

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

**Seventy-Fourth Session
May 8, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:01 a.m., on Tuesday, May 8, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Assemblywoman RoseMary Womack



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Scott McKenna, Committee Counsel
Emilie Reafs, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Laura Billman, representing Nye County
Tom Buqo, President, T.S. Buqo, Consulting Hydrogeologist, Inc.
James Marble, Director of Natural Resources Office, Nye County
Department of Natural Resources and Federal Facilities
Jennifer Lazovich, representing Focus Property Group
William McKean, representing Utilities, Inc.
Martin Johnson, JNA Consulting
Kelvin Ikehara, District Manager, Douglas County Sewer Improvement
District No. 1, Wastewater Reclamation Plant
Randy Robison, representing the Virgin Valley Water District
Carole Vilardo, President, Nevada Taxpayers Association

[Call to order, Roll Call]

Chair Kirkpatrick:

We will open the hearing on Senate Bill 222 (1st Reprint).

**Senate Bill 222 (1st Reprint): Creates the Nye County Water District.
(BDR S-317)**

Laura Billman, representing Nye County:

Senate Bill 222 (1st Reprint) creates the Nye County Water District. Nye County is trying to grow up and take care of its own problems. You have a sheet of paper with two small amendments ([Exhibit C](#)). Nye County has been working on the concept of a Nye County Water District for the last two years. With the help of two Senators, we have gone to great lengths to work with all of the impacted entities involved. Prior to the work session in the Senate, one of the private utilities in Pahrump had a few more amendments to the bill. We allowed the amendments to be added in the interest of time, but told the utilities that we would need to have Nye County's legal counsel look at them. The utilities have been notified, that as a result of the review, Nye County would like to make a small adjustment and delete one line.

The first one is a simple adjustment regarding the members of the Water Board and the relationship to private utility companies. Since ethics law language is to the third degree of consanguinity we would like to change Section 7, subsection 3 from the first to the third degree.

The second change is to strike a small sentence in Section 9, subsection 3. This section deals with the appeals process that Nye County and Senator Care believe needs to be included in the interest of the oversight of this Board and its accountability to Nye County citizens. One of the utility companies wants to not allow an appeal regarding the decision to not exercise eminent domain. Nye County's legal counsel believes that the citizens of Nye County should be allowed to appeal any decision made by this Board, which is an appointed Board, and no issue should be off limits to the citizen's appeals process. Nye County maintains the government should be transparent in order for the general public to have faith in their elected officials and governmental officials. It would be unfair to its citizens to not allow them some sort of recourse in the event they felt aggrieved by any decision of this Board.

Tom Buqo, President, T.S. Buqo, Consulting Hydrogeologist, Inc.:

Since 1996, I have been working as a contractor to Nye County on water supply issues, primarily related to Yucca Mountain, the Nevada Test Site, and more recently, on comprehensive water resource planning for the County. In August 2004, the Nye County Board of County Commissioners adopted a water resources plan. We were encouraged to make this plan by the former State Water Planner, Naomi Duerr, and we worked in consultation with her staff. We held public workshops throughout the County in Hadley, Tonopah, Amargosa Valley, Beatty, and had several workshops in Pahrump where we developed various alternative strategies that the County could employ. The previous Board of County Commissioners took action last fall seeking enabling legislation for one of those recommendations to establish a countywide water district.

Nye County is unusual in many respects because Pahrump is a growing city and we expect that area will soon become an urban community. There are between 35,000 and 40,000 people living in Pahrump. That is 82 percent of the County's total population. The rest of the county is reflective of rural Nevada, much like our eight neighboring counties. We are mostly federally owned, and there are large federal reservations like the Nellis Air Force Range, Fish and Wildlife ranges, Indian Reservations, the Nevada Test Site, and possibly Yucca Mountain.

We are faced with a lot of problems in Pahrump, one of which is that we have three private utilities in Pahrump. You might ask, "Why does Nye County need

a water district when you already have utilities?" One reason is that there are 31 other public water supply systems that are regulated by the Nevada Division of Environmental Protection (NDEP) in the Pahrump area. The NDEP has done a basin-wide wellhead protection program for Pahrump and for the public system in Amargosa Valley. We need to take measures so that the needs of the 31 systems, which include recreational vehicle (RV) parks, trailer parks, restaurants, and businesses, are weighed against the needs of the privately owned utilities. Further, Nye County has more domestic water wells than any other basin in the State of Nevada, with nearly 11,000.

We project on a full build-out Nye County will have a population of 150,000 and a corresponding annual water demand of 80,000 acre-feet. Our perennial yield is only 19,000 acre-feet, so we are faced with a shortfall. The Nevada State Engineer, Tracy Taylor, and some of his staff from the Division of Water Resources, met with our three utilities earlier this year. Mr. Taylor said that it is not a matter of if water is going to be imported to Pahrump, but when. We see this district as an umbrella organization that will be able to work on behalf of all the systems, operators, and water users in Nye County and with other organizations. There needs to be one organization to work with the State and the Southern Nevada Water Authority (SNWA), and to negotiate with the federal government in order to make sure that the County has a guaranteed supply of potable water to take care of the future economic well-being of the County.

James Marble, Director of Natural Resources Office, Nye County Department of Natural Resources and Federal Facilities:

Outside of Pahrump we have another 50 water systems in the County in many of our outlying communities. We know that this umbrella organization would be the most efficient way to coordinate all of the efforts throughout the county. One of the best ways to manage growth is through regulation of the water supplies that fuel that growth.

The future economic well-being of the County and its residents depends on reliable, safe, and affordable drinking water supplies.

Assemblyman Goicoechea:

There is other legislation pending, predominantly Senate Bill 275 which will be heard in the Assembly Committee on Natural Resources, Agriculture, and Mining on Monday morning. Have you looked at that at all?

Tom Buqo:

No, I have not.

Assemblyman Goicoechea:

It is going to go a long way toward resolving some of these domestic well issues, either good or bad. Back to this bill, the amendment you are proposing has the deletion of that one line, but I cannot understand why it is even in there or what it accomplishes.

Laura Billman:

We spoke with the three utility companies and two of them are concerned about the use of eminent domain. They are concerned that someone might come forward and ask the Water Board to condemn their utility. We gave the utilities a supermajority vote of the Board from eminent domain to try and alleviate their concerns. In the event they did not get a supermajority on the Water District Board, they were concerned someone may appeal the non-use of eminent domain to the County Commission and circumvent the supermajority.

The problem with this, aside from the fact that it is pretty unlikely that a private party is going to want the Water District to condemn a private utility company, Nye County believes that its citizens should be allowed to appeal any decision made by an appointed Board within Nye County. They now can appeal a decision by the County Commission in the courts. We found out yesterday that private utilities have the use of eminent domain. Two utility companies want this language, the third wants that language taken out, but they all want protections from the Water Board and County Commission on eminent domain. The fact remains that if the utilities wanted to use eminent domain, for example, for a right-of-way on somebody's property, the general public does not have the same protections for which the utilities are asking.

Assemblyman Goicoechea:

The whole thing does not make sense. I agree with you. The amendment does fly because it technically allows the public to appeal to the Board of County Commissioners any decision made by the Water Board. I do not understand why you would not want the ability to appeal a decision they did not make. I concur with the amendment to let the utility, public, or anyone else appeal back to the elected body.

Will this Water District be run by the Board of County Commissioners at the onset?

Laura Billman:

The Water District will be formed and the County Commission will have to create a Board. The plan is to appoint people that have a background in water and growth issues. They will appoint seven people as outlined in the bill. Then

that Board will convene and will adopt by-laws. A lot of the finer details will then be in the by-laws.

Assemblyman Goicoechea:

Those by-laws would be created by the appointed Board, not the Board of County Commissioners?

Laura Billman:

They will be created by the Water Board, affirmed by a supermajority, and then reaffirmed by a simple majority of the County Commission.

Assemblyman Stewart:

Is there any sense if this is a popular decision? Pahrump has 80 percent of the population but only three of seven votes?

Tom Buqo:

Answering the second question, there is a reason for that make-up. The people in the northern part of the County do not want to see water transported to Pahrump any more than they want to see it go to Las Vegas. Coming up with the composition of the Board, we had to reach consensus between the rural and Pahrump parties, political versus technical concerns, and so on. We spent an entire day, in a closed room, with the mission to not leave until we had consensus. We recognized that the situation today may not be what it will be twenty years from now, so we deliberately tilted the Board toward the interests of the northern part of the county. It is appropriate for Board members to know what they are talking about by having a look at the alfalfa in production, the farms and communities in the north, and representing these interests. They will have a different perspective when they then go to Pahrump and vote on issues. It was a calculated decision so the rural parts of the County do not feel like they will be railroaded by growth in Pahrump.

Assemblyman Stewart:

What about the popularity of the measure?

Tom Buqo:

We did not take a formal poll, but we did reach a consensus, which is tough to do in Nye County.

Assemblyman Stewart:

There is no chance that Las Vegas is going to get any of your water, is that correct?

Tom Buqo:

Not a chance. We are not battling with SNWA and we would hope that there would be a long-term partnership.

Laura Billman:

Nye County had a meeting with the SNWA. They support the bill because right now Nye County has no standing with its water. If the SNWA did want to negotiate or if we wanted to negotiate with them, we cannot, because there is no one entity in charge. That is what this bill will create.

Assemblywoman Pierce:

Is it usual for appointed Boards to have this kind of power?

Scott McKenna, Committee Counsel:

I would say that it is hard to give a generalized answer, since this is one of several water authorities created by special act. Many of them have similar provisions. The powers described in this bill do not look unusual.

Chair Kirkpatrick:

Throughout the bill, and in particular, Section 8, subsection 1(t) refers to "the United States." Are you planning on doing something different? Is it because of the federal land? Usually these bills say "from one political subdivision to another."

Tom Buqo:

We have had discussions in the past with the United States Department of Energy (DOE) about the operation of water supply systems on the Nevada Test Site. It is currently run by private contractors and the United States sees a potential cost savings if the County could come in, operate those systems, and be the water purveyor. We have discussed that in regards to the Air Force and their testing range.

Chair Kirkpatrick:

In the rest of the bill, do you refer to the "United States" as opposed to "a political subdivision?"

Tom Buqo:

The reason for the language in Section 8, subsection 1(t) is to be able to enter into long-term agreements with a United States agency to operate their water systems.

Chair Kirkpatrick:

Section 8, subsection 1(d) states "To enter into contracts, and employ and fix the compensation of staff and professional advisors." What does that mean? I have never seen such lax, non-legal terms.

Laura Billman:

This bill was modeled off the Lincoln County Water Act and the original Las Vegas Valley Water District in 1947. A lot of this language actually comes from there. In the event that Nye County gets the Water District, the District might want to hire an executive director or something similar. We would need the authority to enter into a contract with and compensate him.

Chair Kirkpatrick:

The part that bothers me is "and fix the compensation of staff."

Assemblyman Goicoechea:

"To fix" a rate is legalese.

Chair Kirkpatrick:

We will invite those who would like to speak in favor of S.B. 222 (R1).

Jennifer Lazovich, representing Focus Property Group:

We are one of the private utility companies in Nye County, named Desert Utilities, Inc. We are in support of the bill with the amendments suggested by Ms. Billman. Both amendments are necessary and good for this bill as a whole.

William McKean, representing Utilities, Inc.:

This company is the third investor-owned private utility that provides service in Nye County. Utilities, Inc. supports S.B. 222 (R1) as written and it has passed the Senate.

We have looked at Nye County's proposed amendment. An important aspect of S.B. 222 (R1) for the utilities that was part of the consensus is the supermajority provision. So long as the intent of this amendment is not to undermine that supermajority provision, then the concerns of Utilities, Inc. are mitigated. Our concern is if there is an appeal that it is clear, the County Commission's response to that appeal is limited. We understand the political consequences of cutting off appeals. If it is an appeal of a non-use of condemnation, then the appeal to the County Commission could result in a remand to the Board, but it could not reverse the decision and exercise the Board's eminent domain power, so it is a fairly hollow appeal. There are other avenues for a resident who is disappointed that the Board had decided not to

exercise eminent domain. A resident could petition the County Commission and the County Commission could change the make-up of that Board.

The supermajority provision was part of the consensus built and one reason why there is so much support for the bill. It is an important provision for the private utilities that invest and bring resources into Nye County for the water infrastructure, and provide service.

Assemblyman Goicoechea:

It is clear and we can establish the legislative intent by adopting this amendment or with other wording. The bottom line is that there is nothing in this bill that would preclude an appeal to the Board of County Commissioners and nothing that would disqualify the supermajority by either Board.

Chair Kirkpatrick:

I need it in simpler terms. Section 8, subsection 2 discusses the supermajority, so it is clear. I am confused at what you believe would happen by taking the lines out that say "other than a decision by the Board not to exercise the power of eminent domain;" it sounds like a double negative.

William McKean:

Typically, a person must be aggrieved in order to have standing to bring an appeal. If the Board has decided not to exercise eminent domain, it has not acted. It is hard to fathom a circumstance where someone would be aggrieved by the decision not to do something, and to suggest that someone might have standing in that circumstance, in order to bring an appeal, is unlikely. As long as it is clear that the Board must make a supermajority vote before eminent domain occurs, then striking this language is not objectionable. The legislative history is clear that the supermajority provision is here and is a prerequisite.

Our concern was that oftentimes an appeal can result in a reversal of a decision, but here it cannot. If there is a non-action and the Board has not voted by a two-thirds majority, the County Commission cannot reverse that decision and authorize condemnations, so one of the remedies for an appeal cannot occur.

Assemblyman Settlemeyer:

The second part of the amendment bothers me, in that it encourages people to utilize eminent domain. If we were to leave it the way it was, once the decision not to use eminent domain was made, then it would essentially prohibit it. No one would be able to appeal the process and utilize eminent domain.

Chair Kirkpatrick:

Mr. McKenna, could you clear this up?

Scott McKenna, Committee Counsel:

I would agree with the comments made by William McKean. Let us say that the supposedly aggrieved party desires that a public officer or a public body do something as opposed to not do something, the typical legal vehicle to make that happen would be to seek a writ of mandamus [An order issued by a supreme court to compel a lower court or a governmental officer to perform mandatory or ministerial duties correctly.] A writ of mandamus is typically grantable only in the context of what is referred to as a ministerial act where there is no discretion to be exercised. In this case, the decision whether or not to use the power of eminent domain would be almost completely discretionary and thus the entity could not be forced into taking that action.

Chair Kirkpatrick:

Is there any one else who would like to testify on S.B. 222 (R1)? [There were none.]

Laura Billman:

Nye County would like to keep this amendment. We do not have the money to even begin to consider eminent domain. We would like to keep an open and transparent situation with the utility companies and our legal counsel says that telling the public you can have an appeals process for everything that happens, except this, would be unfair. There are trust issues in Nye County.

I have no problem saying on the record that the intention of removing this language is not to circumvent the supermajority provision. The supermajority vote also has to be affirmed by a simple majority vote of the Board of County Commissioners, so there are two stop-gap measures. There are several other bills in to change the eminent domain laws, so we may be arguing over nothing in the end.

Assemblyman Settelmeyer:

I agree with the intent of the bill. I think it is wise that Nye County is forward thinking. I have a question about the concept of eminent domain, but I will talk to you later about it.

Laura Billman:

This is standard language in all water district bills. We found that the SNWA has the same authority. Eminent domain is just something that is in there. Circumstances change over the years and 25 years from now we may need to own the utility company, but we do not today, and probably will not tomorrow, but we just do not want to close off avenues.

Chair Kirkpatrick:

I am concerned about how these contracts with the United States work if you do not actually have enough water.

Tom Buqo:

The DOE at the Nevada Test Site uses water under the implied water rights doctrine, the Winters Doctrine. Entering into a contract with them would be to take over the maintenance of their wells, pipelines, and so forth, and operate that system for them.

With respect to the topic of eminent domain, we discussed that at length when we were working on this, and the three utilities wanted to see that if eminent domain were exercised, it would be all or nothing. The District could not cherry-pick the best wells or pipelines. We do not believe that eminent domain is an issue in Pahrump now or in the foreseeable future. The reason I wanted to see that in there was for the protection of our rural communities. An example, lone, a very small town, has a privately owned water utility and the residents are held captive by that water system operator. There are a number of examples like that. The County obtained the Manhattan Water District when the mine left. We had no choice. The only time I ever foresee eminent domain being used is if we have an operator that is not working in the best interests of those to whom he is purveying water or in a rare case where the Public Utilities Commission puts a District into receivership. At that point, the countywide Water District would be similar to when the SNWA took over the district where I live.

Assemblyman Beers:

I agree with that use of eminent domain. I do not agree with the argument that just because every else can, we need to. I would like to be sure that in the future the abuse of eminent domain cannot happen. I realize that it is an effective tool, but I also realize that administrations change.

Laura Billman:

When it comes to government, eminent domain usually applies. The eminent domain laws are being adjusted so we are not even sure what is going to happen.

Assemblyman Goicoechea:

I want to make sure that everyone does not lose their perspective. The utilities have the ability to impose eminent domain and there is no appeal.

Chair Kirkpatrick:

I will close the hearing on S.B. 222 (R1) and open the hearing on Senate Bill 498.

Senate Bill 498: Revises the authority of the Virgin Valley Water District to borrow money and incur indebtedness. (BDR S-964)

Martin Johnson, JNA Consulting:

This bill provides the option for the Virgin Valley Water District to borrow money in basically the same manner that other local governments have the ability to do. When the Water District's enabling legislation was put in place, the ability to issue General Obligation Revenue Supported Bonds was not included. The District can only issue Revenue Bonds or General Obligation (G.O.) Bonds with a vote of the people. This bill would allow them to issue bonds that are G.O. backed, but paid from the revenues generated by operating the water system in Virgin Valley.

Chair Kirkpatrick:

We need a little more information.

Martin Johnson:

Most local governments looking to borrow money to fund infrastructure improvements have three options: General Obligation Bonds that are approved by the voters and are repaid by property taxes; Revenue Bonds paid from water or sewer revenues, gas tax, or those types of things; and a combination of those two which are called General Obligation Revenue Supported Bonds. Those bonds do not have to be approved by the voters but they have the G.O. pledge from the issuing entity. They generate substantially better interest rates and thus lower cost financing than pure Revenue Bonds.

Up until now the Virgin Valley Water District has financed all of their improvements by issuing Revenue Bonds. There is a covenant in these bond documents that the District will maintain rates and charges on the users of the water system to repay the bonds. That pledge goes into all Revenue Bond documents and that same pledge goes into all General Obligation Revenue Supported Bond documents. The Water District would have to maintain rates and charges at levels sufficient to repay the bonds before they could look to the G.O. pledge to make the payment. But because that general obligation pledge is there, they will get a better bond rating and thus, a lower interest rate: as much as a quarter of a percent. That is a direct savings to the rate payers in the Virgin Valley Water District. Most other local governments in the state have this ability, it is just when the enabling legislation was made, this particular option was left out.

Assemblyman Goicoechea:

What is the tax rate imposed by the Virgin Valley Water District?

Martin Johnson:

They do not currently levy a property tax rate. They are able to pay all of their financing and operations from user fees. The approval of General Obligation Revenue Supported Bonds does not result in a property tax being levied unless there is a situation where the revenues are insufficient to pay the debt service.

Assemblyman Goicoechea:

Do you have the ability to impose taxes under existing legislation?

Martin Johnson:

They could with the vote of the people.

Assemblyman Goicoechea:

And yet, a General Obligation Revenue Supported Bond issue does not require a vote of the people?

Martin Johnson:

That is correct. First the District would need to decide that it wants to use this type of financing, and then go to a Debt Management Commission; there is one in each county. Then there is a 90 day petition period when citizens can decide if they think it is a bad idea.

Assemblyman Goicoechea:

I have sat on a number of those Boards and I know how they work. I am not familiar with General Obligation Revenue Supported Bonds. I still need some clarification, because what you are saying is that you are going to issue a General Obligation Revenue Supported Bond and if there is a shortfall in the revenues, then the tax rate would increase to make it up. In this case you would have to go back to the voters to get that tax rate approved. I am concerned about that. I would rather that you were upfront with it and either issue a General Obligation Bond or a Revenue Bond.

Chair Kirkpatrick:

This law has not been changed since 1997, is there a project that you are trying to do now?

Martin Johnson:

There is not a particular project that we are looking to finance at this particular point in time, but the District has ongoing capital needs with the growth in

Mesquite. This would be an option for the District in terms of financing future projects which might allow it to get lower cost financing than what it has been able to get issuing Revenue Bonds. It is to provide some flexibility and options for it to consider as it looks to finance future capital improvements.

Kelvin Ikehara, District Manager, Douglas County Sewer Improvement District No. 1, Wastewater Reclamation Plant:

This bill was presented to me yesterday. It sounded like a good vehicle for the District to get on board. We were formed under *Nevada Revised Statutes* (NRS) 309 and the provision that Mr. Johnson talks about is not in the NRS statutes. We would like the Committee to recommend this because it could allow us a lower finance rate for capital improvement projects. We like to use the state Revolving Loan Fund, but those funds are getting harder and harder to acquire. This is another vehicle that will allow us more flexibility.

Chair Kirkpatrick:

This bill refers to the Virgin Valley Water District; you represent Douglas County, right?

Kelvin Ikehara:

The Douglas County Sewer Improvement District. We have an amendment ([Exhibit D](#)) which revises NRS 309.

Assemblywoman Parnell:

Page 3, Line 17, states "To incur indebtedness..." and then language is added "to borrow money". I am not sure what the difference is.

Scott McKenna, Committee Counsel:

The proponents of the bill may have a different explanation, but looking at what has been deleted from subsection 5, it appears that they are replacing a long list of references to different parts of NRS Chapter 350 and simplifying the language to "To borrow money and incur indebtedness...."

Martin Johnson:

I am not an attorney; I am the financial advisor to the Virgin Valley Water District and that is how our legal advisor decided to draft that.

Assemblywoman Parnell:

I actually prefer the existing language, I do not think it is a bad idea to identify what you can borrow money or incur indebtedness for.

Chair Kirkpatrick:

Randy Robison has arrived from another committee, so we will ask him our questions. [The Chair briefed Mr. Robison on the questions.]

Randy Robison, representing the Virgin Valley Water District:

There is not a specific project that is in the works for which this legislation has been brought. Most other Districts like ours that have ratepayers and have pledged revenues have the authority to issue General Obligation Revenue Supported Bonds. When the District was organized in 1993, that authority was not granted to us and in our research we did not find any compelling reason why it was not granted. It seems like it was an oversight at the time.

I do not know about the language on page 3, line 17. The District's legal counsel simply submitted the intent of the bill and the Legislative Counsel Bureau drafted the bill. I will follow up with them.

I did have the chance to look at the amendment from the Douglas County Sewer Improvement District. It gives them authority similar to what we are asking for that most other districts of this kind, who have pledged revenues, currently have.

I do not know if there is a specific problem that we are attempting to address, because it is not that we have not been able to do a project or will not be able to. It was when we were reviewing the way in which we borrow money and incur indebtedness, we looked at most other districts, like the Las Vegas Valley Water District, and they have the ability to use pledged revenues as an additional security, which lowers the cost of borrowing money, and which lowers the interest rate. We thought this authority would be useful for lowering our rates and also for the taxpayers.

Assemblywoman Parnell:

Are water districts always exempt from being regulated by the Public Utilities Commission (PUC)?

Chair Kirkpatrick:

We can get that information for you.

Assemblywoman Parnell:

I ask because the language is in one bill and not the other.

Assemblyman Goicoechea:

I believe that as long as it is a public entity, or a cooperative (co-op), then you are not regulated by the PUC. So where these water districts are a county or a public utility, they are not regulated.

I am still struggling with the fact that the Virgin Valley Water District does not have a tax rate. Yet we are talking about General Obligation Bonds. In order to then come up with the tax rate, it would have to go to the vote of the people. I am missing something. I would think that there would be a tax rate in place in case there was a shortfall in revenue; the District would be able to use the ad valorem tax base to cover it. If the District cannot impose a tax until there is a vote of the people, you might not get it.

Randy Robison:

I would ask Mrs. Vilardo. As I understand it, we still have to go to the voters to impose a tax rate for a General Obligation Bond. What this would allow us to do is to use our pledged revenues as an additional security on that General Obligation Bond, so that we would get a lower rating and therefore lower our cost to borrow money.

Assemblyman Goicoechea:

I understand why you are doing it, but it concerns me because you are doing a General Obligation Bond as it pertains to your revenue source, but if there is a shortfall, you would have to go back to a vote of the people to impose the tax rate to cover it.

Carole Vilardo, President, Nevada Taxpayers Association:

From my experience sitting on the Debt Management Commission in Clark County, what happens is, if there is a pure Revenue Bond from some source, the interest rate is based on the payments made to the Water District, so when the agency wanting the bonds goes out, they tend to have higher interest rates. General Obligation Revenue Supported Bonds are called "double barrel" bonds because the agency uses revenue from its rates to pay for the bonds, and also has the authority to use assessed valuation. The agency can back those revenues with the assessed valuation, which gets a better interest rate because the bond market prefers General Obligation Bonds. General Obligation Bonds backed by revenue go to a Debt Management Commission and the agency wanting to issue the bonds has to show that its revenues will sustain the bond issue. It would be a very unlikely circumstance, and I cannot think of any in this state, that bonds would fall back on the General Obligation. In that case, there would have to be a vote. All that language is saying to the bond market is "If in fact, we should default on the revenues, we can back this with General Obligation Bonds."

The interesting thing is, and I said this in the Senate, the first time I was tracking a "double-barrel bond issue" I got confused because it says, "paid by General Obligation of the entity, additionally secured by a pledge of revenue." So when they go out to sell it, it looks like it is a General Obligation Bond, but they actually repay the bonds using the secured pledge of revenue. It is a common occurrence with most districts and most local governments in the State. Mr. Robison is most likely correct that in the establishment of the District the authority was overlooked. When the districts are created the focus is very narrow. If the Committee looks at the language from the Nye County bill, it is likely that there will be other districts that will come back in a few years asking for this expansion of authority.

To answer your question, Ms. Parnell, lines 32 and 33 then state "to the extent permitted by law." That would be any provision. We have been adding and modifying provisions, so my assumption is that this language covers you if there is another change that would authorize some type of borrowing in another provision of statute, rather than having it specifically identified.

Assemblyman Goicoechea:

I am just not familiar with this "double-barrel" approach. The only thing that concerns me is that while it never has happened, it could. I would feel a lot more comfortable if they had a nickel rate in place, just in case.

Chair Kirkpatrick:

I have a question on the amendment. Section 2 says "NRS 309.333 is hereby amended to read as follows:" I am wondering why you are putting in the Local Government Securities Law, which is currently under 309.337. What are you trying to do? I want to make sure we are not doing away with any provisions like 309.334 which defines how the elections are done.

Kelvin Ikehara:

I am going to defer to Marty Johnson.

Martin Johnson:

In addition to being the financial advisor to the Virgin Valley Water District, I also provide the same service for the Douglas County Sewer Improvement District. The intent of those that drafted this amendment was to one, allow the Douglas County Sewer Improvement District the same opportunities to borrow money, and two to also make sure that if there were conflicts between NRS Chapter 309 and the Local Government Securities Law, the Local Government Securities Law would be the controlling language. In the event that they

wanted to pursue a General Obligation Bond repaid by property taxes, there are very clear provisions in statute for how that election has to be handled.

Chair Kirkpatrick:

Could you give me an example of when this may occur? It sounds like you are saying that in case there is a conflict with the Local Government Securities Law that the Local Government Securities Law supersedes.

Martin Johnson:

Let us say that in the next session, the bonding company decided that there has to be a principle payment made within two years of issuance of the bonds. If that is put into the Local Government Securities Law and through oversight it is left out of NRS 309, the Local Government Securities Law would apply and we would have to comply with that provision even though it was not in Chapter 309.

Chair Kirkpatrick:

Are there any other questions? [There were none.] I will close the public hearing on S.B. 498.

Is there any public comment? Is there anything from the Committee? We are adjourned. [9:09 a.m.]

RESPECTFULLY SUBMITTED:

Emilie Reafs
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: May 8, 2007

Time of Meeting: 8:01 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 222 (R1)	C	Laura Billman, representing Nye County	Proposed Amendment
S.B. 498	D	Kelvin Ikehara, Douglas County Sewer Improvement District No. 1	Proposed Amendment