

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-third Session
March 23, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:46 p.m. on Wednesday, March 23, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Warren B. Hardy II, Chair
Senator Sandra J. Tiffany, Vice Chair
Senator William J. Raggio
Senator Dina Titus
Senator Terry Care
Senator John Lee

COMMITTEE MEMBERS ABSENT:

Senator Randolph J. Townsend (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Tom Grady, Assembly District No. 38
Senator Dean A. Rhoads, Northern Nevada Senatorial District

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Tonya Cort, Committee Secretary

OTHER PRESENT:

Vernon Dalton, Wells Rural Electric Company
Bruce Scott, Board for Financing Water Projects, State Environmental
Commission, State Department of Conservation and Natural Resources
Katy Singlaub, Manager, County Manager's Office, Washoe County
Bonnie Weber, Chairman, Board of Commissioners, Washoe County

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Vahid Behmaram, Water Rights Supervisor, Engineering Division, Department of
Water Resources, Washoe County
Michael F. Dillon, Jr., Builders Association of Northern Nevada
Gregory Peek, Vice President, ERGS Properties, Inc.

CHAIR HARDY:

We will open the hearing on Senate Bill (S.B.) 147.

SENATE BILL 147: Increases amount of general obligation bonds that State Board of Finance is required to issue to provide grants to certain water systems. (BDR 30-914)

CHAIR HARDY:

Please note for the record that we are in subcommittee at this point with Senator Raggio, Senator Tiffany and me present. Mark Committee members present as they arrive. Senate Bill 147 is similar to two other bills that are being processed through the Legislature. One bill is S.B. 18 which just passed the Senate, and we intentionally took the bonding money out of it because it was going to be dealt with in Assembly Bill (A.B.) 20.

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)

ASSEMBLY BILL 20: Increases amount of general obligation bonds that State Board of Finance may issue to support program to provide grants for water conservation and capital improvements to certain water systems. (BDR 30-753)

Assembly Bill 20 is Assemblyman Grady's bill, which is in the process of being amended. It deals with raising the bonding capacity which is the same issue with which S.B. 147 deals. Senate Bill 147 raises the bonding limit established by A.B. No. 198 of the 66th Session from \$90 million to \$100 million. Assembly Bill 20 raises the bonding capacity from \$90 million to \$125 million, and it does this as an aggregate principal amount, so it is a rolling debt limit. Mr. Grady, can you tell us if there are particular projects that are being contemplated under A.B. 20 and under S.B. 147?

ASSEMBLYMAN TOM GRADY (Assembly District No. 38):

Under A.B. 20, we are asking for the bonding limit to be raised from \$90 million to \$125 million and for this to be a rolling debt limit. Every session, we ask for the bonding limit to be raised. If a rolling debt limit is assigned, we would not have to keep asking for it to be raised every session. I do not want to speak for Senator Rhoads and S.B. 147, because I do not know what he has intended for his bill. Assembly Bill 20 would reach all areas of every county; presently, 16 out of the 17 counties have used this, and only Carson City has not.

CHAIR HARDY:

Assembly Bill 20 does not contemplate an increase for a particular project. I believe that Senator Rhoads' S.B. 147 seeks the increase specifically for the Bishop Creek Reservoir. The question was, should we make the debt limit \$135 million to allow for that money. If you are not contemplating any additional expenses, then we should be able to process A.B. 20, as is, and that will take care of Senator Rhoads' concern as well. The intent of the Chair would be to process these two bills together, so we can have a policy discussion at the same time. If we run out of time, in terms of the deadlines, then we could process A.B. 20, amended as to the sponsorship to make sure the sponsors are on there appropriately. I just wanted to make sure there were not any specific projects under A.B. 20.

ASSEMBLYMAN GRADY:

No, we have no specific projects in mind; our projects go through the Board for Financing Water Projects and will compete with others for the money received through A.B. 20.

CHAIR HARDY:

Is there anyone to testify in favor of S.B. 147 to determine whether my proposed method of dealing with this meets with approval?

VERNON DALTON (Wells Rural Electric Company):

My name is Vernon Dalton and I live in Clover Valley, which is about 15 miles south of Wells. I understand that S.B. 147 is for water conservation, building and reconstructing reservoirs. These are different purposes from some of the other bills. Bishop Creek Reservoir, or Dam, was built in the early 1900s and has deteriorated to the point it is no longer useful. The outlet gate is stuck, the water engineer has basically condemned the dam and it has some leaks at the

60 foot level. We are asking that monies be appropriated so we can rebuild the dam.

CHAIR HARDY:

My understanding is the majority of the money from A.B. No. 198 of the 66th Session is for water-quality issues. The condition at Bishop Creek would be affecting the quality of water, so you would be eligible for money that is available through A.B. No. 198 of the 66th Session.

MR. DALTON:

That would be fine if that is the decision.

CHAIR HARDY:

Often in the Legislature, as we have every Legislator trying to do his or her best for their constituency, we have identical bills introduced in the Assembly and Senate, simultaneously, and that appears to have occurred here. The Assembly has identified some important public-policy questions that make more sense with the aggregate bonding limit. The intent of the Committee, then, will be to process A.B. 20 with any subsequent amendments needed, although I doubt any will be needed, because A.B. 20 should accomplish what Senator Rhoads is trying to do with S.B. 147. Mr. Dalton, are you comfortable with proceeding with this method?

MR. DALTON:

I am, if the amount of money is adequate for the Bishop Creek Reservoir.

CHAIR HARDY:

It is actually more money and is a better way to proceed because S.B. 147 is just an increase from \$90 million to \$100 million. Assembly Bill 20 is an increase from \$90 million to \$125 million, but it is an aggregate principal amount, so it will roll over when certain bonds are met. It seems to be a more effective way to make sure the money is available for your project.

SENATOR RAGGIO:

Mr. Dalton, could you tell us who owns Bishop Creek Dam, who operates it, who it would serve and what is the anticipated cost of the project?

MR. DALTON:

The Metropolis Irrigation District owns Bishop Creek Dam. For irrigation, it would serve eight people downstream of Bishop Creek, along with providing recreation for the Wells and Elko areas. The Bishop Creek Dam will be approximately 20,000 feet and will store that amount of water. The City of Wells and Elko County have each contributed \$20,000 to this project to show that they are very interested in the recreational aspects. The anticipated cost would be around \$6 million, as far as the study we now have shows.

CHAIR HARDY:

It is also important to note, Senator Raggio, that A.B. 20 is not an appropriation for this project. Those responsible for the Bishop Creek project will still have to go through the application process for the grant.

CHAIR HARDY:

Senator Rhoads, Assemblyman Brady's bill does essentially the same thing that your bill, S.B. 147, does, but it increases the bonding amount as an aggregate principal amount so it will roll over when certain bonds are met. When A.B. 20 comes over to the Senate, the Committee would like to process A.B. 20 and S.B. 147 together.

SENATOR DEAN A. RHOADS (Northern Nevada Senatorial District):

I fully support S.B. 147 and Mr. Dalton's amendment. I am willing to wait for Assemblyman Grady's bill, A.B. 20, and try to combine these two bills.

BRUCE SCOTT (Board for Financing Water Projects, State Environmental Commission, State Department of Conservation and Natural Resources):

Chair Hardy, as you and Assemblyman Grady have indicated, we have been working on an increase for our bonding capacity. We have also been working with the Office of the State Treasurer on A.B. 20 to increase the bonding limit to \$125 million. We were not aware of S.B. 147 at that time, and so in regard to your discussion concerning consolidation, the Board for Financing Water Projects has no problem with that proposal. We want to make the point that the \$35 million that Assemblyman Grady is asking for in A.B. 20 is important for us to continue our work under A.B. No. 198 of the 66th Session. We would be happy to have the Metropolis or the Bishop Creek project as a part of our oversight responsibility, but we ask for additional funds to be provided, as the project was not part of our initial plans. The project can be included under the conservation portion of our statutory authority. This would be similar to

A.B. No. 198 of the 66th Session, which has done quite a bit in preliminary work and, ultimately, would do quite a bit more with approvals at the federal level for the Walker River Irrigation District. In response to one of Senator Raggio's questions, when these types of projects come before the State Board for Financing Water Projects, public access and recreation are of concern, since we have State monies involved. The Board supports A.B. 20 and the increasing bonding authority as discussed in my written testimony ([Exhibit C](#)).

CHAIR HARDY:

Mr. Scott, when A.B. 20 comes forward, could you be prepared to discuss some of the projects for which that revenue is needed? Then, we could make a policy decision about whether or not we need additional money added to the request under A.B. 20.

MR. SCOTT:

I would be happy to do that. I assumed that the \$10 million was a number related to the estimated cost of the Bishop Creek Dam. If it is less than that, then it puts a different complexion on the bill.

CHAIR HARDY:

I want to reemphasize that the application process would have to be done and the same criteria that is used to determine other grants would have to be used to determine the Bishop Creek project. We would be interested in hearing the types of projects that you anticipate coming up that need the additional money, and we can have the full discussion at that time.

We will close the hearing on S.B. 147 and open the hearing on the discussion of the recent public auction of groundwater rights by Washoe County. It is very important that everyone is clear on why I requested this hearing. There is an important public-policy question associated with what occurred in Washoe County. I want to emphasize from the start that I do not believe Washoe County acted improperly. I do not believe there was any intent to do anything beyond what Washoe County is able to do within the law. In fact, I think the County followed the law with one of the methods it has available for disposing of water. However, I do think there is a broader public-policy question about how local governments, when they find themselves within possession of water rights, dispose of water rights. Nevada water law is very clear in terms of to whom water belongs in this State. The Attorney General's opinion is that disposing of water rights for purposes of generating revenue is not a benefit to

the public. That seems to work at cross-purposes with the method that is in the law for disposing of water rights. What we would like to do is close that loophole, as I feel there are specific ways water rights held by public agencies should be disposed of, and I will share those with all of you later in the discussion.

KATY SINGLAUB (Manager, County Manager's Office, Washoe County):

With me today is Bonnie Weber, chairman of the Washoe County Board of Commissioners. We also have several key staff members who can answer technical questions. We appreciate the opportunity to provide a summary of what occurred in our water rights sales of March 8 and March 15, 2005 ([Exhibit D](#)). We did request that a copy of our "Washoe Water" publication be provided to you, and on page 6, there is a discussion of our reclaimed water efforts along with a map for reference points ([Exhibit E](#), original is on file at the Research Library). Water rights are recognized by law as real property assets, and *Nevada Revised Statutes* (NRS) 244.282 spells out what local governments must do to dispose of surplus property, and that is what we did. I do want to make one slight correction on page 2 of my testimony on bullet number 2, and that is all the water rights available within southern Washoe County are appropriated. There are some water rights available in rural northern Washoe County, but they are not available for use in our metro-area basins.

CHAIR HARDY:

I have done some extensive research on this, and it does appear what occurred in Washoe County was an anomaly. This could not occur in southern Nevada because of the Southern Nevada Water Authority arrangement. It is certainly not my intent or desire to bring all of the water rights, particularly privately held water rights, into one entity. I do think it would be a policy discussion worth having, for northern Nevada to look at an arrangement such as southern Nevada has. That is an interlocal discussion you need to have, and it is not appropriate for the Legislature to compel. I am satisfied and happy with the laws regarding speculation, and I know that is not what occurred here. There was a water right that you wanted to dispose of, and you deserve a good-government award for using the revenue to fund the projects. You acted responsibly, and it has been a good education for me to understand the differences in water rights between northern Nevada and southern Nevada. I certainly do not want to do anything to discourage conservation, and you should be commended for your reclamation projects. Be assured that the water, when disposed of by a government entity, is disposed of to a water agency. The only question I have for you is, was there

any thought process put into disposing of water rights to another government entity for fair market value and not just the water purveyor? You have the ability to do that under law, and you chose not to pursue that avenue.

MS. SINGLAUB:

We did go to the Board of County Commissioners to decide what number of water rights they wanted to dispose of and how they wanted to dispose of them. There were two requests from local government entities, the University of Nevada, Reno, and the Washoe County School District. The Washoe County School District wanted to have the water rights for a high school that may be planned for that hydrographic basin, but the Board of County Commissioners was convinced by an argument made by developers that if the water rights were not made available for development, then the high school would not be needed. The University wanted to acquire the water rights in order to perfect the value of some property it had sold to a residential developer. It was going to be used for development, once again, and the Board said that was not the intent of NRS 244.282. The Board was anxious to provide an opportunity for individuals who needed just one or two acres of water rights. Had we taken all of the water rights, they would not have been made available to individuals.

BONNIE WEBER (Chairman, Board of Commissioners, Washoe County):

Ms. Singlaub explained it very articulately and explained it much better than I would have.

CHAIR HARDY:

Let me give a possible solution to this, and then we will allow Ms. Singlaub and her colleagues to respond. It would be my intention to draft an amendment, if we can find an appropriate vehicle or seek from the majority leader a special measure, to address this issue. I would like to remove the option of selling water under NRS 244.282 and leave the option as it exists now, to sell it to another government agency. We can put any necessary language in the amendment so we do not discourage conservation. We can also add any necessary language in regard to fair market value because we do not want that removed.

MS. SINGLAUB:

I do believe that we have some representatives from the development community in Washoe County who will want to reply to your intent. The structure of our system is such that water rights must be brought for

dedication, and the more water rights you take out of circulation, the higher the price will be. If water rights can only be transferred to different government agencies, it could cause the price to actually increase.

CHAIR HARDY:

It would certainly require some adjustment to your policy. You would have to allow for the issuance of will-serve letters if the water district has water surplus in their inventory. You may have to revisit that policy, as well.

MS. SINGLAUB:

We do not have only one water district; instead we have many water purveyors. I understand that there is another layer to that question, which is, how might we further integrate those water resources?

CHAIR HARDY:

There is the ability to do that under law, and we would not want to interfere with the ability to transfer those assets. I helped the City of Mesquite develop the ordinance that states water resources must be brought to the table or you have to pay for an acre foot of water at fair market value. This was designed to get water rights out of private hands and into the public utility. Washoe County has gone beyond that, but now if there is water in the inventory, you ought to have some ability to dispose of that by will-serve letters. If the ordinances do not allow for that, then it should be addressed. Hopefully, there is some other water that you can get into the inventory, and doing it through will-serve letters is the best way to protect the public interest with regard to our most precious natural resource. I would not want funding received through capital-improvement projects to be the main incentive, however. I want to state clearly for the record, it is not my intent to eliminate any possibility you have to get fair market value for that asset, and that will be made very specific and clear in the law I am proposing.

VAHID BEHMARAM (Water Rights Supervisor, Engineering Division, Department of Water Resources, Washoe County):

The elimination of the option to sell the water rights could pose some difficulties for individuals who are not connected to any water system. In northern parts of Lemmon Valley, there are many residents on individual domestic wells.

CHAIR HARDY:

I am not talking about privately held individual water rights, as those are dealt with appropriately through whatever mechanism the owner wants to sell them. I am talking about water rights that are held by local governments. We want to close up a loophole that, in all likelihood, we will never experience again. At the same time, if we do not close it up, the opportunity exists for people to invent ways to get water rights in the hands of local government, so they can auction them off for capital improvement projects.

MS. WEBER:

Please explain how you want to change this, because the people in the north valleys needed the opportunity to purchase these water rights. The Board had the opportunity to allow the school district or the university to take the water rights at \$15,000 an acre foot, but the Board was aware enough of the communities' need for those water rights.

CHAIR HARDY:

The issue is which is the appropriate government agency to dispose of water rights as, right now, we have water companies; we have water authorities; and we have water districts to do that. It is not an issue as to whether or not they will have access to the water, but where they go to get the water.

MS. WEBER:

Washoe County gets its water from our Water Resources Department and through our conservation efforts the money is being spent in the same community. Why should we take the \$15,000 from the school district when we knew the community needed the water rights as well?

CHAIR HARDY:

Is the Washoe County Division of Water Resources a water district? If that is the case, then you could dispose of the water, but you could not do it by auction.

MR. BEHMARAM:

We do have a number of water utilities that we upgrade, but not in this particular basin. The option of selling will-serve commitments was not open to us in this particular location.

CHAIR HARDY:

Is that option available in the other basins that Ms. Weber is discussing?

MR. BEHMARAM:

It is in most of the basins.

CHAIR HARDY:

Therefore, the water would be appropriated in that matter and not by auction. As I understand it, the other entities that you run operate much like a water district.

MR. BEHMARAM:

They are water utilities.

CHAIR HARDY:

It is appropriate for them to have that water and dispose of it according to their policies.

MICHAEL F. DILLON, JR. (Builders Association of Northern Nevada):

The Builders Association of Northern Nevada would welcome your proposal and be willing to provide any type of input you need from the development community and the Builders Association.

GREGORY PEEK (Vice President, ERGS Properties, Inc.):

My company has significant holdings in the north-valley area. I appreciate your comments stating Washoe County did not act with any malice, and I applaud Washoe County's conservation effort. This is a symptom of a larger problem, as we are now paying \$40,000 per acre foot for water. I could go on all day about the economics of this, as the entry-level housing in the Reno/Sparks area is \$200,000. We are in the process of absorbing some new facility charges in the north valleys, and now with these new water rates, our total cost increase is \$20,000. Entry level housing, because of this, is \$220,000. We now have people commuting from Fernley, and that increases travel time and pollution. Is this a policy we want in Washoe County? Is this a policy that anyone really wants? Ms. Singlaub stated there are no more water rights available for this closed basin, which drove up the price, but I feel that only tells half the story. In Lemmon Valley on our property, the state engineer told us we were out of water in 1974 and we had until 1976 to shut down operations. In 1997, we

went through the entitlement process, and we have certain entitlements and Washoe County has known about these since that time.

CHAIR HARDY:

This is a unique situation in Washoe County, but I still think the public policy question applies here. My intent would be to draft legislation along those lines.

SENATOR RAGGIO:

I am very interested in this subject, since this area is in my Senate District and has grown tremendously over the years. It has been an effort over the years for the Board of Commissioners and the developers to work together. The developers have had concerns, but that should not be something that should set the price for water in Washoe County or anywhere else. It would end up deterring development and raising the cost to individual homeowners. We want to remain mindful of the opportunity to provide water to the proper number of applicants and individual homes, especially in the area and the basin about which we are talking.

CHAIR HARDY:

I want to make it very clear that I do not think it is the proper function of government to control what privately held water shares are worth and how those ought to be dealt with on the market. My issue is to keep water at a fair market value for water districts.

SENATOR TITUS:

In regard to Ms. Singlaub's testimony on the last bullet point [Exhibit D](#), there is a note which states, "We are presently under federal directive to purchase \$12 million of water rights from willing sellers to meet water quality requirements in the Truckee River Water Quality Settlement Agreement." If you have to purchase \$12 million of water rights, why did you sell the other water rights?

MS. SINGLAUB:

The Truckee River Water Quality Settlement Agreement required that over 5 years we purchase \$12 million worth of water rights to put back into the Truckee River. This basin that Washoe County owned is completely distant and consisted of groundwater rights. The water rights that we sold would not have been usable for the Truckee River Water Quality Settlement Agreement.

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SENATOR TITUS:

Was there not any type of trading you could do?

MS. SINGLAUB:

No, there was not. In fact, it is a subject of great debate on the Truckee River, particularly with downstream users of Truckee River water. It is an imperfect policy, but it is the directive under which we are operating.

CHAIR HARDY:

We will close the discussion on public auction of groundwater rights by Washoe County and introduce three new bill draft requests (BDRs), BDR 18-240, BDR 64-1061 and BDR 20-1060.

BILL DRAFT REQUEST 18-240: Revises duties of Director of Department of Human Resources. (Later introduced as [Senate Bill 301](#).)

BILL DRAFT REQUEST 54-1061: Revises provisions governing regulation of contractors. (Later introduced as [Senate Bill 300](#).)

BILL DRAFT REQUEST 20-1060: Repeals limitation on acquiring or disposing of real property on county fair and recreation board in certain larger counties. (Later introduced as [Senate Bill 302](#).)

SENATOR RAGGIO MOVED TO INTRODUCE BDR 18-240, BDR 54-1061, AND BDR 20-1060.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR HARDY:

There being no other issues before us today, the meeting is adjourned at 3:41 p.m.

RESPECTFULLY SUBMITTED:

Tonya Cort,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____