

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS
OF THE
Seventy-Fourth Session
April 3, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:06 a.m., on Tuesday, April 3, 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 Settlemeyer
Assemblyman Lynn D. Stewart
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Assemblyman Tom Grady, Assembly District No. 38
Assemblyman Ed Goedhart, Assembly District No. 36



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Phyllis Hunewill, Chairwoman, Lyon County Board of Commissioners
Robert Hadfield, Lyon County Interim Manager
Bob Milz, Lyon County Commissioner
Gary Fried, Manager, Lyon County Road Division
Daniel C. Holler, Douglas County Manager
Steve Walker, representing Douglas County
Lisa Gianoli, representing Washoe County
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority
Kyle Davis, Policy Director, Nevada Conservation League
Sabra Smith-Newby, Intergovernmental Relations Director, Clark County
Colonel Terence Sullivan, Director of Property and Fiscal Operations, Nevada National Guard
Shaun Jillions, Legislative Advocate, City of Henderson
Kimberly McDonald, Legislative Affairs Officer, City of North Las Vegas
Nick Anthony, Legislative Relations Program Manager, Office of the City Manager, City of Reno
Ted Olivas, Legislative Advocate, City of Las Vegas
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Pamela B. Wilcox, Administrator, State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources

Assembly Bill 12 [Rescheduled due to sponsor's scheduling conflict]

Assembly Bill 513 [Rescheduled to April 5, 2007]

[Call to Order, Roll Call]

Chair Kirkpatrick:

Mr. Grady is here, so we will take him first.

Assemblyman Tom Grady, Assembly District No. 38:

I was asked by the Lyon County Commissioners to bring Assembly Bill 373, which is a General Improvement District (GID) for the County.

Assembly Bill 373: Revises provisions governing general improvement districts. (BDR 25-388)

It will allow the County Commissioners to remain as the Chairmen of the GID. Normally, after a GID is established, the Commissioners turn control of the day-to-day operations over to an appointed board, but in this case, since it will be countywide, they will act as the board for the GID as well as continuing their duties as County Commissioners.

Phyllis Hunewill, Chairwoman, Lyon County Board of Commissioners:

[Read from prepared statement ([Exhibit C](#)).]

Robert Hadfield, Lyon County Interim Manager:

This bill simply allows the county to provide for better road maintenance and construction services in the non-urban or unincorporated areas. It allows us to use our revenue authority to do it. It would allow us to generate up to \$2 million for road maintenance now that we have the revenue authority countywide, but no way to generate on a specific service district basis. The purpose of having the County Commissioners as the managers of the district is for planning and economic efficiency using existing personnel. We could avoid creating duplicative administrative personnel and provide better services for our residents. It is effective and efficient to use our existing authority in the county without impacting the incorporated cities and it avoids distribution of additional revenues outside the boundaries of the districts that would be created. The authority could be used throughout the State of Nevada, particularly in the rural counties that have a greater per mile, per resident ratio than urban counties. We have long gravel roads and other maintenance issues for which we can generate little revenue per person. We need a mechanism to group people together for the streets and roads.

Assemblyman Goicoechea:

Would this require 51 percent of the tax base to approve it or 51 percent of the voters to approve the creation of the GID?

Robert Hadfield:

We could create the district without the petition from the residents, but we would not be creating a government authority where there would be an exception. This allows us to have the authority to create the district.

Assemblyman Goicoechea:

Are you going to be carving the cities out and imposing a tax base on the rest of the County, where the greatest needs are?

Robert Hadfield:

It would create a boundary where we can use our existing tax authority to improve the roads.

Assemblyman Goicoechea:

Back to the creation of the GID, the County Commissioners could create the GID, but could 51 percent of the tax base or the voters dissolve it?

Robert Hadfield:

The voters have that capability. That would be a separate government entity the way the law stands now.

Assemblyman Goicoechea:

Even the County could be challenged by petition?

Robert Hadfield:

The County could be challenged in creating this district...?

Assemblyman Goicoechea:

Or petitioned to dissolve the GID with 51 percent of the tax base. I do not see it in the bill.

Robert Hadfield:

I do not believe so. The Board of County Commissioners would create the GID and dissolve it if there were no longer a need for it.

Assemblyman Goicoechea:

It would be dissolved when the Commissioners were changed.

Robert Hadfield:

The voters maintain the ultimate authority.

Phyllis Hunewill:

We already have the ability to establish that GID, but we cannot be the trustees, and that is the only thing we are trying to change.

Assemblyman Settlemeyer:

As you know, I have more GIDs in my district than the entire rest of the State. Does this affect any GIDs in existence? Does this give a new GID the power to interfere with GIDs that already exist? I want to make sure that a GID in Incline Village has the power to do roads, and then the County would not have the authority to create another GID that would have duplicative power.

Robert Hadfield:

This would not impact any existing General Improvement Districts; this is the creation of a new district under new authority, to have the County Commissioners be the managers of the district. It does not overlap on the boundaries of existing GIDs.

Chair Kirkpatrick:

I am trying to understand GIDs. Is this more than enabling legislation because it creates the opportunity for a whole new board?

Robert Hadfield:

The existing law allows for the creation of General Improvement Districts for roads, with a separate governing entity. This bill would allow the County Commissioners to create a district and the County Commissioners would be the Board. The purpose is not to create additional government entities.

Nevada tax law makes it prudent to create taxing boundaries that relate to specific problems in specific areas. That is the purpose of a General Improvement District, so the residents of an area can pay for a service without impacting the entire rest of the county or the county as a whole. This bill would allow us to create those districts and manage them.

Chair Kirkpatrick:

Would there be problems in the future with GIDs and counties getting along and doing the best for their constituents?

Robert Hadfield:

The purpose of the bill is to allow us to do that very thing: to work with the residents of an area to create a GID, without having the additional administrative cost of another board. It is really a management issue; it helps us to carry out the regional road plans and to use our taxing authority outside

the incorporated areas of the county. A GID would allow us to create a boundary in a specific area to deal with a specific problem in the best and most efficient manner, because sometimes it does not make sense to use the county boundary to do a specific service.

Assemblywoman Pierce:

People who can vote in a GID are people who can vote otherwise? It is not connected to being a property owner, is that correct?

Robert Hadfield:

If you are a resident of the County and a registered voter, you can vote.

Assemblyman Settlemeyer:

For clarification, would you have to live within the GID to vote?

Robert Hadfield:

Yes, if you want to vote on the issue, you would have to be a resident of the area where the officials are representing you.

Chair Kirkpatrick:

Do I have anyone who would like to speak in support of A.B. 373?

Bob Milz, Lyon County Commissioner:

Lyon County is one of the fastest growing counties in the United States and as such the County needs the ability to provide services to its constituents. Assembly Bill 373 will provide a necessary vehicle to address the needs, to furnish streets and alleys, and to maintain approximately 600 miles of roads throughout the County.

I would like to add something about what has been said about GIDs. The Board of County Commissioners has authority over water and sewer GIDs, and if they do not function properly for the people, the County Commissioners can take over the Board. We would like to be the Board of the GID so that we can work with the Road Department and the Regional Transportation Commission (RTC) to do the best job we can for the County.

Gary Fried, Lyon County Road Division Manager:

I have been the road manager for Lyon County almost nine years. In my time there I have seen growth in the use of dirt and native material roads that are plowed through to access back lots. Many citizens are moving into these areas using these roads, and demanding that services be improved. I support the idea

of the Commissioners being the Board because I deal with them on a day-to-day basis on other maintenance issues. This bill would advance the improvements for the citizens of Lyon County.

Daniel C. Holler, Douglas County Manager:

We also support A.B. 373. It puts a mechanism in place to create a holistic management process for roads under the GID program where it allows for additional funding. Several counties as well as the State, are struggling to fund transportation.

Chair Kirkpatrick:

Is there anyone who is opposed to A.B. 373? Is there anyone who is neutral? [There were none.]

Assemblyman Grady:

We hope that you will look favorably upon this bill. It is not often that we have a bill with no opposition and no amendments.

Chair Kirkpatrick:

We will close the hearing on A.B. 373. We will open Assembly Bill 425.

Assembly Bill 425: Revises provisions relating to the filing of a protest to an application to appropriate water. (BDR 48-866)

Assemblyman Ed Goedhart, Assembly District No. 36:

Assembly District 36 covers one-third of the State of Nevada, all of Lincoln, Esmeralda, Nye, and Mineral County and part of Churchill County. In the rural areas many people do not have access to a municipal water system. A lot of the rural businesses that we depend upon for the economic and social fabric depend upon being able to access and use the water that they own as personal residents and as business owners.

[Referred to handout ([Exhibit D](#)).] The first pages of this handout are a Nye County resolution that dates back to January 2004, which was passed unanimously by the five County Commissioners. The resolution urged the Nevada Department of Water Resources to expeditiously dismiss some protests that were hampering personal and economic development in Nye County. That was followed by a resolution in 2007, which was also unanimously approved. Neither of those resolutions was thought worthy to receive even a written comment.

The Commissioners decided to pass these resolutions because in southern Nye County in particular, they are getting a lot of protests lodged by the National Park Service, the Bureau of Land Management (BLM), and/or the Department of Water Resources. The protests are hampering everyone's ability to properly use the resource that in many cases has been owned for many years. I would also refer you to the letter from Lisle Lowe. His family has been in that area for 102 years. The last paragraph states, "The Nevada Division of Water Resources, in practically every case, will overrule the protest. However, the several months..." and in some cases it has been years, "has a chilling effect upon potential buyers, and in my opinion, will eventually cripple economic development in this community." The next page is a letter from Horizon Academy, which was run by a gentleman, Mr. Robinson, who was trying to regentrify some run-down buildings and turn them into a high-level training academy. A man from the Division of Water Resources came out and demanded that the project be shut down in the middle of development. Mr. Robison showed proof of water rights plus the additional water rights that he had purchased, but he was warned that the rights would probably be protested, and thus he would not be able to use them.

The next page is from EDEN, Inc., which is the Economic Development Authority for Nye County. I have been a member of that board for a couple of years and have been a member as a business for several years. The letter is from the Executive Director urging approval of A.B. 425. There are a few other letters, and the last page shows "Coming Soon, 747 mini-mall." That has been halted because the developer bought water rights that were valid, certificated, permitted, and in good standing but those 15 acre-feet of water rights have been protested by the Park Service. There are enough barriers to economic development in the rural areas, and as a person who has been involved firsthand in the economic development, it does not get much more basic than land and water.

In Nye County about 98 percent of the land is government controlled, so only 2 percent of the land is available to be owned privately. When there are owned water rights that cannot be used, it does have a chilling effect on economic development.

In this session, one of the more popular topics has been about the Public Initiative to Stop the Taking of Our Land (PISTOL) and both Houses have decided that they had better address the concerns of our constituents. There has been Assembly Joint Resolution 2 and Assembly Joint Resolution 3 as a result. These bills have been written to address the sanctity of the right to own

property and how that should be protected from a runaway government entity. In this case, the land is clear, but if you cannot use the water, then it, too, is a manner of taking.

I will tell you a personal story. As a farm manager, I do not have retirement, paid vacation, holidays, or any other of the rest of those kinds of benefits. I, therefore, bought a small ranch that might serve as a portion of my retirement. I bought one of the oldest developed ranches in the Amargosa Valley from Mr. Silbach. It was run-down and needed a lot of work. We invested almost \$100,000 into the irrigation system, wheel lines, fixing up the ranch houses, general maintenance, and planting.

The first spring we had a problem with the well. We did a video and found out that casing was collapsing, so we had to pull up the pump and resize it to fewer gallons per minute. We were going to have to have a new well drilled from a water right dating to the late 1950s. We looked to see if we could put it in the same 40-40 of the quarter section within 300 feet and not have to go before the public hearing and notification process, but we had ranch houses with septic systems, so we had to move the well 1,200 feet to the west.

When we made that application, put notification in the paper, and it was open to protest, we immediately got a protest filed by the National Park Service. Spring moved into summer, we did not have enough water to keep all of the fields going, so one by one we shut off the water to all of the fields. I did not know whom I could speak with, so I tried the Division of Water Resources, but they are so overwhelmed with protests that I was lower on the list of priorities. The end result was that I lost all of the fields that had been planted. I finally got in touch with Gary Hollis, who was a consultant at the time, now a Nye County Chairman, and through numerous correspondence and verbal exchanges with the Park Service, it was decided that the protest was a misunderstanding and they pulled it. By then it was October and we had lost all the fields, and it cost me about \$70,000. We had to tell the kids that we were not going to be able to help them as much in college as we thought we were going to be able to.

As a legislative body, it is a good thing that we make laws and rules, but one of most important things we do is reserve the rights and freedoms of the people we serve. Property and water rights are one of the cornerstones of this system. This bill is a small step; it says that if a governmental agency is going to file a protest, in Section 1, subsection 5(a), then the person in charge of the agency needs to sign the protest. This is not new water rights. If you look at the new language in the amendment ([Exhibit E](#)) [Section 1, subsection 6], it is "with

respect to (a) a change in the point of diversion; (b) a change in the place of use; or (c) a change in the manner of use, of water that is in the same hydrographic basin..." so we are not looking for any interbasin transfers, "and for which an existing permit to appropriate water or an existing certificate of appropriation has been issued." This bill says that if you have an existing water right within the same basin, if you want to move it down the street and sell it to a neighbor, then you are able to do so. It can still be protested by a governmental agency, but the protest has to be signed by the chief administrative head of that agency.

We have all seen in the papers the dealing with the Attorney General and some of the firing of the District Attorneys. It is a finger pointing situation. When the head of the agency signs the protest, he cannot duck and hide behind the actions set up for someone else to be the fall guy. One might think, "This is only affecting Amargosa Valley and Nye County, so why should I care?" But there is a significant reason to worry because the State of Nevada was one of the first to develop water law and has espoused the doctrine of Nevada's sovereignty over the waters of the citizens of the State of Nevada. By allowing all of these frivolous and capricious protests to be lodged against lawful, rightful use of Nevada's water, we are allowing the federal government to whittle away the doctrine of sovereignty.

There has been a report issued by the United States Geological Survey (USGS) called the *Death Valley Regional Groundwater Flow Model* that was funded through a several million dollar grant by the Department of Energy. That report says the Death Valley Groundwater flow model encompasses almost a quarter of the State of Nevada. That area extends into northern Nye County, Lincoln County, and other areas, through which the Southern Nevada Water Authority has proposed to build a pipeline. The report says that the flow is in a state of perfect harmony and that any amount of water that is taken out is going to negatively impact Death Valley. A step forward to maintain Nevada's sovereignty would be: if a federal agency wants to file a protest regarding the water that is in good standing in the same basin, the head of that agency needs to sign the protest.

Assemblyman Goicoechea:

Section 1, subsection 6 refers to the perfected water right.

Assemblyman Goedhart:

Do you see the amendment? On lines 29-34 it specifies that it is a change in point of diversion, place of use, or manner of use "of water that is in the same hydrographic basin and for which an existing permit to appropriate water or an

existing certificate of appropriation has been issued." We are not denying anyone the right to protest new water right applications, and we are not even asking that government agencies to not file protests, just that their head of the agency signs it.

Assemblyman Goicoechea:

My error, I was looking at the original bill.

Chair Kirkpatrick:

What happens in the event that the agency head is unavailable? Or would it just hold up the process?

Assemblyman Goedhart:

There are 30 days of public notice regarding any water issues. If I were a farmer and wanted to sell 15 acre-feet of water to a strip mall down the street, it would trip a statute that says the sale has to be publicized by notice in the paper for 30 days. They have another 30 days from that to lodge a protest. If the protest cannot get signed in 60 days, maybe the agency needs to look at their internal controls and policies.

Steve Walker, representing Douglas County:

Douglas County is in support of A.B. 425.

Lisa Gianoli, representing Washoe County:

Washoe County speaks in support of this with a friendly amendment, about which we have spoken to the bill's author. What we would like to do on the mock-up, on page 2, is remove lines 25 and 26, which designates the chairman of the county commissioners as being the person who would have to sign the protest. That would have us fall into subsection 5(b), where we would be included with all other governmental agencies, which is how we work at the present time. Our division head within the Department of Water Resources actually signs off on these types of protest, and he works under the guidance of the rules and regulations of the Board of County Commissioners.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation:

We are concerned about the delays that protests cause and we believe this bill provides jurisdictional accountability necessary on these types of protests.

Chair Kirkpatrick:

Is there anyone who is neutral on A.B. 425?

Andy Belanger, Senior Management Analyst, Southern Nevada Water Authority:

We have looked at it closely and we have no objection to the bill. Our one comment is that at the Water Authority, our standard practice is to take applications and protests to the full board, and so we have the whole board act on them. That is a little more than having the General Manager approve it. We do not want that ability to be eroded. We have federal protests to deal with as well. It is not always easy, but we have been able to reach agreement on the issues that the federal agencies want protected. The federal agencies may have legitimate environmental stewardship responsibilities they need to protect, and we want to make sure they are able to assess and protect those needs as water is developed in the State of Nevada.

Assemblywoman Pierce:

There were a number of occasions when the Southern Nevada Water Authority (SNWA) testified that water law in Nevada was perfect and did not need to be adjusted. Has SNWA changed its mind and are you announcing a new policy?

Andy Belanger:

We never said that water law could never be improved. Our testimony last session and in previous sessions had been and still is today, it is important to be deliberative about water law changes. It is important to think through what the law is intended to do and what the consequences of changing would be. Nevada's water law is one of the best in the West; it protects groundwater and surface water, and ensures that use is tied to the perennial yield, so that you are not using more than is being replenished. This bill does not change that, and whether or not this bill passes, it still gives federal agencies the ability to protest applications and participate in the process. They have a right to do so and we want that right to remain.

Assemblywoman Pierce:

I will get that testimony for you.

Assemblyman Bobzien:

Dealing with federal agencies is not an easy task; like dealing with flood issues on the Truckee. Have you considered that in negotiations subsequent to a protest having been approved by the Secretary of the Interior or Agriculture, that the process would be hindered? Do you see the process of amending or dropping protests becoming more cumbersome?

Andy Belanger:

I am not sure that we have considered all the different ways that this process

changes the existing way we deal with federal agencies. That is a question that the Committee should look at as it considers this bill. How does it change the dynamic? Does it shorten or lengthen the process? We do not have a position, but we want to make sure that our concerns are addressed as the bill moves forward.

Assemblyman Bobzien:

Would you say that is a concern?

Andy Belanger:

It is a consideration.

Chair Kirkpatrick:

Are there any opposed to A.B. 425?

Kyle Davis, Policy Director, Nevada Conservation League:

I have talked with the sponsor of this bill and there are legitimate concerns addressed. I worry that we may be throwing the baby out with the bath water. There is a problem about protests being filed that have real impacts, but I do not think that this bill gets at that problem. Would having the head of an agency sign the protests actually have an impact on their pertinence or would it be a more judicious use of the process?

If the bill does go through, there may be some unintended consequences. Andy Belanger brought up that there are some legitimate reasons why an agency may need to be involved in the process for environmental protection issues.

Assemblyman Goedhart:

Thank you for the opportunity to come back up.

Assemblyman Settlemeyer:

We dealt with a similar issue a couple of months ago, with the concept of someone from Maine sending in a postcard and thwarting the whole process.

Assemblyman Goedhart:

Protests are having a devastating impact on rural communities that depend on the lawful and legal use of the appropriation of the groundwater. We need to reserve citizens' rights to their property.

Assemblyman Goicoechea:

Going back to Section 1, subsection 6, it appears it is "with respect to (a) a

change in the point of diversion; (b) a change in the place of use; or (c) a change in the manner of use, of water that is in the same hydrographic basin..." so if it were an interbasin transfer you would not need to get this.

Assemblyman Goedhart:

What I am saying is that I wanted to start with a very narrow bill, so rather than have it apply to everything, I said that this would require a higher level of sign-off from an agency or political subdivision on waters that are in the same basin that have already been appropriated. You could still have a low-level employee in Fort Collins, Colorado, who has never seen Nevada, generate a protest on an interbasin transfer. In this bill we are talking about water within the same hydrographic basin.

Assemblyman Goicoechea:

A larger, more serious transfer should be signed at the BLM's district level.

Assemblyman Goedhart:

That is the way it is working now, anyone from a federal agency can sign it. We are requesting that on a water right that is already proven, in good standing, within the same basin, before the ability to use that water is taken away, maybe there should be some peer and supervisory review. We had a situation in Amargosa Valley where a business made an application to reuse wastewater through a Nevada Division of Environmental Protection (NDEP) permit. The business was told by the Division of Water Resources that even though the water has already been pumped, used, and reprocessed, now you need a permit to reuse the water because it has been brought up to good standards. Even that reuse permit was protested by the National Park Service on the basis that it would help and encourage industry. So by necessitating that some of these protests go through a peer review, we believe that some of these frivolous protests will drop off.

Assemblyman Bobzien:

It is important to address rural water concerns and make sure rural communities have the tools when it comes to water issues. We want to ensure as public a process as possible, but when I hear that the State Water Engineer is overwhelmed by protests and that the merits of some of these protests may be less than credible, maybe we need to look at whether or not the State Engineer has the capacity to do his job.

For Washoe County and Douglas County to say that we have no problem is one thing; we can walk down the hall and get the chairman's signature on the protest. If this applies to federal agencies, this might shut them down. Even

though we may disagree with the federal agencies, there are times when they are speaking to the public interest. I have some severe reservations about this legislation.

Assemblyman Goedhart:

We are going to frame the discussion beyond rural water issues; it is also about property rights. We talk about the *Ke/o* [Kelo v. City of New London, 545 U.S. 469 (2005)] decision, where the city took over a lady's house and paid her for it, even though she did not want to sell. Would it not be worse if someone took your property and did not pay anything for it? And then because of the frivolous protest, they cost you tens if not hundreds of thousands of dollars, and did not even apologize? That is not happening somewhere else, it is happening in Nevada as we speak. As the State of Nevada, we have the responsibility to protect the property and water rights of our citizens. There will be spirited discussions about how big a role does a federal agency have in dictating how we handle the water within the State of Nevada. This bill does not preclude them from discussions. This bill brings accountability and transparency to the protest process because there cannot be finger pointing.

Assemblyman Beers:

I would wonder about an agency head not wanting to put his name on a protest. What would those reasons be? When we as private citizens have had to deal with a bureaucrat, that bureaucrat has the full weight of the agency behind him. We have no recourse as a private citizen. It seems that this is extremely needed legislation.

Assemblyman Goedhart:

This will make it so the buck stops at the agency head, rather than some fall guy below him.

Chair Kirkpatrick:

We will close the hearing on A.B. 425.

[The Chair stepped down to testify, Vice Chair Peggy Pierce conducted the meeting.]

Vice Chair Pierce:

We will open the hearing on Assembly Bill 462.

Assembly Bill 462: Revises provisions relating to the sale or lease of real property by governmental entities. (BDR 26-901)

This bill is sponsored by Assemblywoman Kirkpatrick.

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1:

I would like to give a little history because this was the bad penny bill of last session. Last session we had Assembly Bill No. 312 of the 73rd Session, which took away a lot of privileges from local governments for trading or exchanging land leases for less than fair market value. At the end of session things can get very confusing and rushed, but the one thing I said to local governments was, "If it is not right, if there are some things that got overlooked, we will come back together and work on it." Local governments held my feet to the fire and we met in July. We worked together on some of the issues that needed to be addressed.

Yesterday you heard Assemblyman Grady testify about airport hangars. One of the things we did not think about was, what if someone puts \$50,000 into building an airport hangar and now it has to go to bid every couple of years. It was an unintended consequence. One of the other things is that United States Senator Reid and United States Senator Ensign have a bill in to give the National Guard some property so they can build an armory. It cannot be done now, another unintended consequence. There are, however, some things on which I will not bend.

As a result, you have a conceptual amendment ([Exhibit F](#)) to A. B. 462, and this is an agreement that will work because it is all about transparency. The bill as a whole from last session had 27 sections, and Sections 14 through 16 were the most imperative. This bill may look small, but it is not, and it is consistent from the State down to local government. It offers some flexibility for situations like when Carlin was not able to get appraisals in a timely fashion, and their housing was held up because of it. So in the bill there are two options: one, a governmental entity can have two appraisals; or two, the governmental entity can have one appraisal and a public process. The public process is: a public hearing, which requires noticing; findings of what the fair market value is, as opposed to the second appraisal; and then information concerning the sale of the land. I do not want the sale on a consent agenda, where it gets passed and no one really knows about it.

The same thing applies for leases. The governmental entity can have two appraisals for leases, or they can make one finding. As an example, in Henderson, the city leases out some homes and businesses downtown for less than market value for diverse groups. We do not want to hinder good business; we want transparency. At the bottom of the amendment page there are very

intense consequences if the governmental entity does not follow the rules. If the governmental entity violates the *Nevada Revised Statutes* (NRS) statute, all sales and leases of the property are void and the land cannot be used for five years. There were concerns about insurance coverage, but I have spoken with Legal and it is covered.

Vice Chair Pierce:

Are there any questions? [There were none.]

Daniel C. Holler, Douglas County Manager:

We appreciate the Chair's work on this matter following last session. We have an outstanding problem within Douglas County, that may impact some of the other counties, similar to what was in the bill presented yesterday. The problems start when we treat a lease and a sale the same, and when we deal with different sections of state law. *Nevada Revised Statutes* 495.040 relates to the procedure for the lease of county property, including airports. It references that:

The boards of county commissioners of the respective counties of this state may lease real property and personal property of their county for use and occupancy as airports, airport facilities or airport services, to whom and upon such conditions and terms as they deem proper, for a term or terms not exceeding 99 years.

Then there is a notice process for a public hearing: it has to be published in the newspaper, and then there is a public hearing. We have been following that process for a number of years for leasing property at the airport. Then the previous amendment came in that impacted NRS 496, which deals with municipal airports, and primarily focused on cities, but its definition of municipality includes cities and counties. There is a question of, "Are we under NRS 495 or NRS 496?" Under NRS 496, there is a conflict, one, on the years that a lease can be in place; and two, the dual appraisals versus the leasing process that we have been following historically.

Then, under the amendments in NRS 244.281, the dual appraisal process for any lease that has been added has further compounded: "Which section of law do we operate under?" We have taken the most conservative approach, which says that we have to do multiple appraisals, go through the public process again, and go through the hearings. Our challenge is that at the airport, currently, over half of the land leases, so 47 of the leases, are less than 4,000 square feet. Sixty-six of the leases, or 72 percent of them, are less than an acre. If one rents a piece of property to construct a square hangar, you are

leasing about 2,750 square feet, the annual rent is about \$473, and it would be about \$3,000 to get an appraisal. There is a cost conflict. If the county is paying for those appraisals, it would take about ten years to recover the cost of that appraisal.

We do not have problems with other parts of the bill as they relate to other county properties, it is good public policy. We would like a potential amendment within NRS 495.040 that would address these issues by specifically taking the requirements of NRS 496.080 and NRS 244.281 out of the application to county airports, at a minimum for counties with populations less than 50,000.

We have also had problems where people want to expand their current leasehold by a few hundred square feet; there are some big hoops to jump through to get it appraised. We have the option to adopt a resolution that it is economic development, which is a different set of hoops. So we would appreciate some relief on our issues. We can provide an amendment if necessary.

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

Clark County had some issues regarding leases and we are working those out. The conceptual amendment needs to be worked into actual language, and then we are in support of this bill.

Colonel Terence Sullivan, Director of Property and Fiscal Operations, Nevada National Guard:

I am testifying on behalf of General Kirkland, the Adjutant General. She was unable to attend as she is hosting a ribbon-cutting ceremony in Las Vegas for the new armory. I would like to read a statement on her behalf. [Read prepared statement ([Exhibit G](#)).]

Shaun Jillions, Legislative Advocate, City of Henderson:

I would like to reiterate our gratitude to the Chair for her hard work throughout the interim. We agree with the bill as written, as well as the conceptual amendment. There is always one more issue, which came up recently. In NRS 268.055, we are allowed to convey property to a nonprofit organization if it is going to be used for a charitable or public purpose. We would like to be able to have a long-term lease. The City and the organization would prefer that the city retains the land.

Kimberly McDonald, Legislative Affairs Officer, City of North Las Vegas:

We support the conceptual amendment. We have spoken to the bill's sponsor

about a friendly amendment about the review appraisal process, giving the local governments 30 days. We would like 60 days. I spoke to the cities of Reno, Sparks, Henderson, and Las Vegas, and they are not in opposition. It would also give more time to put the public hearing on our City Council agenda, as well.

Nick Anthony, Legislative Relations Program Manager, Office of the City Manager, City of Reno:

I would like to echo the comments of my colleagues. We are in full support of the conceptual amendment. We feel it provides our Council the flexibility to go forward with the public hearing in lieu of the second appraisal, which can be, at times difficult and costly and could delay a project to the point that it does not come to fruition. We are in support of this bill.

Ted Olivas, Legislative Advocate, City of Las Vegas:

I want to echo the comments of the previous speakers and state that the City of Las Vegas supports this bill.

Lisa Gianoli, representing Washoe County:

I also want to echo the comments. Washoe County feels that the process will be streamlined, as well as reduced in cost.

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

I want to get on record for thanking the Chair for doing her homework in the interim, especially for the smaller communities which are not represented today. They appreciate the alternative provided in lieu of the second appraisals. We support the bill as amended.

Pamela B. Wilcox, Administrator, State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources:

I would also like to compliment the Chairwoman on the work done during the interim to fix the unintended consequences of the legislation last session. We are going to be providing some language to flesh out the conceptual amendment. With the amendment we will support the bill.

Vice Chair Pierce:

Is there anyone who would like to speak in opposition or neutral to A.B. 462?
[There were none.]

Assemblywoman Kirkpatrick:

All of the people who spoke today were either in the same room or on the telephone, and that is how we worked together. Regarding some of the

conceptual amendments: one did not realize that the State does not have a governing board, so we are going to move the supervision to the Interim Finance Committee (IFC). The 60 days: when you look at local ordinances, for public processes, they would need that amount of time. The nonprofit issue, from Mr. Jillions, we will look at that. This is a great piece of legislation that everyone worked on together to provide transparency for the State of Nevada, as well as the constituents.

Assemblyman Settlemeyer:

I could not find an answer in the previous legislation or in this legislation. Let us say you put forward some money for an appraisal of a piece of property, and then for whatever reason the municipality decides that they no longer wish to sell it. I would like to suggest on pages 10 and 15, on lines 29 and 38 respectively, after the word "bidder" insert the clause "or within one year of the deposit of those funds." The meaning is that after a year of deposit of the funds, if they have not successfully completed the bidding process, the individual could get back what they have put in. The time frame could be lengthened if necessary.

Assemblywoman Kirkpatrick:

I will work with Mr. Settlemeyer, because we looked at that on the appraisal process last time.

Assemblyman Goicoechea:

On page 15 of the bill, Section 8, subsection 8, it says if you are unsuccessful then your money is refunded.

Assemblywoman Kirkpatrick:

I will pull my files; I thought we had said that within a certain time frame they do get their money back.

Assemblyman Goicoechea:

There is not a time frame; it says that if you are required to put money in a deposit for the appraisal, if you are unsuccessful, you get the money back.

Assemblywoman Kirkpatrick:

I think there is another part of the statute, which actually goes through the judiciary chapters, that verifies. I am okay to look at it.

Vice Chair Pierce:

I am closing the hearing on A.B. 462. We will take a ten minute recess.

Chair Kirkpatrick:

We are waiting for the bill sponsor, who is in a Ways and Means subcommittee. If he cannot make it, we will roll the bill to tomorrow.

We are going to roll the bill. We have about 15 bills on work session so each day we are going to do as many as we can. We are adjourned until eight tomorrow morning [9:58 a.m.].

RESPECTFULLY SUBMITTED:

Emilie Reafs
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 3, 2007

Time of Meeting: 8:06 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 373	C	Phyllis Hunewill, Lyon County Commission Chair	Prepared Statement
A.B. 425	D	Assemblyman Ed Goedhart, Assembly District No. 36	Handout
A.B. 425	E	Assemblyman Ed Goedhart	Proposed Amendment
A.B. 462	F	Assemblywoman Kirkpatrick	Proposed Amendment
A.B. 462	G	Colonel Terence Sullivan, Nevada National Guard	Prepared Statement