

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

**Seventy-Fourth Session  
April 27, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:02 a.m., on Friday, April 27, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblywoman Peggy Pierce, Vice Chair  
Assemblyman Kelvin Atkinson  
Assemblyman Bob Beers  
Assemblyman David Bobzien  
Assemblyman Jerry D. Claborn  
Assemblyman Pete Goicoechea  
Assemblyman Ruben Kihuen  
Assemblyman Harvey J. Munford  
Assemblywoman Bonnie Parnell  
Assemblyman James Settlemeyer  
Assemblyman Lynn D. Stewart  
Assemblywoman RoseMary Womack

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Chad Christensen [Excused]



**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
Mary Kay Doherty, Committee Secretary

**OTHERS PRESENT:**

Ronald Lynn, representing Clark County and the Nevada Organization of Building Officials  
Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties  
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities  
Ted Olivas, representing the City of Las Vegas  
Steve K. Walker, representing Truckee Meadows Water Authority  
K. Grant Reynolds, Assistant Division Chief, Information Technology Division, Department of Administration  
Mendy Elliott, Director, Department of Business and Industry  
Dennis Colling, Chief of the Administrative Services Division, Department of Motor Vehicles  
Dave McTeer, Chief, Information Technology Division, Department of Administration

**Chair Kirkpatrick:**

[The meeting was called to order at 9:02 a.m. Roll call was taken.] We will start with [Senate Bill 84 \(1st Reprint\)](#):

**[Senate Bill 84 \(1st Reprint\)](#): Revises provisions governing certificates pertaining to the subdivision of certain buildings. (BDR 22-377)**

**Ronald Lynn, representing Clark County and the Nevada Organization of Building Officials:**

[Senate Bill 84 \(1st Reprint\)](#) deals with the commercial subdivision rules. The current law in the *Nevada Revised Statutes* (NRS) allows developers to subdivide industrial and commercial buildings after an engineer or an architect completes a certificate saying it complies with the building codes. The law, however, did not say what to do with the certificate. This bill, in the simplest way, says it will go to the building department.

This is what has happened. Architects familiar with exiting and setbacks and wall composition have certified buildings without taking into account some of the engineering components. Engineers have certified the buildings but have

not considered the architectural components. There is certification but those certificates do not go anywhere. Later, when the owners of the new offices come in for their building permits, they are denied. The buildings do not comply with the law. The owners have spent their money and purchased a space. Now, all of a sudden, a court case says they are fraudulent. What do you do?

We are training people to come in advance to let us look at the plans. We are able to solve a lot of problems with very simple legal instruments, such as reciprocal easement agreements and some minor construction. Recently in Laughlin, Nevada, a commercial warehouse was broken up longitudinally; there were offices in the front and the back. In the back of the building there were also unloading docks. The Department of Justice came in and cited the owners for civil rights violation because the building did not comply with the Americans with Disabilities Act (ADA). Because it was already subdivided and sold as individual components, it was incredibly difficult to make that building code-compliant. If the buyers had come to us beforehand, it would have been a piece of cake with an easy recommendation for an internal corridor or a change in the subdivision orientation. It would then have easily satisfied the Department of Justice.

**Assemblyman Beers:**

I am continually amazed that we must have bills to correct something that should not exist. My one question is, why is Reno not involved in this? Why is there a population cap?

**Ronald Lynn:**

I really cannot explain why there is a population cap. That was added later. I believe there was testimony in the Senate from an individual representing western Nevada who requested it.

**Assemblyman Beers:**

I would like to know why. There is certainly a considerable amount of building going on in Reno.

**Chair Kirkpatrick:**

Mr. Beers, perhaps you can ask the Reno lobbyists or the League of Cities.

Are there any others in favor of S.B. 84 (R1)?

**Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties:**

This bill was introduced by the Nevada Association of Counties (NACO). Our Board of Directors supports this bill and it was unanimously approved to submit it to the Legislature.

I want to speak a bit about the amendment and why it applies to counties that are 400,000 or more in population. I believe the Western Nevada Builders Association (WNBA) submitted that amendment when the bill was heard in the Senate. They saw an issue with timeliness and building departments getting back to them. The WNBA submitted an amendment in order to make it more amicable to the committee and to themselves. We did not necessarily oppose that amendment. It should apply to all counties, and if it is the pleasure of this Committee, that is fine. I hope that helps answer the Committee's questions.

**Chair Kirkpatrick:**

Are there any questions? Is there anyone neutral on S.B. 84 (R1)? Is there anyone opposed to S.B. 84 (R1)? [There were none.]

I will close the hearing on S.B. 84 (R1).

I will open the meeting on Senate Bill 139 (1st Reprint).

**Senate Bill 139 (1st Reprint): Revises provisions relating to certain cooperative or interlocal agreements. (BDR 22-485)**

**J. David Fraser, Executive Director, Nevada League of Cities and Municipalities:** Senate Bill 139 (R1) is a bill that would make various sections of *Nevada Revised Statutes* (NRS) 277.045 uniform with other statutes that address public purchasing. The League of Cities has submitted the bill by request from the City of Las Vegas. Ted Olivas, from the City of Las Vegas, is also somewhat of an expert on public purchasing. If it pleases the Chair, I would like to turn the time over to him.

**Ted Olivas, representing the City of Las Vegas:**

Just a little bit of history of why we are here. [Read from prepared statement ([Exhibit C](#)).]

I would submit to this Committee that there is a lot of commerce that goes on between local governments where, as I explained earlier, we know we will do something jointly with another jurisdiction. We basically say, "You are doing this, and I will do that." There is a meeting of the minds, and we send over a

check for our piece of it or they send us the T-shirts for their piece of it, and so on. [Continues reading from prepared statement ([Exhibit C](#)).]

There is nothing that precludes a governing body or a local government from saying, "We want to see all of these contracts." Also, there is nothing precluding a threshold at zero. However, it would be inefficient and not a good use of taxpayer dollars. [Continues reading from prepared document.]

**Chair Kirkpatrick:**

I have one question. Why did we pick three years for maintaining the information as opposed to, for instance, seven years?

**Ted Olivas:**

There was no actual basis for the three-year requirement. We knew we needed to keep records and added the three-year clause, but, actually, we keep records for seven years for accounting purposes.

**Chair Kirkpatrick:**

Today many contracts allow the local agency to automatically renew contracts. Does that mean there must be new paperwork when you automatically renew the contract for three more years?

**Ted Olivas:**

It could work a number of different ways. To answer your question, it all depends on what the transaction is about, and it will dictate how you write the interlocal contract. Let us talk about snow removal. A snow removal interlocal type contract might be perpetual. It goes on forever because there is no need to readdress it in an interlocal contract. Things like the Fun Run and the Helldorado Parade are similar.

**Chair Kirkpatrick:**

My concern is we may not be having paperwork in 2020 for a contract that was approved in 2007 because we did not renew the contract regularly. There is a clause in the bill stating it is not necessary for new paperwork because there is a right to renew it. I want to ensure there are current contracts.

**Ted Olivas:**

Absolutely. If there is an ongoing transaction, there will be an interlocal contract in writing.

**Chair Kirkpatrick:**

Are there any others to speak on S.B. 139 (R1)?

**Steve K. Walker, representing Truckee Meadows Water Authority:**

The Board of Directors of the Truckee Meadows Water Authority wants to go on record in support of this bill.

**Chair Kirkpatrick:**

Is there anybody neutral on S.B. 139 (R1)? Is anyone in opposition of S.B. 139 (R1)? [There was no one.] I will close the public hearing on S. B. 139 (R1).

I will now open the public hearing on Senate Bill 554.

**Senate Bill 554: Revises provisions governing electronic payments and payments for expedited services received by certain state agencies. (BDR 31-632)**

**K. Grant Reynolds, Assistant Division Chief, Information Technology Division, Department of Administration:**

The purpose of Senate Bill 554 is to refine some of the text in *Nevada Revised Statutes* (NRS) 353.1465 relating to agencies charging convenience fees for expedited services (E-payments) such as credit cards, e-checks, and debit cards. A typical scenario might be purchasing a license, over the Internet. This bill would help make the NRS a little more workable for agencies. There are two major things that this bill does. One, it clarifies and modifies how agencies can recover their processing costs through a convenience fee. The current text addresses the costs on a transaction-by-transaction basis. In other words, if a person uses a credit card online to renew his license, the current text in the bill allows for recovery of the cost of that transaction. The issue is that you cannot always predict the exact amount of a transaction to charge processing costs at that time. This bill will allow the agency to recover those costs over the course of the fiscal year. The second thing, which is less of a change, removes the Account for Expedited Services. It has never been used, and no funds have been put into that account.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] I may have some questions at a later time. Is there anyone to testify in support of S.B. 554?

**Mendy Elliott, Director, Department of Business and Industry:**

I think it is really important that we enable this legislation. With this arrangement we can expand what we do within Business and Industry to accept E-payments. The Real Estate Division wants to license online. Without this legislation, Business and Industry would be unable to accommodate all the 51,000 real estate agents renewals, in addition to many other agencies.

The State of Nevada is behind the times with accepting E-commerce. I think it is time to move forward. Providing renewals via email will help our staff to accommodate our constituency and people will no longer need to stand in long lines. The Department of Industry is in favor of this bill. We would appreciate your support.

**Assemblyman Goicoechea:**

I do not understand this sentence, "The total convenience fees charged by the State must not exceed the total of the fees charged to the State by the issuer." [Read from amendment.] Does it mean if the credit card company charges the State four percent, the State will pass on the four percent?

**Mendy Elliott:**

That is correct. This is not a profit center for the State. The fees we charge are strictly to remain whole. Many times the credit card transactions are on a sliding scale, depending on the dollar amount of the actual fee. For instance, a \$100 transaction might have a higher discount rate than a \$1,000 fee. We will determine the appropriate charge to actually pass through to the constituents using this service.

**Assemblywoman Womack:**

Assembly Bill 365 is my bill. It is the companion bill to Senate Bill 554 and I am grateful to you, Ms. Elliott, because this bill answers the question of how the Real Estate Division can collect the fees once it has the authority. It is a bill that is greatly needed.

**Chair Kirkpatrick:**

Has this been brought before the Interim Finance Committee (IFC)? Have we ever had this legislation before?

**Grant Reynolds:**

Are you asking if this particular requested amended language has been submitted before?

**Chair Kirkpatrick:**

Yes.

**Grant Reynolds:**

I do not believe so.

**Chair Kirkpatrick:**

We see a lot of bills over here that have been seen in three and four sessions. Does anyone else have any questions?

**Assemblywoman Womack:**

I know in the last session, the Real Estate Division was given the funds to set up the system to collect fees via the Internet. However, they were never given the authority or the vehicle to collect them. In many different industries, not just the Real Estate Division. (This clears up the whole legislation started in 2005.) Am I correct?

**Mendy Elliott:**

You are absolutely correct. Frankly, from our perspective, when we evaluate how to roll this out system-wide, it will be incumbent on all of us to look at what possibilities might, from the standpoint of the fee and revenue income, move the State forward. The issue has been trying to balance the cost of the fee versus the cost to the State. I think the convenience fee will answer all the concerns relative to, "What is this going to look like as we move forward?" As we roll E-commerce throughout the State, there will be a process, and it will be fluid for years to come. This legislation is very important and enables us to get started. It will also assure the taxpayers a means of revenue recovery.

**Chair Kirkpatrick:**

Would anyone else like to speak in favor of S.B. 554? [There was no one.]

Is there anybody that is neutral? [There was no one.]

Is there anyone who is opposed to S.B. 554? [There was no one.]

Mr. Reynolds, do you have anything else to say?

**Grant Reynolds:**

If there are any questions we will be happy to follow-up with the legislative counsel staff.

**Chair Kirkpatrick:**

I have a question of our legal staff. Does this bill not require a two-thirds vote because it is a pass through? Or, is it because there is not a specific fee?

**Scott McKenna, Committee Legal Counsel:**

I believe it is because it does not have a two-thirds note on it. The number of people making payment in the form of credit or debit cards, or the fee percentage, could not be predicted. It would be a speculative number, and in instances like that, the decision is not to put a two-thirds fiscal note on it. In comparison, when it is absolutely certain a fee would be imposed, it would simply depend on how people choose to pay.



**Chair Kirkpatrick:**

I just have one more question, Mr. Reynolds. Will you go through Public Purchasing to identify the credit card companies you will be using in this process, and is it available to many different businesses, or is this just for one group of people?

**Grant Reynolds:**

There is a statewide initiative called E-payment Platform. The State has a contract in place now with a company called First Data. It will handle the back-end processing. It is available to all state agencies wanting to accept credit cards, debit cards, or e-checks. It really is statewide. In fact, if other local government agencies want to participate, they may. Transaction fees could go down with higher transaction volume. Also, the higher use would give us a better position to negotiate. We can pretty much accept Visa, American Express, Discovery, MasterCard, and then, debit cards and e-checks.

Each agency, wanting to take these payments, will determine what is appropriate for them. For example, some agencies may choose, based on their type of customer, to take only e-checks with a flat fee of 20 cents. Other agencies may take Visa, MasterCard, American Express, and so on.

**Chair Kirkpatrick:**

If the service fee is a pass for the person using the service, why would any agency not be on it since our purchasing power would be a bit better and our rates are better?

**Grant Reynolds:**

It will be an agency decision. Obviously, there is a cost to do this kind of transaction. Either the State will absorb that cost or pass it on. In the example of the Department of Motor Vehicles, the Department absorbs the cost because there are business reasons to do so. Other types of transactions, for instance a real estate broker, may absorb the \$5 charge or whatever it is. It is up to the agency wanting to participate.

**Mendy Elliott:**

Not everyone has access to the Internet. It provides a choice as to where and how people want to do business with the State.

**Chair Kirkpatrick:**

What are the criteria for a state agency to choose whether or not to use it?

**Grant Reynolds:**

Some agencies do not have the information technology (IT) infrastructure in place to accept those types of transactions. Later, if the agency extends its capabilities, it then can accept that kind of payment.

**Chair Kirkpatrick:**

What I am hearing is the realtors have the biggest need for this legislation.

**Mendy Elliott:**

In my world, it is not only the real estate agents needing this. There are also financial institutions, mortgage lending, and manufactured housing. I could go on about the opportunity to move the State forward, not just within Business and Industry, but throughout the other departments. As Mr. Reynolds has so well articulated, we continue to move the State forward, more agencies will sign up for this. I still have agencies on the Disk Operating System (DOS) and we are trying to get them into something a little more palatable. When those agencies come online, we will be able to interface with them and provide those opportunities, not only from an encryption standpoint but also from a security standpoint.

**Chair Kirkpatrick:**

Quite honestly this is what I needed to hear. What I have heard this morning is the bill is for the realtors' benefit. I want to be certain the entire State will benefit from this. I asked a direct question to get it on the record and learned there are several agencies who will gain from this.

**Mendy Elliott:**

You are absolutely correct. There is an opportunity for every state agency to move forward with Electronic Commerce.

**Assemblywoman Parnell:**

I am looking at the digest on the bill. Under existing law, state agencies already are authorized to accept "credit cards, debit cards or electronic transfers or money for payments made to those agencies and to charge a fee for such transactions." So this bill names that fee a "convenience fee," but you currently have the authority to do this. It seems one of the intents of this bill is for fees. Rather than going into the current account for Expedited Services in the State General Fund, the fees would stay with each local agency. Could you walk through both: why is the reauthorization needed, and also, is it really an issue of where money will end up?

**Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles:**

The Department of Motor Vehicles (DMV) has been accepting credit cards since 1999. Last year we did one million transactions with credit cards. The State is currently limited by contract. It cannot charge a fee for the use of a credit card. We can charge a fee for the convenience of using a kiosk, using the Internet, or mailing something in. It is my understanding that we have always had the authority to do this, but we cannot do it contractually.

A convenience fee charge is for the use of a service, not the use of the credit card. Allowing agencies, such as Real Estate, to add this fee for a service, will enable it to proceed with their processes. I know it is a very fine, little distinction, but contractually we cannot charge for the use of a credit card.

**Assemblywoman Parnell:**

The second part of the question was whether the money, generated from these fees, will now remain in the individual agencies rather than going into what is currently called the Account for Expedited Services and the State General Fund. I have not had that part answered.

**Dave McTeer, Chief, Information Technology Division, Department of Administration:**

Ms. Parnell, that account was never actually set up. The Expedited Services Account was in statute, but it has never been used and has been dormant for a long time. In order to make this workable, we believed it would be good to remove it from statute. Nothing changes. There is no intent for any agency to make money and no intent for any agency to lose money. As under current statute, at the end of the fiscal year, each agency would be neutral. They would adjust the fees as their charges go up and down, as they sometimes do. At the end of the fiscal year, the agency would have no money left in the pot.

**Assemblywoman Pierce:**

What is the contract you are talking about that says you cannot charge these fees?

**Dave McTeer:**

The State has a contract with MasterCard and Visa and a contract with American Express and Discover. Any agency can tap in and use those contracts for the business. The contract establishes the rates at which the credit cards are used. American Express and Discover are at a certain number. MasterCard and Visa have variable numbers, depending upon the type of card. It is that contract that we at DMV and other agencies operate under.

**Assemblywoman Pierce:**

So, if you call this a convenience fee, then we are outside of that contract.

**Chair Kirkpatrick:**

Does anyone else want to speak in favor of S.B. 554? [There was no one].

I will close the hearing on S.B. 554.

[The meeting was adjourned at 9:43 a.m.].

RESPECTFULLY SUBMITTED:

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Mary Kay Doherty  
Committee Secretary

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Rachelle Myrick  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 27, 2007

**Time of Meeting:** 9:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 139	C	Ted Olivas, City of Las Vegas	Prepared Statement