would be much more equitable and fair. We want to make it the same against all the different programs, rather than having different reasoning for passing on things from different programs, and this provides uniformity.

Assemblyman Hardy:

Of the 17, how many have you spoken to?

Nancy Ford:

Clark and Washoe are the ones that I've spoken to. I've also had some input with Elko and White Pine, but that's merely on the child support program, because that's the program that I'm responsible for. I have not spoken to them regarding child welfare or Medicaid.

Assemblyman Hardy:

Are they aware of what we are going to do to them?

Nancy Ford:

I believe they are aware, and we're not going to do anything to them. What we'll do is adopt regulations, and then through that process, it will be a fair and equitable distribution. We'll be very careful, because one thing we don't want to do is bankrupt a county. That does not meet anybody's needs. It doesn't meet the State's needs or anybody's to make sure that we have somewhat of a hammer to ensure compliance with these federal requirements, because we're bound by those federal requirements. We need to pass those federal requirements on, and this gives us a little bit of authority.

Assemblyman Hardy:

That's exactly where I'm going. I want to make sure that the State supports the counties, because they don't have access to the whole talent pool of the state. I'm not in a position where I want to put them in that position of some onerous hammering device. So, I have the assurance that the regulations are going to have a certain comfort level with all 17 of the counties, not just Washoe and Clark.

Nancy Ford:

I think that we are going to try to be very fair and equitable, because we're very sensitive as to what can happen to some of these counties. Plus, if we aren't fair and equitable, we'll be back next session, and you'll be taking away this ability. So, we have a real interest in being fair and equitable, but that we have some ability to pass on at least a portion of the penalties.

Chairman Parks:

Would these regulations also apply to subgrantees who are not local governments?

Nancy Ford:

It applies to programs that are required to be administered on a statewide basis. For a lot of subgrantees, if they're getting grant money on a specific purpose, rather than on a statewide basis—and the statewide programs are child welfare, child support, and Medicaid—there might be a service grant that's required to be administered statewide. It would apply statewide and uniformly. So, there are a lot of subgrants that go out that are for specific purposes, and it would not apply to those.

Chairman Parks:

We'll go ahead and close the hearing and take it up in work session. Is there any further action to come before the Committee? Seeing none, we are adjourned [at 8:32 a.m.].

RESPECTFULLY SUBMITTED:

Paul Partida
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 25, 2005

Time of Meeting: 8:09 a.m.

Bill	Exhibit	Witness / Agency	Description
N/A	A	*****	Agenda
<u>S.B.</u> <u>112</u>	B	Kathy Augustine / Controller's Office	Written Testimony in Support of S.B. 112
<u>S.B.</u> <u>112</u>	C	Christi Thompson / Controller's Office	Written Testimony in Support of S.B. 112
<u>S.B.</u> <u>301</u>	D	Nancy Ford / Nevada Department of Human Resources	Written Testimony Presenting S.B. 301