

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

**Seventy-Fifth Session  
May 6, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:03 a.m. on Wednesday, May 6, 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](#)) and the Attendance Roster ([Exhibit B](#)), 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 Chad Christensen  
Assemblyman Jerry D. Claborn  
Assemblyman Ed A. Goedhart  
Assemblywoman April Mastroluca  
Assemblyman Harvey J. Munford  
Assemblywoman Peggy Pierce  
Assemblyman James A. Settelmeyer  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Kelvin Atkinson (excused)  
Assemblywoman Ellen B. Spiegel (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Randolph Townsend, Washoe County Senatorial District No. 4

Minutes ID: 1201

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**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Cyndie Carter, Committee Manager  
Denise Sins, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Michael D. Hillerby, Executive Vice President, Wingfield Nevada Group,  
Reno, Nevada, representing Coyote Springs Investment, LLC  
Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas,  
Nevada  
David L. Howard, Reno, Nevada, representing the Northern Nevada  
Chapter, National Association of Industrial and Office Properties  
Dan Musgrove, Las Vegas, Nevada, representing Southern Nevada  
Chapter, National Association of Industrial and Office Properties

**Chair Kirkpatrick:**

[Roll taken.] We will take a 10-minute recess.

[The Committee reconvened.]

We will now begin the hearing on Senate Bill 248 (1st Reprint).

**Senate Bill 248 (1st Reprint):** Authorizes the extension of the validity of certain building permits and development agreements beyond the original expiration date under certain circumstances. (BDR 22-981)

**Senator Randolph Townsend, Washoe County Senatorial District No. 4:**

The bill in front of your Committee today was a result of my driving around in southern Nevada and here in northern Nevada, in these terrible economic times, and seeing a great deal of land—the kind of land that used to be built on immediately—remaining vacant. Most of that land had been identified by developers for the purposes of building residential communities. In southern Nevada, those communities are very large, so they require a lot of land. Due to the lack of land and liquidity, those projects have not gone forward.

Traditionally, building permits issued by local government have a sunset clause. Transmission of renewable energy is more available through the distribution system in the urban centers than it is out in our rural communities. As a result, I brought this bill forward to allow local government to work with developers, so if the developers cannot get financing for residential, commercial, or industrial

sites, they might be able to, in today's world, get financing for renewable energy development.

This bill would allow local government to extend the permits for residential, commercial, or industrial developments if they put renewable energy on those sites. That is as simple as this bill gets. It was an opportunity to work with local government and give them some flexibility to work with developers on their needs. Developers must stay financially alive, because if they cannot build, they may not be able to obtain the financing that is necessary. This bill may allow them to joint venture and find other financial opportunities that they would otherwise be prevented from utilizing. So hopefully this is an opportunity for all parties to work together—renewable energy developers, residential developers, and local government—to look at this new green economy and bring some of it to fruition. So, Madam Chair, this is a simple effort, and I will leave it to the Committee's discretion on how they want to proceed. I appreciate the opportunity to be here today.

**Assemblyman Bobzien:**

This is a really interesting idea. How do we determine if financing is not available? Is it up to the developer to come forward and say, "I have a problem with the capital markets that cannot do it; however, I can get financing over here?" Whose word are we looking for?

**Senator Townsend:**

The issue here would be one of a literal market decision. If you cannot find financing for your residential, commercial, or industrial components, the only way you are going to get an extension on your permitting would be to have new financing for a renewable project. You are going to have to do something, or local government will allow that permit to expire, and then you will have to come in and reapply. As you know, when a permit expires, it is a very expensive and lengthy process.

For those of you from northern Nevada, as we drive home at night, we see a sign at Steamboat Springs that has promised a hotel/casino for about 15 years. It has had a couple of owners, but that is the kind of thing we are trying to avoid. If you have ownership in something, do something positive with the land. I think it is more of a market decision, but that would certainly be up to local government. We are not trying to burden them with anything more but to give them opportunities to work with our friends in the development community.

**Assemblyman Bobzien:**

I can appreciate that, but essentially, it is the developers' responsibility to step forward, and local government has to say, "Okay, based on their word or whatever documentation they can provide us, we concur no financing is available for this project; however, they have been able to secure financing for either of the other two projects."

**Senator Townsend:**

There is also an amendment. We have a number of energy bills that I know your house will process. One of the bills that we are processing in the Senate Energy Committee involves local government, particularly the City of Henderson, which brought forward an amendment to allow them to use bonding capacity to help small businesses and strip malls do some distributive energy generation that can help "shave the peak" during high periods of demand. That amendment will allow the cities to work with developers and, perhaps, joint venture with the developer on their own; they would not need to bring in a third party. There is some real opportunity as we work through this, but that is going to depend on the imagination and, obviously, the liquidity of local government and the financial community.

**Assemblyman Bobzien:**

I certainly appreciate that concept, but I would like to see it extended to residential.

**Assemblyman Aizley:**

Are there any inherent zoning problems with these proposals? Such as, if you have a piece of land that was zoned for building development, and now some kind of a factory or power generator is going to show up, will there be conflict in the zoning?

**Senator Townsend:**

It is still left up to the local government to make that determination. This does not mandate that, if you have a renewable opportunity independent from your current zoning, it would have to be converted to the new zoning; that is a local government decision. Those of us who have been around this building for a while have seen one or two efforts to attempt to dictate to local government about zoning, but those attempts have never been met with a lot of warmth, so we tried to avoid that.

**Assemblywoman Pierce:**

Given that this is a reaction to the current financial situation, did you consider putting a sunset clause in the bill?

**Senator Townsend:**

I did not, but if that pleases the Committee, it certainly would not bother me at all. I think that is a good point. We do not know how long this economic turndown is going to last. We would like it to get fixed by Monday, but that is not likely to happen. A sunset would give the next session of the Legislature an opportunity to review the legislation and decide whether they want to extend it or not. I would have no problem with that whatsoever.

**Assemblyman Goedhart:**

What if a developer could not get the financing for a residential or commercial project, and he went to the building inspector and said that he had financing for a renewable green energy project, but then, ultimately, he could not complete his project due to the many people building renewable, green energy projects. Does that give him or her an opportunity to convert that back to a residential or commercial project, as originally envisioned?

**Senator Townsend:**

That would depend on the time extension of the original permit that is determined by local government. They may give you a one-year extension to find out if your financing is real for a renewable project; they may give you 18 months to 2 years. In that time, if the economy does come around, and you have stayed within your extended permit time, then you are fine. If you have not, then you have to go in and renegotiate with local government.

**Assemblyman Goedhart:**

Once again, it gives local government the ability and discretion to craft an extension that they feel comfortable with.

**Senator Townsend:**

One of the things that we try to do, but cannot, is write a bill based on personalities. That is the ability of the parties that are working together to find out each individual's needs without getting outside the realm of the bill. You cannot just zone something because you like this guy and he has a great idea. But in the case of extending permits, this is where local government and developers have to come up with creative solutions to the challenges we face, and hopefully this helps the dialogue.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] Is there anyone else who would like to testify in support of Senate Bill 248 (1st Reprint)?

**Michael D. Hillerby, Executive Vice President, Wingfield Nevada Group, Reno, Nevada, representing Coyote Springs Investment, LLC:**

We are in support of the bill. As we look at development, we must consider that the Legislature has had a long standing policy decision—through a variety of mechanisms, from the renewable portfolio standards and others—of encouraging the development of alternative energy in this state. I want to address the question that Assemblywoman Pierce asked Senator Townsend. Certainly the current environment makes this, perhaps, more timely, but given that we have a long standing legislative policy declaration of supporting the development of renewable energy, I would argue that we probably do not need to put a sunset on it. At any point, when this becomes an option for someone, and we are trying to attract these kinds of developments, we think this might be a useful tool to have in the arsenal.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] How often do you think this is going to happen? I think it might happen once or twice.

**Michael Hillerby:**

It is probably going to be fairly rare. One change that was made from the original version of the bill to the reprint was to change that a building official "may extend." It originally said "shall," and that has been changed to "may" so it is permissive to local government. That is on page 2, line 21. The likelihood of all of these things falling into place at the same time will probably be relatively rare, but again, given the circumstances, it would be nice if that was an option, particularly since we made that policy decision to encourage renewable energy here.

**Chair Kirkpatrick:**

Every local jurisdiction has different requirements for their commercial and residential zoning regulations. I do not see acreage in here; is that so that they will do it all by ordinance? In North Las Vegas you can have a convenience commercial on a three-acre parcel, but in Clark County, it has to be on a five-acre parcel, so how would you determine what the boundaries are for residential development? It would be a big difference if somebody came in with just five lots for an infill development compared to someone coming in with a master planned community.

**Michael Hillerby:**

There may be some local government representatives here who could better address that. From the previous testimony and working on the bill, I think you are correct. The local government level would handle that. But as a practical matter, there will be some minimum parcel sizes to qualify as renewable

generation projects. It would not be feasible to build a plant that is significant in size, to put solar mirrors or biomass or anything else on it. So, it is really not a matter of being able to put in a small infill parcel. There are obviously underlying zoning considerations, which this bill does not address for the very good reason that it needs to be handled locally. So I think, back to one of your earlier questions, from an operative perspective, that further limits the number of times this is likely to be used. It will have to be a sizable project, located where power is available and where other utilities can be installed. This can be funneled down to a narrow number of projects that this is likely to affect.

**Chair Kirkpatrick:**

The only reason I asked you is because not one local government signed to speak on this bill.

**Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada:**

We are in support of the bill. I would grant the Chair's point that I do not think this will happen relatively often. I think the biggest reason that we support the bill is this is an opportunity to build these projects on land that has already been disturbed or already planned for some sort of development. It reduces the amount of land that is disturbed, which is beneficial for remote areas or areas in which there are sensitive wildlife issues. It also gives us the opportunity to do something productive that will help us all.

**Chair Kirkpatrick:**

Are there any questions from the Committee? [There were none.]

**David L. Howard, Reno, Nevada, representing the Northern Nevada Chapter, National Association of Industrial and Office Properties:**

We would like to stand up in support of this bill. It is just one more development opportunity, and we need as many as we can get today. Senator Townsend mentioned a parcel at Steamboat Springs, in the southeast corner of Highway 395 and Highway 431, which has had a sign on it for many years. That particular piece of property sits on a geothermal field. If you look when you drive home tonight, you will see that there is a geothermal plant already in operation to the immediate west of that parcel. This may present an opportunity for the owners of that property to extend their permitting process and get something going on that parcel, which has been vacant, as Senator Townsend said, for quite some time.

**Chair Kirkpatrick:**

I would think that within your industry this would be a big opportunity for commercial investors to do something with their land in the meantime.

**Assemblyman Bobzien:**

Was there any discussion on the Senate side about how the Workforce Investment Partnership Act (WIPA) would come into play with this? We have the local regulatory aspect of this, but I am assuming a large project is going to have to go through the WIPA process at the same time. I do not know if there is anything we are missing as far as tripping up those two processes and trying to combine them. I was hoping someone from the Public Utilities Commission (PUC) could give us that information. That may be a question for Research.

**Chair Kirkpatrick:**

Is there anyone else who would like to testify in support of S.B. 248 (R1)? [There was no one.] One thing missing from the bill is a requirement to report back to the Energy Office. I think that if we are going to have these projects, we should create a database across the state to determine how they are working and what they have turned out. One of the things we do not do is promote a lot of the good things in our state, because we do not know what local government is doing. I think that if a report came back to the Energy Office, it could be a large part of our marketing campaign. I do not see that provision in this bill, and I would be curious to hear from the Committee about their thoughts either way.

**Dan Musgrove, Las Vegas, Nevada, representing Southern Nevada Chapter, National Association of Industrial and Office Properties:**

I want to add a quick "me too" on behalf of the Southern Nevada National Association of Industrial and Office Properties (NAIOP). Mr. Howard's comments were right on point.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Is there anyone who would like to testify in support, opposition, or neutral on S.B. 248 (R1)? [There were none.] With that, we are going to close the hearing on S.B. 248 (R1).



Senator Horsford is unavailable to testify on Senate Bill 239 (1st Reprint). Are there any comments from the public? [There were none.] Are there any comments from the Committee? [There were none.] With that, we will close the hearing until 9:00 a.m. tomorrow.

[Meeting adjourned at 9:38 a.m.]

RESPECTFULLY SUBMITTED:

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Denise Sins  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** May 6, 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