

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

**Seventy-Third Session  
May 10, 2005**

The Committee on Government Affairs was called to order at 8:26 a.m., on Tuesday, May 10, 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 Chairman  
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:**

Senator Maurice Washington, Washoe County Senatorial District No. 2  
Assemblyman Bob Seale, Assembly District No. 21, Clark County

**STAFF MEMBERS PRESENT:**

Eileen O'Grady, Committee Counsel  
Susan Scholley, Committee Policy Analyst

Michael Shafer, Committee Attaché

**OTHERS PRESENT:**

John Sande III, Legislative Advocate, representing the Airport Authority of Washoe County and RED Development, LLC  
Krys Bart, Executive Director, Airport Authority of Washoe County  
John Swendseid, Bond Counsel, Airport Authority of Washoe County and City of Sparks, Nevada  
Paul McKenzie, Organizer, Operating Engineers Local Union No. 3, Reno, Nevada  
Richard Daly, Business Manager, Laborers' International Union of North America Local 169, Reno, Nevada  
Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter  
Steven Graham, P.E., Vice President, Destination Development, RED Development, LLC, Kansas City, Missouri  
Randy Mellinger, Assistant City Manager, City of Sparks, Nevada  
Greg Salter, Special Assistant to the Assistant City Manager, City of Sparks, Nevada  
Jake Smith, General Manager, Clear Channel Outdoor, Reno, Nevada  
Cheri Edelman, P.E., Legislative Advocate, representing the City of Las Vegas, Nevada  
Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada  
Susan Fisher, Legislative Advocate, representing the City of Reno, Nevada  
David Fraser, Executive Director, Nevada League of Cities and Municipalities  
Heidi Mireles, Chief Right-of-Way Agent, Nevada Department of Transportation  
Stephanie Garcia-Vause, Legislative Advocate, representing the City of Henderson, Nevada  
Neena Laxalt, Legislative Advocate, representing the City of Sparks, Nevada

**Chairman Parks:**

[Meeting called to order and roll called.] We have three bills scheduled. I have been requested to take them out of order, so we'll start with S.B. 110, followed by S.B. 306, and we'll end with S.B. 262. We will open the hearing on S.B. 110.

**Senate Bill 110 (2nd Reprint): Makes various changes concerning Airport Authority of Washoe County. (BDR S-545)**

**John Sande III, Legislative Advocate, representing the Airport Authority of Washoe County:**

The Airport Authority was created in 1977 by a special statute of the Legislature, so many of its provisions do not appear in the *Nevada Revised Statutes* (NRS). Today, we are asking you to consider the second reprint of S.B. 110. It is a bill which would amend that special statute that was enacted in 1977 and has been amended several times. With me today is Kryz Bart, who is the Executive Director of the Airport Authority of Washoe County, and John Swendseid, who is bond counsel and who has drafted a lot of the provisions in this bill. Kryz Bart will explain briefly what the bill would do.

**Kryz Bart, Executive Director, Airport Authority of Washoe County:**

This bill really has two provisions. The first one would be to merely change the name from the Airport Authority of Washoe County to the Reno/Tahoe Airport Authority. We are interested in doing this primarily for marketing reasons and branding reasons. We do market this airport throughout the world, and it is very difficult to make a connection for many people to our wonderful region in northern Nevada. We believe with the continued effort, we need to brand the airport, identifying exactly where it is located. As the Reno/Tahoe Airport Authority, it would be a great advantage to us as we try to market and gain new air service. This will provide more potential with positive impacts on economic development in the region.

The second part of the bill would be a provision that would allow the Airport Authority, under very special circumstances, to provide design/build opportunities for projects. These projects are neither funded by public funds nor built by a public entity, nor are they for a public use. With that, I'd like to ask our bond counsel, John Swendseid, to describe those provisions a little more fully.

**John Swendseid, Bond Counsel, Airport Authority of Washoe County:**

The part of the new bill that I'm going to speak to is Section 1, which adds a new Section 5 to the Airport Authority Act. This would allow the Airport Authority to use a process other than our traditional public bidding for improvements at the airport, that they finance with either revenue bonds or with a lease/purchase or an installment/purchase agreement. It also would allow the Airport Authority to use the lease/purchase or installment/purchase agreement as a means of financing Airport Authority improvements. The provisions would generally exempt us from the provisions regarding competitive bidding. They

specifically, however, do not exempt the Airport Authority from prevailing wage or from some provisions in Chapter 338 dealing with contractors with design professionals. The provisions require that the airport follow a competitive procurement procedure in selecting its design/build team.

[John Swendseid, continued.] As Ms. Bart said, the main purpose of this is to allow the airport to do design/build projects. We're not financing it with public monies. It's either airport revenue bonds or the lease/purchase financing being used. We would still use a competitive process, and we would still need to provide a 5 percent preference for Nevada contractors to the extent price was a factor in that competitive building process. The bulk of Section 9.5, from subsection 3, requires for the Airport Authority a follow-up procedure. It is similar to what a State agency follows in developing a regulation in order to develop this competitive process they use for selecting a design/build team. So, the idea is that we wouldn't just go hire our best friend. We would go through rulemaking to establish a process and then use that process to select a team.

We think this will provide us with good flexibility in conducting projects at the airport. We have been approached about some projects that we have been unable to do because we did not have such a procedure in place. We are asking your support in this change in the Airport Authority.

**Assemblywoman Kirkpatrick:**

Are design/build plans more expensive in the long run than having something up front? Why would you want to do a design/build process?

**Krys Bart:**

The main purpose of doing the design/build is really a case of speed. In this case, we might have an airline that wants to build a maintenance base. They would come to us and say, "We want to build a maintenance base, but we have to be operating in six months or four months." We can get through a competitive process. We can get one builder/developer to do the design, and while portions of it may still be in design—for example, the foundation could be done—they could begin constructing the foundation while they are completing plans on the rest of the building. So, it would be one main entity that would be doing all the designing and building. Because of that, we gain time. We could then provide the opportunity to complete a project like this in a minimum of four or six months, in order to get the private entities at the airport working.

The important thing in this case is that the way this works, we would go and help do this through a bond effort, and payment of those bonds would be through the rents that the entity would pay the airport. The ground rents or the building rents would go to pay the bonds. So, it's really a passer of funds. It's

not public money in the sense that it's airport money. It is really private-sector money that is coming in. Our experience has shown us that time in these situations is absolutely critical, and we see this mainly as an opportunity to speed the process.

**Assemblywoman Kirkpatrick:**

What other airlines do design/builds in the state of Nevada, and would it be public notice on the agenda as to what is being done with the airport?

**Krys Bart:**

I cannot respond to the first part of your question, "What airlines do design/build?" I used that merely as an example. It could be an airline that wants to do a hangar for maintenance. It could be someone that wants to do an office building, for example. We do have vacant land available for numerous kinds of uses. So, I cannot respond to that. The second question, I would refer to Mr. Swendseid.

**John Swendseid:**

Could you repeat the question? I am sorry.

**Assemblywoman Kirkpatrick:**

I'll rephrase my question for you. What other airports in the state of Nevada use design/build plans? My second question was whether these would be public notice, because it is a public building.

**John Swendseid:**

I am a little bit familiar with the other large commercial airport in the state, McCarran Airport. Just like the Airport Authority of Washoe County, they're generally constrained by our traditional, design first and build later, public bidding statutes. There is no exception right now for them. They have been approached with similar ideas, and they have been approached with a fixed-base operator. That is a person at the airport who assists with the private planes that land, fuels them, and hangars them. They had to tell the fixed-rate operator that they could not do a bond issue for them to construct the building. Our statutes state that they currently need to do design/build and would have to build it all on their own, with their own money to start. I am not aware of another airport—and the only two I am very familiar with are McCarran and Reno/Tahoe—using this process. There are other airports throughout the nation, and I think Krys can speak to you about those, that have used design/build with some success and are the type that she has spoken about.

Before I give it back to her, on your second question, on the agenda: yes, all of this would go on the agenda. First, we would need to go through a rulemaking

process, where we not only put it on the agenda, but we have to send out a notice of the proposed rulemaking to all of the people who might be interested. We would need to notify contracting associations, such as the AGC [Associated General Contractors of America]. After we complete the rulemaking and go through our competitive design selection, they would be on the Airport Authority agenda. The agenda is publicly noticed, but we would also send notice to the appropriate parties of the competitive process in order to get back good responses. That is basically all we want. Ultimately, when the Airport Authority made its selection, it is subject to our normal public meeting agenda processes and would be done at a public meeting. So, it would all follow under the normal guidelines for posting agendas.

**Assemblywoman Pierce:**

Section 9.5, subsection 3, paragraph (a) states that you would adopt regulations which establish one or more competitive procurement processes for letting such a contract. How do you envision that competitive process being different from the competitive process that we already have?

**John Swendseid:**

The thing we envision right away is to allow ourselves to do a design/build process. We have to do the design first in the process that we already have. Then, you put out for a bid for construction to construct the building that is shown in the designs that you have already prepared. In a design/build process, you do not do the design first. Instead, you do a request for proposal (RFP) rather than a competitive bid. People come to you with a proposal to design and build a facility, and then you study those proposals and determine which proposal best suits your needs. The proposal would include both the type of structure and how much the structure costs. It is not a solely cost-driven process, but it would be the main process we envision.

**Chairman Parks:**

Going back to the name, you are already marketing the name as the Reno/Tahoe International Airport, are you not?

**Krys Bart:**

The name of the airport itself is the Reno/Tahoe International Airport. However, the Reno/Tahoe International Airport is one of two airports in the system that is called the Airport Authority of Washoe County. What we are proposing to change is that name—the Airport Authority of Washoe County—because that would be the official legal name and the name by which we would sign documents and market both airports.

**Chairman Parks:**

Where is the second part of this airport?

**Krys Bart:**

The Stead airport.

**Chairman Parks:**

The Stead Air Force base. At one time, the airport was called Cannon International, was it not?

**Krys Bart:**

It was the Reno/Cannon International Airport. It was subsequently changed to the Reno/Tahoe International Airport. We are not proposing to change the airport's name at this time, only the authority name.

**Chairman Parks:**

So, it is now the Cannon Terminal?

**Krys Bart:**

That is correct.

**Chairman Parks:**

I always thought we should give the McCarran name back to northern Nevada and take the Cannon name for southern Nevada, but that would be just a little too complicated. Further questions? Mr. Sande, did you have other persons who wished to speak in support of S.B. 110?

**John Sande III:**

On the other side, we did have some negotiations with the contractors and some unions, and I think that is all resolved. So, that is why it is a second amendment and why I am not sure if any of them are going to testify or not.

**Chairman Parks:**

I did have one other question, Ms. Bart. As a practical situation, let us say that United Airlines wanted to build a maintenance facility. Would you not negotiate with them to just lease a parcel of land or a portion of your land site and let them build your facility?

**Krys Bart:**

That is certainly one option, and it is an option which occurred in the past in the airline industry. It may have been the preferred option. In today's environment, it is more likely that an airline will come to an airport and ask the airport to build the facility. When that happens, the negotiation of how it is to be built would

begin. In today's environment, airports the size of Reno/Tahoe, unlike McCarran, operate in an extremely competitive environment. We find that whether it is air service or facilities for airlines, there needs to be some sort of an inducement. Typically, we have to negotiate knowing that we are in that highly competitive environment. So, it would be my expectation that the airlines today would expect the hangar to be built by the airport. The airport should be willing to take the risk and make sure it is completed in a timely manner.

**Chairman Parks:**

It sounds like an issue of cash flow for airlines.

**Assemblywoman Pierce:**

In subsection 4, which begins on line 5 of page 3 and goes through line 31 of page 5, what do you anticipate the time frame being on that whole process?

**John Sande III:**

This was copied almost exactly from the State's Administrative Procedure Act, under which State agencies adopt regulations. For us to adopt the regulations that specify the procedure is going to probably be a minimum of 30 days, and probably 60 days by the time we get through it. Once we get the regulations specified, we are able to move quickly to do a project. It's just the initial setup that would take some time.

**Assemblywoman Pierce:**

So, 30 to 60 days on this? Okay.

**Paul McKenzie, Organizer, Operating Engineers Local Union No. 3:**

As Mr. Sande had said, we had been in opposition to this bill on the Senate side. The sponsors of the bill worked with us and with the contractors group we represent, and we have resolved the issues we had with the bill. So, I'm here in support of the bill.

**Richard Daly, Business Manager, Laborers' International Union of North America Local 169, Reno, Nevada:**

I also testified against this bill on the Senate side on the competitive bidding issues, and there was some discussion. We came up with the compromise that you have in front of you. I understand what they could do, and there are several ways. The Reno Airport is different in many ways from McCarran—how their board is set up and various other issues. We were told that we would only be using this other procurement process on projects where there is a private/public partnership, such as United Airlines, as you indicated. When they need a hangar, they are going to finance it through the revenue lounge or through the lease agreement. That is how they are going to make the payments back, and



that is why we got into the prevailing wage portion of the bill. This portion was at their suggestion, and we agreed with that.

[Richard Daly, continued.] We are not saying that we do not want them for a facility that will be owned and used for the Airport Authority without an outside private entity needing the facility. They have indicated that they are not going to use this procurement process. It will be under the regular 338 statutes for bidding. That is my understanding and the reason why we can support the compromise that has been reached. If that is not how it is, we will be back in two years to fix it. I believe in the intent, and that is the reason we support the bill at this time.

**Chairman Parks:**

Is there anybody else who would like to speak in support of S.B. 110? I believe Steve Holloway had signed in to speak in opposition.

**Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter:**

I have some concerns regarding this bill, but I want to go on record as saying that I was not part of the compromise effort. I was not brought into those negotiations. So, I feel free to express those concerns. The concerns I have are with the establishment of another competitive bidding process. I know that the Airport Authority just spoke to the fact that they want to do design/build. Six years ago, at the request of this Legislature, we worked with all of the public works authorities in this state that chose to come to the table and develop design/build statutes, which are part of Chapter 338 of the *Nevada Revised Statutes* (NRS). It was an alternate method of delivery, and much of what they propose to do is already contained in that chapter.

I will be honest; part of the concern has been addressed by listening to the testimony of Mr. Sande and the people from the Airport Authority. The concern I have is with the 50 states and the District of Columbia, who have established standard bidding procedures. Both the competitive design and bid and build procedure and the design/build procedures, which are alternative methods of delivery, are very common in all 50 states. Not all of them yet have design/build procedures, but all of them have the traditional procedure. It concerns me that we would be setting a precedent where each of the public works authorities in this state may be coming in here to ask—to follow in the steps of Washoe County Airport Authority—and develop their own procedures. That is my only concern. We will have to see how this works and come back in here in a couple of years in case this does not work out.

**Assemblywoman Pierce:**

In Chapter 338, it does include something about design/build.

**John Swendseid:**

We did look at the procedure under Chapter 338 for design/build, and it is fairly awkward. I think there may be another bill working its way through this session to change that procedure some. Our nervousness is that the procedure, as established, does not allow the Airport Authority to move with the speed that Ms. Bart said might be necessary. We need to move more quickly if we are approached by United or someone else who wants to have a public/private partnership at our facility. Under the procedure as it currently exists, you are required to do a two-round RFP process before you could select a design/build contractor or a design/build design builder. It seemed to us that it was too awkward, so we wanted to do something still competitive, but make something that would work for us.

I did want to say that the procedures here before you were reviewed and discussed with the Associated General Contractors of Northern Nevada. Some of the changes were made on the Senate side and were made at their suggestion. So, we wanted to do something that works with the contractors, the workers, and for the Airport Authority. I hope that answers your question. The existing procedures are a little bit too awkward to allow the authorities to move with the speed that we think may be needed, in order to get the type of project we want.

**Assemblywoman Pierce:**

I just wanted to quickly run through Chapter 322. Why do you need an exemption from that?

**John Swendseid:**

It is the public purchasing and is the competitive bid for nonconstruction. Along with the design/build, you may be installing the equipment that goes into the building—the desks, the computer system, and all of that. NRS 322 is our Public Purchasing Act, which requires competitive bidding for personal property instead of real property.

**Assemblywoman Pierce:**

So, you would design another competitive business process for that?

**John Swendseid:**

It may be all a part of one. The design/build for our building is design, build, and put in the furniture, fixtures, and equipment. Deliver us a complete product that has both what you build—with a traditional contractor to do the traditional

building construction—and also the equipment that you need in order to have the building up and running once you turn the keys over.

**Assemblywoman Pierce:**

And what does Chapter 339 have to do with?

**John Swendseid:**

NRS 339 contains bids for public construction work. Here is where we want the flexibility. It may be how you set up your contract and what type of bid you require. In a traditional design-and-build contract, our statutes require some specific bids from the contractor to make sure that the construction is complete. These bids are in accordance with the plans and specifications that have been filed, and we may need that same type of bid.

A lot of whether you need the bonds or not depends on how you pay the party that is doing the construction. If you do a turnkey project, where they build it all before you pay them, you do not need them to put up a bond that says you will complete it first. Our first exemption in NRS 339 is to just to allow the Airport Authority, depending on the process that they are using, to decide what type of bid bonds they will require of the contractors and design builders.

**Assemblywoman Pierce:**

Are you aware of other states that have adopted regulations like these, or has any other state moved in that direction?

**John Swendseid:**

There are several other airports that have used these processes.

**Krys Bart:**

I am not aware of a state, but I am aware that Tampa has used this process very successfully. In fact, theirs is far more extensive in that they built a whole terminal this way. Seattle is using this process for their security equipment, and those are the two that I remember. I did have a list, and I apologize—I did not bring the list with me. There are several, and I can procure that information again on the airports that are using this process.

I might also add, for those members of this Committee who may be from southern Nevada, the Reno/Tahoe International Airport is, because of its size and its location, very different from the Las Vegas International Airport. We are really dependent on the ability to negotiate and bring private sector businesses to the airport. Las Vegas has such tremendous success with air service because of the community and because of what it is. For us, we need more diversification in order to continue to sustain and support the airport. In order to

do that, we have to be much more competitive, and this enables us to provide that opportunity.

[Krys Bart, continued.] This process, going back to your original question, is one that is used and those are the two airports that I do recall. I can provide others if you would like.

**Assemblywoman Pierce:**

Could I get that list, please?

**Krys Bart:**

Yes; we will follow up to get that to you.

**Assemblywoman Kirkpatrick:**

To follow up on what you said, I remember the Las Vegas airport being smaller than the Reno airport you have now. You have to start somewhere in order to bring the businesses, to get more airlines, and get more flights out. Did you speak with Clark County on how they were able to successfully do it? I know it takes a long time to do it, but we used to have to walk out on the runway to get on the plane. I remember that as a kid, and I think we have something that works well in Clark County. I am quite proud of our airport. So, I am wondering if you even consulted with them to see how they were able to grow over the years.

**Krys Bart:**

Randy Walker, the Director of McCarran, and I are colleagues, and we communicate frequently. We are on a number of committees and boards together. I think the important thing is to recognize that it is not the airport that creates the demand. You are not going to have the air service that the Las Vegas area has created for the demand. Look at the number of hotel rooms, and Steve Wynn's most recent property that was developed, and realize the demand automatically drives air service. In northern Nevada, we do not have that demand. We have a smaller community, less population, fewer hotel rooms, and fewer properties. So, the magnitude of the demand is not there. That, in essence, is the difference. So, we are relying on much more diversification—not just gaming and tourism—that helps to support the effort that we are trying to do here.

**Assemblyman Hardy:**

The concept of design/build is obviously a common one, and the people of Reno are obviously familiar with ReTRAC [Reno Transportation Rail Access Corridor]. We look at that design/build with facilities too. I had conversations with Arizona, for instance, and when they did their freeway system, they estimated

that they saved at least 18 percent in two to three years. Those are the kinds of numbers they talk about with major design/build projects. I think the concept of design/build is probably going to be addressed more and more, because it does save time and money. Those two things are very valuable for the private/public interaction. I would be supportive of the concept.

**Chairman Parks:**

Further comments? Is there anyone else who wishes to testify on S.B. 110? Not seeing anybody, we will go ahead and close the hearing on S.B. 110 and open the hearing on S.B. 306.

**Senate Bill 306 (2nd Reprint): Authorizes pledge of certain sales and use tax proceeds and state funding for certain projects for promotion of economic development and tourism. (BDR 21-1286)**

**John Sande III, Legislative Advocate, Representing RED Development, LLC:**

I have handed out to you a little schematic of what is being proposed by RED Development ([Exhibit B](#)). It is going to be a very great project on the Sparks Marina, and if you have talked to RED Development, they have done their research. We have talked about the many people going to Las Vegas. Many of those people come to Las Vegas because of the shopping experience. In Reno, that has not occurred yet. So, this is another effort to diversify our economy and bring more people to Reno. To do this, we are proposing some changes regarding STAR (sales tax and revenue) bonds. Basically, the change would allow this development to go through.

I would like to turn this over to Mr. Swendseid, unless anybody has any questions about the Sparks Marina. You will see a memorandum that was prepared by the Swendseid firm ([Exhibit C](#)) to describe some of the issues here. Unless you have any specific questions about the project, which will be a first-class retail project, I will turn it over to Mr. Swendseid. He can better describe why this legislation is necessary for this project.

**Assemblyman Grady:**

I think last time, we did a rental car tax for the baseball stadium in the same area. Is that no longer part of the mix now?

**John Sande III:**

I think the stadium would be north of this project, assuming that it does go through. What I have read in the paper about the proposed stadium is a requirement by the county that there be some private equity pumped into the

project before it goes forward. They are still waiting to see whether or not that money will be coming forward. Clearly, it would be on the north part of the marina.

**John Swendseid, Bond Counsel, City of Sparks, Nevada:**

Senate Bill 306 authorizes—what Mr. Sande referred to as STAR bonds—sales tax increment financing. I think the best way for me to go through this is to contrast this bill with the bill you adopted in the last session. Senate Bill 495 of the 72nd Legislative Session has similar proposals, but only in connection with an improvement district. There are about five differences between the bill that was adopted last session and S.B. 306 in this session. I can go through those, and if you want me to go through this bill section by section, I will. Maybe as a start, it is worthwhile to just go through a comparison of what we have and what is in this bill that is different from S.B. 495 of the 72nd Legislative Session.

This does allow us to create a sales tax increment area without also creating a local improvement district. A local improvement district is an area where you pay special assessments for an improvement. It is often used for streets, roads, water, and sewer. Our bill now separates STAR bonds from local improvement districts and allows us to do STAR bond issues on their own. A STAR bond issue is something that is paid only from the sales tax increment that is collected in the sales tax increment area.

The sales taxes that we are talking about would be 75 percent of the three mandatory sales taxes: the state sales tax, the local school support tax, and the city/county relief tax. It would not affect the optional sales tax that is voted on for particular purposes, like the ReTRAC project in Reno, regional flood control, or transportation in southern Nevada. The proposal is very similar to S.B. 495 of the 72nd Legislative Session, which had in it several protections for the existing recipients of sales tax. This was to make sure that projects constructed with this type of bonding were a net addition to the economy. We did not just take sales tax, move it from one place to another, and deprive the local governments and the state government who also receive the sales tax.

So, we have the same procedure for approval that is in the existing law. This includes approval by the county commission and the Commission on Tourism. The project will predominately generate sales from out-of-state residents. The approval would have to be based on studies presented to the city. Those findings would need to be approved by those entities and by the Governor. It also would need input from the school district with respect to the impact of the project on local government finances, including school district operations and capital needs. Those findings would need to be backed up by a study that is

addressed to both the city and the school district. That provision was added in the Senate at the school district's request.

[John Swendseid, continued.] The proposal would allow us to create a sales tax increment area only in areas where there presently are no retail businesses. One of the other Senate amendments we agreed to is in the reprint of the bill that you have before you. This tax increment is only to be created in an area where there has been no retail business for a period of at least 120 days. This is what you would use. The RED project is essentially vacant land. It is not something you would use to capture retail sales of an existing successful shopping center. It is only where there are no retail sales at all for at least 120 days.

A new proposal would allow us to construct projects that are privately owned. They would include entertainment facilities within the shopping area and within the RED development. That was not in the prior bill. The new proposal allows us to use the sales tax increment both directly to pay costs of projects and also use it to issue bonds to pay costs of the project. The old proposal only allows the tax increment to pay bonds. We now have this addition of providing for reimbursement.

The bill before the Senate also allowed the sales tax increment to be used for maintenance of the projects, and that has been eliminated in the bill that is now before you. Again, that was a compromise we reached with the school district. Finally, the new proposal expands the entities that can use this to all cities and counties in Nevada. The types of projects that can be financed are currently financed under NRS 271, and they include our local improvement or our special assessment district law. That was the way the old law read, but we also would include projects that cities and counties can finance under present law and under our bond law. In addition, we would allow the bonds to be used to finance the types of projects that we have been talking about: tourism and entertainment-related projects that are privately owned, including the acquisition of land on which those projects are located.

Some of the representatives of labor pointed out that it was not abundantly clear that the Prevailing Wage Act would apply to all projects that are constructed with money provided under this bill. We want to say we absolutely believe that the prevailing wage law should apply. We have an amendment ([Exhibit D](#)), which I will give to your staff. It is just a simple paragraph that says just that. The prevailing wage applies to any project—any contract entered into—for demolition, repair, or reconstruction of any repair that is paid for either with a bond issue or directly with a STAR bond tax.

[John Swendseid, continued.] To all those projects, we would ask that this Committee amend this bill to specifically state that the prevailing wage laws apply, because that is our intent where we are using this type of money. We believe that prevailing wage law should apply. I will file this one amendment with the committee secretary.

That is the end of my comparison of this bill with the old bill. I can go through this bill if you would like, or if you would just like to ask questions, that would also be fine.

**Chairman Parks:**

I just now noticed that the author of the bill, Senator Washington, is in the audience and I apologize for having not called him forward. Sir, would you like to come up and make any comments?

**Senator Maurice Washington, Washoe County Senatorial District No. 2:**

I do not have much to add. I think he has done a good job explaining the bill. I would invite anyone to go out and see the marina and see the vacant spaces out there. This bill will enhance tourism and economic development. So, I am just soliciting your support. If you have any questions, I just appreciate the hearing. So, please support the bill.

**Assemblyman Christensen:**

As far as the tourism board is concerned, I am not nearly as familiar with the board Mr. Swendseid was referring to as much as how things operate in Clark County. Is it elected? Is it appointed? If they are elected, how does that work? If they are appointed, who appoints them, and what are some of the backgrounds of its members? Are we just looking at tax policy and the financing of this project?

**Senator Washington:**

The board is actually appointed by the Governor.

**Assemblyman Christensen:**

What are some of their backgrounds? How many members per committee?

**Senator Washington:**

We can find that information for you. They are appointed, so I just wanted to point that out to you.

**Assemblywoman Pierce:**

Would you go back in contrasting these two bills? Would you go back and talk again about the reimbursement part?



**John Swendseid:**

Existing law, S.B. 495 of the 72nd Legislative Session, would allow the sales tax increment to be used to pay only debt service—principal and interest—to pay the costs of a project. Our new proposal would allow us to address that by issuing a bond for the cost of the project and use the sales tax increment to pay back the bond, or it would allow us to enter into an agreement with the developer where the developer constructs the project. We would reimburse the developer directly with the increase in the sales tax increment for construction of the project. We think this is better, because right now, on the vacant property where the RED development will be located, there is nothing to generate retail sales. For that reason, it is going to be difficult to sell the bond.

By allowing us to do the reimbursement, we would allow the developer to get a start—a couple of sales establishments started that are generating retail sales—and then we do the bond issue. We can tell the bond issuer, “Hey, we can get some sales here.” We know we have some increment. This way, we can tell the developer that we can reimburse him for the money he is putting in for the eligible product costs and infrastructure projects, such as roads and streets, on the land at the beginning. Currently, we do not float a bond until we know we have a sales tax increment that will support the payoff of the bond.

**Chairman Parks:**

Looking at the brochure, it talks about additional room nights. Are those additional room nights for the area, or is this specific to this district? To me, it would be like 2,000 hotel rooms.

**John Sande III:**

There are not going to be any gaming facilities on the premises. I would ask to Steve Graham from RED Development to tell you a little bit about the projects he has done. I think it is pretty impressive.

**Steven Graham, P.E., Vice President, Destination Development, RED Development, LLC, Kansas City, Missouri:**

At this point in time, we did not plan to have any housing or any hotel rooms on the site. This type of development has a huge impact on increasing the length of stay for visitors of the area, as well as generating more visits to an area for tourism. Our preliminary feasibility study showed these numbers as the combination of both the extended stay and new tourists that will come to this area because of this development.

We are anticipating a million square feet of retail business at the site. The type of retail would be focused more on tourism and unique retail that does not exist currently in this market. If you look at many states around the country, you will

find that most of the leading attractions, most of the most visited sites of a state, are retail developments. So, this project will be a development that has unique attractions and great retailers that do not exist in this market. It will have venues that will provide an experience that will cause people to choose northern Nevada as a destination for vacation or a weekend away in lieu of other places.

**Chairman Parks:**

In looking at your brochure, it looks very much like The District in Henderson. I do not know if you are familiar with Green Valley Ranch and The District in Henderson, but it is quite an attraction. There is also the fact that someone may have commented that nobody goes to Reno—especially from Las Vegas—to do shopping. I have friends who used to come up here just to shop at REI until we got an REI in Henderson.

**Paul McKenzie, Organizer, Operating Engineers Local Union No. 3, Reno, Nevada:**

We had some initial concerns about the bill, and these were basically the prevailing wage issues. After assurances from the sponsors of the bill that prevailing wage would be added to all the future projects, because of this funding, we rose in support of the bill.

**Randy Mellinger, Assistant City Manager, City of Sparks, Nevada:**

We are very much in favor of this amendment, because it would facilitate an economic development project that will not just benefit Sparks, but the entire northern Nevada area. It will increase our tourism, so we are very much in support of this project.

**Assemblywoman Parnell:**

I am a little confused as to why we need to change the law to do this development project. We are doing a huge shopping center at Mount Rose Highway and US-395. We did not need to change statute in order to have that created. So, just a quick, "This is needed, because..." and, "We can't do it with existing statute," I would appreciate.

**John Swendseid:**

I can speak of the legal problem we ran into with the bill that was adopted last year, S.B. 495 of the 72nd Legislative Session. A representative of RED Development could tell you a little more about why they needed this incentive for this particular project.

S.B. 495 of the 72nd Legislative Session requires that we do these types of bonds only in connection with the local improvement districts. The local improvement districts require that you lien the property for the value of the

improvements that you are installing. RED Development found the people who would loan money to the builders of shops and builders of stores would not want to lend the money if they were behind this big local improvement district lien. What we did was remove the STAR bonds from the local improvement district so that STAR bonds are just payable from the sales tax increment. They are not dependent on a lien on property, as was the case under S.B. 495 of the 72nd Legislative Session. That is why we need the change from S.B. 495 of the 72nd Legislative Session, to be able to do these without the lien. I think the representative from RED Development could probably talk about why we need incentives at all, which I think is part of your question also.

**Steven Graham:**

This type of project is unique, in that there will be significant attractions, when they do the development, that will be nontypical for a typical retail project. We also build lifestyle centers, which the brochure that the Chairman held up has as an example of a lot of the centers we build around the country. A lot of these centers can be typically done within the retail market. But this project, unlike the one at Mount Rose, is going to have a significant attraction and venues that rival developments like Downtown Disney, Universal CityWalk, Irvine Spectrum, and Easttown Town Center—very worthy high-entertainment attractions. These entertainment venues are basically the tourism drivers for these developments.

As a result, in order to be able to finance and accomplish this type of project, some type of subsidy is required. We are currently doing the first real STAR bond-financed project in the country in Kansas City, Kansas, which is a suburb of Kansas City, Missouri. STAR bonds were first passed in the state of Kansas. In our development, we are doing just under a million square feet of this type of destination retail with attractions. Our next door neighbors in that development are Cabela's and a Nebraska Furniture Mart. There is about 800,000 square feet between Cabela's, the furniture mart, and our development, and we will bring 15 million visitors to that site. It has really turned around the area and has become the most visited site in the state of Kansas. That is a great example, most of which is already built or under construction, but also on the how the effects of development can affect tourism. It is because of the unique nature of the type of attractions that will be included.

**Assemblywoman Parnell:**

This bill is not specifically relating to this particular development. This bill is much broader than that, correct? That is where I have a little concern. It is not just this project. It is the authority that is given to acquire. A lot of the language in it is just very expansive. I would probably feel more comfortable knowing what exactly it was referring to, but I think it has a lot of potential ramifications down the road. That is my only concern at this point in time.

**John Sande III:**

That is correct. The bill is broad. It can apply to any city or county in the state. What we have tried to do is put in the protections for your types of concerns that we had in the Senate bill last year—that there must be a finding made. First, it has to be on land where there is no retail right now or for 120 days. Then, there has to be a finding by initially the city, but also by the county, the State Commission on Tourism, and the Governor, that the area we are spending the money on—the retail sales—would be predominately aimed at non-Nevada residents. It is not something that is just going to move sales from one place to another. It is aimed at the non-Nevada residents, the sales that we think we are not getting now in the Reno area. We fear a lot of our shoppers may go to northern California instead of staying here. The idea is that we want northern California to come to Reno.

This bill would allow us to build protections. We do have this protection that we need the findings by all four entities; the sales would be predominately non-Nevada residents, the findings from the Governor, the input from the school district that the project will not have an adverse fiscal impact on school finance, and the provision on local government finances in Nevada. So, we've tried to put in some protections to watch out for this sales tax money getting spent on something besides what we would normally spend it on.

**Assemblywoman Pierce:**

The only other place that this financial arrangement has been used so far is this place in Kansas City?

**Steven Graham:**

West Virginia passed a form of STAR bonds to do a Cabela's store in a related development around it, and it was site-specific. In Kansas, this development was called Village West and is a 400-acre development. That was the first STAR bond law enacted.

I will give you a brief history of STAR bonds. They were originally developed to do a theme park in the State of Kansas, which never came to pass. When the Kansas Speedway wanted to locate in the metropolitan area, NASCAR [National Association for Stock Car Auto Racing] looked at Kansas City. A group got together and approached the speedway, basically modified the STAR bond language slightly, and they were able to track the speedway and this 400-acre development. We are developing about a million square feet of shopping within, but there are other states. There are about a half-dozen states looking at STAR bond legislation at this time, and there are a few states that have sales tax TIF [tax increment financing] legislation that is site-specific in other states. So, it is not entirely new, but it is relatively new.

**Assemblywoman Pierce:**

Is there any place that these STAR bonds are being used other than these development companies using it? Every place you are citing is a place where your company is developing.

**Steven Graham:**

That is not correct. We have no involvement with the project I mentioned in West Virginia. In Kansas, we happen to be the developer who is building the center similar to this using STAR bonds.

**Chairman Parks:**

Further questions? In the Kansas City, Kansas situation, since it is much smaller than Kansas City, Missouri, it would attract and draw many residents from Missouri to Kansas for their purchases. Hence, it would generate the additional sales tax revenue that would fund the STAR bonds. It would be an asset to the State of Kansas. Am I correct?

**Steven Graham:**

That is correct. If you look at the studies from the retailers that are open there, they are drawing well in excess of three hundred miles, which is way beyond the borders of Missouri and Kansas. They are drawing from Oklahoma, Illinois, Nebraska, and Iowa. If you drive through the parking lots of these venues, you will see car tags from all over. This development is drawing from a much larger region than just across the state line. Cabela's is drawing approximately 4 million visitors, which makes it the number one tourist spot in the state of Kansas.

**Assemblywoman Kirkpatrick:**

I know the incentives to build in an economic development area. It is so hard to go down there, take a risk, and be the first person to lay all of your financial plans out, in the hope that people come to the area. I know it is important to give incentives. Are you committed to this to building this project, or is this if your STAR bond goes through? What has been your commitment on the record? I know sometimes it looks good on paper. Something didn't work out, so I was wondering if this project was going to be built upon the passage of this bill. Do you have an interlocal agreement or something local that you have committed to?

**Steve Graham:**

We currently have an existing development agreement with the City of Sparks, and we are investing significant money in the development plans in this project. We would not be doing this if we were not very interested in doing this project. This project cannot be accomplished as we have described without STAR

bonds. So, this project would not happen unless we have the opportunity to pass this legislation.

**Assemblywoman Kirkpatrick:**

So in the last bill last session, S.B. 495 of the 72nd Legislative Session, it is very limited to population of less than 400,000. With this bill, any city in the state of Nevada could now do this? What is the legacy on STAR bonds? Have they been around a long time? I know we are always changing business types to bring in economic development, because it is important to revitalize our downtown areas. They are the hub of our city. So, I want to know where the STAR bonds come from and how they have come to Nevada.

**John Swendseid:**

STAR bonds are pretty new. I think the Kansas City experience was the first one in the nation. Several states, as Mr. Graham mentioned, have provisions for sales tax TIFs, which are sales tax increment areas similar to our redevelopment areas. Instead of property tax just being pledged, the sales tax is also pledged. California and Colorado are two states that have that, but it is not designed for tourism. It is designed more for a typical redevelopment, not just tourism development, which is what the STAR bond is aimed at.

**Greg Salter, Special Assistant to the Assistant City Manager, City of Sparks, Nevada:**

I would like to reaffirm that the city does have a redevelopment agreement with RED Development. Just last Friday, RED submitted a specific detail plan of its proposed project for the purpose of getting zoning for the area where the project is going to be built. So, we believe that RED Development is very much committed to this project, if we can accommodate them through the STAR bond process.

**Chairman Parks:**

Is this particular area that is proposed for development already in some form of a assessment district or improvement district?

**Greg Salter:**

No. It is in a redevelopment area, but it is not a part of an assessment district or an impact fee district service area.

**Chairman Parks:**

When you say a "redevelopment district," will property taxes go toward the redevelopment as something is developed? By definition of a redevelopment district, I am trying to get a sense of whether or not we are taking something

and stacking something else on top of it in order to make part of the project viable.

**Greg Salter:**

Because it is in a redevelopment area, if the project is built, it will result in an increase in property taxes. That tax increment can be used to further redevelop the area. Now, Sparks Redevelopment Area 2 actually consists of three separate districts. The Marina District is one of them, and that is right next to the Sparks Marina and where this project would go. The property tax increment generated by this project might be plowed back into this project, although we're still negotiating.

The primary aim of the City of Sparks is to use the tax increment that is generated out of this area to help redevelop some of the poorer redevelopment areas. We also want to use it in redevelopment districts like Oddie Boulevard and Conductor Heights. So, we are counting on this project to help out to redevelop other areas, which will not be able to be redeveloped under their own power. Yes, there is a double benefit of setting up a tourism improvement district within a redevelopment area.

**Richard Daly, Business Manager, Laborers' International Union of North America  
Local 1169, Reno, Nevada:**

I believe I signed in as neutral on the bill. After listening to the testimony, I have a couple of things to mention.

I live in Sparks, about five miles from where this proposed project would be located. I worked for Helms Construction for ten years. The marina became what was a large gravel pit. The marina was created from a natural disaster, when we had a flood. I helped build and worked on the outlet mall that is now vacant and sitting there.

If this is a finance mechanism that helps move the project forward in Sparks, I would be in support of this bill. They addressed the prevailing wage concern issues that we had on the finance mechanism portion of it. I had some of the same concerns that Bonnie Parnell had. She said that it applies to other counties and cities. I was hoping that the sponsors would put on the record that they fully intend any project built by any agency has and does cover provisions of the prevailing wage criteria they need to meet, in order to use the STAR bonds to finance a project. That is what they indicated to us. So, with those amendments they supported and those concerns addressed, I can support the legislation. I would support anything relating to Sparks, because that's my hometown, and I think it would be a good deal for them.

**Chairman Parks:**

Questions for Mr. Daly? I'm not seeing any. Is there anyone else who wishes to speak either in favor or in opposition to S.B. 306? We'll close the hearing on S.B. 306. We'll take our remaining bill we have this morning, and that is S.B. 262.

**Senate Bill 262 (1st Reprint): Authorizes remedies under certain circumstances if outdoor advertising structures are obstructed by certain highway construction. (BDR 22-1250)**

**Jake Smith, General Manager, Clear Channel Outdoor, Reno, Nevada:**

The purpose of this bill began with conversations with Senator Raggio on concerns with sound walls. The purpose of this is to provide tools for the industry and NDOT [Nevada Department of Transportation] for accomplishing solutions to sound wall issues that may happen around the state. The bill provides for various options and solutions, including raising of the sign, relocation, and possibly changing the angle or even a modification of the sound wall, all of which has to be approved by the governing authorities. The outdoor industry is part of this bill and will supply any financial impact to the solution. If it is a raising of the sign, we will incur those costs.

In negotiating this, we have all the cities, the counties, and NDOT involved in these various possible solutions. We tried to involve everybody. Unfortunately, Nevada was not kept informed as visible as the bill was drafted, and it also has been amended. Again, anything that we would do with this bill would have to go through any local or city ordinance and, if it is not currently on the laws, go through their variance process through public hearings as well.

**Assemblyman Goicoechea:**

Why the need for the legislation? You don't have the ability to do this now between NDOT and local government?

**Jake Smith:**

Currently, we have to abide by whatever the most restrictive language is in the city, county, or state. There are provisions in the state, which have no height requirements, but the city or county may. So, what this bill provides is that, in those cases where NDOT may allow something, we may have to go to the cities and counties and get their approval on anything they would do. This encompasses everybody in the process. It involves everyone and creates solutions. Everyone that is involved in the government and assigned will be



involved in any solution. They may negotiate that solution in that city or county, according to their ordinance.

**Assemblyman Goicoechea:**

I would hope they would be able to do that without a bill, but I guess not.

**Cheri Edelman, P.E., Legislative Advocate, representing the City of Las Vegas, Nevada:**

First of all, I would like to thank the billboard industry, the State, and the local governments for their efforts to have an amendment that we all agreed upon on the Senate side. This was a long and difficult process, and unfortunately, some of the language was not included by the LCB [Legislative Counsel Bureau] when the reprint was drafted. For that reason, we do have an amendment today that more closely reflects the language that was agreed to by all parties ([Exhibit E](#)).

This amendment essentially does four things. First, it changes the wording from "along the controlled access freeway" to "adjoining a controlled access freeway." Our concerns from a public agency's perspective is that we want to narrowly define which billboards this impacts, and if it just says "along the freeway," it could mean a billboard that is a block or two away that wasn't necessarily intended to have visibility—a billboard that was intended for an arterial of the roadway. So, we want to make sure that it relates more closely to the actual freeway.

Secondly, it adds references back to NRS [*Nevada Revised Statutes*] 410 and 278, respectively. The local governments can raise signs, relocate signs, et cetera, with the consent of the State in accordance with NRS 410, and the State can do things with consent from the local government in NRS 278. We would like to add those references back in. Third, it adds the word "or" to the reference options to the words that are allowed. We can raise the sign, we can relocate the sign, or we can redesign the sign walls—we do not have to do all of them—or we can work out a compromise. We just wanted to make sure that it is clear.

The last thing we wanted to do was add language back in that states that any actions that are taken shall comply with applicable local ordinances, federal and state laws and regulations, federal and state agreements, and with state laws implementing such agreements.

**Chairman Parks:**

Mr. Smith, have you seen these amendments, and do they present any concerns or problems to you?

**Jake Smith:**

I have seen these amendments, and we are fine with them.

**Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada:**

I would just like to go on record that we very soundly and strongly support these amendments. We supported them in the other House as well, and we would also like to take a moment to commend Ms. Edelman, who worked extremely hard on these amendments and made sure all the affected parties were together on this. It was an extensive undertaking, and she needs to be commended on this.

**Chairman Parks:**

Are you trying to tell us that it is a good bill at this point?

**Kimberly McDonald:**

It is the best consensus we could reach with all the affected parties.

**Susan Fisher, Legislative Advocate, representing the City of Reno, Nevada:**

The bill, as originally amended, we would stringently oppose. Now, with the amendments, we can support the bill. We also owe Ms. Edelman a huge amount of thanks for taking this over and having NDOT work with us as well.

**David Fraser, Executive Director, Nevada League of Cities and Municipalities:**

I would just echo those comments made by the representatives of the City of Reno and the City of North Las Vegas. I also want to thank the parties for the many hours of negotiation on this. I would echo what Ms. Fisher said. The League's position would be to oppose the bill as originally introduced, but as long as it contains the amendments presented, which all parties did agree to, the League would support the bill in that case.

**Heidi Mireles, Chief Right-of-Way Agent, Nevada Department of Transportation:**

With the amendment that is before you, we are in favor or neutral, either one. We are very happy with the work that has been done by everyone involved.

**Stephanie Garcia-Vause, Legislative Advocate, representing the City of Henderson, Nevada:**

I wanted to say that we are opposed to the bill as currently written, but we are neutral with the amendments proposed by the City of Las Vegas.

**Neena Laxalt, Legislative Advocate, representing the City of Sparks, Nevada:**

I do echo pretty much all of what the other cities have said. The city, with the new amendment, no longer opposes this bill.

**Chairman Parks:**

Questions or comments from the Committee? I'm not seeing any. Is there anyone else in the audience who would like to make any statement on S.B. 262? Not seeing any, we will go ahead and close the hearing on S.B. 262. [The meeting was adjourned at 9.55 a.m.]

RESPECTFULLY SUBMITTED:

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Michael Shafer  
Committee Attaché

APPROVED BY:

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Assemblyman David Parks, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** May 10, 2005

**Time of Meeting:** 8:26 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
N/A	A	Assembly Government Affairs Committee	Meeting Agenda
<u>S.B. 306</u>	B	John Sande III, Legislative Advocate, Representing RED Development	Sparks Destination Development Brochure
<u>S.B. 306</u>	C	John Sande III, Legislative Advocate, Representing RED Development	Memorandum to Leaders of the City of Sparks, Nevada
<u>S.B. 306</u>	D	John Swendseid, Bond Counsel, City of Sparks, Nevada	Proposed Amendment to S.B. 306
<u>S.B. 262</u>	E	Cheri Edelman, P.E., Legislative Advocate, representing the City of Las Vegas, Nevada	Proposed Amendments to <u>S.B. 262</u>