

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

**Seventy-Fourth Session  
April 11, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:04 a.m., on Wednesday, April 11, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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



**GUEST LEGISLATORS PRESENT:**

Assemblyman John Carpenter, Assembly District No. 33  
Assemblywoman Kathy McClain, Assembly District No. 15  
Assemblyman Joseph Hogan, Assembly District No. 10

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Tracy Taylor, State Engineer, Office of the State Engineer, Division  
of Water Resources.  
Win Smith, Elko County Clerk  
Terry Hickman, Executive Director, Nevada State Education  
Association  
Lonnie Shields, representing the Clark County Association of  
School Administrators  
Randy Robison, representing the Nevada Association of School  
Superintendents  
Rose McKinney-James, representing the Clark County School  
District  
Anne Loring, representing the Washoe County School District  
Dotty Merrill, Executive Director, Nevada Association of School  
Boards  
Michael Bellon, representing the Greater Nevada Special District  
Jackie Robinson, representing the Greater Nevada Special District  
Dana Napier, representing the Greater Nevada Special District  
Carole Vilaro, President, Nevada Taxpayers Association  
Michael Alastuey, representing Clark County and the Nevada  
Association of School Superintendents

[Meeting called to order at 8:04 a.m.]

**Chair Kirkpatrick:**

We are going to do our work session first.

**Amber Joiner, Committee Policy Analyst:**

The first measure in your work session document is Assembly Bill 138  
([Exhibit C](#)).

**Assembly Bill 138: Expands purposes for which certain impact fees may be used. (BDR 22-477)**

Assembly Bill 138 expands the purposes for which an impact fee may be imposed for a fire station project or police station project to include facilities designed for a use related to the administration of a fire or police department.

This was heard on March 14, 2007, and was sponsored on behalf of the Nevada League of Cities and Municipalities.

There was one amendment proposed at the original hearing and it has changed. You have a mock-up of the language in your work session document. It more clearly defines fire and police station projects and clarifies what these terms do not include

This was proposed by the Southern Nevada Home Builders Association.

The City of Reno has agreed to the language in the mock-up; however, they do not agree with the statement of intent the Southern Nevada Home Builders Association has presented.

**Chair Kirkpatrick:**

Is there any discussion?

**Assemblywoman Parnell:**

I would like Ms. Joiner go over the last statement again.

**Amber Joiner:**

The City of Reno indicated they are okay with the actual language in the mock-up, meaning the definitions of the projects, including office space, storage areas, kitchen facilities, et cetera.

**Assemblyman Goicoechea:**

I assume the problem they had with the statement of intent is the fact you cannot use impact fees to upgrade an existing station that is already built.

My concern is the City of Reno feels they should be able to impose impact fees to upgrade.

**Assemblyman Bobzien:**

What the City of Reno has an issue with is in the intent statement "use to finance a local government's change in direction." They are seeking a new

service model that does more distribution, but the home builders feel that is not an appropriate use of impact fees.

If we move to adopt this with the amendment, does that automatically assume we are also accepting the intent, or do we need to specify we are including the intent even though we do not wish to have the intent acknowledged?

**Chair Kirkpatrick:**

You can do one of two things to make the motion to include the intent or not.

The problem is impact fees were designed to service the area that is impacted. They were not designed to be used to go back and fix things.

**Assemblyman Bobzien:**

I am wondering more about the mechanics of the motion. If we say we move to adopt with the amendment, are we acknowledging the statement of intent, or can we leave that alone for now and not get into that discussion?

**Scott McKenna, Committee Counsel:**

It would be my reading of the documents that unless the Committee made a specific motion to incorporate a preamble or a statement of intent to reflect the intent stated here, what the Committee would be voting on is the specific change indicated for *Nevada Revised Statutes* (NRS) 278B.045 and 278B.087.

**Assemblyman Bobzien:**

I would be in favor of a motion that does not engage in that conversation and accept the amendment as is.

**Chair Kirkpatrick:**

My only concern is that impact fees were never meant to go to the General Fund. I believe we have spelled it out so I do not understand why we need the statement of intent or why the City of Reno would be opposing it.

If everyone agrees on the motion, then we will not take any testimony.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 138.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BEERS VOTED NO.)

**Assemblyman Goicoechea:**

We have established that this is our intent. Impact fees cannot be used except for new developments.

**Amber Joiner:**

The next bill in your work session document is Assembly Bill 285 ([Exhibit D](#)).

**Assembly Bill 285: Revises provisions governing the adjudication of water rights. (BDR 48-913)**

Assembly Bill 285 provides that if the State Engineer fails to approve or deny an application for a permit to appropriate water within five years, the State Engineer must repeat the notification process. An interested person may then file a written protest with the State Engineer within 30 days after the last publication of the repeated notice.

This was sponsored by Assemblywoman Sheila Leslie and heard on March 26, 2007.

This appeared in a previous work session document and the amendments have not changed since that work session.

**Assemblyman Goicoechea:**

The amendment by the State Engineer would take it to seven years as far as the time frame by which he had to republish.

If we maintain the 250 acre-feet threshold and allow it to run out to seven years, that would be more workable.

I make the motion that we Amend and Do Pass A.B. 285 with those changes. It would be the State Engineer's proposed amendment that would allow the seven years, the notice within a period of 45 days, and it also says "if a person is a successor in interest of an owner of a water right or has an interest in a domestic well." We were trying to ensure you could have one or both. You either had real property or a water right.

The only other thing that was not addressed in the State Engineer's amendment is the fact we want to maintain a 250 acre-feet threshold.

**Amber Joiner:**

The State Engineer's amendment would change it to a water right or having an interest in a domestic well and delete the real property provision.

The assumption is the State Engineer's amendment modifies the first amendment so most of the provisions in the first amendment would also be included except for those you specifically stated.

**Assemblyman Christensen:**

In the bill where it calls for the permit to appropriate water within five years, you asked for seven years. Could you explain why it is seven years rather than five years?

**Assemblyman Goicoechea:**

A large number of applications are approved between year five and year seven, so we are giving a little more flexibility with the other two years.

**Assemblyman Settlemeyer:**

Do we do any damage by leaving the real property concept in? I can see a problem by taking it out.

**Assemblyman Goicoechea:**

I just want to make sure that "water right" is in there and we were not just dealing with "real property." I would amend my motion to include real property as well as the 250 acre-feet threshold.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 285.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

**Assemblyman Goicoechea:**

On page 2, subsection 10 it says "if a person is a successor in interest of an owner of a water right or has an interest in a domestic well." It also incorporates the fact that you could have an interest in real property that may be impacted by this action.

**Scott McKenna:**

We received the desired concept that the right to carry on a previously begun protest should be transferable to a successor in interest of title to the property.

In the original concept when it described successor in interest it did not specify further real property or an interest in a water right, et cetera. When I wrote the original mock-up version, I wrote it as a successor in interest of real property. When we provided that to the State Engineer, he felt it would be more appropriate to refer to a water right or an interest in a domestic well. He would have to explain the thinking there.

I am not certain it would be wrong to refer to real property or water rights. My thinking was that the general protest provisions, which are set forth in NRS 533.365, ordinarily give any interested person a right to protest which is not tied to rights, either real property or water rights.

**Tracy Taylor, State Engineer, Office of the State Engineer, Division of Water Services:**

One of the reasons for a protest is that it is affecting existing rights. When you transfer the interest in a protest it is because it is affecting an existing water right.

I know who a successor in interest of a water right is. Real property covers too much. You need to limit it to the water right holder.

**Assemblyman Goicoechea:**

There is not an application or an appropriation for domestic wells; therefore, it is tied to the land.

I would like to see it remain as real property if we can tweak it a little more and say it has a permit connected to it pertinent to that real property. A domestic well does not have an appropriation or a certificate. You could own the property, and therefore, you would have the domestic water right. If we exclude real property, that domestic well holder would be excluded.

**Chair Kirkpatrick:**

Mr. McKenna, did you not just say that anyone could protest?

**Scott McKenna:**

The default protest divisions in NRS 533.365 do not refer to the right of protest being attached to any particular type of right. The language is "any person interested."

It is then further defined to say, to be "interested" you must have such and such a right.

That is what the statute says. I am not in a position to disagree with the State Engineer regarding the problems that may cause.

**Assemblyman Goicoechea:**

The intent of this bill is only when we are talking about re-noticing. It has nothing to do with the initial route.

**Chair Kirkpatrick:**

Assemblyman Goicoechea, could you restate your motion?

**Assemblyman Goicoechea:**

We will accept the State Engineer's amendments. We will establish a threshold of 250 acre-feet. The re-notice period will be seven years. We will come back and amend it. I would prefer to see real property and water right in that section.

THE MOTION PASSED UNANIMOUSLY.

**Chair Kirkpatrick:**

At this time we are going to move away from the work session. We will come back after we hear the next bill.

**Assemblyman John Carpenter, Assembly District No. 33:**

I am here today to present Assembly Bill 348, which would change the boundaries of the Elko Convention Center.

**Assembly Bill 348: Revises the boundaries and composition of the Elko Convention and Visitors Authority. (BDR S-422)**

You have the amendment to A.B. 348, which is a metes and bounds description ([Exhibit E](#)).

The people that this will most affect are the mines in this new District. They do not have any problem with paying those extra taxes. The Midas mine will be paying \$4,000 in taxes because they have an assessed valuation of \$10 million.

The Convention Center is a great asset to the citizens of Elko. My hope is the people who will be included in the taxing District will see that advantage and will not have a problem with it.

We had a hard time getting the metes and bounds description. I was not able to get an article in the paper until a week ago, and they put it in on Saturday. You have a copy of that article ([Exhibit F](#)).

The Convention authority does all of the promotion and advertising for Elko County, so it helps all of the citizens in the County.

Any money that comes from ad valorem taxes can be used only for improvements to the building for maintenance or for capital improvement.



**Chair Kirkpatrick:**

Are there any questions?

**Assemblyman Goicoechea:**

An agriculture exemption would still be applied to the portion they are paying taxes on, correct?

**Assemblyman Carpenter:**

There has always been an agriculture exemption as far as taxes are concerned in the Convention Center District, so if you have an agriculture exemption you do not pay the ad valorem taxes to the Convention Center.

Last year the ad valorem rate was 3.92 percent, which is not very high.

**Chair Kirkpatrick:**

Are there any other questions? [There were none.]

**Win Smith, Elko County Clerk:**

We have several people who work in the Election Department, and we have 20,000 registered voters. We have four precincts that are split. These are mailing precincts, which means every one of those people who are registered in those precincts get a ballot.

We do not have Geographic Information System (GIS) capabilities with our system as of yet. That means we have to hand-pick who the people are in the Convention Center in those four precincts.

It is a guessing game because they tell us they live in North Fork or Jack Creek and we have to try to figure out if they are in the District or out of the District. This is a time-consuming matter.

There are only 357 people in all of the districts that would be used in the outlying areas. We would have 244 more people who would vote for the Convention Center people. These people use that facility, and it would be nice if they would be able to vote for the people who are running it.

**Chair Kirkpatrick:**

Are there any questions?

Is that a lot of districts for 244 people?

**Assemblyman Carpenter:**

They used census blocks when we had to get the bill out to meet the deadline. Now it is a metes and bounds description, and it will say which communities are exempt from taxation.

Wells and Carlin are exempt and always have been. The reason is they are up to the 3.64 percent rate. We will also be excluding Jarbidge, Mountain City, and Midas from taxation because it is easy to exempt them.

There are not many people because a lot of this land is Bureau of Land Management (BLM) land and Forest Service land. There are not many residents out there.

**Assemblyman Goicoechea:**

All you did in your amendment is move away from the census blocks to the voting precinct boundaries. It does not have any other change in the bill.

**Assemblyman Carpenter:**

Correct.

**Win Smith:**

We will save \$2,000 to \$3,000 per election if we do this, and that is a considerable savings for Elko County.

**Chair Kirkpatrick:**

Is there anyone who would like to speak in support of A.B. 348? [There were none.]

Is there anyone who would like to speak neutral on this bill? [There were none.]

Is there anyone who is opposed to this bill? [There were none.]

I will close the hearing on A.B. 348.

I will open the hearing on Assembly Bill 324.

**Assembly Bill 324:** Expands eligibility for a subsidy for the costs of health insurance coverage to additional retirees of school Districts.  
(BDR 23-1152)

**Assemblywoman Cathy McClain, Assembly District No. 15:**

This is a bill I said I would carry for the Nevada State Education Association (NSEA).

**Terry Hickman, Executive Director, Nevada State Education Association:**

This is an important policy bill in terms of future retiree benefits. We know that it is an issue of cost, but we also want to focus on the policy.

On page 3 of the bill the major change is if you joined the Public Employee's Benefits Program (PEBP), it gives you the option to stay in the district plan from which you are retiring.

With insurance rates approaching several hundred dollars per month, this Legislature said the stipend for retirees not only should be for those who are in the State plan but for those who are considered non-state plan, including all government entities and school district retirees.

Assembly Bill No. 286 of the 72nd Session was passed as a clear sign by the Legislature that the retirement stipend would be available, but only if you joined PEBP.

It was a major change, a major help, and a major funding situation for those who were caught with high insurance rates and no way to pay for them. Over 4,000 teachers and support professionals are now members of PEBP receiving the stipend based on their years of service to the children and the State of Nevada.

To many retirees this stipend makes a tremendous difference. Assembly Bill 324 will further enhance that positive difference. It will not only allow the stipend to go to those who choose the State plan, but will encourage many to stay in their home plan. The stipend to retirees is a strong policy statement of the commitment that the State of Nevada has for retiree healthcare.

One of the results of A.B. 286 of the 72nd Session has been the movement from local plans to the State plan. Assembly Bill 324 will provide a balance of choice that will encourage retirees to stay in their home district plan, because the stipend becomes portable and follows the retirees whether they stay in their home district plans or are moved to the state plan.

With the portability of the stipend, we fully expect fewer educators to opt for PEBP since the incentive is no longer to leave their home plan, but choose between their home district plan and PEBP.

The policy of offering the stipend to educators has been an important change by this Legislature. It has made a tremendous difference in the lives of the 4,000 teachers and support professionals who now are able to afford good insurance.

Assembly Bill 324 provides the opportunity for retirees to stay at home for their medical insurance.

We urge your support of A.B. 324.

**Assemblyman Goicoechea:**

Why did you not include everyone instead of only school district members?

**Assemblywoman McClain:**

It was an issue with the school districts more than with local governments.

That is a policy decision for this body.

It makes perfect sense to me because if you do not opt into the state plan you do not have any assistance at all. It is an unbalanced system.

**Assemblyman Goicoechea:**

Do you have any initial numbers on the fiscal impact?

**Terry Hickman:**

The fiscal impact for the first year would be roughly \$8 million statewide.

**Chair Kirkpatrick:**

Are there any other questions? [There were none.]

Is there anyone who would like to speak in support of this bill?

**Lonnie Shields, representing the Clark County Association of School Administrators:**

We are in support of A.B. 324.

**Chair Kirkpatrick:**

Is there anyone who is neutral on this bill?

**Randy Robison, representing the Nevada Association of School Superintendents:**

We had a chance to meet with the proponents of this bill and they explained their intent.

We want to make it clear for the record we support health insurance for our employees and our retirees; however, we are significantly concerned about the policy this bill stipulates.

The potential fiscal impact has been explained by the sponsor, as well as the impact on current bargaining agreements that have already been completed.

**Chair Kirkpatrick:**

Is there anyone who is opposed to A.B. 324?

**Rose McKinney-James, representing the Clark County School District:**

Because of the fiscal impact, it is appropriate for us to indicate our opposition to the measure because it is a significant shift in policy.

We feel very strongly that we have an obligation to our retirees; but when you create an additional subsidy that is not consistent with our budget, then it requires us to go into that aspect of our budget dealing directly with curriculum and classroom instruction. We have to consistently bring those ramifications to the attention of policy makers.

**Anne Loring, representing the Washoe County School District:**

Washoe County School District was one of the first school districts to offer subsidized health insurance for our retirees.

Our plan, which has been in existence for many years, differed from the State's in a number of aspects. It required fifteen years of service to qualify for the subsidy. The annual expenditures cap that is tied to the percentage of assessed valuation. That cap has increased anywhere from 4 to 10 percent in recent history.

This bill represents a major policy shift, expanding the A.B. 286 of the 72nd Session subsidy to all K through 12 retirees in both our district plan and those who choose to go to PEBP.

We greatly appreciate that the Legislature has provided, through the budget process in the last biennium, funding for the A.B. 286 of the 72nd Session subsidy, but we need to point out that it has consistently been underfunded. This is related to the difficulty in estimating how many would retire. There is an \$8 million supplemental appropriation before this Legislature right now relating to the shortfall in funding for the last biennium. This bill would increase the cost above current levels. There is now a great fiscal issue with regard to subsidies, and that is the rules of the GASB 45 regulation.

Our district did an actuarial study for Fiscal Year 2008 back when we still had only our own subsidy program. The estimate was that it would cost the annual required contribution amount for current retirees and the pre-funding for future liabilities, it would be approximately \$11 million per year.

Since A.B. 286 of the 72nd Session was passed and we did the actuarial calculation for the Washoe County School District, the estimate is an annual required contribution of approximately \$23 million per year. This proposal would dramatically expand the A.B. 286 of the 72nd Session subsidy in the Washoe County School District both in current costs and with any future liability under the GASB 45 regulation.

**Dotty Merrill, Executive Director, Nevada Association of School Boards:**

Because of the significant unfunded mandate, the adverse impact on the GASB 45 liability, and the fact that some school districts already have in place pieces of their bargaining units that determine retiree subsidies, this bill would adversely impact those agreements.

We are in opposition to this bill.

**Chair Kirkpatrick:**

Is there anyone else who is opposed to A.B. 324? [There were none.]

I am looking for a motion if we want to rerefer it to Ways and Means with no recommendation.

**Assemblyman Settlemeyer:**

My sister is a State employee, and I needed to disclose that. I do not feel this bill will affect her any more or less than any other state employee.

**Assemblyman Bobzien:**

I would like to disclose that I am a member of PEBP. In addition, my wife is also a member of the program. Because the benefit reduction that could occur to myself and my wife as a result of the passage of this bill is no greater than that occurring to any of the other members of the program, I am required to make the disclosure but I am not required to abstain from voting on this bill.

**Assemblyman Stewart:**

I am a retired teacher also under PEBP. It will not affect me any more than anyone else, but I will abstain from voting on this bill.

**Assemblyman Munford:**

I am also a retired teacher. I am not under any type of state retirement program. I feel that I can vote on this bill.

ASSEMBLYMAN ATKINSON MOVED TO REREFER WITHOUT RECOMMENDATION ASSEMBLY BILL 324 TO WAYS AND MEANS.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Stewart abstained.)

**Chair Kirkpatrick:**

We are moving back to our work session.

We will go to Assembly Bill 326 ([Exhibit G](#)).

**Assembly Bill 326: Establishes certain requirements relating to buildings constructed of unreinforced masonry. (BDR 28-716)**

**Amber Joiner:**

Assembly Bill 326 requires the State Board of Public Works and the governing body of each city and county to compile a list of all unreinforced masonry buildings owned by the governing body within its jurisdiction that are not in compliance with the adopted seismic provisions and to develop and implement a plan to retrofit, change the use of, or demolish such a building.

Each governing body must also notify each private owner of an unreinforced masonry building within its jurisdiction that the owner is required to develop and implement a plan to retrofit, change the use of, or demolish such a building. Additionally, each governing body must adopt an ordinance imposing a civil penalty for a violation of these requirements and provide for judicial review of certain decisions concerning these requirements.

This is sponsored by Assemblyman Harry Mortenson and was heard on April 6, 2007.

There were amendments to this measure. The first one was presented at the original hearing. It would add the word "unreinforced" to Section 3 to further clarify that the provisions do not apply to all masonry buildings. It would also add reference to the 1961 Uniform Building Code masonry standards.

This concept was proposed by Ron Lynn, Chairman of the Nevada Earthquake Safety Council.

The second amendment was presented by Assemblyman Mortenson and proposes that all of the provisions be removed from the bill except for those that require an inventory of unreinforced masonry buildings.

There was no testimony in opposition to this measure.

If you look at the mock-up you will notice almost all of it has been deleted except for the definition of unreinforced masonry buildings on page 2, line 32. It would still require that a list be compiled and that the owners of the property be notified their property was added to the list. This would include their being notified of the seismic hazards of unreinforced masonry.

This language is repeated twice to include both the counties and the cities.

**Assemblyman Goicoechea:**

Are we saying that they shall note the location of the building and that it is unreinforced?

**Amber Joiner:**

That provision in the original bill did not change. The date upon which this is supposed to be complied with, July 1, 2009, remains the same.

**Assemblyman Stewart:**

What is the fiscal note on this bill?

**Amber Joiner:**

A new fiscal note was not developed for omitting all of those portions. Part of Assemblyman Mortenson's reason for changing it was to remove a lot of the costs, which involved coming up with a plan and requiring that buildings be retrofitted.

**Assemblyman Settlemeyer:**

Are we creating a liability for a property owner if he is noticed but not fix the problem and something happens?

**Scott McKenna, Committee Counsel:**

It would be possible to then argue that the property owner was, to a certain extent, under notice. The bill could be further amended to clarify that any such notice of the condition of the building did not convey with it any additional liability.

**Assemblyman Settlemeyer:**

I would appreciate that amendment.



**Chair Kirkpatrick:**

I would hope that the intent of the listing tells us about the building. I want a specific statement on the listing.

**Assemblyman Goicoechea:**

In Section 5, subsection (b), maybe we could add something as loose as "its listing may infer seismic hazards."

**Chair Kirkpatrick:**

I thought we had excluded most of the historical buildings, which were the sections that really affected rural Nevada.

**Assemblyman Goicoechea:**

Section 3 defines an historic structure. Anything over 40 years old is technically exempt.

**Assemblyman Settelmeyer:**

I agree with the concept of the bill as amended; however, without the amendment, I feel that I would be voting to increase liability on private property owners.

**Assemblywoman Pierce:**

I am okay with the bill the way it is. It seems to me that a person would want to know if he had a building that was a possible hazard in an earthquake.

**Assemblyman Christensen:**

How would this affect the state budget?

**Chair Kirkpatrick:**

Assemblyman Christensen, what is your suggestion?

**Assemblyman Christensen:**

I would lean on the Committee's judgment for that. This is a significant capital undertaking.

**Chair Kirkpatrick:**

What would the Committee like to do?

**Assemblywoman Pierce:**

I am going to make a motion to Amend and Do Pass as amended.

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 326 WITH BOTH AMENDMENTS.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

**Assemblyman Settelmeyer:**

Can we ask the maker of the proposed amendment if he objects to the concept of saying people who are noticed does not automatically mean they are liable?

**Chair Kirkpatrick:**

Currently we have a motion on the floor so we would have to both vote on this motion and have another motion, or we could restate this motion.

**Assemblyman Christensen:**

As it is with this motion, I would have to vote no.

THE MOTION PASSED (ASSEMBLYMEN BEERS, CHRISTENSEN,  
GOICOECHEA, SETTELMEYER, AND STEWART VOTED NO.)

**Chair Kirkpatrick:**

We will move on to Assembly Bill 331 ([Exhibit H](#)).

**Assembly Bill 331: Makes various changes relating to the conservation of water. (BDR 48-915)**

**Amber Joiner:**

Assembly Bill 331 requires the water conservation plans that suppliers of water prepare include an estimate of the amount of water that will be conserved each year as the result of specific conservation measures. The plan must also include an analysis of how the water usage rates proposed in the plans will maximize water conservation. This measure also requires the State Engineer to review and evaluate the accuracy of the estimates.

This was sponsored by Assemblyman Joseph Hogan and heard on March 26, 2007.

This is its second appearance in a work session and the amendments that are listed have not changed since the first one.

The first amendment would remove the requirement that the State Engineer must submit to the Water Planning Section of the Division of Water Resources his findings regarding the accuracy of the estimates provided in the plans.

The second amendment was a mock-up including several provisions. That mock-up was proposed by Tracy Taylor, State Engineer.

**Assemblyman Joseph Hogan, Assembly District No. 10:**

The last time we looked at this I had not seen and was not aware of the State Engineer's amendment. I understand there is a likelihood that if we can clarify an understanding and the Legislative intent on this, I can withdraw my objection to the State Engineer's amendment.

An additional element will be required in the existing water plans to evaluate the effect of conservation pricing on water that is expected to be saved. The provision in question was the back-up to that. When the State Engineer reviews the plan he will verify those estimates. The State Engineer believes his current authority gives him all of the necessary authority to validate those estimates. If the State Engineer could verify that for the record, I could then withdraw my objection because we would have the requirement to report those savings and we would have the State Engineer's review to rely upon that those estimates are good.

**Chair Kirkpatrick:**

I met with Mr. Taylor on some of these things. I do not believe that that is it, but we will give him a few minutes.

**Tracy Taylor, State Engineer, Office of the State Engineer, Division of Water Resources:**

Our authority is to review the plan and make sure that all of the items addressed in the statute are addressed in the plan. I do not know that we have the authority to confirm that the rate structure conserves so much water.

What we can do is make sure the plan is complete and those items are addressed in it.

**Assemblyman Hogan:**

I can accept that.

**Chair Kirkpatrick:**

The Assemblyperson who made the motion has to clarify this because amendment one and amendment two are conflicting, so we would have to determine which amendment we want.

There was a discussion on amendment two, Section A about taking out the amount of gallons.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 331 WITH AMENDMENT TWO.

ASSEMBLYMAN CHRISTENSEN SECONDED THE MOTION.

**Assemblyman Settlemeyer:**

Do we want to rerefer this because there is a fiscal note?

**Chair Kirkpatrick:**

There is no fiscal note.

THE MOTION PASSED. (ASSEMBLYMAN STEWART VOTED NO.)

[Meeting recessed at 9:29 a.m.]

[Meeting reconvened at 9:44 a.m.]

**Chair Kirkpatrick:**

We will move on to Assembly Bill 598.

**Assembly Bill 598:** Authorizes the creation of tax increment areas in certain cities for theme park projects. (BDR 22-1457)

**Michael Bellon, representing the Greater Nevada Special District:**

The Greater Nevada Special District is a non-contiguous bond program established to create a partnership for the purpose of developing mutually agreed upon and economically feasible development and redevelopment in the State of Nevada.

The District will create jobs and revenues for the State while it diversifies, extends, and enhances our visitor profile.

**Jackie Robinson, representing the Greater Nevada Special District:**

The District board is created to implement the provisions of this Chapter to partner with local governments and venue operators.

Assembly Bill 598 is designed to create opportunities for local entities to partner while providing employment and direct revenue to the State and local governments.

**Chair Kirkpatrick:**

Can you explain some of the projects you have done and how it has worked?

**Michael Bellon:**

I have built 11 auto dealerships in the greater Las Vegas area as well as 4 office buildings. I am now building high-rise condominium developments.

It was the inability to bring in some projects that were interesting and feasible, but could not meet the criteria for institutional lending, that prompted us to look into this possibility.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblywoman Womack:**

Have you already identified sites and the type of theme parks that would go in the Las Vegas area?

**Michael Bellon:**

We have had some brief discussions but have not identified those sites.

**Chair Kirkpatrick:**

I have had a lot of people concerned with why you put "gaming" in here. Is there a specific reason?

**Michael Bellon:**

It is because so many venues include and incorporate some form of gaming into their product that we use the word "gaming" in the language.

**Chair Kirkpatrick:**

I did not think you would need that in your project but I want to ask Legal what they are thinking.

**Scott McKenna:**

If there is any confusion we could do a slight amendment to A.B. 598 to clarify that we would just be talking gaming incidental to some other activity.

**Chair Kirkpatrick:**

Were you able to look at line 23 on the last page?

**Dana Napier, representing the Greater Nevada Special District:**

Would line 23 be referring to the drainage project or flood control project as defined in NRS 268? I do not believe that would be included in the amendment ([Exhibit I](#)).

We will be striking the county definition meaning a county having a population greater than 100,000. We want to state "a county in the State of Nevada" so that all entities, all cities, and all counties within the State would have the opportunity to participate in the program should they meet the criteria.

**Chair Kirkpatrick:**

Is there anyone in opposition to A.B. 598?

**Carole Vilardo, President, Nevada Taxpayers Association:**

During the 73rd Legislative Session this Committee worked hard to pass tax increment financing infrastructure. It was a very tight provision because when you use tax increment financing, and in this particular case it is property tax increment financing, you want to be sure it is being judiciously used.

Sales Tax and Revenue (STAR) bonds would probably satisfy this purpose ([Exhibit J](#)). The STAR bond issue was tax increment financing also but it was done through sales tax increment financing. It was not done through a property tax increment.

One of the problems that is occurring right now is redevelopment. You want to be sure with tax increment financing that the tax rate is on an assessed value of an area. You generate property tax that is used by all jurisdictions within the area.

Because this is going into NRS 278C, there were specific conditions set to eliminate that increment on school districts because we keep eroding the base for other governments when we use this type of increment financing. When something happens to increase the value or if your tax rate increases, the difference between what you started with and the new revenue you are receiving is the increment that is used to fund the bonds. In almost every case I can think of with this type of financing this money is used for bonds. A redevelopment agency may use it to revitalize an area, but you have the STAR bonds you already approved.

How far do you want to eliminate the use of increased assessed valuation for other functions? This is a major policy departure by going to this extreme with theme parks. There is an existing mechanism through STAR bonds to do these types of projects. In addition you are going to have other bills on tax increment financing. You can take only so much of that increment away before you are seriously impacting the other services that have to be provided by the other governmental units.

**Assemblyman Christensen:**

Can you give me the difference between STAR bonds and tax increments?

**Carole Vilardo:**

One is sales tax and one is property tax.

**Chair Kirkpatrick:**

I do not know that I have ever seen "theme park" defined like this. Is there anywhere in statute in other states that it is defined like this?

**Carole Vilardo:**

I do not have an idea, but I am sure there are identifications of theme parks in statutes of other states.

**Chair Kirkpatrick:**

Mr. McKenna, could you find a definition?

**Scott McKenna:**

An examination of the official Nevada Law Library reveals that the term "theme park" has not been used in the NRS or the *Nevada Administrative Code*. It appeared in a 1991 court case related to the former theme park which was located behind the MGM Grand Casino, but it did not describe that with particularity.

**Chair Kirkpatrick:**

Can you help me find other states that may have a definition of theme park?

**Scott McKenna:**

Yes.

**Michael Alastuey, representing Clark County and the Nevada Association of School Superintendents:**

The Nevada Association of School Superintendents has a substantial interest in the distribution of property taxes.

I recall the circumstances under the chapter which this bill proposes to amend. There was Senate Bill No. 302 of the 73rd Session that came to this Committee and I recall some testimony as to how property tax increment financing might be applied. There were proposals and testimony to the effect that perhaps an auto mall, shopping centers, or even power plants might be financed in this fashion. In the end the Committee opted to provide a very firm definition on those projects that would be permitted to be funded.

The kinds of projects now permitted to be funded under the bill that came through this Committee last Session are public infrastructure. This is infrastructure the public owns and the public benefits from regardless of their place of residence. Those include overpasses, underpasses, streets, sewers, waters, and water projects. These are basic things that all facilities, all residents, and all commercial establishments need to be serviced by.

Assembly Bill 598 is different. It adds other assets including rides, games, arenas, and restaurants. There is not a definition that leans toward public ownership of these facilities. You could have public financing for privately owned and operated facilities, and assess all with a consistent theme of architecture depicting a particular time, place, and associated costuming, if necessary.

Most of these types of facilities, with the exception of gaming, could already qualify for STAR bonds or sales tax increment bonds under another chapter of NRS.

To qualify for STAR bonds it has to be demonstrated that the preponderance of sales tax revenue emanating from the district has to be incremental and has to be associated with non-resident tourists. There is no such test here.

There are safeguards in STAR bonds to make sure the appropriate visitation is made by State and local authorities to assure that overall public benefit is served by the exercise of the STAR bond authority.

Opinions vary as to whether public financing of arenas is wise or not. The county's position is that the private sector is always invited to bring forth a comprehensive plan in regard to arena financing.

This bill presents no such plan and in our estimation falls far short of a cohesive proposal to construct an arena.

On the face of the bill we note there are no effects on local government and no effect on state government.

If this bill passes in concert with the other Chapter of NRS now existing for STAR bonds, you could have privately owned assets paying no property tax or having substantial reductions in property taxes and sales taxes in terms of distribution of actual services. The benefits of those taxes would remain available to the owners of these facilities and they would operate virtually tax free with those two statutes in combination.



There was mention that a tool such as this might be used in cases where a project could not meet the criteria for institutional lending. The most viable projects are brought by those corporations that even without public financing might qualify under institutional criteria.

We do not want to place ourselves in a direct position of having public financing for those kinds of operations that may never fly on their own in the private sector.

**Scott McKenna:**

I have found House Bill 2681 from Arizona in 2005. It relates to bonding for theme park projects. The definition of a theme park is virtually identical to what is in Assembly Bill 598. It appears the language was borrowed from the Arizona bill.

**Chair Kirkpatrick:**

Does it include gaming?

**Scott McKenna:**

It talks about a combination of recreational entertainment and commercial zones or areas tied together through a central access designed and built around a particular time, place, story, or subject, including consistent presentation of architecture, costuming, merchandise, food, games, rides, and attractions. Gaming is not mentioned.

**Michael Bellon:**

We do not want tax incremental financing or STAR bonds. We do not want any assistance to raise taxes or use any of the state's or local government's money.

We are a bond program that will give the private bond market the confidence it needs to raise the money to build these projects and bring them into a district.

We anticipate creating a tremendous amount of revenue for the State. A theme park is exactly what we would like to do.

We have met with some individuals who do not have enough equity to bring their ideas to a bank or a lender, so they cannot acquire the funds they need to build projects.

**Assemblyman Christensen:**

Did I not hear you say these would be paid back through the sales revenue?

**Michael Bellon:**

Correct.

**Assemblyman Christensen:**

So it is using the STAR bond?

**Michael Bellon:**

It would be paid back over and above any property or sales taxes that any of the venues would generate. They would use their revenues to pay back the bonds.

There is discussion in the legislation of a small user fee that each venue could add on to the normal costs for those facilities over and above taxes to retire the debt on the bonds.

After those bonds and the debt are retired, that money could be used to continually upgrade and maintain capital improvements on those facilities, making them more viable and more feasible.

**Chair Kirkpatrick:**

Can you explain how you would do this from the very first step?

**Michael Bellon:**

If the legislation passed, we would attempt to establish a government board from elected officials within the city or county. That board would be able to review projects that would be brought to them by the district to see if they met the criteria to be placed within the district. At the same time the district would go to the private bond market and generate those funds through the sale of the bonds.

**Chair Kirkpatrick:**

I live in North Las Vegas but am 550 feet from the City of Las Vegas. If a project was built in North Las Vegas would the district encompass both or does it just encompass that parcel?

**Michael Bellon:**

It is just for that parcel. Each parcel of property that will contain one of these projects would be brought into the district.

**Chair Kirkpatrick:**

Is it a planning thing where the Board of Directors determines that it is a district?

**Michael Bellon:**

We are trying to define that quickly, and we will have that in the next amendment.

We originally thought about creating multiple boards within each municipality. We are now considering one board that might contain an elected official from different cities or counties who could have the opportunity to look at the different projects based on the feasibility studies, which the district entity would review and recommend but not have the opportunity to approve. That would be done by the governmental board.

Once a project was approved by that official board we could move forward in the District and begin letting contracts out for the funding of that project.

**Assemblyman Goicoechea:**

What happens when a project fails?

**Michael Bellon:**

Each project will stand alone. However, the district supports that project. Because the money is generated through the sale of bonds, if a project is having a shortfall, there is no bank demanding it pay back a loan. There is no note and not a great amount of debt on that structure.

The district can now go back and take another look at the project to see why it is failing, review it, and help it. If it is going to fail just because of a shortfall of money, there is an opportunity for the district to bring money to the table to help that project remain viable.

**Assemblyman Goicoechea:**

Where does that money come from?

**Michael Bellon:**

It comes from the district and the sale of the bonds. Each of the other projects within the district is supporting the entire district.

**Assemblyman Goicoechea:**

Your amendment is about a user fee that will now be imposed on all of the business activities in this district. Someone is going to have to pay the freight if you have one fail.

**Michael Bellon:**

Conceptually that is true. The concept is that a user fee would be charged. Those fees are generated for the district for the retirement of those bonds. If a

project was failing, we would look at that project to see why it was failing. If it was still viable, we could use some of the money that was generated towards the district from all of the projects within the district to help support that project. If the project was no longer viable, it would fail just like any other project could.

**Assemblyman Goicoechea:**

If it did fail, how would the district recover?

**Michael Bellon:**

If the project failed, it would be liquidated and what could be recovered would be recovered. Projects fail all of the time. We do what we can to save them. We have a mechanism within the district to try to help projects not fail, but if a project is selected, constructed, and fails, it just fails.

**Assemblyman Goicoechea:**

Who applies the bandage?

**Michael Bellon:**

The district either owns the project or operates it. These projects are run by the private sector.

**Assemblyman Goicoechea:**

Your amendment says there is no liability back to the city or county, but someone is on the hook.

**Assemblyman Christensen:**

When you refer to the district, it holds multiple assets so it is not a single district for one project. You are spreading your liability around so you need this legislation to open the door to go to the private market for bonds. They will look at the performance of your portfolio. Is there a specific percentage of revenue plus the user fee that goes back into paying off the bond sale?

**Michael Bellon:**

It is intended that only the user fee would be necessary to retire the debt on the bonds. Once this legislation is passed, we can see how viable that is.

**Assemblyman Christensen:**

You go into these arrangements and you are probably not paying for the land acquisition, construction, operation, et cetera. The person who created the project is bringing in cash and assets to the operation as well?

**Michael Bellon:**

Correct. We look for people who have equity positions or have land to bring in so the project can be economically viable.

**Assemblyman Christensen:**

A performance review of how this has gone elsewhere would be good.

**Chair Kirkpatrick:**

What is the typical size of one of these districts?

How long do you believe the bond would be good for?

**Michael Bellon:**

There is no typical size. The district will be created project by project.

With regard to the retirement of the debt on the bonds, I do not have that answer right now.

**Assemblywoman Pierce:**

The fact that you are here means you are asking for something from the taxpayers in this State.

**Michael Bellon:**

We are not asking to burden the taxpayers of this State in any way. However, in order to generate these bonds we need a piece of legislation that gives the bond market the confidence that we will be able to dedicate this user fee to retire the bond debt. Without the legislation it is not possible.

**Assemblyman Claborn:**

Can these bonds be sold?

**Michael Bellon:**

Yes.

**Assemblyman Claborn:**

Can you buy the entire bond?

**Michael Bellon:**

I believe that is possible. I am not familiar with the structure of bonding.

**Chair Kirkpatrick:**

I am closing the public hearing on A.B. 598.

[Meeting adjourned at 10:43 a.m.]

RESPECTFULLY SUBMITTED:

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Mary Kay Doherty  
Committee Secretary

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Rachelle Myrick  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 11, 2007

**Time of Meeting:** 8:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance roster
A.B. 138	C	Amber Joiner, Committee Policy Analyst	Work session document
A.B. 285	D	Amber Joiner, Committee Policy Analyst	Work session document
A.B. 348	E	Assemblyman John Carpenter, Assembly District No. 33	Proposed amendment
A.B. 331	F	Assemblyman John Carpenter, Assembly District No. 33	Newspaper article
A.B. 326	G	Amber Joiner, Committee Policy Analyst	Work session document
A.B. 331	H	Amber Joiner, Committee Policy Analyst	Work session document
A.B. 598	I	Dana Napier, representing the Greater Nevada Special District	Proposed amendment
A.B. 598	J	Carole Vilardo, representing Nevada Taxpayers Association	Proposed amendment