

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

**Seventy-Third Session
May 13, 2005**

The Committee on Government Affairs was called to order at 8:16 a.m., on Friday, May 13, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4412 of the Grant Sawyer State Office Building, Las Vegas, 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
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

Mr. Joe Hardy (excused)

GUEST LEGISLATORS PRESENT:

Senator Terry Care, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Deanna Duncan, Committee Attaché

OTHERS PRESENT:

Dr. Carlos Brandenburg, Administrator, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada

Barbara Jackson, Consumer Service Assistant, Northern Nevada Adult Mental Health Services, Sparks, Nevada

Joe Tyler, Consumer Services Assistant, Dini-Townsend Hospital, Nevada Mental Health Institute

Carole Vilardo, President, Nevada Taxpayers Association

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada

Andrew List, Executive Director, Nevada Association of Counties

Nicole Lambole, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada

Irene Porter, Executive Director, Southern Nevada Home Builders Association

Marvin Leavitt, Legislative Advocate, representing the Urban Consortium

John Swendseid, Bond Counsel, Airport Authority of Washoe County

Chairman Parks:

[Meeting called to order and roll called.] We have today two bills, and we are going to do a work session. We'll go ahead and start the hearing on S.B. 131.

Senate Bill 131: Increases number of members of Commission on Mental Health and Developmental Services. (BDR 18-279)

Dr. Carlos Brandenburg, Administrator, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada:

We are here today to provide testimony on S.B. 131. This is a bill to increase the members of the Commission of Mental Health and Developmental Services to include a current or former recipient of mental health services provided by the State.

The Commission of Mental Health and Developmental Services is currently comprised of eight members appointed by the Governor. They represent psychiatry, general medicine, psychiatric nurse, psychology and social work,

marriage and family therapists, a general member representing the mental health community, and a member of the general public that represents government services.

[Carlos Brandenburg, continued.] The commission is a legislatively created body designed and established for the care and the treatment of the mentally ill. Senate Bill 131 would implement a major portion of the goal of President Bush's Freedom and Health Commission, as well as a Nevada Mental Health Plan Implementation Commission recommendation.

Goal 2 stipulates that mental health care is consumer- and family-driven. Having a consumer on the Mental Health and Developmental Services Commission is an effective way to connect with and address the concerns of the consumers.

Barbara Jackson, Consumer Services Assistant, Northern Nevada Adult Mental Health Services, Sparks, Nevada:

I am a consumer on the road to recovery. I am here to ask you to please make this possible for me to continue. You may ask: why is this so important for me to be on the board?

Let's go back to the Boston Tea Party. I do remember taxation without representation. I remember that it was not a good thing. I would like to have representation, someone who knows me, who is a consumer who has walked in my shoes. If you go to the doctor, you tell him your symptoms. He brings his expertise and treats you based on what you have told him. I would like to have the same thing. Let me sit on the board, as a consumer, and tell you first hand what is wrong. You take your expertise and are able to do your job to the best of your ability.

I would like to share a short story with you. There was a young gentleman, a consumer, in the southern part of our state. After being released from the hospital, he went into the consumer program. He walked in and they asked him what he wanted. He said he wanted to be President of the United States. Someone said that he didn't even have a GED [General Equivalency Diploma]. A consumer took him and said, "Okay, so you want to be president. Then we have to make some short goals and some long goals. We need to get you a GED, because I have never known a president without a high school diploma." So they put him into a program to get his GED. Then, after that, they put him on assistance to receive money for him to have a place to stay. That young man now is president. He is president of his janitorial service, but he is a president. His goals were met because a consumer knew and understood his cry and was able to get this through State agencies. They were able to advocate for him to get what he needed. He is now off assistance. That is one more person who is

not going to jail repeatedly. He is also not going into the hospital repeatedly. He is paying taxes. He is an outstanding member of his community.

[Barbara Jackson, continued.] This is why we need a consumer on the board. Let's have representation with taxation. It will be less financial burden on all of us. What it will do to this young man and to other consumers is very important.

Joe Tyler, Consumer Services Assistant, Dini-Townsend Hospital, Nevada Mental Health Institute:

Like Barbara, I say, "Nothing about us without us." I learned this many years ago while attending a conference in Oregon for consumers. It was a wonderful thing.

When I am working at the Dini-Townsend Hospital, sometimes I will use humor and say, "I take my placebo every day, because it gives me 110 percent of the normally recommended daily allowance for hope." I am just kidding, but I say I take my medications and I get off of the bad drugs onto the good medications. We all need to do that in the psychiatric observation unit. I give them a pep talk. They really do respect consumers like themselves—people coming from where they have come from—to support them. I think I could bring a great deal of expertise to the Commission, because not only do I work in the trenches, but I also worked in an administrative capacity as a hospital administrator back before my brain disorder. When my doctor told me I have schizophrenia, I told my doctor I have been feeling a little beside myself lately. I like to get my point across with humor, and I think I do it very effectively. I know both Barbara and I would be very interested in serving on the Mental Health Commission, and I think we would do a great job. We would bring a lot to the Commission.

Chairman Parks:

If no one else wishes to speak, we will close the hearing on S.B. 131. We will go ahead and open the hearing for S.B. 184.

**Senate Bill 184 (1st Reprint): Revises provisions relating to enterprise funds.
(BDR 31-23)**

Senator Terry Care, Clark County Senatorial District No. 7:

We have in statute a mechanism that allows the creation, if they wish to do it by local government entities, of what are known as enterprise funds. These contain bill permit fees, barricade permit fees, and more of the same. Again, this is simply voluntary. The purpose of this bill is to come up with some sort of a

mechanism that will allow the people to make their recommendations as to the administration of the funds contained in the enterprise funds.

[Senator Care, continued.] I will give you an example of what I am talking about. Let's say that you are in the construction industry and you pay a barricade fee, an encroachment fee, a permit fee; obviously, you are paying a fee to get some sort of service. What the bill is intended to do is allow a mechanism for you to have some discussion with those local governmental entities that have these funds. You can offer your opinions or recommendations on how you think that fund can best be administered, so everyone who pays the fees is then assured of getting his or her service. That is the primary part of the bill.

There is another part of the bill that will allow for the retention of interest in various funds in the enterprise fund itself, so that it doesn't go elsewhere. The primary purpose of the bill is the first part that I have just explained to you. Again, not every local entity has these enterprise funds, but many do. This is simply to come up with a way so that those folks, who pay the funds and expect the services, can come up and offer their recommendations, only as to the administration of those funds.

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking in support of the bill. The bill, you will note, has been amended. It was amended working with local governments, because some of the local governments did have committees. We wanted to make sure that this did not restrict the formation of the committee, and also that it worked within the framework of how they established their committees or the numbers on their committees, which is dealt with in Section 2. Those are the amendments you see. A couple of the local governments did not want to have staff people on their committee. That is why two staff people become permissive on this. It is no longer restricted to five people, but however many, with a minimum having representation from the development and construction industry.

The idea of the bill is to foster a dialogue in those instances where it is needed. The provisions for the building enterprise funds that restricted balances, et cetera, is something that came about two sessions ago. I have been on a number of committees with entities looking at infrastructure needs and how they have done fees, and this modifies it. It is a fact that when you have an enterprise fund, in some instances, those funds and the monies collected had some huge ending fund balances. There was no way of determining what those balances were. We saw balances that were double the amount of operation in the fund. Also, there would suddenly be discussion about needing to raise a fee.

Maybe you do, and maybe there is a very good reason for having what you have in that ending fund balance. It is something that needed to be identified.

[Carole Vilardo, continued.] What you have in this bill is the 50 percent of an ending fund balance, which includes overhead. You will find those provisions are primarily within Sections 7 and 8, establish the amount of money, and also provide that restricted assets are not included. That would be anything that is encumbered. We think it will allow better accounting. We are going against the CAFRA [Comprehensive Annual Financial Report] if we are looking at this, so that is an audited dollar amount.

The biggest issue is if we want to change the level of service or where you have had large ending fund balances and there is talk of increasing fees. There can be some dialogue as to the need, justification, and recommendations that would be made going forward on this.

The bill was amended to accommodate those entities where they are dealing with enterprise funds. As Senator Care indicated, not every entity has an enterprise fund. The enterprise fund is designed to be a self-supporting fund. It is designed to, as closely as possible, run like a business where you charge the fee needed to provide the service. That being said, there are times when the level of service should be open for discussion in relation to the fee. In some instances that is being done right now, as witnessed by committees that are in place. In other cases, it is a little more nebulous. What we are trying to do is ensure that a dialogue is fostered.

I could go through each section of the bill, but those are the two main parts and the two sections in which they exist.

Assemblywoman Kirkpatrick:

Is there a way to stagger the committee members so some experience is always there? Maybe two people could be large, so their term is a little bit longer, and there would be some history behind us when the board turns over.

Carole Vilardo:

The language that you have says for a term of at least two years. I did not realize in statute you cannot have these types of appointments. There has to be a reappointment after the two years. The original bill called for four years, and that didn't work. When I questioned the change, I was told it was constitutional and could only be for a term of two years, but you could do the reappointments.

Trying to get what you are referring to is the reason for having at least three members of the committee who are very familiar with the developing

community, who would be users of the service. Again, in the original bill, we thought it was important to have staff people from the county that dealt with that. As it turns out, Reno does have a committee they work with, and they don't have staff people on it. The amendment accommodates all of those changes.

Assemblyman Grady:

I remember this was done either for Clark County or Las Vegas and was originally for their building department. Are there others that are using it widespread, or is it mainly larger cities and counties?

Carole Vilardo:

I believe you are correct. It would be in the very urbanized areas that they start looking at enterprise funds. If you do not have a lot of growth, it strikes me that it is relatively easy to meet your needs out of the general fund. Once you have a lot of growth and you have to go for these permits and inspection, I don't think you want to be taking a level of money out of your general fund for a specific function. That is where you see the enterprise funds being created. They can keep their general fund intact and set up a level of fees that supports the services needed by a specific segment of the community—in this case, people who are involved with development and building.

Assemblywoman Parnell:

Would the advisory group then make recommendations and report those back to the city council or county commission making the final decision?

Carole Vilardo:

The advisory group could make recommendations. There may be no reason to make any recommendations. If you look at Section 4, subsection 5, "The committee can issue opinions and recommendations to the governing body of the local government including, without limitation, the adequacy of fees." They could recommend that, to improve a level of service, the fees should be raised or there should be another level of fee. "The sufficiency of the balance in the fund" was in the original language and appeared because we are saying "including without limitation." There really is no restriction on anything, including sufficiencies of balance. If there was an issue where it was advisable to maintain 55 percent of operating, including overhead, it could be the recommendation to the local government.

Chairman Parks:

As far as the representation, we have a lot of procedures that are set up where the body is appointed when the change takes place with the city council or county commission. Would this wording permit the appointment of those

individuals? A good example would be the first meeting in January of odd-numbered years, when a new county commission is seated. As I read this, none of them are appointed by individual members, but rather, they are collectively appointed.

Carole Vilardo:

On the initial selection, yes, that is the way I would read it too. There is nothing that I am aware of that addresses the issue you just raised. These are generally appointed for two existing committees. One is in Clark County, and one is in the City of Reno. They have been functioning, and they may be able to address how they were appointed. It was interesting because originally, we did not want to put any additional burden on the governing body, so we talked about doing it through staff. City of Reno does appoint through their governing body, so it allows both, but to be totally amenable, it appears that it would be a better way to operate.

Chairman Parks:

My second question is that we have lots of procedures for appointment of individuals. Is this consistent with the various accounting boards?

Carole Vilardo:

The use of the CAFRA is what is required of local governments annually. You certify an annual financial report to make sure that there are no disputes about the numbers you are using. Either a budgeted number versus what I think you actually spent is the reference to the CAFRA. The accountants—the outside auditors—who prepare that financial document all conform to what the government lists as the accounting standards board requires.

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:

Early on we had some philosophical issues with the sponsors of the bill. Basically, there were some issues with the makeup of the committee, and Ms. Vilardo did mention that in her testimony. We worked diligently through the process and late on the Senate side. We really did not have a chance to look at the bill as a whole. We appreciated the fact that when it came out in the first reprint, we did have additional opportunities to work with the sponsor and understand the legislative intent of the bill in certain sections.

I would like to call your attention to page 3 of the bill. Beginning on line 1, Section 2, subsection 5(c), it states, "Any other relevant issue related to the operation of the enterprise fund." With the approval of the sponsor of the bill, we just want to state for the record that the legislative intent of this section is that this provision includes enterprise fund balances. An example is a project

like the Wynn Hotel, which is essentially a two- and three-year project. We get their billing fees in advance. It is obviously a very large and substantial amount. We have to maintain that balance in the fund to essentially fund the operations we will have in the continual inspections of a project of that magnitude. Those ending fund balances help our enterprise folks and development services go to the finance department and say, "We need to hire folks." So, we need to keep that money in reserve so that it is possible to go out and attempt to hire those people to do the inspections that are necessary. I believe that is the intent of the sponsor, and it is our hope also that it is the meaning behind that language.

[Dan Musgrove, continued.] We are in complete support of the bill as it is now and appreciate the fact that she worked so diligently with us.

Carole Vilardo:

The bill has a provision and existing language, and that was where part of the confusion arose. When we were having these discussions, we were talking about the fact that restricted balances, restricted assets, or those things that were encumbered—such as these advance payment of building fees—needed to be outside or at least 50 percent of operating. In this instance, it appears that those funds that were being prepaid to do the service were not being held as restricted funds. They should have been held as restricted funds. The existing law already talks about restricted funds. In talking with the financial people down in Clark County and the Director of Development Services, I have found that they have spoken to our accountants, that there is no problem, and they understand.

For the record, it was never our intent to capture restricted funds. You just can't do that, and you do not want to make them part of operating, but if you see these huge amounts, you want to be able to identify why they are there. Using the proper accounting techniques will enable you to do that.

Chairman Parks:

On page 6 and going into page 7, there were about 20 lines of existing statute that are being removed. I am not certain if I heard the specific reason for the removal. It appears on page 6, starting on line 33. It is in Section 7, and it is a lengthy section.

Carole Vilardo:

Those sections were changed because they were correcting other sections' cites. It was basically rewording what had been put in between Sections 2 and Sections 8, so that was the reason for the removal of the language. It was a reordering of where items were appearing and some word changes within statute.

Andrew List, Executive Director, Nevada Association of Counties:

We just wanted to echo the sentiments of Clark County and the explanation of the bill given by Ms. Vilardo. After work on the Senate side, we are in support of the bill.

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

We appreciate the work that the bill's sponsor did with us to make sure that the enterprise fund committee that we have established in Reno remains in existence. It does report directly to the city council, and it is not staff-driven. It has been very active and involved in our community as we grow.

Chairman Parks:

Have you had an enterprise fund for a number of years?

Nicole Lambole:

I believe it has been about six years. It was actually at the request of the city council, as we started looking at how to revise our building department and the needs of the developer.

Chairman Parks:

The City of Las Vegas has had theirs in place for about 24 years.

Irene Porter, Executive Director, Southern Nevada Home Builders Association:

I was here when enterprise funds began. I think I have dealt with them more than anyone in this room has. We do support this bill. We are very glad to see Senator Care and Ms. Vilardo come forth with this bill. It helps to put some consistency in the way enterprise funds are operated and whether there is or is not a committee to work with the governing body on the operation of these funds.

I want to reply to Mr. Grady's question. Enterprise funds began in the 1980s, by state law, to have an alternative to the cap that was in place. If you recall, after the tax shift of the early 1980s, there became a cap of 4 percent on fee increases. If a building department did not increase fees for a number of years, you could still only raise it 4 percent. The enterprise fund law was put in place in order to be able to have separate funds that were outside of that cap. They could pay for the cost of the entire operation of an individual department. The original enterprise fund of a local government was Clark County, and then the City of Las Vegas. In later years, our local governments in northern Nevada—and I think almost all of them in southern Nevada—now have this.

[Irene Porter, continued.] As far as the citizen committee working with the fund, the City of Reno, Clark County, and the City of Henderson all have those committees in place. Las Vegas does not, and I don't think North Las Vegas does, but they were planning on doing one to work with the operation of the fund.

One of the primary reasons the people have committees to work with the operation of the fund is that the money is all paid by the development industry. It comes from the commercial to residential in order to achieve the kind of services they need to get their projects done. The fund pays for everything from overhead to the entire cost of all the building inspectors, the plan checkers, the cars, the radios, and the entire operation of those departments. Now we have put development service centers together, and we are also bringing public works departments into the funds as well. It pays for all those costs.

When you have these enterprise funds in place, with the exception of a possible variation in some entities, the private sector is paying for the entire operation and cost of those departments. There are no taxpayer dollars involved in the operation of those departments. We like to be able to work with the entities so that we can help ensure an adequate number of staff. They plan, check, and inspect where the money is going, making sure it is not going into other functions or unnecessary buildings. We have built buildings for entire building departments. The one in Clark County on Russell Road was built entirely out of enterprise funds. That has to be done in cooperation with the people that are involved in the fund in the local government as well. It is a very positive thing for the taxpayers of Nevada to have. It is a very causative thing to finally put some real consistency in having these committees and in having some strong financial guidelines for it.

When they were talking about the prepaid fees issue, if you looked on page 7 of the bill, right after they have taken out the lines, you will find that the current law does allow for the restricted asset of the prepaid fees. There is not a real problem with the working capital fund. The law already allows for these prepaid fees to be put into restrictive assets.

We strongly believe that the money should be used to improve service and get the projects done for the people who are paying the fee. We will consistently have that kind of philosophy. Associated General Contractors of Southern Nevada, represented by Director Steve Holloway, has been supportive of this bill as well.

Chairman Parks:

I will close the hearing on S.B. 184 and open the hearing on S.B. 411.

Senate Bill 411 (1st Reprint): Makes various changes relating to local improvements. (BDR 21-1293)

Marvin Leavitt, Legislative Advocate, representing the Urban Consortium:

Essentially, this bill deals with improvement districts. Mr. [John] Swendseid has taken and analyzed the existing law and has attempted to find those places where there are inconsistencies in the law. He has looked at where it needs to be updated and where it doesn't seem to be quite working right.

Mr. Swendseid will review the provisions of the bill as well as the logic for the changes that we are proposing in the law as it relates to these improvement districts.

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

We have a memorandum that summarizes the changes ([Exhibit B](#)). It is three pages, and it starts with S.B. 411. Also, we have passed out one page with two proposed amendments to the bill ([Exhibit C](#)). I will mention those as I go through the bill.

The purpose of the bill is to make some technical amendments to Chapter 271 of NRS [*Nevada Revised Statutes*]. This is the chapter in NRS that allows local governments, primarily cities and counties, to levy special assessments against property for improvements that benefit the property. It is most commonly used for water and sewers in streets that are put in front of houses that do not currently have city streets. Typically, the home or business that gets the city street—along with the water and sewer put in front of it—gets assessed for a share of the cost of installing that improvement. These are done very commonly in Clark and Washoe Counties and somewhat less commonly in the rural counties. Clark, Washoe, and the cities in those counties all use this type of method to finance local improvements.

In going through this, the Urban Consortium and the two urban counties of Washoe and Clark all had several meetings this summer. We went through Chapter 271 thoroughly and came up with a set of suggested technical amendments. That is what is before you now. I will not go through every one of them, but I will go through the ones that seem more important to me. We are not asking for a policy change on any of them. I do want to highlight a couple of them.

[John Swendseid, continued.] The first one, which is (A) on the first page of my memorandum ([Exhibit B](#)), allows a local government to assess itself for a local improvement. Currently the law does not allow that, and it seems to us it is important to do that. If we are putting the new sidewalk, street, water, or sewer in front of a city-owned building, the city should pay its share just like everyone else. The purpose here is to allow the city to assess itself for improvements. There is a limit on that. The city's or county's property can't be more than 15 percent of the property in the district. This is not a vehicle for the city to finance improvements for itself. It is just to put in the streets and for the city to pay its fair share.

Section 3 clarifies a provision. There is a rule for local improvements that generally, payments and other things sent by property owners are treated as made on the date they are mailed. However, it doesn't tell us what to do when we can't read the postmark. This happens a lot, and so we have just provided in Section 3 a rule for that. We will treat it as mailed two days before it is received when we can't read the postmark. A lot of times now you either cannot read the postmark, or the postmark does not have a date on it. Some of the stamping machines do not provide dates. It is just a way to fill that gap.

Going to the second page of my memo ([Exhibit B](#)), Section 8 changes the prepayment penalty for assessments. This is what you pay if you were going to pay your assessment off early, to a maximum of 5 percent. Currently, the statute provides that the rate cannot exceed more than 3 percent of the Twenty Bond Index. Right now, the Twenty Bond Index is around 4 percent, so that would be around 7 percent. We never need that much and really right here, we do not need an index. We might need an index for an interest rate limit. However, for a prepayment penalty, just a flat maximum seemed to us the easiest on cities and counties and the easiest on property owners.

Section 9, Section 16, and Section 18 all incorporate Ms. [Helen] Foley's original amendment. They increased the term of assessments and assessment bonds from twenty years to thirty years.

Item (H), Section 9, allows the delegation of the setting of interest rates on assessments to the chief financial officer or chief administrative officer of the municipality. You have already authorized this type of delegation for the interest rate on bonds, but right now, after we have sold the bonds, we need to go back to the governing body to get them to fix the interest rate on the assessments. If you will allow the governing body to delegate the bond interest rate fixing to an administrative person, we should also allow the fixing of the interest rate on the assessments. I should mention that the law already has that pretty tight. The interest rate has to be higher than the bond interest rate. There is then enough

assessment interest to pay off the bonds. It cannot be more than 1 percent higher than the bond interest rate, in order to make sure the government does not use this as a profit center. So it is already a narrow corridor in which the interest rate on the assessments can be set.

[John Swendseid, continued.] Item (I) on page 3 of my memo ([Exhibit B](#)) clarifies that the lien of unpaid assessments is at the same level as the lien on property taxes. This is what your law had always said until last session. In the last session you passed a bill to clarify, for bankruptcy purposes, that the lien of property tax was ahead of all other liens. Unfortunately, we did not catch at that time that it took away the priority of assessment liens. These typically have been at the same lien level as property taxes. The purpose of the amendment mentioned in item (I) of this memo ([Exhibit B](#)) is just to put assessments back where they were before your last session. If somebody does not pay their assessment, the city has the same lien against the property as they would for someone who does not pay their property taxes.

Section 13 deals with district surpluses. If, after you have paid off the bonds, there is still money left in the district, what happens to that money? Existing law says you refund everything over \$10,000 to the then-owners of the property. We are suggesting changing that \$10,000 limit to be \$25,000. The \$10,000 or \$25,000 that's kept goes into something called the "surplus and deficiency fund," which is there to make up for shortfalls in other assessment districts. The \$10,000 number came from the statute passed in the 1970s, and it is a little old. Now we think \$25,000 is more realistic. It provides cities protection on other assessment districts. I should mention that this is not a transfer to the general fund. It just goes into a fund that is there to provide security for payment of other city assessment districts.

Section 14 clarifies that we follow the same enforcement procedures for a public entity that fails to pay their assessments as we would for a private entity. This just seems fair. This section also allows the treasurer, if the governing body allows them to do so, to waive penalties and interests for good cause. This is one of the sections that we are asking be amended. The amendment to Section 14 is the first underlined amendment on the amendment section ([Exhibit B](#)). The amendment would make it mandatory that the city council, in its ordinance, provide that it is okay for the governing body to allow the treasurer to do these waivers of penalty and interest. All of the larger cities and counties have implemented such a procedure, and we think making it mandatory doesn't hurt the bondholders at all. In appropriate circumstances it will provide good relief to the property owners. If someone gets called into the service, someone has moved, or, for some good cause, they failed to meet an assessment payment, it seems fair to allow the governing body to allow their

treasurer to be able to waive the penalty and interest in those circumstances. That is the purpose of the amendment that has been suggested.

[John Swendseid, continued.] Going to the fourth page of the memo ([Exhibit B](#)), item (O) provides what happens with delinquent penalties and interests that are collected. That is not specified in present law.

Section 19 allows the governing body to specify the details of how they conduct sales for properties that do not pay their assessments. Right now the law is not clear, and we end up with some inconsistencies between how different cities and counties process them. We just want to be sure that they are authorized to set up a procedure. This section allows the governing bodies to specify the procedure by ordinance.

Section 20 is an exception to that postmark rule I mentioned before. It says that for a redemption payment that a property owner uses to redeem property, if you have not paid your assessment and the governing body has sold your property for non-payment of assessment, you still have a period to what is called "redeem the property." That period can go anywhere from 270 days to two years, depending on what type of property it is. After the redemption period is over, the cities are entitled to give a deed to the property to whoever bought the property at the foreclosure sale. For purposes of delivering that deed, we have to know for sure whether the property owners made a redemption payment or not. We cannot rely on when they have mailed the payment. We have to go to whether we have actually received the payment. Someone is asking us to take some action based on whether this payment has been made. So, for Section 20, we would say that for purposes of that payment only, it is made when it is received by the governing body instead of when it is mailed.

Finally, item (r), Section 21, allows us to skip certain procedural steps—namely adoption of resolutions—where we have the written consent of 100 percent of the property owners to the creation of the improvement district and issuance of the bonds. This is another place where we need to make an amendment [[Exhibit C](#)]. There is a cross-reference that needs to be changed in the section that is amended in Section 21. It needs to be changed to NRS 271.325, instead of NRS 271.320. That, in part, is my fault, because the way I originally drafted it I had 320 in it, and when it went through LCB it came out in such a way that 320 does not work at all. We needed to change it to 325. That seemed the simplest way to fix it. That is what we are suggesting.

Assemblywoman Kirkpatrick:

I have one question, but it is on a section that was skipped. In Section 6, your summary says that notices are going to be posted to the website and not posted on the property owner's property; however, in the bill, it seems to indicate that it is going to be somewhere near the project. What are you trying to do in this?

John Swendseid:

Sometimes we have had projects that are located entirely within private property, and it is impossible to find a posting location that is on public property. We have to find property that is located in the vicinity of where the project is located. We want to have an alternative, and so the alternative to posting in three public places at or near the project would be to post on the website.

Assemblywoman Kirkpatrick:

I am only thinking of this statewide and question what you would do in a situation where the website is not available. I think you should have some type of old-fashioned advertising.

John Swendseid:

When we post, we also are mailing and publishing notices. At the same time we post a notice, we are also mailing a notice to each property owner. We are also publishing a notice in the newspaper. Hopefully, one of those other two methods would reach the property owner. Here, if the municipality does not have a website, they still have the option of posting in three places near the property. Where posting is required, it could be either the website or the three locations near the property. If the website doesn't work, they can post on the three locations near the property.

Chairman Parks:

I have one question. It deals with the waiver of penalties and delinquent interest imposed for good cause. Was there any discussion as to putting an amount on that? I am presuming that normally it is not a significant amount, but my concern only goes to the fact that someone might waive the penalties and delinquent interest if "their dog ate their homework." I question the reason for good cause.

John Swendseid:

Because of the way this is phrased, the governing body is going to have to give the treasurer some guidance as to what to treat as "good cause." If you are late on an assessment payment, the penalty is pretty severe. Right away you are subject to an interest payment that is the full amount of the six months'

interest. If someone is two or three days late, a lot of the treasurers feel that it may be appropriate to even accept "the dog ate my homework." They might do this in order to get out of the rather significant penalty. Otherwise, I think we have left it up to the governing body to give the treasurer some direction. You may have other reasons where you may want to waive even a substantial penalty for someone six months late, such as if they get called into the service or something similar. If we haven't started foreclosure procedures on the property, I don't think it harms the bondholders. As long as the governing body provides guidance, I think the treasurer would not have too much discretion with this.

Chairman Parks:

So as I read this in the bill, different entities could establish different levels of criteria?

John Swendseid:

That is correct.

Chairman Parks:

Since there is no one else who wishes to testify against or who is neutral on S.B. 411, I will close the hearing. We have in front of us at this point five bills for work session. We will go ahead and start with S.B. 17.

Senate Bill 17 (1st Reprint): Revises provisions governing review of administrative regulations by Legislative Commission. (BDR 18-647)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

[Distributed [Exhibit D.](#)] Senate Bill 17 was sponsored by Senator Wiener and was heard in this Committee on March 17. Senate Bill 17, in its first reprint, revises the procedures by which the Legislative Commission reviews and objects to administrative regulations. The bill requires that the Legislative Commission or a subcommittee of the Commission review every administrative regulation problem gated by a State agency. The bill would also eliminate the requirement that the Legislature ratify an objection to a regulation. An objection by the Commission or its subcommittee would suspend the filing of an enforcement of the objectionable regulation.

Testimony—both oral and written—in support of the bill was received from a number of entities as outlined in the summary. Senator Wiener also provided a chart of statistics relevant to the bill listing, which included the number of regulations filed with the LCB [Legislative Counsel Bureau], reviewed by the

Commission, the number not reviewed, and the number of objections. I have this chart attached to refresh your recollection ([Exhibit D](#)).

[Susan Scholley, continued.] Although no amendments were proposed at the hearing, Assemblyman Hardy did question cutting the number of days from 10 to 3 by which regulations had to be received by the Commission prior to review. Also, subsequent to the hearing, we have received a proposed amendment from Assemblywoman Buckley, which is attached ([Exhibit D](#)). The measure passed unanimously on the Senate Floor. There was no identified state or local fiscal impact.

Turning to Assemblywoman Buckley's amendment, you will see that there are effectively three components to it:

- It would require the agency to revise a regulation to conform to the statutory authority and to carry out the intent of the Legislature. Also, it would require them to return it within 60 days after the agency received written notice of the Commission's objection.
- Secondly, if the Legislative Commission or subcommittee objects to a revised regulation, then the Legislative Counsel could revise the regulation to conform to the statutory authority, submit it to the Legislative Commission for approval, and then file it with the Secretary of State.
- Section 3 would make the provisions retroactive.

Assemblyman McCleary:

I would like to ask Susan if she could go over Mr. Hardy's suggestion again. What were the arguments for that?

Susan Scholley:

If you look at the bill, on page 2, line 29, the Commission currently reviews the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting. This would allow them to review it if the regulation is received more than 3 working days prior to their meeting. It cuts the time that the Commission needs to have the regulation prior to the meeting from 10 working days down to 3 days. The argument from Senator Wiener's perspective was that it conforms to the 3-day Open Meeting Law notice requirements. Dr. Hardy was concerned that although consistent with the Open Meeting Law requirement for publishing notice of the meeting, it might be too short a time to allow the Commission review of the regulation prior to the meeting. They would potentially only have the regulations 3 days prior to the meeting. It could be longer, but it could be as short as 3 days.

Assemblyman McCleary:

The Commission could postpone their action on the regulation. If they needed more time, they could take more time. Couldn't they take as much time as they wanted? The 3 days would be fine with me, because if they wanted, they could still take more time. They have the authority to take more time.

Assemblyman Goicoechea:

I believe, as I read it—to my colleague from southern Nevada—at that point they would refer it to a subcommittee or full committee before consideration. So I do not see any problem with meeting the Open Meeting Law requirements. It has to be filed. That is how I read the bill, but I may be wrong.

Chairman Parks:

I guess I have always leaned toward the five business days or the 7 calendar days to afford persons opportunity.

Susan Scholley:

We might need a little more time to consider our answer on that. It does say on line 27, "The Legislative Commission shall review the regulation at its next regularly scheduled meeting if..." On the other hand, it says that it may refer the regulation for review to a subcommittee to review regulations. There appears to be some flexibility, but we will try to confirm that for you.

Chairman Parks:

Let's make sure that if there are issues, we can get them all out, and then we are obviously going to have work sessions most of next week, so we can bring it back at that time.

Assemblyman Grady:

There were a number of people who were in support of this. Do we know if the amendment has been shared with the Senator and with the other people that were in support of this? Do they agree with the amendment? I am not sure how soon the amendment came in and who has had a chance to review it.

Chairman Parks:

Thank you. That is a very good question. I am presuming that Ms. Buckley would have done that, but I can't say for sure that she did. Let's make sure that it has taken place.

We now have an answer to Mr. McCleary's question.

Susan Scholley:

After consulting with legal counsel, we do believe that there is discretion on the part of the Commission. They could defer review of the regulation if they felt they needed more time.

ASSEMBLYMAN McCLEARY MOVED TO AMEND AND DO PASS
SENATE BILL 17.

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Parks:

That takes us to S.B. 18.

Senate Bill 18 (1st Reprint): Revises provisions governing program that provides grants for water conservation and capital improvements to certain water systems. (BDR 30-707)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Senate Bill 18 is sponsored by Senator McGinness and was heard in this committee on April 21. Senate Bill 18 expands the projects that are eligible to receive grants from the Fund for Grants for Water Conservation and Capital Improvements to Certain Water Systems. The bill would allow funding for well connections to a municipal water system if the well is not in compliance with the Federal Safe Drinking Water Act [of 1974].

This measure is also concurrently referred to Assembly Ways and Means. Testifying in support of the bill were Carson City; Douglas, Churchill, Eureka and Lyon Counties; the Nevada Conservation League; and the Truckee Meadows Water Authority. There was no testimony in opposition to the bill.

The measure passed unanimously in the Senate. There is no state or local fiscal impact.

Chairman Parks:

Are there comments or questions from the Committee?

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS
SENATE BILL 18.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Hardy was not present for the vote.)

Chairman Parks:

The next bill is S.B. 321.

Senate Bill 321: Requires Department of Taxation to administer exemption for sales to nonprofit organizations to include motor vehicles transferred to nonprofit organizations. (BDR 32-1253)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Senate Bill 321 is sponsored by Senator Raggio and was heard in this committee on May 6. Senate Bill 321 exempts the sale of a motor vehicle to a nonprofit organization from sales and use taxes, even if the title to the vehicle does not pass to the nonprofit organization. As explained in the testimony, they are referring in that situation to the lease of the vehicle to a nonprofit organization.

Testimony was received from Michael Lee from Lee Bros. Sales & Leasing, Inc., in Reno. The Department of Taxation did testify on the bill and noted that the fiscal impact would be de minimis.

No amendments were proposed. The measure passed in the Senate with 19 yeas; Senator Care was excused, and Senator Horsford did not vote. There was some potential fiscal impact identified at the local level and also the state government level. As mentioned, the Department of Taxation did feel that it was not a common occurrence. There was no fiscal note prepared.

Chairman Parks:

Are there any questions or comments from the Committee?

ASSEMBLYMAN GRADY MOVED TO DO PASS SENATE BILL 321.

ASSEMBLYMAN SIBLEY SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Hardy was not present for the vote.)

Assemblyman McCleary:

I want to apologize to this Committee. This bill actually goes against positions that I previously made. It was pitched to me by someone, and I misunderstood

and I committed to it. I want to apologize to those I may have offended, because it appears I am taking a different position than I have in the past on this measure. I just want to apologize to this Committee for my misunderstanding, and thank you for your understanding on this.

Chairman Parks:

The next bill we have before us today is S.B. 422.

Senate Bill 422 (1st Reprint): Makes various changes relating to regulation of businesses and occupations by governing body of local government. (BDR 20-533)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Senate Bill 422 is sponsored by the Senate Committee on Government Affairs on behalf of the City of Reno. It was heard in this committee on May 11.

Senate Bill 422 has essentially two parts. First, the bill authorizes a local government to adopt an ordinance requiring a person to obtain a certificate to manage certain motels, hotels, and apartment complexes. The ordinance may require that such properties be managed by a person who has been issued such a certificate. The ordinance must not apply to a gaming property under a nonrestricted license or to persons who have received a property management permit from the Real Estate Division. The second part of the measure prohibits a local government from requiring a licensed contractor to obtain more than one business license or pay more than one license tax when engaging in the business of contracting. The prohibition applies regardless of the number of classifications or subclassifications of licensing for which the person is licensed.

Testimony in support of the licensed contractor provisions was given by Senator John Lee. The property management certificate portion of the ordinance was supported by representatives from the City of Reno. There was no testimony in opposition.

The Nevada Association of Realtors requested an amendment to exempt all persons licensed under NRS [*Nevada Revised Statutes*] 645 from the requirement for a property management certificate. The proposed amendment is attached ([Exhibit D](#)), and the difference there is that currently, the bill exempts persons who received a property management license under Chapter 645. The realtors' amendment would expand it to someone who has any kind of a license under Chapter 645. This chapter relates to the licensing of real estate brokers.

[Susan Scholley, continued.] The measure passed in the Senate with 20 yeas. Senator Care voted no. Also, there is no identified state or local fiscal impact. I do not believe there were any minutes available, so I cannot speak as to Senator Care's no vote.

Chairman Parks:

Are there any questions or comments from the Committee?

Assemblyman Sibley:

First of all I need to disclose that I have a real estate license. I am a licensed realtor and I also have commercial and residential real estate. However, this will not affect me any differently, so I will vote on this.

My concern in the bill was when it talked about being required to get this certificate if you have three units or more. In the case of a fourplex, you have some people in Clark County that own, occupy, and actually live in them, and this would require them to go out and get a license. They are basically just living there and renting out the other units. We talked about a possible change with the state business license requirement. Maybe we can do an amendment that if they are required to get the state license, they would be required to comply with this. I think the state's going to address the fact that if you have a four-unit building and you are living in it, then it is not really a business. Rather it is your home.

Chairman Parks:

I guess I should also acknowledge that I also have a real estate license and that this bill will not affect me any differently than anyone else. I will be voting on the bill as well. With regard to Mr. Sibley's comment about increasing the numbers, I think three is fairly low, and there are many individuals who do have fourplexes. I don't think that the fourplexes tend to be a problem as much as the major developments.

Perhaps I can ask the City of Reno if they have had any experience with the small units versus the larger units. Was there a specific reason why the number three was put into this bill?

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

When we drafted this bill, in the City of Reno, if you managed three or more apartments or rental units on one parcel, you are required to have a business license. That is actually in our city code. I think we put that and probably LCB, in its drafting, also did, because it is tied to the business license. The ordinance, if adopted by a local government, is tied to your business license. I think in the

City of Las Vegas, when we were talking with them, they indicated it is four units in which you need a business license. The fair housing standards acts apply to three or more units. That is why we did it.

[Nicole Lamboley, continued.] We did talk with Mr. Sibley a couple of times. We would be happy to have an amendment that clarified your requirements in your city as a business license for managing properties. If you own them and they become income properties, we would be happy to make it more generic and not have the number three. It has also been brought to our attention that the State will be looking at what is required of a state business license at four. If we want to reference it, we would probably in the city have to amend our code in order to comply with that. Three was chosen because that is what we require for a business license.

To answer the question of "have you had questions with fourplexes?" The answer is yes; we have as well. It just depends.

Chairman Parks:

Are those fourplexes that are owned by out-of-state property owners?

Nicole Lamboley:

It varies. Some of them are owner-occupied. Some are strictly investment properties. I don't think we characterize whether or not they are owner-occupied. Even if they were owner-occupied, because there are three or more units on one parcel of land, you would be required to have a business license because you are earning income off of the rental of the other three. You are conducting business. If someone had three random properties in different areas, such as the southwest, one in the northwest and one in the northeast, and then they lived in the southeast, they would not be required to get the license because they are on different parcels.

Assemblyman Goicoechea:

This is enabling legislation from the start. I would think that ordinance could be drafted to be either more restrictive, or it could be less in this statute. It is local government that will make the call.

Chairman Parks:

Mr. Sibley, did making it consistent with local ordinance work for you?

Assemblyman Sibley:

Yes, and then especially when the State looks at the issue. It will make it more uniform as well throughout the state.

Chairman Parks:

Maybe we could go to our staff and ask if they foresee any difficulty.

Susan Scholley:

Speaking on behalf of the Legal Division, there would be no problem.

Assemblywoman Parnell:

I still have a question about "shall not require that a person who is licensed as a contractor will be required to have more than one licensed..." depending on the number of businesses they conduct. The rest of the bill is enabling, and this section is not. This section makes me uncomfortable.

Who is going to lose? There has to be a loss of revenue somewhere in here, if you are currently required to go out and get two or three as a licensed contractor, and now you only have to have one. Could someone please explain that to me a little more?

Assemblywoman Kirkpatrick:

I did speak to Senator Hardy about this portion of the bill, because I also had concerns. I went to most of the local governments, and currently, most of them already allow this type of action to actually happen. They do it on their own, so this is just going to make it more consistent. I spoke with the City of North Las Vegas, and they said that they currently did this. It did not have a fiscal impact. I am more comfortable with it because I too had the same concerns.

Assemblyman Sibley:

One of the other things with the contractors that some people might not be aware of is that in Clark County, we have multiple jurisdictions. If you pull a building permit in Henderson or Boulder City, you have to have a license in that city to do business. So, these contractors have to do their fair share as far as getting their licenses, and so I think this would help them. In Clark County, if you do a few trades and you work in the multiple cities, you could potentially have to have 25 business licenses. That doesn't make sense to me, and so I like the amendment.

Chairman Parks:

What is the pleasure of the Committee?

ASSEMBLYMAN SIBLEY MOVED TO AMEND AND DO PASS
SENATE BILL 422 WITH THE AMENDMENT FROM THE NEVADA
ASSOCIATION OF REALTORS AND AN AMENDMENT TO

SECTION 5, STATING THAT THE LICENSING REQUIREMENTS
WILL ONLY BE THOSE LISTED IN CITY ORDINANCES.

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Hardy was not present for the vote.)

Chairman Parks:

That takes us to S.B. 424.

Senate Bill 424 (1st Reprint): Revises provision governing authority of governing body of city to abate abandoned nuisance. (BDR 21-343)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

Senate Bill 424 was sponsored by the Senate Committee on Government Affairs on behalf of the City of Henderson. It was heard in this Committee on April 22. The bill reduces the threshold requirements for taking action to abate nuisances on abandoned property. The bill reduces from three down to two the number of nuisance activities that must be present before taking action. It also reduces from 2 years to 12 months the time period during which the property must be vacant.

Testifying in support of the bill were the Cities of Las Vegas and Reno. No amendments were proposed, and the measure passed unanimously in the Senate. There was no identified state or local fiscal impact.

Chairman Parks:

Are there questions or comments from the Committee?

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS
SENATE BILL 424.

ASSEMBLYMAN McCLEARY SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Hardy was not present for the vote.)

[The meeting was adjourned at 10:03 a.m.]

RESPECTFULLY SUBMITTED:

Deanna Duncan
Recording Attaché

Linda Utt
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: May 13, 2005

Time of Meeting: 8:00 a.m.

| Bill | Exhibit | Witness / Agency | Description |
|-------------|----------------|---|--|
| | A | | Agenda |
| SB 411 | B | John Swendseid / Airport Authority of Washoe County | Memorandum summarizing changes to the bill |
| SB 411 | C | John Swendseid / Airport Authority of Washoe County | Proposed Amendments |
| | D | Susan Scholley / LCB | Work Session Document |