

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

**Seventy-Fourth Session
February 20, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:12 a.m., on Tuesday, February 20, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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 Settlemeyer
Assemblyman Lynn D. Stewart
Assemblywoman RoseMary Womack

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Scott McKenna, Committee Counsel
Rachelle Myrick, Committee Secretary



OTHERS PRESENT:

Jeanne Greene, Director, Department of Personnel, Nevada
Danny Coyle, Past President and Director, Retiree Chapter, State of Nevada Employees Association
Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada
Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County, Nevada
Judy Stokey, Director, Government Affairs, Nevada Power and Sierra Pacific Power
Kimberly McDonald, State Legislative Affairs Officer, City Manager's Office, City of North Las Vegas
Margaret McMillan, Director, Governmental Affairs, EMBARQ, Las Vegas, Nevada
Bob Bass, Director, External Affairs, AT&T, Las Vegas, Nevada
Mary Walker, President, Walker & Associates, Minden, Nevada
Stacey Giomi, Fire Chief/Emergency Manager, Carson City Fire Department, Carson City, Nevada
Marv Teixeira, Mayor, Carson City Consolidated City-County Government
Joseph Guild, III, Attorney at Law, Reno, Nevada
Daniel Holler, Douglas County Manager, Douglas County, Nevada
Robert Hadfield, Management Consultant, Interim County Manager, Lyon County, Nevada
Bjorn (BJ) Selinder, Public Policy Innovations, LLC, Fallon, Nevada
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association
Joe Sanford, Under Sheriff, Lyon County, Nevada
Jeff Page, Emergency Manager, Lyon County Emergency Management, Nevada
David Fraser, Executive Director, Nevada League of Cities and Municipalities
James Jackson, Representing Cingular/AT&T Wireless, Las Vegas, Nevada
Karen Pearl, Executive Director, Nevada Telecommunications Association
Helen Foley, Public Relations and Government Affairs, Faiss, Foley, Warren, Representing T-Mobile, Las Vegas, Nevada
Fred Hillerby, Legislative Advocacy, Government Relations, Hillerby & Associates, Representing Verizon Wireless, Reno, Nevada

Chair Kirkpatrick:

[Meeting called to order at 8:12 a.m.]

[Roll called]

Assembly Bill 119: Makes various changes to provisions governing the purchase of retirement benefits by state agencies. (BDR 23-614)

Today we are going to hear three bills. First I would like to open the hearing on Assembly Bill 119.

Assembly Bill 119 is on behalf of the Department of Personnel.

Jeanne Greene, Director, State of Nevada Department of Personnel:

[Provided written testimony ([Exhibit C](#)).]

The Department of Personnel requests that NRS (*Nevada Revised Statutes*) 286.3007 be amended to insure that the State is not held inappropriately liable for purchase of retirement for employees who are laid off or when a state agency is privatized, in whole or in part, unless it is the intent of the Legislature. Litigation was initiated after the 1999 Legislature approved Senate Bill No. 37 of the 70th Session, which provided for the privatization of the State Worker's Compensation Program.

Senate Bill 37 provided for the purchase of retirement credit for employees that would have been entitled to retire without a reduced benefit.

The litigation was from employees requesting purchase of retirement credit who could retire with only reduced benefits. Ultimately, this case went before the Nevada Supreme Court, who ruled on February 2, 2006, in *Cable versus EICON*, that EICON was required to purchase service credit for employees who would be eligible to retire with reduced benefits.

There were 43 plaintiffs in the litigation. Some of the 43 chose to settle with EICON for something other than purchase of service credit, reducing the final cost. EICON was required to purchase 47.5 years of service for 14 employees, resulting in a cost of approximately \$1.1 million.

There were 880 employees laid off when EICON privatized. In a worst case scenario, if EICON had to purchase service credits for all 880 employees, it could have resulted in a cost of \$69 million.

This bill clarifies, for the purpose of this statute, an employee that is eligible to retire is one that meets the age and/or years of service requirement for a full retirement benefit. Additionally, it clarifies that legislation provided for the privatization of a state agency, in whole or in part, the privatized agency is not required to purchase credit for service for any member, unless such legislation expressly provides for such purchase.

The management of the Public Employees Retirement System (PERS) has reviewed the bill, and it is in agreement with the proposed language.

Assemblyman Goicoechea:

The fact that you had 14 employees come up with 47 years frightens me. If you averaged that, you were buying at least four years per person to make them retirement eligible. Therefore, if they work only one year, you could come on with a reduced pension at five years.

Jeanne Green:

Yes, the statute for the PERS allows an employee to purchase up to five years. You are correct that they were purchasing an average of four years.

Chair Kirkpatrick:

We will move to those who would like to speak in favor of the bill. [There were none.] We will move on to those who would like to speak against the bill.

Danny Coyle, Past President and Director, Retiree Chapter, State of Nevada Employees Association:

My name is Danny Coyle and I am representing American Federation of State, County, and Municipal Employees Local 4041 (AFSCME).

The AFSCME Local 4041 is adamantly opposed to A.B. 119.

We do not see the necessity for this bill. The bill has already been decided and that is in the *Cable v. EICON* case that the Legislative Counsel Bureau (LCB) cites in their preamble, their explanation of the bill.

The AFSCME has been on record many times as opposing privatization of any kind. We believe that it would make it easier for the transition from a public agency to a privatization situation. The medical facilities in Ely are a good example of a privatization gone wrong.

Ms. Greene told of the 43 people they bought retirement benefits from along with the 800 employees who were laid off. What if they had to buy retirement benefits from the 800 employees who were laid off? Under the rules, those

800 employees were found other jobs with other agencies per existing statutes and regulations.

I remember when our organization represented a lot of people who worked for the Nevada Industrial Insurance Commission (SIIS).

Speaking of EICON (Employers Insurance Company of Nevada), their record of adjudicating claims really has not been that sterling.

We want to go on record as opposing A.B. 119. I would be happy to answer any questions.

Chair Kirkpatrick:

Are there any questions for Mr. Coyle?

Assemblywoman Parnell:

I was here when the privatization happened. It was extremely difficult for employees who left and then did not know where they were in the retirement system. I cannot picture an example of what we are talking about in this piece of legislation.

Danny Coyle:

The way I understand it, as a result of the Supreme Court decision this bill would reduce the number of years-of-service benefits the privatizing company would have to pay to the employee either by settlement or by layoff. The present law is fair and adequate to compensate the employee.

Assemblyman Goicoechea:

This amendment clearly says that if the state agency is privatized, then the only way the private sector would be held accountable is for those employees that would be eligible for retirement with the buyout. Is that correct with this change?

Danny Coyle:

I believe that is correct.

Assemblyman Goicoechea:

You would have to be eligible for retirement. After five years you are eligible to be bought out. If you had 25 years in at any age, those five years would automatically make you eligible for retirement with full benefits, and that private sector would have to buy that time. If you were 40 years old, and had only 20 years, they would not have to buy your time out. That is the way I understand it.

Danny Coyle:

That is the way I understand it. The way the present law reads is that the agency would have to purchase the retirement credits at full benefits rather than reduced benefits. We would like to see the law stay the same.

Assemblyman Goicoechea:

You are saying that if the state agency privatizes and you had only 14 years in, the private sector should buy the other 16 years?

Danny Coyle:

If I understand the Legislative Counsel Bureau (LCB) explanation, yes. Perhaps your Legislative Counsel person could clarify that.

Scott McKenna:

Under the *Cable v. EICON* case, the interpretation of the Nevada Supreme Court seems to have been that if the statutory language does not specifically address a benefit that is not actuarially reduced, they would interpret it to mean it would require a potential buyout beyond the five years. The purpose of this legislation was to specifically counteract the *Cable v. EICON* case.

Assemblyman Goicoechea:

I am going to use a scenario to see if I understand this correctly—we have a local jurisdiction, I guess it has to be a state agency. We have a state agency and they decide to privatize. Technically, in five years you are vested for retirement, then the company is going to take the position of the state agency and could be on the hook for 24 ½ years of retirement benefits.

Danny Coyle:

Yes, that is true.

Chair Kirkpatrick:

Do I have anyone who would like to testify as neutral on this bill?

Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada:

The current language of NRS 286.3007 requires a buyout for a state employee if a state agency has to lay off employees. That was what the EICON case was about. Was it a layoff or not when they made that particular agency private?

The way it currently works is that the benefit can be any amount for the individual member. In other words, if you are eligible to retire, we would pay

you, so there is no reduction. It is an actuarial reduction but it is not a penalty. You are fully eligible to retire, as to age and service, with some type of benefit.

What the amendment is attempting to do is say it requires full eligibility as to age and service. You cannot take an actuarially reduced benefit and still be eligible under NRS 286.3007.

The way the retirement act works, regardless of what is going on with the individual layoff situation, you are always limited to only five years of purchase. That would be the outside liability limitation for the agency that is going private in this particular case.

The State is attempting to make it clearer. When the Legislature passed NRS 286.3007, the legislative intent was to tie specifically to the layoff situation for full eligibility. The Retirement Board has not yet taken a position on this bill because they have not had an opportunity to do so. Staff will recommend a neutral position to the Retirement Board, regardless of how the State and the Legislature decide to craft this particular section. The cost is fully actuarially neutral to the system because the agencies are required to take the full cost associated with it.

Assemblyman Beers:

In relation to the *Cable v. EICON* case, is this bill essentially bringing the NRS into alignment with the ruling of that case?

Dana Bilyeu:

The case itself held that the PERS's interpretation is what the statute currently says. The Supreme Court case came down saying, as currently written, NRS 286.3007 requires purchase for anyone who fits within the category as long as they are able to draw a benefit from us. The amendment is saying we want to make it harder to do that. We want to do it for full eligibility purposes only. A person who has 20 years of service and is age 50 is not fully eligible to retire until age 60. He does not have both pieces of the eligibility. He has the service credit, and if we calculated a benefit for that individual, we would allow him to retire because he has the opportunity to take a reduced benefit from us. This particular request says that that person would not be eligible for the purchase under NRS 286.3007 unless he were also going to be made fully eligible, meaning he would have to have 25 years of service at age 50 and, with the purchase of five years, would become fully eligible with 30 years of service. The amendment is tightening the requirements for the purchase by the State instead of relying on the statute as it currently stands.

Assemblywoman Parnell:

Anytime after five years, if where you are working privatizes, would you get however much you had in the system at that time?

Dana Bilyeu:

NRS 286.3007 has a formula. The more years of service that you have, the more of a purchase the State is going to make for you. It depends on both your age and your service.

If you have five years of service, but you are only 30 years old, we are going to reduce your benefit by 4 percent per year for every year until you reach the age of 65. It will completely wipe out your benefits. You would not be eligible in any way for the purchase.

Assemblyman Goicoechea:

If you were within five years of your retirement and a purchase of five years would get you to that point, then I would agree with it if we could put that into the legislation.

I do have some concerns about this because of the way it is presently structured. One thing I am concerned about is, say, you have ten years of service in, you are going to require that they buy up to five years, so they buy the five years, and you now have 15 years in, but you are only 30 years old. By the time you apply the reductions from age 65, you are not eligible for retirement in any way, shape, or form.

Those 15 years are always there in place for you. You can go to the private sector, and at 65 still be eligible for 15 years of retirement with PERS, or the State would attempt to relocate you into another position.

It is a benefit if they privatize: they buy five years of retirement, which is a lot of money in some cases, depending on what you are making. It can run up to \$50,000 per year if you are making enough money.

Those five years are a bonus in themselves. If you have the opportunity to continue with service to the State, even in a lesser position, the bottom line is that your three highest consecutive years of employment is your retirement basis, and you are still doing well.

Assemblyman Settelmeyer:

Would this be passing on an unfunded mandate to the local governments to provide those funds?

Dana Bilyeu:

The local governments make purchases under a different statute. This is only affecting state agencies.

Chair Kirkpatrick:

Would anyone else like to testify as neutral on this bill? [There were none.]

I would like to close the hearing on A.B. 119.

Assembly Bill 120: Revises notice requirements for a proposal to vacate certain rights-of-way or easements. (BDR 22-376)

At this time I am going to open the hearing on A.B. 120. This bill is being presented by the Nevada Association of Counties (NACO). This bill revises the notice requirement for a proposal to vacate certain rights-of-way or easements. I know that there has been an amendment proposed. Could that amendment be given to staff so that we could look at it at the same time?

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

I want to present our support on behalf of the NACO Board. Assembly Bill 120 was approved at our August 16, 2006, board meeting as part of our legislative package and is introduced on behalf of Clark County.

The Board, which has a representative on it from all of Nevada's 17 counties, supports this bill. I would like to offer my support and the individual from Clark County will speak on the details of the bill.

Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County, Nevada:

Assembly Bill 120 originated with Clark County and we thank NACO for sponsoring it. The bill makes revisions to the type of mail service that is used to notify abutting property owners of a proposal to vacate a right-of-way or easement. Currently the notice must be sent by certified mail, which requires the signature of the recipient. We would like to see that changed to first class mail in the case of an easement and first class mail with delivery notification in the case of a right-of-way.

There are several reasons for our desire to make this change. We believe the current requirement to notify by certified mail is ineffective. Most residents are not home when the delivery is made, so the notice is then sent back to the post office. In order to receive the notice, the resident must then travel to the post office, stand in line, and then sign for the notice.

Our experience has been that very few residents actually go to the post office to pick up the notice, which defeats the purpose of the notice. Those residents who do travel to the post office are quite upset when they get the notice and realize that it is something they have little or no interest in.

This leads me to the second reason we would like to make this change. We believe that changing this requirement will improve our customer satisfaction. When residents unexpectedly receive something from their government by certified mail, they are understandably confused or worried that something has gone wrong.

Our planners routinely field questions from these residents wondering about the contents of this certified mail. When residents go to the post office to pick up the item, they can get irate when they realize the mail has little or no significance to them.

To illustrate this point, I have submitted several pieces of correspondence from residents ([Exhibit D](#)). These letters and transcripts from phone calls illustrate my point that these folks end up going to the post office and take time out of their day to get the notice, only to find out they did not care about the easement or the right-of-way at all.

Another reason this change is beneficial is that it will save taxpayers money. Each certified mail piece costs \$2.79 to send. In comparison, first class mail rates are only 39 cents and then adding delivery notification to that is a cost of 60 cents for a total cost of 99 cents. This bill could save taxpayers at least \$1.80 per mail piece.

Finally, the United States Supreme Court recently defined in *Jones v. Flowers* that certified mail was not a good way to notify residents of a proposed action. I will read an excerpt of that opinion:

The Commissioner says that the use of certified mail makes actual notice more likely because requiring the recipient's signature protects against missed delivery but that is only true when someone is home to sign for the letter or to inform the mail carrier that he has arrived at the wrong address. Otherwise, certified mail is dispatched and handled in transit as ordinary mail according to the U.S. Postal Service Domestic Mail Manual. The use of certified mail might make actual notice less likely in some cases. The letter cannot be left like regular mail to be examined at the end of the day and it can only be retrieved from the post office for a specified period of time.

This case actually involved a man who lived with his wife, got divorced, moved away, paid off the mortgage, but there were still property taxes due. The government entity kept sending certified mail to that address that he needed to pay the taxes on. He never got the mail, and at the end of the case, he lost the house. The government had sold it off for the tax lien.

Then a suit ensued between the two parties, the one who had bought the house and the one who had owned it and not received the mail.

For those reasons we would like to see this changed to improve the notification process and also our customer satisfaction, and to make sure this process goes smoothly.

Assemblyman Settlemeyer:

I agree with the concept of the bill. Could you define for me the concept of the term "vacate." Are we saying that they are walking away from the property and it is reverting back to the owner, or are we talking about a situation in which they are walking away from the easement because they sold it to someone else?

Sabra Smith-Newby:

I am not a planner by trade, but from what I understand the owner that is abutting this property may petition the government to either vacate the easement or the right-of-way. This would be a right-of-way or an easement that is set in place by the government. The government is then required to notify all of the property owners. That is where the certified mail comes in.

Even with public meetings and our sending notices, often it turns out that these easements are just old patent easements and we have a larger easement than what we actually need. In that case, we would vacate it and it would return to the property from which it was taken in the first place if that is what they decide to do.

Assemblyman Settlemeyer:

I would like to see something in here that states: If it is being vacated in terms of being sold to or given to another entity, that would require a different level of notice because that is a completely different matter.

Having taken the existing easement and vacated it, if you have decided to quit using an overhead power line, and now you are going to have 680 feet of buried cable going through your property, you have changed the function of the easement.

Chair Kirkpatrick:

Mr. Settelmeyer, are you saying that you want the term "vacated" to be defined within statute to determine how they would be notified?

Assemblyman Settelmeyer:

I have seen situations in which a power company has an overhead power line which does not affect the property, per se, but it is just an overhead power line. It is vacated and the power company sells it to the telephone company or allows the telephone company to piggyback on them. Now a property owner has 800 feet of buried telephone line on his property. That affects his ability to utilize his property in a much different way. It has changed the terms of the easement. That can occur in many different ways.

There are Supreme Court rulings that say if you change an easement too far, it is no longer the same easement, and you must purchase or compensate the property owner for that when it changes to that level.

I have no problem with the concept of what they indicate when they vacate it in terms of reverting it back to the property owner, or if they are changing the size of the easement from, let us say, a 60 foot to a 30 foot. That makes logical sense, but if it becomes adverse to a property owner, that is where I get concerned.

Chair Kirkpatrick:

I want to be sure we are not discussing the amendment at this moment; we are discussing how people will be notified. I want to keep them separate so that we can evaluate them at the same time.

Assemblyman Goicoechea:

I am still a little concerned about how you get confirmation of a delivery without it being certified.

Sabra Smith-Newby:

From what I understand, there is a tracking number put on each of these items, and then they give you certification either through email or through that number that gives you certification of when it was delivered.

Assemblyman Goicoechea:

This tracking system is provided through the United States Postal Service (USPS)?

Sabra Smith-Newby:

Yes, that is correct.

Chair Kirkpatrick:

I think it is important to be told how many people are notified within the right-of-way. When you have a right-of-way notification, is it different from the 750-foot radius that we have?

I have concerns that the postcard is a catch-22. I do not want to stand at the post office to find out that I missed a public meeting. It is sad that you are publishing it in the back of the newspaper. It really annoys me that I have to get my bifocals out to read the back page of the classifieds to find that. I do not buy that that works either.

If it just came to my home, I would be more apt to find out about it quicker when I went through the nightly mail. I know there is certified mail I have never picked up because I just cannot make it to the post office during those hours.

There has to be a way that we can make it more accessible to the public. My concern is that one entity may be intent on making sure that they are following up with the post office, but when a citizen comes before a county commission meeting, and there is a room full like this, they often say they did not get notified. I wonder how Legal would be able to say that they did get notified. Now an entity says they sent out 450 notices, and three people responded. How would your end even be able to justify how many notices were sent or whom they were sent to if the radius were to change? Maybe something that we can look at is changing the radius on notification of a right-of-way. On a right-of-way notification you have to notify the people who are affected within 2,500 feet, as opposed to the first 20 parcels.

I think that if you could bring that information to me, personally, that would address some of my concerns. I know that there are some other Committee members that have some concerns. I do not know the best way to alleviate it.

Assemblyman Claborn:

I have heard this bill before in the session prior to this. It looks to me like the county is trying to get away from notifying the property owner. That is the main objective of having a piece of property. You need to be notified in some way so you know what is taking place.

Assemblyman Beers:

I was reading through these testimonials. Usually if you see one letter, the situation has happened numerous times before. At least one complainant stated that he got his certified letter after the hearing had already been held. One of the things needing to be explored is how to arrange for an accurate and timely

delivery. Utilizing the post office does not make me very confident of this ability.

Chair Kirkpatrick:

A certified letter notification requires ten days to receive from the time the local entity sends it out. As a constituent, if you do not pick it up, they send you three different notices every 10 days. It could take up to 20 days for you to get the letter before it actually goes back to the entity. You could miss the meeting because you did not get to the post office within the first couple of days to pick it up.

Sabra Smith-Newby:

In your question about the area in which we notify, you will notice that the statute actually says that we need to notify just the abutting property owners. Part of the reason that this is so expensive for us is that we do not just notify the abutting property owners; we notify everyone. I do not know what the radius is, but it is quite large. We send the same certified mail to all of the people in the area. As far as the critique on the USPS goes, I am not quite sure what to say other than that it is the only service that we have.

What can happen with certified mail is that it goes back to the post office if you do not pick it up in a certain amount of time, then it comes back to us or it just goes away entirely. It can draw out the process.

That is a situation in which the meeting could have occurred before the person ever got there to pick it up. We all have busy lives, so that is the difficulty. We will do some work on the various types of postage and notification that the USPS has and the legal backing for each of them.

Our intent essentially is not to not notify these people. Clearly we are going above and beyond the call of duty to notify all of these people, not just the abutting owners. It is to save money and to improve the delivery notice.

Assemblyman Goicoechea:

If you did comply with the statute and notify those abutting property owners by certified mail, you could go with regular mail to the rest of them. People that are a half mile away from the project have no interest in it at all. If it is a right-of-way, you have the right to ask for at least your half of that right-of-way to purchase it.

Sabra Smith-Newby:

It has been explained to me that the reason we do such a large radius is the abutting property owners may have a particular interest in a

right-of-way. While the law does not necessarily say that we have to notify everyone, our intent is to make sure that everyone who may be using that right-of-way knows about its possible change. It is our desire to be more helpful than we are required to by law.

Assemblyman Settelmeyer:

This law has the ability to do what you want. If we created a subsection 2(a), if the easement changes possession other than reverting to an impertinent parcel, then the notice must be certified as well as First Class. That way you are assuring that individuals will be notified.

I understand people's concern that getting certified mail creates a hassle, and they will miss the window of opportunity to voice their concerns on an issue or on certain situations, such as an easement or a right-of-way. A right-of-way is much different than an easement. It does not require the same level of notification.

Assemblyman Munford:

You want to cut costs and not pay the expense of certified mail. Say that I go home during the weekend, and I have a certified letter there. I am supposed to go and pick it up. The notice is still sitting there. Sometimes you are put in a position in which you cannot always go and identify yourself for that certified mail. Had it been sent First Class, it would be home and I could read it, see the information, and how it affected me. What you are asking has some merit.

Chair Kirkpatrick:

I would like to have the amendment proposal discussed.

Judy Stokey, Director, Government Affairs, Nevada Power/Sierra Pacific Power:

We are proposing an amendment today ([Exhibit E](#)). We would still like to work with Clark County on it. It is in a section where they are not proposing a change. When we have facilities in a right-of-way and the land gets vacated, we just want to make sure that when that vacation goes through, that the utility gets an easement for those facilities. Otherwise, the new owner can come back to the utility and say "I want you to move your facilities off my property or pay rent." We want to make sure that we get an easement when the land is vacated and we have facilities currently there.

Chair Kirkpatrick:

Does anyone have any discussion on the amendment?

Assemblyman Goicoechea:

I assume when you are talking about this you would have an existing easement in place. Is that correct?

Judy Stokey:

We are a franchise, so we have a right-of-way. If we have a firm easement, it would stay there when the property is transferred. If we are in a franchise from the local municipality and it gets vacated to a private property owner, we need to make sure we get that firm easement.

Assemblyman Goicoechea:

Are we talking about a right-of-way that is in place? If they decide to vacate, then you want to make sure there is an easement maintained for the utility?

Judy Stokey:

Yes, exactly.

Assemblyman Goicoechea:

Is that a problem? Has that been a problem in the past?

Judy Stokey:

Typically it is not, but we have had a couple of instances when the land was vacated and the property owner came to us and said "remove them or pay me rent."

Assemblywoman Pierce:

I would like to get the legal definition of "vacate." It seems to me that what you are talking about is not vacating a right-of-way. What you are talking about is turning a right-of-way into an easement. It seems to me that some of the discussion suggests that the definition of vacating is a moving target. Could someone explain to me exactly what vacating means?

Chair Kirkpatrick:

Mr. McKenna will bring back a definition at a later date on vacation. You can go onto the urban planning website where there is a very consistent definition that is used nationwide on vacations. Those in favor of A.B. 120 as originally put into place can come forward at this time.

**Kimberly McDonald, State Legislative Affairs Officer, City Manager's Office,
City of North Las Vegas:**

We do support the measure as it is a cost savings to local government. However, we would also like the notifications to be mailed ten days prior to a public hearing. That is all that we have for consideration.

Chair Kirkpatrick:

So you are proposing an amendment to the bill, as well?

Kimberly McDonald:

Yes.

Margaret McMillan, Director, Governmental Affairs, EMBARQ:

We are in support of the amendment as proposed by Judy Stokey.

Bob Bass, Director, External Affairs, AT&T:

We support the amendment proposed by Judy Stokey and Nevada Power.

Chair Kirkpatrick:

At this time I would like to call anyone who is against the bill in general. Anyone who is not in favor of A.B. 120 please come forward. [No one.]

Anyone who is neutral on A.B. 120, who would like to state their position, please come forward. [No one.]

I am going to close the public hearing on A.B. 120.

Assembly Bill 122: Revises provisions governing systems used for reporting emergencies in certain counties. (BDR 20-380)

Our last bill of the day will be A.B. 122. This bill was proposed by NACO. It revises provisions governing systems used for reporting emergencies in certain counties.

Mary Walker, President, Walker & Associates:

Assembly Bill 122 expands the use of the currently existing 25 cents per phone line funding established in NRS 244A for counties under 100,000 in population in order to enhance the interoperability of the 911 system to communicate between public safety and emergency response agencies in rural Nevada. This bill does not enact any new fee, nor does it increase any existing fee. It merely expands the use of the funding.

The bill also eliminates the requirement on counties whose population is less than 100,000 of depositing business license fees on personal wireless service into a special revenue fund if the 25 cents per phone line is enacted.

The bill does not affect counties over 100,000 in population. NRS 244A was originally established to provide funding for enhanced 911 services. For many counties whose population is fewer than 100,000, funding for just the basic 911 services is of paramount importance. For example, during wildland fire suppressions, many rural county fire departments could not talk to each other due to lack of interoperability between the agencies. This poses a serious public safety concern not only to the public but to the firefighters involved.

The bill will provide the resources to help resolve the problem of interoperability between the public safety agencies in rural Nevada where local government simply lacks the funding to provide for interoperability between these agencies.

Under the current law there are some checks and balances. There is a requirement that if you enact this you will have to have a separate fund; therefore, it will be audited. It also requires that a master plan be developed. In conjunction, citizens from your county would be involved as well as the telecommunication providers.

It is important for all of the rurals to be involved in this bill. We have a Very High Frequency [VHF] system in the rural counties. One of the better VHF systems is the Nevada Highway Patrol (NHP) system, which was in the past directed to be dismantled. A lot of the rural emergency response agencies rely upon that system.

This allows us to provide some funding to upgrade that system and to also put it into one integrated federal, state, and local system, which is extremely important in rural Nevada. We have a sister bill that is being introduced by Senator Amodei, which is a \$450,000 appropriation to fund an engineering study of the VHF system for the rural emergency response agencies. Once that study is done and we have a framework for a VHF system for the rural agencies, then this funding would be able to put that plan into effect. This is extremely important.

The entire interoperability and the VHF system is a very complicated matter when you are dealing with 15 counties. The passage of this bill, coupled with the passage of the appropriation for the study, could help reduce our problems.

We are stepping forward to request your assistance in this matter. I would like to turn it over right now to Fire Chief Stacey Giomi and then to Mayor Marv Teixeira.

Stacey Giomi, Fire Chief/Emergency Manager, Carson City Fire Department:

I want to speak about some of the issues we have relative to our interoperability problem. It is widely spread. It is not limited to the fire service. It expands to fire service, law enforcement, and public safety communication centers.

Radio communication is vitally important to us.

I want to reemphasize what Mary Walker said, that this is not a new fee but a relatively narrow expanded use of the fee that is currently in place.

Over the last couple of years we have had some real world examples of how interoperability has affected us. I am sure most of you will remember the fire we had on the west side of Carson City in 2004. There were some issues with communications there. It was not so much with the firefighting agencies that have a group of radio frequencies they can use but between fire and law enforcement. It resulted in the evacuation of an entire neighborhood that did not need to be evacuated because we could not communicate rapidly with law enforcement. It also resulted in the delay of a children's home being evacuated, which was safely evacuated but not as quickly as we had hoped. It was a potentially disastrous problem.

We occasionally have telephone line failures and this bill will help with that. Within the last year, Carson City's 911 phone system in the communications center completely went down, which means that they had absolutely no telephones. Not only 911, but all other regular landline telephone systems went down.

If we had a way to communicate with adjoining dispatch centers, then those 911 calls would get rerouted through the phone company to a different public safety answering point. The way they communicate now is by picking up a designated cell phone and contacting the dispatch center.

The calls get rerouted from Carson City to Reno's 911 center. Reno's 911 center has to call a cell number in Carson City's dispatch center, and then relay the emergency information to our dispatchers who, in turn, put it out to our field units. If we could tie our communications centers together through the radio spectrum, that could be done much more expediently.

Mineral County had an event about a year ago in which there was a shooting on one of the Indian reservations. They have their own law enforcement agency on the reservation, but they cannot communicate with the local sheriff. Their frequencies are different. Neither the reservation law enforcement nor the local sheriff can communicate with the Department of Public Safety (DPS) or with the Mineral County Fire Department, who is responsible for providing Emergency Medical Service (EMS) to that scene.

It obviously created quite an issue for Mineral County, their fire chief and their sheriff's office. We rely heavily on our neighbors for mutual aid.

All four of our adjoining counties—Carson City, Storey County, Douglas County, and Lyon County—have limited resources in terms of firefighting equipment. We often share those resources. While we can use interoperable frequencies when we are on large scale fires, it is the day-to-day emergencies in which we lack the ability, in some cases, to interoperate or to communicate with each other—not so much at the field unit level but between our communication centers and those field units.

I would like to wrap up my discussion by letting you know we are approaching these problems on many fronts. We have looked at federal grants. We are constantly looking at our radio systems and putting them on replacement schedules for upgrading them as funding becomes available through the local government.

Assemblyman Christensen:

When police and fire have difficulty communicating, it is not a matter of clicking between channels. Are they on completely different radio frequencies and operate on completely different equipment?

Stacey Giomi:

There are a multitude of problems. Some of them stem from the fact that the radios we have simply do not have enough channels, so the capability is not there to switch to a particular channel because you can use only four or five channels. That is one of the limitations. Another limitation, particularly in the rural areas, is the area of coverage. The repeater systems do not cover quite as much distance as they need to. Thirdly, sometimes it is the communication centers that can communicate with both sides only in an emergency. Sometimes law enforcement and fire cannot get on the same frequency because there are not enough available frequencies for them to use, so the fire agency has to talk through the dispatch center, who then has to relay that information to another dispatcher, who relays it back to the field unit on the law enforcement side.

We are working towards crafting chain-of-command structures. When you get involved in larger incidents that require all the emergency responders to be in one place, the decision makers can make those decisions quickly.

We have problems in the day-to-day events where a law enforcement officer has to talk to the incoming fire unit to give it a patient update, or when a fire unit needs law enforcement assistance because they have a patient that suddenly becomes combative or violent. Quite often they just do not have the physical capabilities to switch to a channel because their radio does not have the capability to change those frequencies. Did that answer your question?

Assemblyman Christensen:

There is a lot of discussion about the issues that go along with radio interoperability or the lack of interoperability. Can you paint a picture of what you are working on so all first responders would have the communication system statewide, county to county, or city to city.

Stacey Giomi:

It is a multi-faceted approach. It is a very complicated approach that can cost a significant amount of money. What has often happened in past years is that, because it is such a huge issue, people have not taken the steps to bite off one piece at a time. We end up getting ourselves into a position where we do not take any action.

This piece of legislation, the adjoining piece of legislation, and the additional work we will need to do at the local level, begin to address those problems. It starts us down a path of interoperability and working together. It involves cooperation at the county level, cooperation between state and federal agencies, as well as the local governments. This legislation provides us some of the funding mechanism to get down the road. We are working on other avenues through the State Homeland Security Commission and a funding group to receive federal dollars and work on constructing gateways, which are electronic passes between a VHF system and an 800 megahertz system, which are in use in the two largest counties in the State. If we were to create a stand-alone VHF system for the 15 rural counties and then provide a gateway, it would increase the path of communication between the rural counties and the urban counties.

If there were a major event in Las Vegas, the likelihood that they would have the resources to address it on their own are almost non-existent. They would most assuredly rely on assistance from everywhere else in the State. We have to be able to communicate once we get there, otherwise we cannot be effective. We are at a point where interoperability has gotten so convoluted

because it is such a big problem. It is so expensive to address, that over the years a lot of government entities at the state, federal, and local levels have just ignored it. I am saying we cannot do that anymore. We have to start somewhere, and this is a great place to start. We are involving all of the counties, the State, and the federal government. Without that involvement and that cooperation, we would be remiss.

Assemblyman Christensen:

This is a huge issue, and I know huge issues are generally accompanied by huge price tags, but as you said, this is critical. The issues that you deal with across the spectrum are up there with educating our children. I am a staunch supporter of the bill, and I appreciate your bringing this issue forward as to making the best use of existing resources and equipment and to get to the point of cross communication.

Assemblyman Beers:

There has been a lot of talk about the massive up-front cost of updating. There is another cost of not doing it that has not been mentioned. I imagine the amount of value in property loss, because the communication was not available, is enormous. Are there any figures available on the amount of savings that we would achieve by upgrading?

Stacey Giomi:

We do not have calculations in terms of the savings. If you are able to communicate better, you can get there faster in all instances. The problem is so large that it is difficult to get a handle on the scope, the far-reaching effects, and the costs involved. I do not know if there is a way to quantify that.

Assemblyman Settlemeyer:

Was there a desire by the counties between 20,000 and 100,000 population to be left out? I was just wondering why that was done.

Mary Walker:

The original law eliminated the smaller rural areas under 20,000 in population. We expanded our bill so it is for all of the counties under 100,000 in population. The reasoning is, if we are going to go to an integrated VHF system, we need all the counties to participate. This may be the only source of funding that those smaller counties have.

Assemblyman Goicoechea:

How much will this generate?

Mary Walker:

The best we can estimate is somewhere around \$200,000 for Carson City. I hope with 15 counties that it may be \$1 million. We are not talking a lot of money. We are not talking the tens of millions of dollars it would take to have an integrated system.

Chair Kirkpatrick:

We addressed this last session, and the City of Mesquite was the one we worked with to allow it to come online. Why are we now changing the wording? Enhancement, how is that different from improvement? Why do we need to put those in? There were specific reasons we needed to keep it under 20,000 in population; could you please address that? I will ask Research if we could elevate the success or demise of Mesquite's program within the two year period that it was implemented.

Mary Walker:

The only reason we changed that 20,000 in population is we wanted to give all of the rural counties under 100,000 in population the flexibility to use the funding either for Enhanced 911 (E911), or for upgrades to their emergency system communications. It was to provide them additional flexibility.

If it is going to hurt Mesquite we would definitely not want to do that. We would help you in any way to try to rectify that.

In regard to Enhanced 911 versus the emergency communications system, current statute allows us to use it only for Enhanced 911, which allows for you to be located when you call 911 from a cell phone. The problem is that the system is so incredibly expensive that many of the areas do not have it. Our problem is that we have never implemented it. We really need it for the entire communications system. That is everything: from the towers on the mountains for the VHF system, our radios, to our 911 system, or Enhanced 911. We just need that flexibility because we cannot talk to the other emergency responders. That is what is critical. It is a major public safety concern.

Marv Teixeira, Mayor, Carson City Consolidated City-County Government:

You had to be in Carson City in 2004 at the Waterfall Fire and watch homes burn up, watch the distress, the personal things that happened to people's lives. Stacey Giomi, at that time, was not our Chief, but he handled the whole program, and I think it has taken a toll. He will never forget what he had to go through.

The key here is to give us some flexibility. I have Enhanced 911 but I have no money. I need relief in my general fund. I am trying to fund this through

general funds, which are out of gas. What is beautiful about this bill is that it will allow me to deliver services to the people I represent. You cannot fool with this money. It is like an enterprise fund. It has to go where you direct it to go, but give me some flexibility. That is what this bill does. It gives the other counties flexibility. Let us fix our problems, and we will build it; we will build a bridge.

Chair Kirkpatrick:

Do I have anyone who is in favor of the bill that would like to come and speak before the Committee?

C. Joseph Guild III, Attorney at Law, Representing Elko County:

On behalf of Elko County, we wholeheartedly support A.B. 122 and endorse all of the things that have been said prior to this point. I would be happy to answer any questions.

Personally, I support it because I now find myself spending a lot more time in remote rural Nevada than I have in some years. There are places I go on a regular basis where the landlines do not work that well. If the weather is tough and the winds are high, I find myself using a satellite phone more than anything else. This is a critical need.

The county I spend a lot of time in, White Pine County, is now included in the bill. If there is a problem in another community, such as Mesquite, I will be happy to lend my services to help the Committee resolve that.

Vinson Guthreau:

We introduced this bill on behalf of the counties that were mentioned previously. We support this bill on behalf of the NACO Board of Directors with representation from all 17 of Nevada's counties.

Dan Holler, County Manager, Douglas County:

Douglas County is in support of the bill. We have taken action in support of it. It adds flexibility to how we utilize those funds to meet our communication needs for public safety and 911 services.

Robert Hadfield, Interim County Manager, Lyon County:

I am appearing here today at the request of Phyllis Hunewill, Chairman of the Lyon County Commission, who was unable to be here but wanted the Committee to know this is a very high priority with the Lyon County Commission.

You may have read recently that Lyon County is the fastest growing county in the State. We have a very diverse geographical area in the county which makes this whole communication effort even more important for us. We have assembled representatives of our fire agencies, our sheriff's office, and emergency management, who will be able to answer the technical questions that you have. The Commission supports this and urges you to pass this measure.

I am also a member of the Homeland Security Commission for the State of Nevada and Chairman of the Finance Committee. I am very aware of the serious funding problem we have achieving interoperability. One of the greatest concerns that we have as a Commission is the ability of local governments to maintain these systems in the event we are successful. We are trying to get more funding to assist us in this effort. This measure is critical in allowing us to maintain a system, or to develop it, or both. This goes along the lines of the priorities that the Commission has set forth.

Bjorn (BJ) Selinder, Public Policy Innovations, LLC, Representing Churchill County and Eureka County:

It is important to note that this is an existing revenue source and you are seeking to expand its use. I think this is a perfect application for the resolution of a public safety issue. I would wholeheartedly endorse A.B. 122.

Chair Kirkpatrick:

Is there anyone else who would like to testify in favor of this bill?

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We want to go on record as being supportive of this bill. Interoperability is one of our primary problems. I can speak to it as a former officer on the street and as an investigator. Many of you may recall a number of years ago Trooper Borland was killed in Lovelock. The suspect was down in Dixie Valley. Many agencies were used trying to capture that suspect. We could not talk to each other. Unfortunately, we are not much better off today. Interoperability is very important to us. This bill is one piece to help us solve that problem.

Joe Sanford, Undersheriff, Lyon County:

Our agency supports A.B. 122. Lyon County is in a unique position. We have 2,200 square miles of county. I have five substations that are spread out over that 2,200 square miles. On top of that, I have responsibility through our dispatch center for four separate fire districts and a small municipality, that being the city of Yerington, which we must dispatch for 24 hours a day, seven days a week. We had the Linehan Fire last year that once again taxed our

resources heavily. The Lyon County Sheriff's Office is 100 percent in favor of A.B. 122. Any relief that you can help us with is greatly appreciated.

Jeff Page, Emergency Manager, Lyon County Emergency Management:

The other side of the equation is the access to our non-traditional first responders, our public works folks, and our utilities folks. Within Lyon County, we are developing communications plans to bring those folks in. Currently, the ability for Lyon County to talk with other surrounding counties, let alone law enforcement or fire, does not exist. Support of this bill will provide us a mechanism to help bring more people into our response mode, as well.

The Undersheriff alluded to the Linehan Fire. If it had not been for the efforts of our road division personnel assisting with fire operations, it could have been a much more difficult situation.

As we continue on within Lyon County, being able to work within our own infrastructure and connect to the surrounding counties, your support of this bill will help us provide the finances to expand the system throughout the region.

Chair Kirkpatrick:

Is there anyone else who would like to testify in favor of this bill?

David Fraser, Executive Director, Nevada League of Cities and Municipalities:

I wanted to ring in on behalf of Nevada's cities; although this does not affect our urban members, it would greatly benefit our rural members. Those counties do provide emergency communication services for our members in the rural areas. In an emergency, communication is so important that I want to indicate our support for this. We feel it will enhance the ability to communicate in the rural areas.

Chair Kirkpatrick:

I am going to call those that are against the bill to come forward.

Karen Pearl, Executive Director, Nevada Telecommunications Association:

[Provided written testimony ([Exhibit F](#)).]

I represent 12 of the local telephone companies in the State of Nevada. I provided you handouts that show some statistics of the companies I represent as well as a map of the areas in which they provide service.

The Association does believe in interoperability and 911 emergency services. We believe that the surcharge that is applied today helps fund the communication systems for reporting an emergency via 911 or E911, either on

a landline or on a cell phone. The surcharge funds the public safety answering point, the equipment that identifies the number such as automated location identification, automated number identification, and other sources to support the 911 call in those communities.

The Association is concerned with the language in Section 2, subsection 3(b) which includes the following. It says, quote, "Including without limitation purchasing, renting, or leasing equipment and software necessary to ensure interoperability of the system for communications among emergency response agencies." The Association believes this language can create an unrealistic financial burden on the 911/E911 surcharge that is already inadequate to sustain 911 and E911 in rural areas.

While interoperability between departments is important, interactive radio systems for police and fire departments do not fall within the intent of this law. A surcharge on a telephone bill should be limited to the original intent for customers to be able to call into 911.

The Association recommends that Section 2, subsection 3(b) be stricken. Should this surcharge be imposed in counties of less than 100,000 persons, a county will have to determine other revenue sources to meet the financial demands of the 911 system. It will be forced to raise funds and keep an accurate accounting of where the funds go. An example, on the handout I gave you, is Lincoln County Telephone. It represents all of the customers in Lincoln County. The handout shows that they currently have around 2,400 customers or access lines. I do not have the numbers of the wireless phones out there or voice-over Internet protocols; but for the purposes of this analogy, I would like to assume that there are 2,400 [wireless phones, voice-over Internet protocol], or slightly more in that county.

If you use the current statute in Section 1, subsection 4 of this bill, the limits of the surcharge are 25 cents. It cannot exceed 25 cents. Doing the math, if you take the Lincoln County telephone access lines times 25 cents that county is going to generate \$7,329 in revenue for the 911/E911 surcharge.

The Association can support the county's option to impose the surcharge for 911/E911. Further funding sources will still need to be pursued. The Association strongly recommends that the Committee not attempt to increase the surcharge.

The Association can tell you that customers are very displeased that they are already paying additional taxes and surcharges on their monthly bill. They pay a federal subscriber line charge, a federal universal service fee, and a surcharge

for telecommunication service relays for the deaf and speech impaired, federal/local taxes, and franchise fees, all on their phone bill. It is our belief that telephone bills should not be used as a pass-through vehicle to fund significant community initiatives. Although, we support reasonable funding assistance for 911/E911, we do not believe that a telephone bill is the place to provide significant amounts of additional local government funding.

In conclusion, the Nevada Telecommunications Association supports the surcharge in all counties for handling the reception of incoming 911 calls in the county. We believe that Section 2, subsection 3(b) should be stricken from the bill.

Assemblyman Settlemeyer:

The section that you refer to already exists in law, so is it causing you a problem currently?

Karen Pearl:

We have no problem at this time. Many counties have not implemented the law through county ordinance. They are allowed to do so with no problem. What I am saying is that the funding source is inadequate to fund a 911 system.

Assemblyman Settlemeyer:

To reiterate, the section that you want stricken is already in law. How long has it been in law, and has it caused you a problem yet?

Karen Pearl:

Excuse me, I may have misspoken. What I am asking to be stricken is the new language in A.B. 122 page 4, Section 2, subsection 3(b) in this bill. We still support a surcharge for 911/E911. What we are asking for is that it be limited to only equipment and software for 911/E911. The inoperability is what we are having a problem with.

James Jackson, AT&T Wireless:

I am trying to help Karen get to the right page so we are talking about the same section.

Karen Pearl:

I now have the correct copy of the bill. It is on page 5 of the bill, Section 2, subsection 3(b). The new language is what we are asking to be removed.

Chair Kirkpatrick:

Is there anyone else who would like to testify in opposition to A.B. 122?

**Helen Foley, Public Relations and Government Affairs, Faiss, Foley, Warren,
representing T-Mobile, U.S.A.:**

T-Mobile is a strong advocate of rapid and widespread deployment of wireless E911 services so that emergency callers can be located. However, this proposal fails to address E911 in a comprehensive statewide manner that our customers expect.

The proposal has inadequate deployment benchmarks, does not require that funds be used only to deploy E911 services, does not address the cost that the wireless carriers will incur as the tax collecting agent, and has exceptionally short timelines for tax remittance.

We have had extensive conversations with members of the local government's delegations in southern Nevada when they looked at E911. T-Mobile is strongly committed to having a statewide standard and plan for E911. They have service along U.S. 50 throughout the State, very heavily in northern Nevada, especially in the Tahoe/Carson City/ Douglas area. They want people in Nevada to pay the same fees for E911. As a result, they want to have our customers be able to contact 911 authorities when something is wrong. That is what this fee is supposed to be used for.

There was a business license fee that was imposed in the mid-1990s, and because wireless does not use the right-of-way and other telecommunication systems had been paying for that service, we agreed that we would also pay. We had hoped that counties would use that money for E911. Unfortunately it went into their general funds and got co-mingled for many other purposes.

We certainly sympathize with rural areas that are having trouble with their interoperability, but even Clark County cannot seem to communicate between the Highway Patrol and Metro [police]. We do not believe that this tax should be placed on the backs of wireless customers. This should be used for the E911 system.

We will strongly support a statewide approach to this. We think that it will drain all the counties of their E911 dollars if they use it for mobile radio communications. There will be no money left for a standardized E911 system. We understand that the money in Senator Amodei's bill is for doing an engineering study. I cannot believe that the county would not want to include a study of this issue collectively in an interim study, rather than going ahead and draining these funds from their E911 accounts and leaving nothing there for the true purpose of that fee.

Chair Kirkpatrick:

Do I have anyone who would like to testify as neutral to this bill?

Fred Hillerby, Legislative Advocacy Government Relations, Hillerby & Associates, representing Verizon Wireless:

I sign in as neutral because, as I read this bill, and as I have listened to the testimony, I understand the issue of inoperability. I am sympathetic to that and know that in our State, particularly in our rural areas, the need for law enforcement, fire, and other emergency responders to be able to talk to each other through the communication system is very important.

I am going to echo some of the things that Ms. Foley has already said. This is an interesting way to talk about using existing taxes or fees to do new things. The problem with it is that our customers, who have seen on their bills, depending on the county where they reside, fees to support a 911/E911 system, have an expectation that it will be used for an E911 system. If they have a problem and call 911, someone is going to be able to respond because they have been paying the money to support that system.

We are sympathetic to the issue of interoperability, but to say that now we are going to divert those funds for another purpose is really problematic. It seems to me we are talking about trying to get an appropriation to do an engineering study, and yet at the same time we want to tax folks but we are not even sure what it is going to cost. I heard one number used for what Carson City might generate with this fee, another for a small rural county, but we do not know what it is really going to cost, except that it is probably going to be enormous. Yet, we have tapped a source because it is there, or this bill proposes that we do. The customers that have never paid and that have never had the assessment will not believe that it is not a new tax. Why is this on our bill now? It is going to be a 911 fee, and someone is going to need to explain to them that it might work for 911, but we are really going to put it in a general pool of money and address other issues.

The expectation, when this bill was first passed, was for Washoe County. The 25-cent cap was there to develop the 911 system and the E911 system. We have always said that our customers who are asked to pay these fees and we as a company collecting them, have an expectation that the customers are going to get what they are paying for. I am afraid that it is misleading to put it under the guise of a 911 fee, when in fact it is going to be diverted to other uses. All political subdivisions struggle with their revenue needs. We already have this fee on the books, so let us have access to it in our general fund to address whatever needs we have under emergency.

I talked with some Motorola folks on another issue about the entire VHF and the various radio systems that are out there, and I think we need to get to interoperability. I think it is misleading to our customers to ask us to collect the tax under E911 and use it for other purposes. I am concerned because it is an easy pot of money to access. You are creating a false expectation when you say it is for E911.

Assemblyman Stewart:

Would it be proper to have the proponents of the bill respond to the challenges of the opponents of the bill?

Chair Kirkpatrick:

Yes, we could do that.

Stacey Giomi:

I certainly appreciate the points that they discussed, but with all due respect to their position, they are being a little shortsighted. E911 is certainly the delivery of the 911 phone call to the Public Safety Answering Point (PSAP). There are PSAPs who do not currently have E911. I suspect that in those counties, they would decide to use this money to deliver that 911 call to their PSAP. I also feel that if someone calls 911, and expects to get a police officer or a fire truck, that they should get that police officer or fire truck. What good does it do to get the E911 call into the PSAP if you cannot get the proper people to the person who is making the phone call?

We are not talking about expanding this to hire firefighters, or to hire police officers, or to hire dispatchers, or to replace the county's general fund. We are talking about a complete system here. You cannot isolate the E911 portion of this and not consider radio communication.

In the example I used, where our 911 center goes down or the phone system goes down in our 911 center, I suspect that the person calling 911, who is paying this 25 cents has an expectation that they will get rapid 911 responses. If our center goes down, they are not getting rapid 911 responses. They are getting a 911 response that goes through several people and has a potential for communication errors. That is because we do not have a communication system that allows that phone call to get routed to the field units, who are the ones that are going to take care of the action. While I appreciate their position, I do not think it is that far of a reach to say that it can be used for interoperable communication. I certainly do not think that any county is going to simply abandon their E911 system. If they have an E911 system that is not working, I cannot imagine a county in Nevada that is going to just buy some radios with this and forget their E911 system. It would be negligent on their part to ignore

that component of it, and that is why this bill creates, at the local level, a committee to look at, through a master plan, where that money is going. I appreciate where they are coming from.

I am here in the best interest of the people of the community that I serve. I have experienced some pretty serious losses with those people through some failures we have had in our communication system. I am asking you to please look favorably upon this bill.

Assemblyman Stewart:

In your opinion, the basic 911 system's effectiveness would not be reduced by this, but only enhanced.

Stacey Giomi:

I do not see how any county could ignore the basic 911 needs. It is so essential to get that phone call into the center that I cannot see a county taking this money deciding to divert it from their 911 center, and spending it on radios. I do not see any way that they could do that morally.

Chair Kirkpatrick:

I do not see anymore discussion on this. At this time I would like to close the public hearing on A.B. 122. Do I have any other public comment?

[Meeting adjourned at 10:05 a.m.]

RESPECTFULLY SUBMITTED:

Rachelle Myrick
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 20, 2007

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Sign In Sheets
A.B. 119	C	Jeanne Greene, Director, Department of Personnel, Nevada	Testimony
AB 120	D	Sabra Smith-Newby, Clark County Intergovernmental Relations	Letter from residents.
A.B. 120	E	Judy Stokey, Director, Government Affairs, Nevada Power and Sierra Pacific Power	Proposed amendment
A.B. 122	F	Karen Pearl, Executive Director, Nevada Telecommunications Association	Proposed amendment