

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

**Seventy-third Session
May 16, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II, at 2:08 p.m. on Monday, May 16, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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 Randolph J. Townsend
Senator Dina Titus
Senator Terry Care
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblyman Kelvin D. Atkinson, Assembly District No. 17
Assemblyman Mo Denis, Assembly District No. 28
Assemblywoman Chris Giunchigliani, Assembly District No. 9
Assemblyman Tom Grady, Assembly District No. 38
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1
Assemblyman Bob McCleary, Assembly District No. 11
Assemblyman Scott Sibley, Assembly District No. 22

STAFF MEMBERS PRESENT:

Kim Marsh Guinasso, Committee Counsel
Michael Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT

Kimberly McDonald, City of North Las Vegas
Andrew List, Nevada Association of Counties
Wayne Carlson, Nevada Public Agency Insurance Pool
Madelyn Shipman, Nevada District Attorneys Association
Ronald K. Remington
Daniel J. Klaich, Vice Chancellor of Legal Affairs, University and Community
College System of Nevada
Lucille Lusk, Nevada Concerned Citizens
Lynn P. Chapman, Nevada Eagle Forum
James T. Richardson, Nevada Faculty Alliance
Irene E. Porter, Southern Nevada Home Builders Association
Jennifer Lazovich, Kummer Kaempfer Bonner and Renshaw
Edward Gobel, Council of Nevada Veteran's Organizations
Stephanie Garcia-Vause, City of Henderson
Ted J. Olivas, City of Las Vegas
Laura Mijanovich, American Civil Liberties Union of Nevada
Vonne Chowning
Gregory Rose, City Manager, City of North Las Vegas
Mary Henderson, City of North Las Vegas
Jim Avance
LeRoy Goodman, Board of Commissioners, Lyon County
Norman Harry, Chairman, Pyramid Lake Tribal Council, Pyramid Lake Paiute
Tribe
Randolph Tobey, Vice Chairman, Pyramid Lake Tribal Council, Pyramid Lake
Paiute Tribe
Irwin Molasky
Scott Adams, City of Las Vegas
Michael G. Alonso, Airport Authority of Washoe County
Pamela B. Wilcox, Administrator and State Land Registrar, Division of State
Lands, State Department of Conservation and Natural Resources
Douglas Selby, City Manager, City of Las Vegas
Bradford Jerbic, City Attorney, City of Las Vegas
Nicole J. Lambole, Reno Redevelopment Agency; City of Reno
Stephen R. Johnson
Santana Garcia, City of Henderson
Randall C. Robison, City of Mesquite

Chair Hardy opened the meeting as a subcommittee. He said he would open with a discussion of Assembly Bill (A.B.) 509 which concerned revisions in the Charter of City of North Las Vegas.

ASSEMBLY BILL 509: Revises Charter of City of North Las Vegas concerning procedure for enactment of ordinances. (BDR S-514)

Kimberly McDonald, City of North Las Vegas, presented A.B. 509. She said the bill was a definite charter change for North Las Vegas. Ms. McDonald said it allowed the City administration to operate more efficiently with regard to the ordinance process. The bill was unanimously passed out of the Assembly. She said currently, when an ordinance was introduced, it was considered and voted upon or postponed by the North Las Vegas City Council until its next regularly scheduled meeting. She said the City wanted more time to take action on an ordinance at the second regularly scheduled meeting. Ms. McDonald stated the bill would help the City regarding complex issues of land use zoning and getting neighborhood communities involved in the process.

Senator Care asked Ms. McDonald what the time schedule was for regular meetings of the City Council. She responded the City Council met the second and fourth Wednesdays of each month. Senator Care asked if city charters varied among different cities. Ms. McDonald replied they did.

Chair Hardy asked Ms. McDonald about the process the City of North Las Vegas used for recommending charter changes and what process brought the bill to the Legislature.

Ms. McDonald replied the City of North Las Vegas implemented a legislative affairs committee that heard all the legislative issues of interest to the departments. She said the committee made recommendations to the City Council. Chair Hardy asked Ms. McDonald if it was internal department heads that made appointments and recommendations. She replied in the affirmative and added the city manager was the leader.

Chair Hardy asked if other opportunities were available, besides the City Council meetings, for public input on issues. Ms. McDonald replied the public could make comments at any time. Chair Hardy inquired if there was a charter commission made up of members of the community. Ms. McDonald said all the meetings were open and information was sent to the public.

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Chair Hardy closed the hearing on A.B. 509. He opened the discussion on A.B. 26.

ASSEMBLY BILL 26 (1st Reprint): Revises provisions relating to management and operation of veterans' homes. (BDR 37-271)

Michael Stewart, Committee Policy Analyst, said A.B. 26 required the director of Veterans' Services to adopt rules and policies for veterans' homes in Nevada. Mr. Stewart referenced the Work Session Document for the May 16, 2005, meeting of the Senate Committee on Government Affairs (page 2 of Exhibit C). He said there were no amendments to the bill.

SENATOR TIFFANY MOVED TO DO PASS A.B. 26.

SENATOR TOWNSEND SECONDED THE MOTION.

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

Chair Hardy asked the Committee to review A.B. 158. Mr. Stewart briefly referenced the discussion on page 3 of Exhibit C concerning the bill. Chair Hardy said he had a specific question for Assemblyman Hettrick and wanted to defer further discussion to a later date.

ASSEMBLY BILL 158 (1st Reprint): Requires state agency to provide notice of access to computer of officer, employee or contractor under certain circumstances. (BDR 23-1008)

Chair Hardy moved the discussion to A.B. 351. Mr. Stewart reviewed the bill on page 4 of Exhibit C for the Committee.

ASSEMBLY BILL 351 (1st Reprint): Encourages adoption of regulations to facilitate display and sale of artistic expressions protected by First Amendment in state, county and municipal parks, and recreational and cultural facilities. (BDR S-555)

SENATOR TIFFANY MOVED TO DO PASS A.B. 351.

SENATOR RAGGIO SECONDED THE MOTION.

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

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Chair Hardy opened discussion on A.B. 426. Mr. Stewart said the bill clarified that payments made from the Revolving Account for the Office of the Attorney General had to be reimbursed from the Attorney General account which incurred the expense (page 5 of [Exhibit C](#)).

ASSEMBLY BILL 426 (1st Reprint): Revises provision governing litigation expenses of Attorney General. (BDR 18-121)

SENATOR RAGGIO MOVED TO DO PASS A.B. 426.

SENATOR TOWNSEND SECONDED THE MOTION.

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

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Chair Hardy asked Mr. Stewart to discuss A.B. 456.

ASSEMBLY BILL 456 (1st Reprint): Revises certain provisions relating to facility for vocational training for culinary skills in southern Nevada and performing arts centers in certain larger counties. (BDR 20-1063)

Mr. Stewart referred to page 6 of [Exhibit C](#) and said the bill allowed the Clark County Board of Commissioners to enter into an agreement with another governmental entity to receive proceeds from rental car fees. The fees were intended for use for a performing arts center or for the construction of a vocational training facility.

Chair Hardy said he was concerned about singling out one vocational training school. He said he did not know if it was appropriate to specifically mention one school for use of the funds. He said he also had a concern about the

specific reference to paying the prevailing wage. He said existing laws were clear that if public dollars were spent, prevailing wage rates were required. He said it did not need to be expanded into other areas of statute.

Senator Townsend recommended the bill be amended to delete the reference to prevailing wage.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 456.

SENATOR TIFFANY SECONDED THE MOTION.

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

Chair Hardy opened the discussion on A.B. 475 which made changes relating to general improvement districts. He said it was a cleanup bill (page 7 of [Exhibit C](#)). Mr. Stewart added there were no amendments proposed or any testimony in opposition to the bill.

[ASSEMBLY BILL 475 \(1st Reprint\)](#): Makes various changes relating to general improvement districts. (BDR 25-39)

SENATOR TIFFANY MOVED TO DO PASS A.B. 475.

SENATOR RAGGIO SECONDED THE MOTION.

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

Chair Hardy referenced page 8 of [Exhibit C](#) regarding A.B. 483. He said the bill changed the dates for collective bargaining mediation between local government employers and employee organizations.

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ASSEMBLY BILL 483 (1st Reprint): Revises provisions governing collective bargaining between local governmental employers and employee organizations. (BDR 23-1337)

SENATOR RAGGIO MOVED TO DO PASS A.B. 483.

SENATOR TIFFANY SECONDED THE BILL.

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

The next bill Chair Hardy discussed was A.B. 510. He said current law required any local government which produced a publication to submit copies of the publication to the State Publications Distribution Center at the State Library and Archives (page 9 of Exhibit C).

ASSEMBLY BILL 510: Revises provisions related to publications of state agencies and local governments. (BDR 33-400)

SENATOR TIFFANY MOVED TO DO PASS A.B. 510.

SENATOR TOWNSEND SECONDED THE MOTION.

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

Chair Hardy said Senate Bill (S.B.) 30 provided the City of Mesquite with the ability to charge for an enhanced emergency telephone system. He referred to an amendment on page 11 of Exhibit C which specified the surcharge could not exceed 25 cents.

SENATE BILL 30 (3rd Reprint): Authorizes certain cities to impose surcharge on access lines and trunk lines of telephone companies for enhancement of telephone system for reporting emergencies. (BDR 21-740)

SENATOR LEE MOVED TO CONCUR WITH ASSEMBLY AMENDMENT NO. 701 TO S.B. 30.

SENATOR TIFFANY SECONDED THE MOTION.

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

Chair Hardy said he had postponed hearing several work session documents for the next Committee meeting. He said bills that needed amendments would be heard at the next meeting. Chair Hardy opened the discussion on A.B. 477.

ASSEMBLY BILL 477 (1st Reprint): Revises provisions relating to authority of deputies appointed by certain public officers. (BDR 20-584)

Andrew List, Nevada Association of Counties, said A.B. 477 arose from an incident in Carson City where a deputy district attorney acted outside the scope of her duties and job description. He said the bill protected the local government from lawsuits if an employee acted outside the scope of his or her employment and was sued. He said the bill stated a deputy was not a policy maker. The term policy maker came from the Carson City case which had to do with civil rights. Mr. List said under civil rights law, only a policy maker may be sued and bring the government into the lawsuit. Mr. List stated the Ninth Circuit Court of Appeals ruled, under Nevada's current law, any deputy was also a policy maker. He said by stating in law the deputies were not policy makers, local governments were protected from acts done outside the scope of the deputies' work.

Chair Hardy asked Mr. List if the bill protected sheriffs, treasurers, recorders clerks and all other elected officials. Mr. List replied it did.

Senator Titus asked Mr. List how A.B. 477 related to the \$50,000 cap on lawsuits. Mr. List replied the tort cap still applied if the local government was named in the lawsuit. He said the tort cap did not apply to an individual who committed acts outside the scope of his or her employment.

Senator Care asked Mr. List what the conduct was of the deputy district attorney. Mr. List said the conduct related to wrongful detention over a period of time when the deputy district attorney knew, or should have known, she had the wrong person in custody. He said the court said she was a policy maker, even though she was wrong and not acting under any policy of the elected official in Carson City; her actions brought the city into the lawsuit.

Senator Care asked if the deputy district attorney was sued before the Ninth Circuit Court of Appeals made its determination on another case on this point.

Wayne Carlson, Nevada Public Agency Insurance Pool, said his company defended the case. He said there was no preceding decision where a court had made a policy maker of a deputy. Mr. Carlson said the judge read the literal words of the statute as dispositive. He said the district attorney could appoint deputy district attorneys who would have the power to act of behalf of the district attorney. He said in the current statute, a deputy was coequal to the district attorney as a policy maker for the office of the district attorney. He said the case was appealed all the way to the United States Supreme Court. He said he was not successful in getting the U. S. Supreme Court to hear the case after the Ninth Circuit Court of Appeals had heard the case.

Senator Care asked Mr. Carlson who had made the determination the deputy district attorney was acting outside of the scope of her employment.

Mr. Carlson said the scope was not the issue in this case; the issue was the proper policy maker. He said he had defended the case because the allegation was against the deputy district attorney and the City. Mr. Carlson stated the district attorney, who was the elected official, was the proper policy maker. He said the ruling by the judge affected all the other city officials. He said the issue focused on the policy-making authority, not on the decision made to prosecute or not prosecute.

Senator Tiffany asked if the deputy was on duty. Mr. Carlson responded in this case, the question was whether or not the person was a policy maker or just a deputy acting within the scope of her employment.

Senator Tiffany asked if someone still wanted to sue, would they have to pursue a personal policy.

Mr. List said if people wanted to sue, they had to name the person individually. He said they could name the county or the city for which that person worked. He said the county or city was able to remove itself from the lawsuit with relatively simple motion work.

Mr. Carlson said chapter 41 of *Nevada Revised Statutes* (NRS) required the local government entity indemnify and defend its employees for actions within the course and scope of their employment unless their actions were wanton and malicious. He said that was clear law and did not change under A.B. 477. He said the implication of a policy maker goes to a federal section of the 1983 Civil Rights Laws. He said prior to this decision, one had to show pattern, practice, custom or usage that made a policy; or show a written policy of that office proving that conduct before the entity, itself, was liable. He said under the court interpretation that led to A.B. 477, the court said all the above elements did not apply. The Court said because they were deputies, they were therefore policy makers. He said that took away the policy of the officials to set official policy for their agencies.

Chair Hardy said the language, as drafted, did not prohibit the deputy's designation as a policy maker. He said he did not know if there were any circumstances where it would be appropriate to call a deputy a policy maker.

Mr. List said there was no reason to confer policy-making authority upon a deputy. Chair Hardy asked if they could confer the policy-making authority if necessary. Mr. List replied he was correct.

Madelyn Shipman, Nevada District Attorneys Association, stated the Nevada Sheriffs' and Chiefs' Association and the Nevada Association of County Clerks, as well as the Nevada District Attorneys Association, had supported A.B. 477 in the Assembly. She added chapter 41 of NRS also had a requirement for a special interrogatory given to the jury to determine, by special verdict, whether an employee had acted outside the scope of his duties or had acted wantonly or maliciously. Those indemnification provisions still occurred. She said this bill made it clear an employee was not a policy maker. She said it eliminated double-dipping. Ms. Shipman said the judge in the earlier case found the wording of the statute was the problem.

Chair Hardy closed the hearing on A.B. 477 and opened the hearing on Assembly Joint Resolution (A.J.R.) 11 of the 72nd Session.

ASSEMBLY JOINT RESOLUTION 11 of the 72nd Session: Proposes to amend Nevada Constitution to provide for election of certain members and gubernatorial appointment of certain members of Board of Regents, and to specify number and terms of members. (BDR C-18)

Assemblywoman Chris Giunchigliani, Assembly District No. 9, said she was here to speak in favor of A.J.R. 11 of the 72nd Session. She said the last Legislative Session, both Houses passed the bill because of their concern that the University and Community College Systems of Nevada (UCCSN) Board of Regents required a serious reconfiguration. She said the reconfiguration was needed as cooperative effort between the Legislature and the voters in 2006. She said for the voters to have the opportunity, the Legislature had to act affirmatively to provide them with the opportunity to vote. She said the public needed a voice in how the Board of Regents was composed. Currently, she said, the Board of Regents has 13 members. Some members of the Board of Regents stated 13 members were necessary to accomplish all the duties required of them. Assemblywoman Giunchigliani said an elected 7-member State Board of Education oversaw the education of 500,000 or more students. She said the Clark County School District served three times as many students as the UCCSN Board of Regents. She said the Regents said they could not perform their duties with the suggested nine-member Board. She said she did not think the issue of the size of the Board was a worthwhile debate at this time. Assemblywoman Giunchigliani said A.J.R. 11 of the 72nd Session was an opportunity to do something about a board which needed restructuring and reconfiguring. She said the legislation provided for a board of nine members: six members appointed and three members elected.

Assemblywomen Giunchigliani said if the bill passed, she was prepared to have a trailer bill come forward for the Legislature to consider how the nominations of the elected officials occurred. She mentioned other states had nominating and screening processes which allowed university faculty, university students, licensed personnel, parents, individuals representing ethnic and racial minorities, and the general public to have input in the screening for the purpose of the nominations. She said some states utilized the governor's recommendations with the advice and consent of the senate. She said there were many ways to deal with the actual nomination process. She referred to an exhibit she had prepared for the Committee with the different states and how they handled their appointments and elections ([Exhibit D](#)). She said Nevada was the only state where the Board of Regents was all elected members.

Senator Raggio said he supported the measure. He said he was not aware of a trailer bill with requirements for the appointment of board members. He said an amendment to the Nevada Constitution allowed the Governor to make the appointments. He said the only restriction he was aware of was that no more than two-thirds of the appointments could be members of the same political party.

Assemblywoman Giunchigliani said a trailer bill was not required. She said she had been asked by individuals to suggest a trailer bill. She said some states did a nominating and screening process for the governor. She said if the Senate wanted to entertain that idea, she was prepared to do so.

Senator Raggio said he supported the bill, but not as a way to punish anyone. He said it was a reflection on the fact that in almost every other state, members of the governing body of the university system were appointed by the governor.

Assemblywoman Giunchigliani said Senator Raggio was correct; there was no need for a trailer bill unless the Senate wanted to entertain such a bill. She said the State of Minnesota did the appointments to the University of Minnesota Board of Regents through the legislature, and members of the Minnesota State Colleges and Universities Board of Trustees were appointed by the governor.

Senator Titus said she agreed a smaller board was necessary. She said the board was too large to be effective. She added the six-year term of office was too long. Senator Titus noted her concern was that the board would become a hybrid: one-half elected and one-half appointed. She said different people served different constituencies. She asked if that created more rather than less chaos.

Assemblywoman Giunchigliani said the danger occurred whether the board membership was all appointed or elected. She said she did not think the constituency changed. She said many people did not know what a board of regent's job entailed. She said the bill was a compromise for people who thought an electoral process was important where the voters had some say. She said there had not been debate about who the board served because it was about higher education and not about a district.

Ronald K. Remington said he had been in higher education since 1966 and had served in three states. He said he had worked in Nevada since 1973. He said he had served as an administrator for all four community colleges in Nevada and

had held faculty positions at both universities. He said he was currently a professor in residence in the Higher Education Leadership Program at the College of Education at the University of Nevada, Las Vegas. Dr. Remington said he was concerned about Nevada's system of higher education and its governance. He said he had attended over 100 UCCSN Board of Regents meetings. He said the number of board members had grown from 9 to 11 to 13 people. Dr. Remington said the only four states that elected board members were Michigan, Colorado, Nebraska and Nevada. He said only Nevada had a board that governed community colleges, a state college, a research institute, and two universities. He said an article he read last fall said the key reason governors appointed board members rather than have elected members had to do with voters not understanding what a regent was. He said the appointment process was flawed; however, a governor was more apt to choose individuals who brought the expertise necessary to manage the complexities of public universities. He said appointed boards, if a governor was careful in his appointments, tended to be more effective.

Dr. Remington said the Nevada Board of Regents had made national news when they held a controversial 17-hour secret session. He said the actions the Board took were contested by Nevada's Attorney General and found in violation of the Open Meeting Law. He said a district judge nullified and voided the Regents' actions. He asked the Committee if it was ever appropriate for elected officials to deny due process, break state law and violate the public trust.

Senator Care said many of the issues mentioned by Dr. Remington had not occurred last Session when the bill was first heard. He said there was no guarantee if the bill was passed, it would eliminate bullying or people violating the Open Meeting Law. He asked Dr. Remington why he thought it was important to get rid of elected officials and have six appointed and three elected board members.

Dr. Remington replied regents needed accountability to someone. He said if they were appointed, they would be accountable to the Governor. He said with the current six-year term and an ill-informed public with regard to electing regents, they were not accountable to anyone.

Daniel J. Klaich, Vice Chancellor of Legal Affairs, University and Community College System of Nevada, said he was testifying against what he believed was a bad piece of legislation. He said a constitutional amendment put a heavy

burden on the proponent of the legislation to show it was needed. He said an appointed board of regents was not considered by the founders of Nevada when they drafted the Constitution. Mr. Klaich said an elected board of regents had served the State well since 1888, when regents were first elected. He said the system of higher education in the State had thrived. Mr. Klaich stated the Legislature was asked to pass a constitutional amendment dealing with education. He said education in Nevada was governed by elected representatives. He said those governing education were answerable to the people.

Mr. Klaich said the Committee was responsible to the electors in their districts, and he doubted if those elected questioned whether they were answerable to them. Mr. Klaich said the elected system was working to achieve a diverse group of Nevadans representing higher education on the Board of Regents. He said an appointed board probably would not do a better job. He said this bill was seen as a way to punish bad acts by the current board. He said the way to punish bad actors elected to public office was to impeach them or vote them out of office. Mr. Klaich said the size of the body of the Board of Regents was determined by the Legislature. He asked the Committee to seriously consider not approving the bill. He said the Board of Regents was functioning well and working with the Attorney General.

Senator Raggio said he respected everyone's positions concerning A.J.R. 11. He said his support for an appointed board of regents was long-standing. He said he was going against his own principles if he did not continue that support. He said the fact that almost every other state in the country used appointed boards of regents, made him wonder how bad it was for Nevada.

Mr. Klaich said he could not say one model of selecting a board of regents was perfect and the other model was absolutely flawed. He said he respected principled votes on this issue. He said reasonable people came to different conclusions. Mr. Klaich said, in his opinion, the current Board of Regents worked well and did not need change.

Senator Raggio asked Mr. Klaich why he believed a fully elected Board provided more assurance of diversity. Senator Raggio said from his perspective, a board appointed by the Governor had the capability of having more accurate diversity. He said the University System in this State was not the same as the population situation in the State. He said he preferred the bill have a fully appointed Board.

He said one of the reasons that compelled him to support the bill was the constant changing of the number of board members.

Mr. Klaich responded saying in a perfect world, he would agree with Senator Raggio. He said the members of the Committee had all seen and known superb Governors capable of appointing a good mix on the Board of Regents. He said he could raise specters of cronyism and patronage as a result of another type of board if a different sort of Governor was elected.

Lucille Lusk, Nevada Concerned Citizens, said her organization was opposed to A.J.R. 11. She said they disagreed with the concept a political appointment produced a better quality of representatives than an election. Ms. Lusk said it produced officers who were dependent upon a powerful political figure, rather than answering to the people they served. She said the power given in the bill to appoint two-thirds of the members from the same political party gave that political figure the ability to control the philosophy of the University System. She said Nevada Concerned Citizens opposed political appointments to the Board of Regents. Ms. Lusk stated every elected member learned about things outside his or her experiences. She said she did not think having the Governor appoint it would lead to more competent members on the Board.

Lynn P. Chapman, Nevada Eagle Forum, said appointed members did not have the same accountability to the people as elected members of a board. She said there would be less representation on the Board of Regents with three elected members and six appointed members. She said there was no guarantee an appointed board was any better than an elected board.

James T. Richardson, Nevada Faculty Alliance, said his organization was divided on this bill and took no formal position. He said the organization was in agreement with the proposal for a trailer bill which explained how the process of appointing members would be accomplished. He said he favored doing something similar to the way judges were appointed on the recommendations of the legal community. He recommended the higher education community, including faculty, be involved in the appointments. He added his organization hoped for some minimal criteria for the appointed members of the Board.

Chair Hardy asked if there was any further discussion on A.J.R. 11. As there was none, he closed the hearing on the bill and opened the hearing on A.B. 165.

ASSEMBLY BILL 165 (1st Reprint): Revises provisions governing continuances of matters before planning commissions in larger counties. (BDR 22-843)

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1, said A.B. 165 was a bill dealing with planning commissions in Clark County. She said the bill clarified terms for consistency for all the planning commissions throughout the Las Vegas Valley. She said the bill affected residents as much as government and business.

Irene E. Porter, Southern Nevada Home Builders Association, said her organization supported A.B. 165. She said the bill was of assistance to both the general public and the development industry. She said when a planning commission did not have the ability to make decisions under extenuating circumstances, rights were inadvertently denied.

Senator Care asked Ms. Porter how she interpreted section 1, subsection 3 of A.B. 165. He asked who "authorized representative" referred to in the bill, if it was an attorney or an agent of some sort.

Ms. Porter said she interpreted that section as referring to someone authorized by the applicant to make the representations.

Senator Care asked Ms. Porter about section 1, subsection 4 of the bill, which referred to a continuance being requested on behalf of an officer or employee of the city or county. He asked her interpretation of that section of the bill.

Ms. Porter replied, in some cases, the planning commission or staff made a request for continuance. She said another department, for example the public works department, also requested further continuances.

Jennifer Lazovich, Kummer Kaempfer Bonner and Renshaw, said her firm dealt with a number of land use applications. She said existing language was not consistently interpreted between the four jurisdictions in which her firm practiced. She said the bill sought to define the term "good cause" for a hold. She said if an applicant stated he needed to hold an item in order to continue working with the neighbors, this bill stated that was justification for good cause. She said the bill clarified existing law, which was ambiguous.

Chair Hardy asked if there was further testimony in favor of the bill. As there was none, he asked for testimony in opposition to the bill.

Edward Gobel, Council of Nevada Veteran's Organization, stated his group was not permitted to testify when the bill was in the Assembly. He said the bill affected only Clark County. He said he believed the bill removed due process in all zoning changes. He said it took authority from planning commissions. He said he proposed an amendment to the bill that allowed all people to be informed of meetings ([Exhibit E](#)). He stated his proposed amendment divided municipalities according to population and offered specific suggestions for dates when the municipalities could schedule hearings regarding land use.

Chair Hardy indicated the Assembly did not intentionally deny teleconferencing for the purposes Mr. Gobel described. He said there were numerous requests for teleconferencing this Session. He said it was difficult to accommodate all the requests. In fact, Chair Hardy said, on this day, the Committee received teleconferencing an hour after they had started their hearings. Chair Hardy said he recognized for the record Linda West Myers, Sharon Gobel and Abbi Gobel had signed in as opposed to the bill.

Stephanie Garcia-Vause, City of Henderson, said she supported the legislation that would provide clarification for both the applicants and the community as to when continuances were appropriate.

Ted J. Olivas, City of Las Vegas, said the City of Las Vegas had been included in the earlier discussions on A.B. 165. He said the City of Las Vegas had a neutral position regarding the bill.

Chair Hardy closed the hearing on A.B. 165 and opened the hearing on A.B. 197

ASSEMBLY BILL 197 (1st Reprint): Revises Charter of City of North Las Vegas concerning election of City Councilmen. (BDR S-278)

Assemblyman Kelvin D. Atkinson, Assembly District No. 17, said A.B. 197 required city council members be voted for and elected by the registered voters of the ward the council member sought to represent rather than being elected at large. He said the bill provided stated council members were voted into office by the residents residing in their specific ward; the mayor of the city was still

elected at large. He said accountability of the elected officials of the City of North Las Vegas continued to grow as the City grew. He said individuals had mentioned to him on numerous occasions they wished to directly elect the people representing their districts. He said citizens no longer wanted individuals from Wards 1 and 2 making the decisions for Ward 3. He said the majority of votes in North Las Vegas came from a limited number of precincts. He said he had heard multiple reasons why the legislation was introduced.

Assemblyman Atkinson said the only reason he brought A.B. 197 forward was that it was good public policy for individuals living in specific wards to elect their council members. He said the earlier, smaller population of the city did not warrant individual members from each ward. However, the population of the City of North Las Vegas had now reached 165,000. He said that number created wards with approximately 41,000 residents per ward.

Assemblywoman Kirkpatrick said of those she represented, 30 percent of her district was in North Las Vegas. She stated her constituents had said their needs were different throughout North Las Vegas. She said in her district, 70 percent of the vote came from north of Cheyenne Avenue, and her concern was the people south of Cheyenne Avenue did not receive the equal representation. She said in a growing city, this legislation worked well for city council members, as it enabled them to be available for their constituents. Assemblywoman Kirkpatrick said A.B. 197 was good public policy, and it had her full support.

Assemblyman Bob McCleary, Assembly District No. 11, said he represented the people from downtown North Las Vegas. He said the current way of electing city council members was not working well. He said a small percentage of voters were receiving inordinate representation. Assemblyman McCleary said he fully supported A.B. 197.

Senator Care said he had assumed these problems had been dealt with during the 1960s. He asked Assemblyman Atkinson why this had not been remedied 40 years ago.

Assemblyman Atkinson said a bill similar to A.B. 197 had been introduced at an earlier date. He said the members on the council ran at large, but could live in any area in North Las Vegas. He said all the members lived in one area, the El Dorado area. He said 1999 legislation required ward members to live in the

ward they represented. He said A.B. 197 completed the process by requiring voters in a ward to elect their individual ward members.

Assemblyman Mo Denis, Assembly District No. 28, said he agreed fully with A.B. 197. He said over one-half of his district was in North Las Vegas.

Senator Care asked if a situation was wrong in one area, why was it not wrong in all areas. He said he understood the presenters of the bill wanted A.B. 197 to apply only to the City of North Las Vegas.

Assemblyman Atkinson said the situation existed in other areas, such as Henderson and Boulder City. However, he said he did not represent those areas and could not speak for Henderson or Boulder City.

Laura Mijanovich, American Civil Liberties Union of Nevada, said her organization supported A.B. 197. She said some studies showed at-large elections were much more costly, and thus, there was less opportunity for people to run for a position. She stated it was easier to run in a ward election.

Vonne Chowning said she was a former Assemblywoman for District No. 28. She asked the Committee to support this important bill. She said the underpinnings of a democratic system were fairness and balanced representation. The current system in North Las Vegas did not provide fairness or balanced representation. She said the majority of the voters and growth was one area of the City of North Las Vegas. She said that diminished the representation for the other parts of North Las Vegas. Ms. Chowning said true representation meant a representative was able to voice the opinions of a geographical area. She said there were generally true differences between districts. She said it cost more to run for at-large elections, and the person with the largest donations was the voice generally heard.

Senator Raggio asked how many wards were in North Las Vegas.

Gregory Rose, City Manager, City of North Las Vegas, introduced Mary Henderson and Jim Avance. Mr. Rose said the City Council authorized him to oppose A.B. 197. He said 20 months ago, the City Council of North Las Vegas started a visioning process. He said they had the option of either a citizen-driven process or a retreat for the Council members. He said they chose to have a citizen-driven process to envision the next 20 years for the

City of North Las Vegas. He said public hearings were held, and a steering committee was chosen to approach the citizens and identify the issues of concern. He said in the mature area of the City, there were challenges with receiving enough input from the residents. Mr. Rose said the City Council adopted the visioning document in March. He said he was opposed to A.B. 197 because it was not initiated by the visioning process. He said he had the impression it was imposed upon the citizens and not something they requested. He said he opposed the bill because it gave the impression North Las Vegas was being singled out as an example.

Chair Hardy asked Mr. Rose to give the Committee some background information on the makeup of the City Council and how members were elected. He also asked him to address the process the City went through to develop charter changes.

Mr. Rose said the City of North Las Vegas had four wards. He said there was one council member from each ward. The Council members had to live within their wards, but they were elected at large. He said the mayor was also elected at large. He said all citizens had the opportunity to vote in the election. He said one vote impacted all citizens within the city, not just the ward.

Ms. McDonald said in regard to city charter changes, there was a legislative affairs committee. She said when a platform was developed, each legislative issue was brought before the department directors.

Senator Raggio said as he understood the situation in North Las Vegas, the Council members resided in the wards they represented, but were voted on at large both in the primary and the general elections. He said in Reno, for example, there was a primary election in the ward, only; then there was an at-large runoff. He said the Legislature generally supported any city which wanted a charter change.

Mr. Rose said every two years in North Las Vegas they created a legislative platform. He said the platform was a result of information received from the City staff, and he noted the City Council members also initiated recommended changes. He said if a single citizen wanted a charter change, the person contacted his or her City Council member to initiate the process.

Senator Titus asked if the City of Henderson had the same process of “run at-large, but live in the district.” Mr. Rose replied she was correct.

Senator Care said it was true the City of North Las Vegas had been singled out. He had raised that issue with the sponsor of A.B. 197. He said the sponsors stated they were only interested in, and able to speak for, the City of North Las Vegas. He said when four members of the Legislature who represented various parts of North Las Vegas requested a change, it seemed the people of North Las Vegas were voicing their desire for a change. He asked if there was a City resolution, or letters from the Council members, explaining why they were opposed to A.B. 197.

Mary Henderson, City of North Las Vegas, said she thought it important to state there was a significant amount of resource dedication occurring within the City of North Las Vegas south of Cheyenne Avenue and in the more mature areas of town. She added a group of citizens had not come to the City Council asking them to put this issue on the Legislature’s agenda. She said the Council members were concerned they had not been approached before the legislation was introduced. She said the legislation was introduced in July, and her group did not know who had sponsored the bill.

Senator Tiffany said she went on the City of North Las Vegas bus tour. She said equal amounts of time were devoted to all the areas in North Las Vegas. She asked who represented the wards in North Las Vegas.

Mr. Rose responded the representatives of the mature areas of North Las Vegas were Robert Eliason and William E. Robinson. He said every member of the City Council represented that area, as their focus was on what was best for North Las Vegas as a whole.

Senator Tiffany said she remembered three City Council members who lived in the same area. She asked when the Legislature had divided the area into wards. Chair Hardy responded it was in 1999.

Senator Tiffany said in the City of Henderson, it appeared to work better for the City Council to have the members live in the ward and be elected at large.

Jim Avance said he had lived in North Las Vegas since 1961. He recounted the areas in which he had resided and discussed various parks in North Las Vegas.

He said the mature areas of town had not been neglected. He said if 70 percent of the voters were from the areas north of Cheyenne Avenue, it was because that was where the population was located. Mr. Avance said any blight in the mature areas was due to residents failing to maintain their properties. He said the mature area south of Cheyenne Avenue was full and had no more room for parks or new residences. Mr. Avance said the legislation was not needed. He said the citizens of North Las Vegas voted for the best person. Mr. Avance quoted from an article he had submitted to the Committee ([Exhibit F](#)). He said no problems in North Las Vegas were in need of change.

Assemblyman Atkinson said he requested the bill in October, the day after the general election. He added Mr. Avance's daughter was strongly opposed to the bill and a member of the North Las Vegas City Council. Assemblyman Atkinson said the issues with this bill did not include more minority members on the board. He said race was not ever discussed with regard to A.B. 197. He said parks built in North Las Vegas were also not an issue. He said the bill was introduced to give voters the opportunity to elect people who directly represented them.

Assemblyman McCleary said the system did work; it worked well for the people from the northwest area of North Las Vegas. He stated his area did not have representation. He said A.B. 197 was about representation for the people in all areas of the City.

Chair Hardy closed the hearing on A.B. 197 and opened the hearing on A.B. 440.

ASSEMBLY BILL 440: Revises boundary line between Washoe County and Lyon County. (BDR 20-1019)

Assemblyman Tom Grady, Assembly District No. 38, gave a short history of the origin of A.B. 440. He stated he was approached by the Lyon County Board of Commissioners concerning a boundary adjustment between Lyon County and Washoe County. Assemblyman Grady said A.B. 440 was presented to the Assembly Committee on Government Affairs with the full support of all the local governments. At a later date, he was informed there were citizens opposed to the bill ([Exhibit G](#)). Assemblyman Grady said members of the Pyramid Lake Paiute Tribe, Norman Harry and Randolph Tobey, had contacted him with concerns about water. Assemblyman Grady said he knew people on the

Committee had been told the agreement did not have local support. He said that was not true, [Exhibit G](#). He said the bill was not about zoning, planning, master plan adjustments or water. The bill, A.B. 440, was only about a boundary line adjustment between Lyon County and Washoe County.

Senator Raggio asked Assemblyman Grady the reason for the boundary line adjustment.

Assemblyman Grady replied one reason for the boundary change was the proximity to Fernley. He said the boundary line was on the edge of Fernley. Fernley had the infrastructure in place and had agreed with Lyon County to look at the issues of using the existing infrastructure. Assemblyman Grady said the ground was scheduled for development. He said there were agreements between Washoe County and one of the property owners that there would be no big box stores in the area.

LeRoy Goodman, Board of Commissioners, Lyon County, said the boundary adjustment was a commonsense agreement. He said Lyon County was the seventh fastest growing county in the country, and this was forward-looking legislation. He said the area needed to align with the City of Fernley for future growth. He said nobody lived on the property, there were no buildings and no infrastructure. He said the contour of the land followed the basin of Fernley.

Senator Raggio asked Mr. Goodman if there was development on the property, and if the City of Fernley was expanding. He said without the adjustment to the boundary, it appeared people would be living in one county and doing all of their business in another county.

Mr. Goodman said the goal was to avoid situations that had occurred in other areas where people lived in one county and could see the courthouse of another county from their yards. He added the boundary line had been established November 26, 1851, and Washoe and Lyon Counties were two of the original counties in the State.

Norman Harry, Chairman, Pyramid Lake Tribal Council, Pyramid Lake Paiute Tribe, said he was opposed to A.B. 440. Mr. Harry said the tribe had been involved in negotiations for the past 30 years concerning water issues. He said anything that occurred along the Truckee River had the potential to degrade the waters of the Tribe. He said there was potential for water problems in this bill.

Mr. Harry said the boundary adjustments proposed in A.B. 440 would abut the eastern portion of the Reservation. He said the boundary change could have long-term impact. He asked the Committee to be cautious and consider the impact before passing A.B. 440. Mr. Harry said the Pyramid Lake Paiute Tribe had not been informed of the proposed boundary change until after the Washoe County Commissioners had given their support for the proposed legislation.

Senator Lee asked Mr. Harry if he would have the same concerns if development was occurring in the area of the proposed boundary change, but without the county line changes.

Mr. Harry responded to Senator Lee's question by saying the original development had a proposed 17-year build out. He said if the Tribe had an opportunity to be in the original discussions, the Tribe might have taken another position. He said there was a concern for the Tribe in regard to Mason Valley, as the State water engineer had said groundwater was separate from surface water.

Senator Lee said he did not understand the entire water settlement issue. He asked Mr. Harry what the consequence was if his fears about the Truckee River Water Quality Settlement Agreement came true.

Mr. Harry said the Tribe had established its own water quality standards on the Reservation on the lower Truckee River. He said the lower Truckee River was approximately one-third of the entire Truckee River system. He said the standards were identified after several years study of water quality issues. Mr. Harry said the Tribe's water quality standards paralleled those of the State. He said if there were violations to the water quality standards within the Reservation, it would be the upstream users who had failed to meet the water quality standards of the Tribe.

Senator Titus stated developments all over the State appeared to take water away from areas where nobody knew how much water actually existed. She said the impact on the environment could not be calculated. She said she saw A.B. 440 as another example of developers and government moving too quickly to accommodate development.

Mr. Harry said he believed there was a limited amount of water resources available. He said the appropriated waters within the Truckee River had already been adjudicated.

Randolph Tobey, Vice Chairman, Pyramid Lake Tribal Council, Pyramid Lake Paiute Tribe, said water was one of Nevada's most important resources. He stated there was more impact to A.B. 440 than just a boundary-line change. Mr. Tobey said he understood Washoe County supported the bill, but the Commissioners had changed their support back to the earlier original development boundary. He said A.B. 440 was a developer-driven bill. Mr. Tobey said the City of Fernley had some major water concerns. He said the proposed development, with over 4,000 new homes, would have an impact on the City of Fernley.

Senator Raggio asked Mr. Tobey about his statement concerning the Washoe County Commission returning to the original bill. Mr. Tobey said Senator Raggio was correct. The original bill showed the boundary line change all the way to the Reservation. He said since the original bill was introduced, Washoe County had changed its support.

Chair Hardy requested someone from Washoe County come to the Committee and address the issues. Chair Hardy said, as he understood it, an original proposal showed a boundary change. He said the bill, as drafted, expanded the boundary lines. He said the bill before the Committee was the only bill introduced. Chair Hardy said prior to the A.B. 440 introduction, there were discussions about a smaller section of land.

Mr. Harry said he understood at their May 8 or April 8 meeting, the Washoe County Commissioners passed a motion in support of the boundary change, but the motion had 3 conditions attached. He said when the Tribe attended the April 12 caucus meeting, the Commissioners had taken formal action to downsize the change from 5,000 acres to just the land needed for the development.

Assemblyman Grady said there had been between 12 and 15 meetings concerning the boundary change. He said the Tribe was probably not specifically notified of these meetings. He said the Chairman of the Lyon County Commission and the County Manager of Lyon County had pledged to work with the Tribe in order to work out any problems. He said the Truckee River did not

go through the ground proposed in the boundary change. He said the Truckee River went through the Reservation, and none of the River was on this ground. Assemblyman Grady said he had confidence the State water engineer would not hurt one area over another area. He said Lyon County had three of the major rivers in northern Nevada. Assemblyman Grady said water rights in Washoe or Lyon Counties on privately owned ground required the developers to bring their own water. He said the water issue was a secondary issue and not related to the boundary line change. He said Washoe County had three areas of concern, and those areas were addressed by the potential developer or by the County. He said Mr. Goodman had been involved in some of the discussions, and the City of Fernley stated today it was in support of the bill. Assemblyman Grady said he was told this afternoon Washoe County was in support of the bill, also.

Senator Raggio asked Assemblyman Grady if Washoe County was in support of a smaller area of land than shown in the bill. Assemblyman Grady said when the boundary change was first discussed, it was only the development area. He said everyone agreed they would not change a boundary line for a developer. He said in his last discussion with all the parties involved, all agreed to the bill as presented.

Mr. Goodman said the original bill had a larger section of land than proposed in A.B. 440. He said it was originally three sections rather than two sections. He said Lyon County personnel had met with Washoe County personnel and agreed to two sections. He said it was unacceptable to change the boundary line simply to accommodate the developers. Mr. Goodman added the Truckee River did not run through Lyon County. He said the river was approximately 500 or 600 yards away from the boundary line. He said, again, the boundary line adjustment was between Washoe and Lyon Counties and did not entail any tribal land or any other counties.

Chair Hardy closed the hearing on A.B. 440 and opened the hearing on A.B. 312.

ASSEMBLY BILL 312 (1st Reprint): Requires certain governmental entities to conduct certain sales and other disposals of certain public lands and real property by public auction. (BDR 26-1089)

Assemblyman Scott Sibley, Assembly District No. 22, said A.B. 312 was a bill that required the disposal of all government surplus, real property be made at public auction. He said property was disposed of to private parties through a variety of methods, including sealed bids, property trades and by auction. He said these methods were not serving the public's best interests. He said the U.S. Bureau of Land Management (BLM) had used land trades several years ago, but after many problems, the BLM chose to use public auction as the method to dispose of property. He said the BLM had held an auction in Henderson this year, and the property sold for over \$500 million. He said the appraisal on the property had been approximately \$200 million. He said auctions had proven, through the BLM sales, to be the best method of disposing real property.

Assemblyman Sibley said there were several amendments regarding redevelopment from various local governments. He said he did not want the bill to have negative effects on the revitalization of some older neighborhoods. He asked the Committee to ensure the disposal of the property in a transparent method which protected the public's interests. Assemblyman Sibley said he had an amendment that clarified issues brought up earlier in the Assembly ([Exhibit H](#), original is on file at the Research Library).

Chair Hardy said he had four proposed amendments. He said there was a proposed amendment from Scott Adams with the City of Las Vegas, a mock-up amendment prepared by Assemblyman Sibley and Assemblywoman Kirkpatrick and Assemblywoman Giunchigliani, an amendment request from John P. Sande, III, for the Airport Authority of Washoe County and an amendment from the Division of State Lands.

Assemblyman Sibley said the mock-up amendment took into account the Division of State Lands' proposed amendment. Chair Hardy asked if any of the other three amendments were also incorporated in the mock-up. Assemblyman Sibley said only some of the proposals from the Division of State Lands were in the mock-up amendment. He said proposals not included were items with which his Committee had issues.

Chair Hardy asked Assemblyman Sibley if the remaining three amendments contradicted each other or worked at cross-purposes with each other in any way. Assemblyman Sibley said he believed all the amendments were separate. Chair Hardy stated he would like a mock-up amendment that incorporated all

the changes in the bill in time for the next Senate Government Affairs Committee meeting.

Assemblyman Sibley stated a concern that when the bill came out of drafting, it left out general law and charter cities. He said the goal was to create a uniform process that everyone abided by, and those changes were not incorporated for chapters 266 and 268 of NRS. He said he wanted to make sure the cities had the same provisions as the counties, which were in sections 3, 4 and 5 of A.B. 312.

Chair Hardy asked if there any were further concerns about the bill. He added there was also a proposed amendment from the City of Mesquite.

Irwin Molasky said he had the Las Vegas City Attorney Bradford Jerbic and the Las Vegas City Manager Douglas Selby with him.

Chair Hardy said one of the amendments the Committee had was from Scott Adams, Director of Business Development for the City of Las Vegas. He said he assumed the city attorney and city manager were familiar with the amendment.

Douglas Selby, City Manager, City of Las Vegas, said he was familiar with the amendment from Scott Adams, but he had not seen any of the other amendments.

Chair Hardy asked Mr. Selby if Mr. Adams' amendment resolved the concerns expressed by the City of Las Vegas. Chair Hardy said he was concerned about issues that appeared at the last moment with this bill. He asked Assemblyman Sibley to explain to the Committee the intent of the legislation, and then the Committee would put together an informal working group to develop a clean bill.

Assemblyman Sibley said A.B. 312 started as a basic bill, but it became longer and more complicated when the cities and counties needed the same provisions. He said the bill had changes regarding appraisals. He said the appraisals should be open, not confidential, and no older than six months. He said some language in the bill allowed cities to use three-year-old appraisals. He said one of the problems the Assembly had was that they received the amendment on the Assembly Floor on the afternoon of the day of the deadline. He said he thought

the Legal Division had addressed the concerns of the charter and general law cities by giving them the same provisions as the county. He said when they received the bill, those provisions had not been addressed.

Chair Hardy asked Assemblyman Sibley if there had been general agreement among the cities. Assemblyman Sibley said there was agreement for the majority of the bill, but the redevelopment issue arose in the last few days. He added a recent change in the bill stipulated if the land went for public auction and did not sell at auction, the city, county or State had the ability to list the property with a realty broker as long as the land had a current appraisal.

Assemblywoman Giunchigliani said the bill should use Assemblyman Sibley's terms for transparency and consistency. She said the redevelopment issue was important, especially with the eminent domain issues that had occurred in the past. She said the issue was making sure within a redevelopment area there was a fair market value for public property. She said the language had been tightened regarding the term "prequalified," and she was willing to work with others who voiced their concerns.

Chair Hardy asked if proponents of the proposed amendments were available to testify. He said he wanted to discuss the three amendments before the Committee.

Scott Adams, City of Las Vegas, said he was the Director of Business Development for the City of Las Vegas. He said he was responsible for the redevelopment and economic development programs in the City of Las Vegas. Mr. Adams said the concern with A.B. 312 was the impact the bill had on the ability to successfully dispose of property in a redevelopment and an economic development manner. He said he submitted language as an amendment that allowed the bill to go forward with its original intent ([Exhibit I](#)). He said the amendment provided latitude for redevelopment purposes in terms of disposition of property, but the amendment needed tighter language. He said he welcomed the opportunity to work with Assemblyman Sibley to craft the needed language.

Chair Hardy requested Mr. Adams explain to the Committee his specific problem with A.B. 312.

Mr. Adams said the specific problem was an inconsistency between a public auction process and a negotiated sale of property in redevelopment. He said the

goal of redevelopment was to get the property redeveloped and returned to the tax rolls.

Chair Hardy asked Mr. Adams if the concept of an auction did not work for redevelopment. He replied it did not. He referenced a 61-acre site in Las Vegas that was in planning for years. He said almost a year was spent in the request for proposals (RFP) on a national basis.

Chair Hardy asked if anyone disagreed with Mr. Adams' concept that language was needed to deal with the unique situations of economic development.

Senator Care asked what occurred if a city took real property by eminent domain, then decided not to use the property for the original purpose and wanted to give the property to a developer. He asked if that was a possibility with the proposed amendment.

Mr. Adams replied the City of Las Vegas's current policy did not use eminent domain. He said earlier eminent domain purchases were not positive. He said the current position of the City was it negotiated the purchase of properties from the owners. He said the redevelopment agency did not forcibly acquire and turn the property over to someone else. He said they had land-banked property in the past, and those properties were now being turned over for redevelopment. Mr. Adams said the West Las Vegas Enterprise Business Park was in an area unattractive to the private sector for locating their businesses. He said on occasion, property needed to be valued at less than fair market value to entice a business to locate in a particular business park. The goal of redevelopment was to encourage jobs, and businesses located in areas less than attractive to them, he said.

Senator Care said in some states, it was required if property was taken by eminent domain and not used within a certain time period, the property was offered with the right of first refusal to the previous owner. He said the property was offered at the price taken by eminent domain, not the current fair market value. He said that was an incentive to stop any abuse. Senator Care said he made a distinction between property the city wanted to convey for redevelopment and property taken by eminent domain. He said the amendment was problematic. Senator Care referenced section 2(b) of the proposed amendment which referred to a governing body selling or disposing of property

by means other than public auction, [Exhibit I](#). He asked Mr. Adams who would make such a determination.

Mr. Scott said the amendment clarified those purposes where property was auctioned primarily for redevelopment or economic development. He said in those instances, a redevelopment area was defined as a blighted area. He said the other instance was when the governing body was interested in attracting businesses in a more traditional, economic way. He said his organization was not opposed to the auctioning of surplus real estate outside redevelopment areas or business parks. He said the City of Las Vegas had successfully developed business parks where property was sold for less than appraised value for the purpose of attracting companies into the park. He said the exceptions in his amendment were for properties that led to the revitalization of an area or the creation of jobs.

Senator Lee said he liked the bill, but did not care for this amendment. He referred to Assemblyman Sibley's amendments in [Exhibit H](#). He referred to section 2, item 9 which stated the property was listed for auction twice. If it did not sell, it was listed and sold by a disinterested broker.

Mr. Adams responded to Senator Lee by saying the City of Las Vegas Office of Business Development often used a process similar to the one proposed in the amendment Senator Lee quoted. He said it allowed his office to find the highest-and-best-use proposal for a site. He said it gave many people the opportunity to make a proposal, but allowed for control of the property in a way that maximized the potential of the property. Mr. Adams referenced the 61-acre site in Las Vegas.

Senator Lee said he was discussing redevelopment and economic development. He considered the referenced 61 acres as new development. Mr. Adams said the 61 acres was in the City's redevelopment area. He said it was an environmentally contaminated site.

Chair Hardy asked the Committee to look at the amendment proposed on behalf of the Airport Authority of Washoe County ([Exhibit J](#)).

Michael G. Alonso, Airport Authority of Washoe County, said the Airport Authority proposed deleting section 12 in its entirety from the bill. He said the Airport Authority did not receive any Nevada tax dollars; it relied entirely upon

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funds from the Federal Aviation Administration (FAA) and private parties for its operation. He said any sale of airport property required the approval of the entire Board of Trustees of the Airport Authority of Washoe County. Mr. Alonso referenced section 12 on page 11 of [Exhibit J](#).

Chair Hardy asked if there were any questions on that amendment. He said as the bill was currently written, the section referenced had changed to section 17 in the bill. He asked if the Carson City Airport Authority was also exempted with this amendment.

Assemblywoman Giunchigliani said the Carson City Airport Authority was under a different section than the Airport Authority of Washoe County. Assemblywoman Giunchigliani asked if the Airport Authority of Washoe County had any public land. She asked if all the land was private and if that was the purpose of the amendment.

Mr. Alonso said the land under discussion was owned by the Airport Authority. He reiterated it received no State or local money, only federal money through the FAA.

Senator Care asked Mr. Alonso if the Airport Authority of Washoe County used eminent domain. Mr. Alonso replied it could.

Senator Raggio said Washoe County had used eminent domain on behalf of the airport.

Senator Care asked Mr. Alonso if the County used eminent domain to obtain land, could the Airport Authority then sell the land in any manner it chose. Mr. Alonso replied he did not know the answer to that question.

Chair Hardy said he wanted all issues exposed in order for the Committee to understand them, so they could discuss any potential concerns they had with the proposed amendments. He said he wanted the parties involved aware of the concerns the Committee had in regard to the proposed amendments. He said he intended to take action on the bill at the next regular meeting of the Committee.

Chair Hardy asked the Committee to look at the amendment proposed by the Division of State Lands ([Exhibit K](#)).

Pamela B. Wilcox, Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources, said she had presented two amendments, but she wanted to discuss the amendment that dealt with sealed bid sales, [Exhibit K](#). She said the Division of State Lands had testified against the bill in the Assembly. She said her Division had worked with the sponsors of the bill and they were now in complete agreement with the goals of the bill, but they had some remaining concerns. She said the provisions pertaining to the State were not practical, and perhaps, not needed. She said the Division of State Lands was the land agency for most State agencies. She said the Division of State Lands was concerned with the disposal of excess State property. Ms. Wilcox said there was a statutory process for every disposal of State property that required approval by the State Board of Examiners and the Interim Finance Committee. She said the current process worked well for her agency. She referenced her draft amendment for [A.B. 312](#), section 2, [Exhibit K](#). Ms. Wilcox stated section 2, as it related to State Lands, primarily deleted the Division's authority to sell lands by sealed bid. She said currently, it was at the discretion of the agency whether lands were auctioned for sale or sold by sealed bid. She said the two processes were identical except for the actual way the bid was submitted—the approval, the appraisal, the public notification process and the minimum bid was the same in both processes. She said in rural Nevada, her agency found sealed bids were more successful selling the property and more likely to result in a good yield. She mentioned if there was only one bidder, sealed bids tended to bring a higher yield. Ms. Wilcox stated Assemblyman Sibley suggested the procedure followed by Clark County was acceptable. She said her amendment fulfilled that need, [Exhibit K](#).

Assemblyman Sibley said in the proposed mock-up on page 2, line 39, continuing on page 3 to section 2, as referenced in [Exhibit H](#), were the amendments he had discussed with Ms. Wilcox. He said it allowed the State to use sealed bids in some situations. He said the amendment retained the 5-percent increase over the original amount offered.

Ms. Wilcox asked Assemblyman Sibley if it was appropriate to take out the deletion of "or upon sealed bids" on line 20 and at line 38 in the mock-up amendment in [Exhibit H](#).

Assemblyman Sibley said the concern with line 20, "or upon sealed bids," in the mock-up was if it remained in the amendment, it made it appear only sealed bids were allowed. He said they did not want to have sealed bids only. He

referenced section 2, line 39 in [Exhibit H](#), which specifically stated how sealed bids would be taken and processed. Assemblyman Sibley added that in the last ten years, the State had only disposed of ten parcels. He said it was not as big an issue for the State as it was for some of the local governments.

Senator Titus asked if State property was always appraised independently. Ms. Wilcox replied that at the present time, it was a discretionary decision of the State Land Registrar how property was appraised. She said it was appraised in different ways. She said the Division of State Lands offered some properties for sale of little value such as the sale of a Tonopah piece of property worth \$1,000; she said a professional appraisal would have cost \$2,000 to \$3,000. She said almost all property was appraised by an independent contract appraiser.

Senator Titus asked if a limit was set concerning when property was appraised. Ms. Wilcox said it was at her discretion. She said the second amendment provided to the Committee suggested a limit [Exhibit K](#). She said if more than 3 percent was added to the cost of the property, it might not sell. If the property was worth \$100,000 and more than 3 percent in extra costs was added, it eliminated some bidders. Ms. Wilcox said the amendment would call for an appraisal if the land was valued at greater than \$10,000, and it would require two appraisals if the estimated value was at least \$150,000. She added both were subject to a provision of the value not increasing by more than 3 percent.

Assemblyman Sibley said he had taken into account the sealed bid and incorporated it into the mock-up. He stated the appraisal issue was only recently discussed.

Mr. Alonso said the Airport Authority of Washoe County had the power to condemn and use eminent domain, but the Airport Authority had to do it under federal guidelines. He said the Airport used FAA money or airport money that was not Nevada or local government money.

Ms. Wilcox said the new process for selecting appraisers gave her organization some concern. She said she selected appraisers through the State's Purchasing Act and contracting requirements using a process of soliciting bids. She said she understood the intent was to eliminate the process of soliciting bids and to have a process where there was no choice in selecting appraisers.

Chair Hardy said a number of Ms. Wilcox's concerns seemed substantive and had not been addressed in the proposed amendments. He asked Assemblyman Sibley and Assemblywoman Giunchigliani to work with Ms. Wilcox to resolve the remaining questions.

Mr. Molasky said his concerns were partially answered. He said everyone seemed to have a personal agenda. He said, as a private developer, he had been involved in downtown redevelopment in Las Vegas, and he was also chairman of the Downtown Redevelopment Summit Committee. He said he thought there were problems with A.B. 312. He said a distinction had to be drawn between economic development, redevelopment and other properties in the City. He said the proposed bill hurt the redevelopment and economic development areas. He said redevelopment was a public-private partnership in which both sides compromise for what was best for the City. He said the issue in redevelopment was how the land was developed in the best interests of the City and its constituents.

Douglas Selby, City Manager, City of Las Vegas, said he wanted to discuss the economic development aspects of A.B. 312. He said outside of the redevelopment areas were properties where economic development was encouraged. He said A.B. 312 could hinder incentives for underwriting land costs for the city of Las Vegas.

Bradford Jerbic, City Attorney, City of Las Vegas, said he had participated in many of the City's redevelopment and economic development projects. He mentioned economic development projects in other areas of the country where land was not disposed of by public auction and fair value was received in return; more jobs or the right kind of development were perhaps received in lieu of money value at an auction. He said the fundamental problem with A.B. 312 was it applied to both counties and cities. He said cities controlled the use of publicly owned property when it disposed of the property. He said the goal of the City's publicly owned properties was to dispose of the property in a manner that created jobs, developed the land and created the right kind of taxes that returned value to the City. Mr. Jerbic said if property acquired through eminent domain was not used by the City for the purposes acquired, the City would be willing to sell it back to the original owner.

Assemblyman Sibley asked Mr. Jerbic if he had read the original bill, A.B. 312. Mr. Jerbic replied he had read the bill. Assemblyman Sibley asked if he was

familiar with section 10, subsection 1, paragraph (b), which stated a sale or lease must be made at or above current appraisal value of the real property unless the city council determined by a vote of not fewer than two-thirds of the entire council that a lesser value was in the best interest of the public. He said that section of the bill allowed the city council, with a two-thirds vote, to dispose of property for redevelopment purposes below appraised value.

Mr. Jerbic said he understood the language in the bill. He said he had proposed the amendment on page 9, section 11, of the mock-up amendment, [Exhibit H](#). He said the contract partners on the 61-acre project were not completely convinced that the proposed amendment would satisfy the requirements of the deal without going to public auction.

Assemblywoman Giunchigliani asked Mr. Jerbic who would make the finding. She said there was no discussion of who decided the value of the surplus property. She said public findings needed to be made as to the value of property before actions were taken. She said the language in A.B. 312 put some protection in for the taxpayer without restricting the ability of the City to do leases or sales.

Chair Hardy asked Mr. Jerbic to take the proposed amendments and work with them to see if he could arrive at more comfortable language which better addressed his concerns.

Assemblyman Sibley said the City's proposed amendment was more restrictive than the current bill. He said the City's amendment only allowed the City to dispose of the property in cases of redevelopment and economic development.

Chair Hardy mentioned restriction was not always the issue, rather it was clarity. He said any further concerns about the bill needed to be addressed at this time. Chair Hardy said he wanted any additional concerns prefaced with an explanation why those concerns were not addressed in the Assembly.

Nicole J. Lamboley, Reno Redevelopment Agency, City of Reno, said the amendments provided in the Assembly bill addressed the City of Reno's concerns. She said Assemblyman Sibley had indicated all three chapters of the NRS would be similar. She said Assemblywoman Giunchigliani understood the concerns, and NRS 277.053 would be referenced in A.B. 312. Ms. Lamboley said the City of Reno was in favor of the current bill as proposed.

Stephen R. Johnson said he was a real estate appraiser who practiced in northern Nevada for the past 35 years. He said he was concerned about the appraisal parts in the bill. He said the bill required prequalified appraisers. Mr. Johnson said most appraisers specialized in certain areas of the real estate market. He said a prequalified list of appraisers needed to take into account the special abilities of the individual appraiser. He said the bill also stated the appraiser should be available in the county in which the property was located. He said not all appraisers were equally qualified, and it was important to be aware of higher-quality people in the business. Mr. Johnson stated requiring two appraisals would increase the cost to the agency selling the property.

Chair Hardy asked Mr. Johnson if his concerns were discussed in the Assembly. Mr. Johnson said the appraiser community was not aware of the bill until a few days before this meeting. Chair Hardy asked Mr. Johnson to submit his comments in writing to the Committee.

Santana Garcia, City of Henderson, said the City of Henderson had the same concerns as those mentioned by the other local governments. Mr. Garcia said he had just received the proposed amendments as presented in the mock-up by Assemblyman Sibley. He said the City of Henderson wanted to go on record as reserving judgment on the bill.

Randall C. Robison, City of Mesquite, proposed an amendment to A.B. 312. He said the issue addressed in the amendment was identified just last week. Mr. Robison said the amendment, relating to the RFP process, had not been included in the mock-up. He said the City of Mesquite was growing rapidly, and when two or three acres of land became available in the city, the public auction process was used. However, when larger parcels were available, the City of Mesquite generally used the RFP process. The City published a public notice explaining what they wanted and asked qualified companies to submit an RFP. Mr. Robison said it was still a competitive bid, but it was not a typical public auction. Mr. Robison said the amendment should be integrated into the original bill on page 8, section 7, line 36 ([Exhibit L](#)).

Chair Hardy asked if there was any further comment on A.B. 312.

Mr. Molasky said he wanted to address Assemblywoman Giunchigliani's concerns about fair market value. He said his company was asked by the City of Las Vegas to donate 1,000 parking spaces to the Las Vegas Performing Arts

Center. He said this was part of the consideration for the Southern Nevada Water Authority project. He asked how a value could be placed on such a request.

Mr. Jerbic said he reviewed section 10 of the mock-up in [Exhibit H](#). He said two specific problems needed to be addressed. Mr. Jerbic said section 10 only applied to 3 cities established under chapter 266 of NRS, and Las Vegas was established under chapter 268 of NRS as a charter city, so section 10 did not apply. He added section 10 also only relieved the City of the burden of using the highest appraisal, not of the auction burden. He said the two-thirds vote still did not relieve the City of the auction requirement.

Chair Hardy requested all the people interested in expressing their concerns with the bill sponsors be made aware of the upcoming meetings. He asked if there was any further discussion on [A.B. 312](#). Assemblyman Sibley and Assemblywoman Giunchigliani said they were available as needed to meet with people who still had concerns regarding the bill. Assemblywoman Giunchigliani said language modification solved some of the problems in the bill. She said she would start working on the new mock-up for the bill as soon as possible.

Chair Hardy closed the hearing on [A.B. 312](#) and reopened the hearing on [A.B. 165](#).

SENATOR LEE MOVED TO DO PASS [A.B. 165](#).

SENATOR CARE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Hardy reopened discussion on [A.B. 477](#) which revised provisions relating to the authority of deputies appointed to certain public offices.

SENATOR TOWNSEND MOVED TO DO PASS [A.B. 477](#).

SENATOR CARE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Hardy reopened discussion on A.B. 509 which revised the Charter of the City of North Las Vegas.

SENATOR LEE MOVED TO DO PASS A.B. 509.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy said there was a small agenda and a lengthy work session scheduled for the next Committee meeting. He asked if there was any further business. As there was none, he adjourned the meeting of the Senate Committee on Government Affairs at 6:23 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____