

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-fourth Session
April 25, 2007**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:06 p.m. on Wednesday, April 25, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Warren B. Hardy II, Chair
Senator Bob Beers, Vice Chair
Senator William J. Raggio
Senator Randolph J. Townsend
Senator Dina Titus
Senator Terry Care
Senator John J. Lee

GUEST LEGISLATORS PRESENT:

Assemblyman John C. Carpenter, Assembly District No. 33
Assemblyman Mark A. Manendo, Assembly District No. 18
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Candice Nye, Assistant to Committee Manager
Eileen O'Grady, Committee Counsel
Michael J. Stewart, Committee Policy Analyst
Erin Miller, Committee Secretary

OTHERS PRESENT:

David C. Morton, Executive Director, Reno Housing Authority
James M. Kennedy, Housing Authorities Risk Retention Pool
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County

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Vinson W. Guthreau, Nevada Association of Counties
Nicholas C. Anthony, Legislative Relations Administration, City of Reno
Madelyn Shipman, Southern Nevada Home Builders Association
Rob Joiner, Manager, Government Affairs, City of Sparks
John Slaughter, Washoe County
Lisa A. Foster, City of Boulder City
Susan Fisher, Nevada Manufactured Housing Association
Dan Poggione, RMC Development
Jenny N. Welsh, Nevada Association of Realtors
Teresa B. McKee, Nevada Association of Realtors

CHAIR HARDY:

We will open the hearing on Assembly Bill (A.B) 258.

ASSEMBLY BILL 258 (1st Reprint): Revises provisions relating to the division, exchange or transfer of certain agricultural lands. (BDR 22-701)

ASSEMBLYMAN JOHN C. CARPENTER (Assembly District No. 33):

Assembly Bill 258 provides that a parcel map or record of survey is not required in transfer of land for agricultural purposes. The exchange must comply with the zoning classification of lands with a description referenced to the U.S. Public Land Survey System as well as qualify for agricultural use assessment. The exemption for the transfer of land does not apply if the parcel ceases to qualify for agricultural use or if commercial or residential units are proposed to be constructed on the parcel after the transfer. We added amendments to the original bill in the Assembly to meet the needs of the surveyors and Douglas County.

SENATOR CARE:

What is the significance of ten acres?

ASSEMBLYMAN CARPENTER:

In the rural areas, people want to sell or transfer land. It is expensive to get a parcel map and a record of survey. If it is an agricultural use, this bill provides they would not need a map or survey as long as it can be described by the Public Land Survey System, which is from 10 to 40 acres.

CHAIR HARDY:

You felt ten acres was the best number.

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ASSEMBLYMAN CARPENTER:

You can describe a ten-acre parcel. If the acreage was lower than that, it would not be practical. Most of the time, the parcels are 40 acres.

CHAIR HARDY:

We will close the hearing on A.B. 258 and open the hearing on A.B. 350.

ASSEMBLY BILL 350: Revises provisions relating to certain cooperative agreements entered into by housing authorities. (BDR 22-981)

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

I have submitted a handout ([Exhibit C](#)) to explain the information. This bill gives housing authorities that enter interstate agreements with other housing authorities some additional powers granted to state and local government agencies concerning insurance.

DAVID C. MORTON (Executive Director, Reno Housing Authority):

I have submitted written testimony ([Exhibit D](#)). When I first came to Reno, we had a problem getting insurance for housing authorities. We are part of an organization of housing authorities that have pooled together to lower their insurance rates. By working together, we get better rates. We joined the Housing Authorities Risk Retention Pool (HARRP) in 2002 and our rates immediately went down and stayed down. It is a four-state pool with almost 100 housing authorities. This pool is contemplating issuing bonds for a variety of reasons. It is clear they can do that in the other three member states, but it is not clear if we can do that in Nevada. The Commissioner of Insurance is not opposed to this bill, and we have submitted a letter from her ([Exhibit E](#)). Nothing is detrimental to the state in this bill. It simply allows us to participate. If we are not able to participate in the bond issuing, Reno and Clark County housing authorities could be excluded from the pool.

CHAIR HARDY:

What type of obligations and expenses do you need to secure and pay that you cannot secure? Is that the statutory problem?

JAMES M. KENNEDY (Housing Authorities Risk Retention Pool):

I am a lawyer practicing in Portland, Oregon, in the areas of business and insurance regulatory law. I have represented HARRP since its inception in 1987.

I submitted written testimony ([Exhibit F](#)) and HARRP's annual report for 2006 ([Exhibit G](#), original is on file in the Research Library).

The problem with the bond financing comes about as a result of HARRP's decision to dispense with reinsurance in 2005. There was a lot consolidation in the reinsurance industry. Reinsurers had a low level of interest in HARRP; it was much more expensive. Between 1999 and 2004, HARRP's insurance premium rate tripled. Because reinsurance was so expensive, HARRP went to its actuary which advised HARRP that it could dispense with reinsurance so long as it lowered its coverage limits, which they did in October 2005. It now self-insures the risk it reinsured. In order for HARRP to proceed without reinsurance, it needs sufficient liquidity with bond financing. The Housing Authorities Risk Retention Pool is well capitalized, but it may be important to obtain bond financing in the future. Under Nevada law, bond financing is available for intrastate pools under *Nevada Revised Statute* (NRS) 277.067. The Housing Authorities Risk Retention Pool derives its authority under NRS 277.055. The bond provisions in NRS 277.069 and NRS 277.0695 relate only to pools organized under NRS 277.067.

CHAIR HARDY:

Do other local government agencies in Nevada that have the ability to participate in intrastate pools do interstate agreements as well?

MR. KENNEDY:

They do not.

CHAIR HARDY:

You are looking for something new in terms of the ability to do this in interstate agreements.

MR. KENNEDY:

The only change we ask for is to apply these bond financing provisions in those statutory sections to an interstate pool that involves Nevada's public housing authorities.

SENATOR LEE:

Usually reinsurance is profitable. Why are they backing away from what they did in the past? What risk do they see that they are not willing to take?

MR. KENNEDY:

There has been a lot of consolidation in reinsurance markets. A number of reinsurers have withdrawn from the market. The Housing Authorities Risk Retention Pool has a relatively low premium volume not suitable for reinsurance because there is not that much premium the reinsurers can extract from HARRP. The Housing Authorities Risk Retention Pool saw its premiums rise over a five-year period from \$500,000 a year to \$1.5 million a year on a stellar claims record. It was determined that HARRP would be in a much better long-term financial position if it absorbed the risk itself.

CHAIR HARDY:

Do other local government agencies have intrastate agreements? Are they grappling with the same concern?

ASSEMBLYWOMAN SMITH:

We are not aware of that. When Mr. Morton came to me to discuss this issue, I had the Legal Division, Legislative Counsel Bureau, look at this and assure me this was a good idea. I did not ask about other agencies.

MR. MORTON:

I am not aware of any other agencies.

MR. KENNEDY:

Most states have insurance pools. I would not be surprised if there were some intrastate insurance pools.

CHAIR HARDY:

I am just wondering if anyone else needs this flexibility.

SENATOR BEERS:

I imagine only housing authorities have this kind of risk that they need to mitigate.

CHAIR HARDY:

I want to ensure we are including everybody. We will close the hearing on A.B. 350 and open the hearing on A.B. 120.

ASSEMBLY BILL 120 (1st Reprint): Revises notice requirements for a proposal to vacate certain rights-of-way or easements or to vacate or abandon certain streets. (BDR 22-376)

SABRA SMITH-NEWBY (Director, Intergovernmental Relations, Clark County): This seeks to address the problem of vacating easements and rights-of-way and the notice that is provided to residents in the area of the vacation. State statute requires we send the notice by certified mail. We have run into several issues with that. In order to receive the certified mail, the recipient needs to be home to sign for the package. Most people are not home when the mail comes. A notice is left that the certified mail may be picked up at the post office. When a person gets the notice that they have received something by certified mail, they get upset or worried; they may decide to not go and pick up within the allotted time the post office will keep it or they take time to go to the post office and realize they received a piece of mail they care little about. Assembly Bill 120 would change the delivery confirmation. I have submitted a packet illustrating what a delivery confirmation looks like ([Exhibit H](#)). The confirmation is affixed to the letter, and when the mailcarrier delivers it, they scan it, and we are provided with the date and time of delivery. We receive the confirmation receipt. That is the way we would like to go forward.

Page 2 of [Exhibit H](#) goes over a U.S. Supreme Court case where they decided that certified mail was not a good way to provide notice to residents. The following pages are letters from people who take the time to go to the post office for the certified mail and get upset when they find out what it is about.

CHAIR HARDY:

In section 1 of the bill, you are adding new language that says "held in fee." What is that?

MS. SMITH-NEWBY:

There are two types of easements. All rights-of-way are easements as well. A "right-of-way held in fee" is an easement from which we get a fee. An easement is just the use.

SENATOR RAGGIO:

Some rights-of-way are owned by a public entity in fee. Some are easements that you have the right to use. That is what they are trying to cover. They want to make clear that it also applies if they are owned in fee.

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SENATOR BEERS:

Does "held in fee" mean you own the land while easement means you use the land but somebody else owns it?

SENATOR RAGGIO:

I would concur with that.

CHAIR HARDY:

With this amendment to the bill, you are saying only in cases of rights-of-way held in fee or easements. I want to make sure that is what you intended to do and we are not eliminating anything.

MS. SMITH-NEWBY:

That is our intent.

CHAIR HARDY:

Easement takes care of the rest. Committee Counsel is nodding.

VINSON W. GUTHREAU (Nevada Association of Counties):

The Nevada Association of Counties supports A.B. 120.

CHAIR HARDY:

We will close the hearing on A.B. 120 and open the hearing on A.B. 558.

ASSEMBLY BILL 558 (1st Reprint): Authorizes governing bodies to reject certain incomplete applications relating to land use. (BDR 22-431)

NICHOLAS C. ANTHONY (Legislative Relations Administration, City of Reno):

This bill deals with incomplete applications. We have an issue in Reno where applications to the Reno Planning Department for land use under NRS 278 have come in incomplete. I have provided a one-page summary of an application with a checklist on the back ([Exhibit I](#)). This is given to the applicants when they come into the Planning Department. It states on the application that "incomplete applications will not be scheduled for public hearing." A judge has told us we do not have the authority under state law to reject the applications on their face for being incomplete. The applicant proceeds through the process to the Planning Commission and gets denied on the basis of the incomplete application. The applicant has to wait a year before they can come back. The intent of this bill is to bring the parties together early on in the process and give them a checklist.

That way everyone knows they are on the same page. Staff must review on the basis of completeness and nothing else and provide notice within three days. There was no opposition to my knowledge.

CHAIR HARDY:

What percentage of these are mailed in and what percentage is hand delivered?

MR. ANTHONY:

Most applications are hand delivered. I can get you exact figures.

CHAIR HARDY:

Three days seems a long time to stand at the counter.

MR. ANTHONY:

Three days is the number we worked out in the Assembly. Three days for the smaller cities and counties has been an issue because they have a smaller planning staff. In Reno, we can turn it around quicker.

CHAIR HARDY:

How big are the applications?

MR. ANTHONY:

The full application varies depending on the project.

MADELYN SHIPMAN (Southern Nevada Home Builders Association):

The Southern Nevada Home Builders Association had concerns about the original bill and provided amendments that were put into the bill. We are satisfied with A.B. 558 as amended.

CHAIR HARDY:

I do not understand the necessity to outright reject the application. I can understand returning it because it is incomplete. What does reject mean?

MS. SHIPMAN:

It says reject for lack of completeness. We would be happy to work with any language. We felt we knew what it meant.

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CHAIR HARDY:

I am incredulous we need a section of NRS 278 to say that a local government can send an application back because it is not complete.

Ms. SHIPMAN:

That was our original thought. It happens all of the time.

CHAIR HARDY:

When we authorized local governments to accept applications, we intended for them to be complete.

SENATOR RAGGIO:

If you want to soften it, you could say "accept or return the application."

ROB JOINER (Manager, Government Affairs, City of Sparks):

Statutorily, the reason for reject is once you accept an application, the clock starts. We have to do certain things with the application within a prescribed period of time by NRS. Judges have told us you have to accept the application when an applicant brings it in; that starts the clock. Many times, the applicants know the applications are incomplete, but they want to get it off their desk. We have to spend inordinate amounts of staff time working with them to get an acceptable application so we can do a staff report and take the application forward. Statutorily, rejection is something we have to do so we can say bring it back when it is complete and start the process.

CHAIR HARDY:

I would prefer language that says you are not required to accept it until it is complete.

MR. JOINER:

That is what we are trying to get.

CHAIR HARDY:

I am concerned about the frustration somebody at the front desk might have with rejecting somebody for the fourth time.

SENATOR LEE:

We had a problem in Clark County with people throwing placeholder applications, to get in front of zoning meetings, and wasting time. Are they

assigned a plan check number if they come in and it is handed back to them in three days? If they get plan check No. 104 and three days later the application is denied, do they still get to come back and use plan check No. 104? If I fill this form out, how would I know if No. 23 on [Exhibit I](#) is not properly fill out? What is "Supporting Information"?

MS. SHIPMAN:

Our concern had more to do with the protection if the law did go into effect to ensure the applicant has the opportunity to know why the application is rejected.

MR. ANTHONY:

Our application packet is 60 or 70 pages. Each of the numbers is more detailed. [Exhibit I](#) is just a one-page summary. Number 23 would be further defined in the packet.

SENATOR CARE:

I imagine some of these submissions are so voluminous that staff thinks it is complete. It is not until a day or two later that it is discovered to be incomplete. That is where the three days comes into play.

MR. ANTHONY:

That is correct. The idea of this bill is to bring the parties together and form a working relationship early in the process.

JOHN SLAUGHTER (Washoe County):

Washoe County supports [A.B. 558](#). We do not want applicants to get too far in the process before we realize they have an incomplete application.

MS. SMITH-NEWBY:

Clark County is in a difficult position. We understand the position of the City of Reno. Our planning department did not have a concern with the original bill but has concerns about the amended bill. We have no problems working with developers and their applications to make sure they come in complete. We would like to work with the City of Reno to come up with language that will work.

CHAIR HARDY:

What are the changes you are concerned about?

MS. SMITH-NEWBY:

It is the language that requires notice and reason for the rejection. The concern is that the requirement for a reason for rejection would open up litigation. Previously, we were able to work with the developers and come to a consensus.

LISA A. FOSTER (City of Boulder City):

Boulder City was fine with the original bill. As a small city, we have a concern with some of the amendment possibly opening it up for litigation. Boulder City has two planners, and they were both gone last week. If we were to have a secretary check things off with a checklist, it might work. However, there may be times when an entry-level staff member may think something is complete when it is not. We have concern over the time frame.

CHAIR HARDY:

We will close the hearing on A.B. 558 and open the hearing on A.B. 358.

ASSEMBLY BILL 358: Revises provisions relating to manufactured homes.
(BDR 22-1193)

ASSEMBLYMAN MARK A. MANENDO (Assembly District No. 18):

Assembly Bill 358 changes the maximum age of a manufactured home placed in a location other than in a manufactured home park from no more than five years to a 1996 model or newer. The measure only applies to counties whose population is 40,000 or more. Affordable housing is a tremendous issue across the state. Many manufactured home communities have closed. Trying to find locations to place these homes has been challenging. Some manufactured homes are more than five years old and beautiful, going for \$150,000 or higher. We are trying to extend the date so we can place these homes in more areas.

SUSAN FISHER (Nevada Manufactured Housing Association):

We see this bill as an important measure to address affordable housing. I submitted a handout to show some beautiful manufactured homes ([Exhibit J](#)). There is some opposition from Realtors concerned about what this does to property values. We have heard information that disputes moving homes into existing neighborhoods damages the property values. These are stick-built, quality homes. Local governmental entities still have the authority to restrict these homes on the basis of siding, size and other restrictions they have for a

site-built home. The beauty of manufactured homes is that they can be built with any specifications you want.

SENATOR CARE:

Somebody has selected 1996 as the year when the industry took strides. Do you have background on why 1996 was selected?

DAN POGGIONE (RMC Development):

Nothing was officially done in the industry in 1996, but most factories upgraded almost everything about their homes. The materials used in constructing the homes are the same materials used on any site-built home. I have been a builder for 30 years, and you cannot find a difference in the construction anymore.

SENATOR LEE:

The manufactured homes are built at another location and moved to the site. Is there a chance these homes can be moved again?

MR. POGGIONE:

It would be possible to move it again but highly unlikely. The cost is too high, and there is no reason once it is down on a foundation.

SENATOR LEE:

Whatever was built in 1996 is sitting somewhere. Why would somebody with a 1996 manufactured home move it someplace else? You are saying moving it would be too costly?

MR. POGGIONE:

We are talking about two different things. If it was already down on a foundation, it would be too costly. The manufactured home parks are closing. That is one reason why a house would be moved. They are not on a foundation in that case. This bill would help people because it creates and maintains affordable housing. The covenants, conditions and restrictions in any subdivision will prevail no matter what. In California, you can put a manufactured home on any residentially zoned lot in the state. It would be almost impossible for these homes to hurt property values. In the larger counties, you are not going to find someone who will pay \$300,000 for a lot and put a \$100,000 house on it. There are a wide range of manufactured homes available. I have been on both sides of the fence, and I can state these

homes are good homes. I live in a manufactured home and use it as a model. When people come in, they have no idea it is a manufactured home.

SENATOR BEERS:

If I flatten the tires on a rig with a manufactured home on it, I would qualify for most of the points in the bill. In a residential neighborhood, I would pull property values down. What you are talking about is not a problem. However, this law is looser than that. The challenge is in finding language that stops me from doing what I just described.

MS. FISHER:

The law already says we can put manufactured homes in existing neighborhoods if they comply with all the zoning ordinances. The majority of states have preemptive statutes that prohibit local jurisdictions from denying placement of a manufactured or modular home based on the age. A recent decision from the New York Supreme Court states towns trying to prohibit placement of homes more than ten years old was "irrational, unrelated to health, safety and welfare of residents."

CHAIR HARDY:

This requires a local government to adopt regulations allowing this. Nothing in statute prohibits them. As long as it is more liberal than this, they adopt any ordinance they want. Even before the law, there is nothing in statute that prohibits local governments from adopting regulations.

ASSEMBLYMAN MANENDO:

I know of a home that was burned down in a neighborhood built in the 1970s. The owners have been thinking about rebuilding a new home or buying a manufactured home from a friend. The manufactured home is six years old. Under current law, they would not be able to put the six-year-old home into a 37-year-old neighborhood. The neighbors were excited about the manufactured home because they thought it would be a great addition to the neighborhood.

SENATOR BEERS:

If they put a five-year-old home in, would they have to take it out the next year because it would be six years old?

ASSEMBLYMAN MANENDO:

Once it is affixed, it could stay there permanently.

JENNY N. WELSH (Nevada Association of Realtors):

The Nevada Association of Realtors is opposed to A.B. 358. Current statute is working fine. I have provided a handout with the average price for a manufactured home and the average price for a residential, stick-built home from 2004 to 2006 ([Exhibit K](#)). I have also provided pictures and information of manufactured homes for sale in Carson City and Lyon County ([Exhibit L](#)) and an e-mail about how it is hard to get a loan on a manufactured home not on the original site ([Exhibit M](#)).

TERESA B. MCKEE (Nevada Association of Realtors):

If a home is in a manufactured home park and moves to a residential neighborhood, you still have to upgrade the home to match roof pitches and architectural details, which could take a lot of money. Would that type of move still be affordable?

CHAIR HARDY:

We will close the hearing on A.B. 358. We are adjourned at 3:11 p.m.

RESPECTFULLY SUBMITTED:

Erin Miller,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____