

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

**Seventy-Fifth Session  
April 28, 2009**

The Committee on Government Affairs was called to order by Vice Chair David P. Bobzien at 9:03 a.m. on Tuesday, April 28, 2009, 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/75th2009/committees/](http://www.leg.state.nv.us/75th2009/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 K. Kirkpatrick, Chair  
Assemblyman David P. Bobzien, Vice Chair  
Assemblyman Paul Aizley  
Assemblyman Kelvin Atkinson  
Assemblyman Chad Christensen  
Assemblyman Jerry D. Claborn  
Assemblyman Ed A. Goedhart  
Assemblywoman April Mastroluca  
Assemblyman Harvey J. Munford  
Assemblywoman Peggy Pierce  
Assemblyman James A. Settelmeyer  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Debbie Smith, Washoe County Assembly  
District No. 30

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Cheryl Williams, Committee Secretary  
Olivia Lloyd, Committee Assistant  
Cyndie Carter, Committee Manager

**OTHERS PRESENT:**

Kim R. Wallin, State Controller, Office of the State Controller  
Brenda Laird, Chief Accountant, Office of the State Controller  
Keith Marcher, Senior Deputy Attorney General, Civil Division, Office of  
the Attorney General  
Marvin Leavitt, Overton, Nevada, Chairman, Committee on Local  
Government Finance  
Mary Walker, Minden, Nevada, representing Carson City, Douglas  
County, Lyon County, and Storey County  
Dino DiCianno, Executive Director, Department of Taxation  
Steve Walker, Minden, Nevada, representing Douglas County Mosquito  
Abatement District  
Sabra Smith-Newby, Director, Administrative Services, Clark County,  
Las Vegas, Nevada

**Vice Chair Bobzien:**

[Roll taken.] We will start the meeting with Senate Bill 63. Madam Controller,  
welcome back.

Senate Bill 63: Makes various changes concerning public financial  
administration. (BDR 31-493)

**Vice Chair Bobzien:**

Chair Kirkpatrick is in a meeting this morning.

**Kim R. Wallin, State Controller, Office of the State Controller:**

Senate Bill 63, as it was passed out of the Senate, cleans up those statutes that conflict with generally accepted accounting principles (GAAP), which I have to follow. It removes those reports that we do not need anymore because we have other methods of obtaining that same information and data.

For the remainder of my testimony I am going to refer to generally accepted accounting principles as GAAP. To give you some background, the statutes that I am governed by allow me to not follow *Nevada Revised Statutes* (NRS) if they do not comply with GAAP. The reason for this is if we did not follow GAAP we could put our audit opinion in jeopardy and end up with a qualified opinion, which would have a detrimental affect on our bond rating.

I know that the bill talks about moving certain accounts to different funds, but we have already been doing that in order to comply with GAAP. So it is not a change in practice; it is just a necessary change in the law to comply with what we are actually doing right now.

Prior to this session, no one was consulting with the Controller's Office to see if the law complied with GAAP, but this year Legal has been very good about contacting our office whenever they create a new fund and asking us if this complies with GAAP. So we have been able to keep the laws in compliance this year.

Why have laws on the books if we do not have to follow them? In our case, if we have a law on the books that does not comply with GAAP, I do not have to follow it.

I also want to propose an amendment, but I would like to see if you have any questions on the bill as it stands right now before I proceed further.

**Vice Chair Bobzien:**

Do we have any questions from the Committee? I have one on section 8. Would you talk a little about why we are going from the Motor Vehicle Fund to the State Highway Fund? I know that those two are closely connected.

**Brenda Laird, Chief Accountant, Office of the State Controller:**

The revolving account in section 8 is moving from the Motor Vehicle Fund to the State Highway Fund because the Motor Vehicle Fund is an agency fund, and it is for money that does not belong to the state; we just hold it in a trustee capacity. This revolving account does not meet that definition; it is actually revenues that belong to the state and there will be expenditures from this

account. This account should be in a non-agency fund, which the Highway Fund is—a special revenue fund and more appropriate for this money.

**Vice Chair Bobzien:**

Thank you. Any other questions? Please proceed with the amendment.

**Kim Wallin:**

You should have the amendment ([Exhibit C](#)) in front of you. This amendment is to clarify some provisions in NRS 353.220, which pertains to procedures for revisions of work programs and allotments.

After a ruling was issued last year by the Attorney General at my request, all budget cuts must go to the Interim Finance Committee (IFC) because of NRS 353.220. The Budget Division Office then interpreted that ruling to say any change to the work program, even if it is to carry a balance forward or a balance forward to a reserve account, must go to IFC. Prior to this ruling, agencies would prepare one work program for carrying funds forward that had no change in purpose and it did not have to go to IFC. As a result, this has increased the number of work programs going to the IFC and the waste of agencies' staff time, because they have to attend IFC meetings in case there are questions.

Another problem that has been created as a result of this new interpretation is that agencies have to wait until the IFC meets in September to get the approval. Technically, they are violating the law because they have to use next year's money before they finish using the current year's money because they have not been able to roll it forward yet. This amendment would correct these issues and problems and clear the IFC agenda for more important matters.

In subsection 3, the changes, which are in red, would allow agencies or departments that are needing to balance forward non-general funds with no change in purpose or category, and which have previously been approved by the IFC and the Chief of the Budget Division, to be submitted directly to the Controller's Office, which will then approve it if it meets these criteria. If they do not meet the criteria, then it would be referred to the Chief and they would have to go through the normal channels.

Unfortunately, agencies cannot come and testify before you today in support of this bill because they are prevented, by federal laws, from lobbying for these things. However, we do have representatives from the State Treasurer's Office here today.

This is the only change. Like I said, up until this last year the agencies did not have to go to the IFC for their balance boards. It was just after the ruling came out and the new interpretation of the law, so this is a clarification of the law. I have submitted this amendment to the Legislative Counsel Bureau fiscal staff, and they are taking a look at it to make sure that it is okay. I have not heard back one way or the other.

**Vice Chair Bobzien:**

Do we have any questions on the amendment?

**Assemblyman Settlemeyer:**

I was just wondering if you had any idea what the IFC thought of this amendment? Have they felt that maybe they were stepping on someone's authority? My other question is, what if we inserted into this amendment that when the non-general funds balance forward they at least send a report to the IFC regarding what they have done?

**Kim Wallin:**

Yes, we could notify them. That would be a good idea and we are trying to work out some language to say, "Okay, here is the notification." That would be a good point. I have spoken to Speaker Buckley about this and she said, "Anything to streamline, to make things more efficient, would be great." As long as the IFC feels comfortable with the checks and balances they would be fine with it. They are waiting on their fiscal staff to advise them.

**Vice Chair Bobzien:**

Do you have anything else this morning?

**Kim Wallin:**

No, Mr. Vice Chair, I do not have anything else.

**Vice Chair Bobzien:**

Do we have anyone else in support of S.B. 63? [There were none.] Is there anyone opposed? [There were none.] Is there anyone who is neutral and would like to testify? Seeing none, we are closing the hearing on S.B. 63 and opening the hearing on Senate Bill 76 (1st Reprint).

**Senate Bill 76 (1st Reprint):** Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies. (BDR 18-263)

**Keith Marcher, Senior Deputy Attorney General, Civil Division, Office of the Attorney General:**

Senate Bill 76 (1st Reprint) is a simple amendment to an existing statute, which is *Nevada Revised Statutes* (NRS) Chapter 233B.127, section 1, subsection 3, with regard to the summary suspension of licenses in our state. The amendment is simply put forth to clarify the procedure with regard to the issuing of the order for the summary suspension of a license. What this does is allow for the chair of the agency to issue the order. The chair of the agency would then exclude himself from any further proceedings in the case or any subsequent hearing, and the order would remain in effect for no more than 45 days. We think that this amendment protects the due process rights of the licensee while ensuring the public safety of the citizens of Nevada. I would be happy to answer any questions the Committee may have.

**Vice Chair Bobzien:**

Do we have any questions from the Committee?

**Assemblyman Stewart:**

Is there a 45-day limit now, or will there be a 45-day limit?

**Keith Marcher:**

No, the reason that we sought to put a fixed time frame in there is because the way the statute reads now you have to have a "prompt hearing," and there was a lot of contention over what "prompt" meant. So we thought we would just put a fixed time in there.

**Assemblyman Stewart:**

Thank you.

**Vice Chair Bobzien:**

Are there any other questions? I do not see anyone signed in for S.B. 76 (R1). Do we have anyone else in support of the bill? [There were none.] Is there anyone in opposition to the bill? [There were none.] Is there anyone neutral? [There were none.] With that we will close the hearing on S.B. 76 (R1) and open the hearing on Senate Bill 336.

**Senate Bill 336:** Removes the eligibility threshold for obtaining an exemption from certain requirements of the Local Government Budget and Finance Act. (BDR 31-1163)

**Marvin Leavitt, Overton, Nevada, Chairman, Committee on Local Government Finance:**

For those of you that are not familiar with the Committee on Local Government Finance, let me make a couple of comments regarding the function of the Committee and the role it has. This Committee is responsible for most regulation matters as they apply to local government finance in the state. This Committee serves as a liaison between the State Department of Taxation and local governments in matters relating to finance. The Committee has a number of other roles, such as working with those local governments that are in extreme financial difficulty.

This bill deals with a situation regarding very small local governments and what reporting requirements are necessary for audits and other reports that come from those local governments. We have found that in the last several years the cost of audits, because of changes particularly coming from the Governmental Accounting Standards Board (GASB), have increased substantially. An example would be the reporting on obligations regarding future payments for medical benefits, which in many cases require an actuary. In the reports we have found, the cost of these audits to the local governments, particularly the very small ones, have become very large in relation to their total revenue.

Right now there is a limit. The statute provides that those local governments that expend less than the \$200,000 can be exempt from these requirements. Mary Walker, also on the Committee on Local Government Finance, is now going to give more detail regarding the bill, and Mr. DiCianno, Executive Director of the Department of Taxation, can also answer any questions that you may have.

**Mary Walker, Minden, Nevada, representing Carson City, Douglas County, Lyon County, and Storey County:**

I am also on the Committee on Local Government Finance. I was appointed to the Committee by the Nevada State Board of Accountancy; I am a certified public accountant (CPA). Another member of the Committee, Beth Kohn-Cole, was also appointed by the Nevada State Board of Accountancy. Both of us took a look at the tremendous cost the smaller districts were incurring in regard to the new national accounting standards.

In some of these jurisdictions their auditing fees have doubled. What is happening, for example, is one small district may only have \$250,000 of expenditures, but they are paying \$13,000 to \$18,000 in audit fees—the audit fees have really climbed—and yet you have another entity that has \$18 million in expenditures and they are paying the same costs. When you have a full-blown audit, the smaller jurisdictions are looking at procedures, and

communication policies, and those types of things. What these smaller jurisdictions need in practical terms, because they are operating out of a checkbook, is a CPA to do a compilation or a review. In that case what they are looking at is specifically the dollar amounts of what came out of the bank, and what is being accounted for in what line items. They are really concentrating on the dollars themselves rather than these more complicated auditing procedures, as Mr. Leavitt has discussed.

We currently have a threshold. Any district which has expenditures less than \$200,000 can apply to the Department of Taxation to not have an audit. The Department of Taxation reviews that request and makes the determination whether they should or should not have an audit. What we want to do, instead of having a specific threshold, which has been there for eight to ten years, is to have the Committee on Local Government Finance be able, through the regulatory process, to establish those thresholds. At present, those regulatory processes require full-blown hearings, must have the Legislative Counsel Bureau (LCB) write the regulations, and then obtain final approval from the Legislative Commission. We do have checks and balances there.

What we are looking at is perhaps having a tiered approach. Again, all of this would be done through public hearings. But it would be a tiered approach where if you have, for example, expenditures less than \$500,000, it would not require an audit if the Department of Taxation concurred; \$500,000 to \$750,000, you would have a compilation and then a review; and perhaps anything over \$1 million would definitely require a full-blown audit. We just felt that as far as government efficiency, having a complete audit on these tiny entities when all they really need is a compilation or a review, is not a good use of money.

I think we can actually spend that money on the purposes for which they were established. It would save them in accounting fees and it is a cost-efficiency matter. It is just more practical and I think you are actually going to get a better result because these people are going to get a review or compilation that will look at those dollars. When I get in and do a compilation, I know where every one of those dollars came in and where they went. When you do an audit, you are just looking at certain things but you do not look at the whole financial picture because you are spending a lot of your time on these higher threshold national accounting standards. This is just a practical bill.

**Vice Chair Bobzien:**

I want to stop now for questions.



**Assemblyman Aizley:**

What are the terms compilation and review? Are those technical terms with descriptions, and would it be possible to send those descriptions to us?

**Mary Walker:**

Yes, they are, they are accounting technical terms, and I would be happy to send those to you.

**Assemblywoman Spiegel:**

I understand the intent and what you are looking to do, but I am uncomfortable taking out a minimum threshold without putting something in to show oversight. Have you had discussions about including a provision that would say something in the order of, if an audit was excused for an entity, there would be a required compilation or review with findings that could include a recommendation for a full-blown audit if the reviewer, or person doing the compilation, felt that there was something amiss?

**Marvin Leavitt:**

I suppose it could be possible to do that. The basic idea is to acknowledge that there can be a number of situations that can apply to various local governments. For instance, if a local government has a department that has had problems, we might want to provide a regulation that even though the department is under the monetary threshold, maybe they should not be granted an exception. The desire is to come up with requirements through the regulations that can fit various local governments that find themselves in various situations. One might be a compilation or a review. Speaking practically, the books are kept in someone's kitchen. It may be a mosquito abatement district where their sole purpose is to eradicate mosquitoes, and they might have just one employee, or maybe they hire an independent contractor, or something like that.

So, with these fairly small districts, you need to apply a standard that fits them. The reason we have written it fairly generally here is so we can have some latitude to try to make it fit. Of course, the Department of Taxation is going to make a final determination whether the entity should be granted the exemption. I think we can provide the safeguards to guarantee against abuse. If you look back, you find that the Committee on local Government Finance has not been overly generous with local governments. We have been fairly strict with local governments in the area of financial compliance. We have a very strong feeling that local governments need to stand up to the plate and be legitimate in their financial dealings.

[Chair Kirkpatrick came into meeting, but did not assume the chair.]

**Vice Chair Bobzien:**

Are there any questions?

**Assemblywoman Kirkpatrick:**

I have a question for Mr. DiCianno. Yesterday, when I met with Ms. Walker and Mr. Leavitt, I suggested that maybe in the other bill that was passed out of this house we include special district exemptions under your reporting requirement. Would that be a problem with you? That would ensure that we have some kind of accountability regarding who is getting what.

**Dino DiCianno, Executive Director, Department of Taxation:**

That would be fine. I think that would bolster this.

**Assemblywoman Kirkpatrick:**

Now I want to know how the process works. I read the minutes from the Senate side and there are about 266 taxing entities that would fall under this, but 70 more on top of the 34 that currently get the exemption. What is the process of determining whether or not they need an exemption, and is it done through a public hearing?

**Dino DiCianno:**

I am glad that you brought that up. Each year the Department of Taxation reviews 266 different budgets of local governments and currently, under the existing language of the statute, approximately 34 are exempt. If this bill passes, depending upon the public hearing and the language of the regulation, we believe up to 70 more would probably qualify. But, clearly, through the review process that we have and the current regulatory process, and then making a recommendation to the Committee on Local Government Finance, I believe it would ensure that there would be credibility as far as making a determination whether or not a local government should be exempt. We review their budgets annually and if we see something that is amiss, we report that to the Committee on Local Government Finance.

**Assemblywoman Kirkpatrick:**

As long as you are okay with that I will propose the amendment on the Senate side because I think it will fall under an exemption piece that the Legislature can feel comfortable with, knowing that it goes through a public process, as well as realizing that the smaller counties have to utilize most of their funds to do an audit that we review anyway.

I believe what happens currently is state law says you can borrow money from one fund and replace it within a year from another fund; is that correct?

**Dino DiCianno:**

There is a process where we review what you are referring to as an "inter-fund loan." We review it to determine whether or not it is appropriate or if there is a fund available to be able to do that, and we make a recommendation to that local government. If we deny it, then they have the ability to request an additional review. We have that authority.

**Assemblywoman Kirkpatrick:**

We do have the ability, for instance, if something comes back and does not look quite right on an accounting part, to ask for a full audit, correct?

**Dino DiCianno:**

That is absolutely correct.

**Assemblywoman Kirkpatrick:**

I am more comfortable with this bill, knowing that if the other bill passes, Mr. DiCianno has agreed to include that so we can see who is doing it, and also knowing that we have some oversight.

**Vice Chair Bobzien:**

Do we have any other questions?

**Assemblyman Claborn:**

We would not be getting into a diversion of funds, would we?

**Dino DiCianno:**

No, sir, not at all.

**Vice Chair Bobzien:**

I have one question for Ms. Walker. You mentioned setting up some sort of a tiered structure for different thresholds through regulation. What kind of distinguishing characteristics are you looking at for creating these different tiers? Is it the size of the board? Is it the number of employees? Is it what they do? What are your thoughts on that?

**Mary Walker:**

We are still looking at a dollar threshold, the amount of expenditures. That is what we currently follow and it is \$200,000 in the statutes now. I think that would work the best because people are used to that. Once you have a certain amount of expenditures then you go to the Department of Taxation and you ask

for their approval. We would follow that same methodology. We would just change those thresholds so that it would be a tiered structure of who would need a full-blown audit, who would need a compilation, who would need a review, and who underneath that does not have to have an audit, again with the approval of the Department of Taxation.

One of the things that the Department of Taxation does very well is come to the Committee on Local Government Finance at least once a year. Lately almost every meeting has been about what local governments are following—all of the different notifications they have to do, all of the different budget schedules, the quarterly reporting, and all of those other reportings. We get a schedule on what local governments are following and what they are not. They keep really good track of those local governments. If one comes in and they are below the threshold of, say, half a million dollars, but they have not followed through on their legal requirements as far as notification or other things, they are not going to be allowed to not have an audit. So there are other checks and balances that the Department uses to make sure that there is compliance.

**Vice Chair Bobzien:**

Are there any other questions?

**Assemblywoman Kirkpatrick:**

Could there be something within the regulations where we could include that after a certain period of time you would want the Department of Taxation to perform an audit? I just think that things might change within a five- to ten-year period. It is good policy to have the Department of Taxation come back regardless, so within the regulation process, is that something that...

**Marvin Leavitt:**

I would think that would be logical to do. I think then the regulation process would also give some criteria to the Department upon which they can judge whether special districts should be granted an exemption, such as, if they are not in compliance with certain laws. I will give you an example. Some local governments have borrowed money without going through the process, which we later discovered. I would think if we found out that a local government has done that, it would exclude them from this exemption and they would be required to have an audit. I think we can provide for those kinds of things in regulations—guidance to the Department when they make a determination as to whether an exemption should be granted.

**Assemblywoman Kirkpatrick:**

I would like to say for the freshman legislators, we do have a Legislative Commission that reviews all the regulations. A bill was passed last session to make sure that a regulation is seen twice and sometimes it could take eight or nine months to get the regulation right, but sometimes it can take just a few months. The Legislature does have the ability to stay on top of the process. Just for the record, Mr. DiCianno, I am going to propose that amendment on Assembly Bill 193 today in the Assembly Taxation Committee if you are good with it.

**Dino DiCianno:**

I am fine with it.

**Vice Chair Bobzien:**

Are there any other questions from the Committee? Mr. DiCianno, did you get everything on the record that you wanted to or do you have additional comments?

**Dino DiCianno:**

The only other comment I would make is that the Department of Taxation does support and is in favor of this bill, along with the amendments and anything that we can do to button up the regulation process, as the Chairwoman has indicated. We are glad to help.

**Vice Chair Bobzien:**

Thank you very much, Mr. DiCianno.

**Mary Walker:**

One additional thing. Clark County does have a friendly amendment, so we will let them come forward with it.

**Vice Chair Bobzien:**

Thank you for clarifying that. Mr. Walker, did you have comments that you wanted to share this morning?

**Steve Walker, Minden, Nevada, representing Douglas County Mosquito Abatement District:**

I am a board member of the Douglas County Mosquito Abatement District, and I am proud of it. I am putting a face on this bill. We have an audit report required because we spent \$254,000 of tax money. Our audit cost us \$13,221 last year, which is 6 percent of our total funding. We thought that was somewhat onerous. We went out for bids for a new audit this year. We received three bids, and \$13,000, again, was the lowest. We are a perfect

example of a special district that this bill would help. We have five board members and one and a half employees. Most of the expenditures are not on salary but on chemicals that control mosquitoes. Douglas County does our budget, the board members review the budget, and this is a complete overkill. The Douglas County Mosquito Abatement District supports this bill.

**Vice Chair Bobzien:**

Are there any questions from the Committee? Mr. Stewart, are you going to ask about the Vivid Dancer Damselfly?

**Assemblyman Stewart:**

Please do not steal my thunder. Have you thought of importing the Vivid Dancer Damselfly to control the mosquitoes?

**Steve Walker:**

One of the reasons that I am on the board is that I live in a wet area and the pond already has Damselflies, and I am very proud of that.

**Vice Chair Bobzien:**

Are there any other questions for Mr. Walker? [There were none.] Do we have anyone else in support of S.B. 336 either here in Carson City or down in Las Vegas? [There were none.] Do we have anyone in opposition who would like to testify? [There were none.] Ms. Smith-Newby, I believe you are signed in as neutral with an amendment.

**Sabra Smith-Newby, Director, Administrative Services, Clark County, Las Vegas, Nevada:**

You should all have a copy of our proposed friendly amendment ([Exhibit D](#)). This is intended to clean up an issue that occurs with respect to accounting. That issue is with respect to securities lending and the costs associated with that. During the budget process we have to estimate what the costs would be for those securities lending transactions, but we do not actually know what the final costs are until after the budget closes at the end of the year. So in some cases the costs have exceeded what is budgeted, which is technically an accounting violation. This amendment seeks to add in paragraph (l), the last sentence on the second page, an exemption for the "costs of securities lending transactions required to be reported by generally accepted accounting principles." Doing this would deal with our issue in terms of those accounting principles and making sure that we do not have any audit issues with them.

**Vice Chair Bobzien:**

Are there any questions?

**Assemblyman Christensen:**

I understand GAAP very well, and perhaps this has been discussed and I missed how that ties in here, but in referring to paragraph (I), can you give me an example of a cost of a securities lending transaction?

**Sabra Smith-Newby:**

I will do my best. Please understand that this is not my area of expertise. Local governments, and Clark County is one of those local governments, hold certain securities—very secure, very stable, desirable securities. Lending institutions must have a certain portion of these types of securities holdings in their portfolio. Local governments are allowed to lend their securities to the lending institutions in exchange for payment to the local government. When the securities are given back to the local government there are some transaction fees involved. It is beneficial to the local government because ultimately they get a profit on the lending of those securities and also on the investment of the funds they hold in exchange for the lending of the securities. So ultimately the local government makes money on those transactions. Nevertheless, we do have to account for the transaction fees that we incur as part of those transactions. So those transaction fees are the ones that we are trying to address with respect to this amendment. I hope that made sense.

**Assemblyman Christensen:**

Rick Phillips, one of Clark County's longtime portfolio managers, is a friend of mine and I have heard him talk about this. Clark County, having a pool of resources in its portfolio, wants to make that available to another lending institution, all approved under the law. There are fees that are paid as part of most financial transactions. In this case, Clark County would charge a fee for that service and this amendment, as you are addressing it in paragraph (I) at the bottom of page 2, would make sure it is recorded under GAAP.

**Sabra Smith-Newby:**

That is correct and you stated it much better than I could.

**Assemblyman Christensen:**

I just wanted to make sure that my understanding was correct. As she is presenting this amendment, Mr. Vice Chair, we have not seen if anyone opposes this amendment yet. I will wait to see if anyone does oppose it.

**Vice Chair Bobzien:**

Thank you for clarifying; I think it makes it a lot clearer. Are there any other questions from the Committee? Do we have anyone else who would like to speak to this bill and/or the amendment? [There were none.] I do have one quick question. Has the Senate reviewed the amendment? Yes/no?

**Sabra Smith-Newby:**

No, they have not. This is something that we would like to get on the bill. I would be happy to speak to whomever I need to speak with on the Senate side. But no, this is something that just came up on the radar and would be nice to fix. We are not trying to be shady.

**Vice Chair Bobzien:**

It would be helpful if you could give the Chair an update once that conversation has taken place.

**Sabra Smith-Newby:**

I imagine that you would like me to speak with the Chairman of Government Affairs on the Senate side.

**Vice Chair Bobzien:**

Yes, please. With that, we will close the hearing on S.B. 336.

[Chair Kirkpatrick assumed the chair.]

**Assembly Bill 463:** Restricts a department, division or other agency of this State or a local government from employing a person as a consultant. (BDR 23-1057)

**Chair Kirkpatrick:**

At this time is there any public comment? I am trying to get Assemblywoman Smith down here because Assembly Bill 463 came out of this Committee. It was a consulting bill and Ms. Smith was making some changes to it. Ms. Smith was granted a waiver that said the bill had to be off the floor by May 1. May 1 is Friday. Ms. Smith has been working on the amendment to clarify a lot of the pieces. I think she addressed Mr. Settelmeyer's one-year cooling off period. I was trying to have her come down and talk to us because it did come out of our Committee. It will be presented on the floor tomorrow and needs to be passed out and on the floor by 2 o'clock to continue on its way. I did not want the Committee to be blindsided on the floor when it is introduced as an emergency measure.



I will tell you that I have seen the amendment myself. The amendment pretty much requires the Nevada System of Higher Education (NSHE) and school districts to only do the reporting part of it. The cooling off period changes to one year. It also says that if your contracts last more than two years, you have to go before the Interim Finance Committee (IFC). There is a threshold on certain levels of the amendments so it is pretty clear on who has to report at what time.

**Assemblyman Aizley:**

There was supposed to be a definition of "consultant" in the amendment; have you seen that?

**Chair Kirkpatrick:**

I am not sure that they define "consultant" as much as they define a "sole proprietor" who provides professional services for the State of Nevada. I think that is more in line with what was done.

**Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:**

Would you like to talk about where we are with this bill?

**Chair Kirkpatrick:**

I just told them it has to be off the floor by Wednesday. The bill will be introduced as an emergency measure and the Committee was asking about some of the changes you made. I just outlined a few of them, so you may wish to elaborate on the changes.

**Assemblywoman Smith:**

The bill has been granted a waiver, but when you have a waiver it has to be time-certain, so we picked April 30. I figured if I picked May 15, May 14 would come around and I would still be trying to figure it out, so we picked April 30, which is Thursday. But we do not have floor on Thursday, so that means that this bill needs to move tomorrow.

We are doing a couple of things. One of the things unrelated to the bill is we are requesting agencies to provide us with information about their current use of consultants—what contracts they have out there now, how much and how long they are for—because we are starting to uncover contracts that were done for three, four, or five years, which seems kind of crazy to me. So, number one, we want to get a handle on what is going on.

I met with our Legal staff and they suggested maybe some kind of a tiered approach so that we target different aspects of this issue. One would be, as we discussed in the Committee, the reporting piece. For higher education, and for school districts, I added boards and commissions to that list because, while they are a government entity, they are somewhat separate. Those groups would all just report their use of consultants and then we would have another level requiring the departments to provide information to the Interim Finance Committee (IFC) about who they are employing as consultants. They would have to note if they are using a former employee so that we could then make that nexus and learn whether we have people who are retired and coming back to work. That would be another level.

The other level, which we have been calling "strict scrutiny," would be for the most...well, egregious is not really the right term, but we would basically prohibit the use of or the hiring of a consultant who is a current employee. I know it sounds crazy that we have to put that in the law, but that is what we are finding is happening. They would have to come to Interim Finance if they wanted to hire a current employee, and there would have to be some extremely compelling reason to justify their being hired.

The other reason they would have to come to IFC is if they wanted to hire a consultant for more than two years. Two years seems reasonable to me, as it did to our Legal staff. We should not be signing contracts for more than that length of time.

I hate the idea that we are obligating future legislators to these contracts, but consider that if you hired someone and signed a contract in the spring of the legislative session, it would be good for only a few months. That makes it pretty tough. Two years seemed a reasonable amount of time, so we added that in.

We kept the cooling off period at one year. I was thinking about going to two years, but the staff reminded us that once a person has been out of the system for a year, probably any agency would realize that they could live without the person. We talked about training our workers and making sure that we have people who are coming up the ranks who know the information. So, in that regard, a cooling off period made sense.

The other issue that I do not think we had even gotten into when I was here presenting the bill is that we have discovered we are using a lot of temp agencies and we do not know who is working for those temp agencies. It has also become a possible back door for rehiring recently retired employees. So we

will require the temp agencies to provide information on who they are employing so that the cooling off period would apply to those employees also.

One of the other bigger issues is the budgeting component. There will be a clause in the bill requiring this to become part of the budgeting process so that as the subcommittees go through the budgets each session, we will be looking at these contractual issues to make sure that we are not missing anything.

The last piece is having the Legislative Auditor have these contracts as part of their routine examinations. The Auditor can work with the Controller just to make sure that these are all being looked at on a regular basis. We have found that the Attorney General and the Board of Examiners examine the contracts, but all they really look at is form; they do not pass judgment about whether something makes sense or not because that is the job of the agency. If we require the agency to do their due diligence, and the others just look at the form, then that sort of covers all the bases.

That is where we landed on all of the accountability pieces. I think it is fair and it does not go in any extreme direction. I wanted to give us a couple of years to see what kind of information we learn through this process, and then a future Legislature can always come back and decide to go another step, but I think this bill does a good job. I think that our Legal staff has really done a great job of working up this bill.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblyman Claborn:**

I think this bill might also control and help us get a handle on the double-dipping. I think it is great. Thank you for bringing it in.

**Assemblywoman Smith:**

Absolutely, I think it is an important issue, and hopefully the bill will do that.

**Assemblyman Settlemeyer:**

I think your bill is great and it is going to provide a lot of good information. I can see the double-dipping that you are indicating. I do find it interesting that you are saying that there will be a clause in the bill that allows for emergency situations where a person can be employed by the state and still be a consultant. What you are saying, in this situation, the agency would have to go to the IFC and ask for extenuating circumstances, correct?

**Assemblywoman Smith:**

I worded that generally so the agency could come and make a request. There are probably unforeseen situations where an agency might need to do that, so rather than completely cut that off, it seemed more reasonable that in any situation that does not meet this intent the agency could always come and ask permission.

**Assemblyman Settelmeyer:**

Does that include the people who are in the cooling off period? Are we saying that if you are employed you have the right to come in for extenuating circumstances and that if you are not employed...

**Assemblywoman Smith:**

Yes, and you brought the issue up that even in the cooling off period you might have a certain need within an agency for that one person. It just made sense to us that there should always be an appeal process for any given situation. I personally cannot fathom any reason that a current employee should also be a consultant, but I am open to them at least being able to make an appeal. I quite frankly think that once this all goes into place, the transparency and accountability are going to seriously change this type of behavior and it will become a nonissue.

**Assemblyman Settelmeyer:**

I appreciate the work you have done on this bill and also for adding the concept that if someone has been gone for eight months and someone else develops cancer, then that person can come back and can be retrained if he gets permission from the IFC. Thank you for your work.

**Assemblywoman Smith:**

Absolutely, short term makes sense.

**Chair Kirkpatrick:**

Are there any other questions from the Committee? [There were none.] Just for the Committee, we never reported this bill to the floor, so we can rescind our amendment that we put on the bill. We talked about this, but I did not have it clear, that the Committee can rescind the amendment that we put on the bill and rerefer it to the floor with no recommendation, so that Assemblywoman Smith can put her amendment on tomorrow as well.

ASSEMBLYMAN SETTELMAYER MOVED TO RESCIND THE  
AMENDMENT TO ASSEMBLY BILL 463.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

**Assemblywoman Smith:**

May I please make a comment?

**Chair Kirkpatrick:**

Yes.

**Assemblywoman Smith:**

I just wanted the Committee to know that the reporting requirements we came up with the last time I was here will remain in the bill as well—the things that we ask them to report.

**Chair Kirkpatrick:**

We have a motion to rescind the Committee's prior action. Is there any discussion? [There was none.] All those in favor please say aye? Any opposed?

THE MOTION PASSED. (ASSEMBLYMAN ATKINSON WAS  
ABSENT FOR THE VOTE.)

Now we need a motion to send A.B. 463 to the floor without recommendation.

ASSEMBLYMAN CLABORN MOVED TO PASS WITHOUT  
RECOMMENDATION ASSEMBLY BILL 463.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Is there any further discussion?

**Assemblyman Aizley:**

I will vote for the bill, but I would still like to reserve the right to vote against it when I see the bill.

**Chair Kirkpatrick:**

Is there any other discussion? All those in favor please say aye? Any opposed?

THE MOTION PASSED. (ASSEMBLYMAN ATKINSON WAS  
ABSENT FOR THE VOTE. ASSEMBLYMAN AIZLEY RESERVED  
THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR.)

For the Committee, I feel that it is important to have this process as public as possible because I hate the whole "ram-n-jam" thing on the floor. Thank you for indulging us. This way you will not be surprised tomorrow when you see the bill on the floor, and it will give you enough time to read the bill, plus we will all be looking for it.

Is there any public comment? Is there anything from the Committee? We do have some other bills we can hear. Our goal, as a Committee, is to be out of Committee by May 11. We will have some Public Employees' Retirement System (PERS) and Public Employees' Benefit Program (PEBP) bills that will come over from Senate Finance. We need all the time we can get to be able to hear those in the policy committee and I want to get everything else finished so that we are not holding things up.

With that, meeting adjourned [at 9:59 a.m.].

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 28, 2009

**Time of Meeting:** 9:03 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 63	C	Kim Wallin	Amendment
A.B. 336	D	Sabra Smith-Newby	Amendment