

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

**Seventy-Fifth Session  
March 24, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m. on Tuesday, March 24, 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  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman James Settlemeyer (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Joseph M. Hogan, Clark County Assembly District No. 10  
Assemblyman Pete Goicoechea, Assembly District No. 35

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Cynthia Carter, Committee Manager  
Michelle Smothers, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Launce Rake, Communications Director, Progressive Leadership Alliance  
of Nevada, Las Vegas, Nevada  
Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas,  
Nevada  
Joe Johnson, representing Toiyabe Chapter, Sierra Club, Reno, Nevada  
Susan Lynn, Coordinator, Great Basin Water Network, Reno, Nevada  
Dennis Porter, Director, Utility Services, City of Henderson, Nevada  
Edwin D. James, P.E., General Manager, Carson Water Subconservancy  
District, Carson City, Nevada  
Daniel R. Sweeney, Town Manager, Round Mountain, Nevada  
Mike Nevin, Director, Public Works, Storey County, Virginia City, Nevada  
Jeff Fontaine, Executive Director, Nevada Association of Counties,  
Carson City, Nevada  
Bob Foerster, Executive Director, Nevada Rural Water Association,  
Carson City, Nevada  
John A. Erwin, Director, Resources Planning and Development, Truckee  
Meadows Water Authority, Reno, Nevada  
Carl Ruschmeyer, Director, Public Works, Douglas County, Minden,  
Nevada  
Ken Arnold, Deputy Director, Public Works, Carson City, Nevada  
Bjorn Selinder, Fallon, Nevada, representing Churchill, Eureka, and Elko  
Counties, Nevada  
Mike Workman, Director, Lyon County Utilities Department, Dayton,  
Nevada  
Jason King, Deputy State Engineer, State Engineer's Office, Division of  
Water Resources, Department of Conservation and Natural  
Resources

Andy Belanger, Manager, Management Services Division, Las Vegas Valley Water District, Southern Nevada Water Authority, Las Vegas, Nevada

Steve K. Walker, Minden, Nevada, representing Truckee River Water Authority, Reno, Nevada

David K. Schumann, Vice Chairman, Nevada Committee for Full Statehood, Sparks, Nevada

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

Vahid Behmaram, Water Rights Manager, Department of Water Resources, Washoe County, Reno, Nevada

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada, Carson City, Nevada

Allen Biaggi, Director, Department of Conservation and Natural Resources

**Chair Kirkpatrick:**

[Roll called. Chair listed bills to be discussed in Thursday's work session.]

With that, we are going to start with Mr. Hogan and open the hearing on Assembly Bill 376.

**Assembly Bill 376:** Revises provisions relating to the conservation of water.  
(BDR 48-680)

**Assemblyman Joseph M. Hogan, Clark County Assembly District No. 10:**

In the 2007 Session, the Committee, the Legislature, and Governor Gibbons approved Assembly Bill No. 331 of the 74th Session, which established that water conservation in Nevada should be accomplished through, among other things, conservation pricing. That 2007 bill also called for water agencies to report their customers' water consumption in gallons per person per day.

Today, with A.B. 376, we are taking another step toward successful water conservation. This bill, without imposing any real burden or cost, will give water providers and their customers an opportunity to consider the impact of water conservation on their communities. The requirements of this bill are very simple and are found in section 1. Section 2 defines the term "supplier of water" and excludes the smaller suppliers. Section 3 contains the effective date.

In section 1, the bill calls for the large water suppliers to estimate the amount of water that would be saved due to their proposed change in water rates. You may recall from the 74th Session that conservation pricing involves pricing the water so as to generate a signal to water users to practice conservation and thereby save them money. When a water rate change is being proposed, that is exactly the best time to make the conservation effect part of the discussion. It

helps the public understand the philosophy of water conservation and familiarizes people with the term "gallons per person per day" as a way of measuring how effective their conservation efforts are, as compared to other localities. It is a good way to bring citizens into the water conservation discussion.

This requirement also increases public awareness of how water rates can contribute to meeting conservation goals. It provides water suppliers with a very positive justification for a rate change. Even though the rate change may have been found necessary for business reasons, it also may reduce consumption and may attract additional public support for that reason.

Section 1 also requires that if the rate change is adopted, the water supplier will provide the State Engineer with the actual change in water use after 12 months, and again after 24 months. The State Engineer will simply post the estimates on his website as they come to him, so that there is full public access to these estimates of the rate changes' effect. The bill is as simple as that, yet I believe it will stimulate more public awareness and support for the kind of water conservation we need here in America's driest state. In my discussions with numerous parties, I heard several concerns, and I want to share them with you because they have been seriously considered and in most cases accommodated. Some people expressed concern about administrative burden. Two actions were taken to ease these concerns. First, the smaller water providers, constituting 80 percent of the state's suppliers, were excluded from the bill by tightening the definition.

**Chair Kirkpatrick:**

Are you referring to the amendment, or is it in the original bill?

**Assemblyman Hogan:**

It is in the original bill. I got the amendments late yesterday and have not had a chance to fully evaluate them, but I will consider any amendments as long as they preserve the principle that the bill is trying to establish. My reference is only to what is in the bill as offered.

The second action taken was cutting the original bill draft request (BDR) requirement of four semiannual reports of actual water savings to two reports, to ease the burden that it would represent. It involves sending a single number to the State Engineer, so I did not consider it too much of a burden, but I am happy to accommodate that suggestion as long as we do not lose the impact of the bill.

Finally, some people were concerned about voiding the rate change if the water supplier refuses to provide the estimate for the two subsequent reports. The appropriate answer would be that the laws we pass should be self-enforcing. When both Houses of the Legislature choose to protect the citizens' interests in water conservation and Governor Gibbons signs the bill into law, water suppliers need to follow that law, and I am confident they will. I trust the Committee will view A.B. 376 as an opportunity to support the cause of water conservation, increase the public awareness of conservation pricing, and to do so without any appreciable cost or administrative burden.

I do have two offered amendments, which certainly will be considered, and if we are able to work out an agreement on those, I will furnish them as soon as possible. Frankly, the bill is worthy of your consideration as it is, and I would have no concerns if it were passed as it is, but I am open to considering the amendments. That is the extent of my statement.

**Chair Kirkpatrick:**

I know of only one amendment. Are there any questions from the Committee? [There were none.] We will now move to Las Vegas to see if anyone would like to testify in support of A.B. 376.

**Launce Rake, Communications Director, Progressive Leadership Alliance of Nevada, Las Vegas, Nevada:**

I want to give a few words in support of Assemblyman Hogan's bill. It is important to understand the context in which A.B. 376 was offered. Assemblyman Hogan is a very concerned member of the community and has been working on water conservation issues for some time. He actually attended a Las Vegas Valley Water District meeting and asked how much water is being saved by the conservation pricing; I would call it the very weak conservation pricing that was established a couple years ago. That was of some importance to me because I served on the Committee that set the new water rates. Although we have a tiered structure in Las Vegas to encourage conservation, as I said, it is very weak. It could be a lot more aggressive, and I know we could save a lot more water. There was a significant push-back by the water authority, the water district, and the water agencies against using a more structured and deeper conservation method. The water district said it was none of anybody's business how much water is being saved by the conservation pricing. They stated they are not under any requirement to provide that information to the public. That is very troubling.

We would like to see a water district and a water authority that are more responsive to questions from the public and will provide that information. If we provide the information, we can avoid some of the horror stories that have been

reported in the *Las Vegas Review-Journal* about water users and profligate water abusers who are flushing millions of gallons of water down the drain, throwing away one of our most precious resources. Again, I salute Assemblyman Hogan for introducing this bill. I hope you will consider it and pass it.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] We will now come back to Carson City.

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

The Nevada Conservation League is in support of this legislation. Assemblyman Hogan and Mr. Rake have outlined some of the problems that we have observed in terms of water rate structure, specifically within the Las Vegas area. We feel that water in this state is our most precious natural resource. We have less of it than any other state, and we need to do everything we can to encourage water conservation in Nevada. This bill would allow us to do more at the state level to encourage our local authorities to enact water rates that send an effective conservation signal. Although, tiered rates currently exist, they can definitely do a better job. Numerous reports in the last few years have pointed to this fact, but we have not seen these rates enacted. So we would support any legislation that we think might move us closer toward this goal.

**Chair Kirkpatrick:**

Does anybody have any questions?

**Assemblyman Goedhart:**

There are many different sizes of purveyors of water. Does this bill have a threshold at which there are some water suppliers that serve, say, only 50 customers?

**Assemblyman Hogan:**

At this stage, there is not a threshold by number of customers or volume. When the bill was being drafted, I was advised that one way to exclude nearly all the smaller providers, and to include the largest, was simply to note that the smaller providers tend to be under the regulatory auspices of the Public Utilities Commission (PUC). So I changed the definition to exclude what I was told were at least 80 percent of the suppliers. That issue is the subject of one of the proposed amendments, and I believe it would adopt a number-of-customers limitation at a reasonably high level. I am open to that; we will look at it carefully. We need to reach the big purveyors, so they can set the example, and hopefully others will follow voluntarily. I will look with favor on that, unless

it introduces some other problems. The answer to your question is, right now, those whose conservation efforts are governed by the PUC are excluded by the bill, and there may be further exclusions if the amendment is worked out.

**Chair Kirkpatrick:**

Mr. Goedhart, currently the bill does not say anything close to what Mr. Hogan is alluding to, so we are asking Legal to point that out in the bill because it does not specify who goes to the PUC.

**Assemblyman Hogan:**

I believe it is the very last line of the bill.

**Chair Kirkpatrick:**

Is it in subsection 3 of section 2? It says there that "the term does not include a public utility required to adopt a plan of water conservation pursuant to NRS 704.662."

**Assemblyman Hogan:**

Legal put in that language in response to my request. If there is any doubt about that excluding smaller water companies, we could find another way to do it. The intent is to get the larger water providers on board with this.

**Joe Johnson, representing Toiyabe Chapter, Sierra Club, Reno, Nevada:**

We are in support of the bill as written and probably will be supporting the amendment, at least in the definition of excluding the smaller water providers. We believe transparency is a vital concern for the public. Thank you for your support on this bill.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anyone else who would like to testify in support of A.B. 376?

**Susan Lynn, Coordinator, Great Basin Water Network, Reno, Nevada:**

We are in strong support of conservation, especially in a desert state where the typical rainfall is from four to seven inches per year in urban areas. Conservation is a very critical element, and pricing is a mixed bag, but it provides substantial conservation when it is properly applied. From that point of view, the pricing element is very important, but total conservation is the goal.

As an example, Irvine Ranch Water District, in southern California, had to substantially reduce its water consumption. Since the early 1990s they have implemented very strong pricing and water auditors. They launched a public relations campaign and trained all their employees to promptly address

customers' issues. It cost them something up front, but in the end the district saved the amount of water required by the state.

If you look at the dire water situation in California, and it is also quite dire in Nevada, we need to take every step we can to implement conservation. We support this bill as it is written and will be happy to work with Mr. Hogan on any amendments that come up. We hope that we agree that the definition of small purveyors probably ought to be included.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Mr. Hogan, you have several people who are in opposition. We are going to Las Vegas, with the City of Henderson coming to the table.

**Dennis Porter, Director, Utility Services, City of Henderson, Nevada:**

I would like to thank Assemblyman Hogan for all his support with regards to water conservation. The City of Henderson is an advocate of water conservation and has been for quite a long time. We have been aggressive in the last ten years in implementing a number of water conservation measures, pricing being one of those.

The reason we oppose the bill is that we are not sure the bill will increase our ability to manage our pricing the way we want to. In my mind, it imposes an administrative burden that is simply going to increase costs. We currently comply with Assembly Bill No. 331, which I believe is *Nevada Revised Statutes* (NRS) Chapter 540, in providing plans to the state. Additionally, we provide, through the Southern Nevada Water Authority (SNWA), a conservation plan to the Bureau of Reclamation.

Since 2002, our gallon per capita usage has decreased from 312 to 247 gallons per capita per day. As of last year, that is a decrease of about 64 gallons per capita per day. That savings is due not only to pricing but to our entire water conservation program, which is one of the most aggressive in the United States.

The proposed burden has to do with calculating the water savings due to a proposed rate change. It is complicated to estimate exactly what portion of conservation is due to pricing because we have so many other ongoing activities that could have an impact on whether people use more or less water. We have incentives. There is the turf removal program. In addition, the economy, weather, and climate significantly increase and/or decrease water usage.



If we somehow ended up not submitting a follow-up report and had to try to determine exactly what portion of the water savings or the increase in water usage was due to pricing alone, this would be incredibly difficult and costly. If you live in the City of Henderson, you will see a number of charges on your bill. There is the service charge for water; the usage charges are part of our four-tiered structure. There is a SNWA commodity charge, which has nothing to do with conservation; if it goes up, it can certainly encourage more conservation, but it is not intended to do so. There also is a reliability surcharge for SNWA. These are passed-through costs, and I am not sure how we would fiscally understand it if we had to rebate customers. There are some administrative difficulties.

Higher rates do not have a linear association with lower water usage. Many factors such as public education, the economy, and enforcement, have a lot to do with conservation. Henderson is proud of the conservation it has achieved in the last seven or eight years. We intend to continue to look at pricing as a means of achieving additional conservation. Late last year, our city council approved a goal for the year 2035 of 199 gallons per capita per day. We are well on our way toward meeting that goal, and we can be successful, but I am not sure that this legislation will help accomplish that.

**Chair Kirkpatrick:**

Does anybody have any questions?

**Assemblywoman Pierce:**

There is some confusion. The bill does not say that the return of money from the rate increase goes into effect if you do not achieve water conservation. The trigger in the bill is if you simply do not submit the required reports and statements.

**Chair Kirkpatrick:**

If you are already submitting your conservation plan to SNWA, and you already have to go through the local governments to change your ordinance when your rates go up, what is the part of this bill that is going to cost the most administratively and what do you think the amount is?

**Dennis Porter:**

The largest portion of that expense is tied to the estimate of what savings was truly due to the conservation pricing, because we are doing so many other things with regard to the incentive programs, the turf-removal program, the climate, and the economy. We are concerned about costs. Those costs—with regard to administering, monitoring, reporting, billing, and professional services, such as employing a consultant to help us understand the process—would

probably be about \$600,000 in the first year. The cost probably would be reduced as we defined the program better. To modify our billing system alone, the start-up cost would be about \$200,000. I would say the cost would be about \$624,000 the first year and in the range of \$400,000 a year thereafter.

**Chair Kirkpatrick:**

Are you regulated by the PUC or are you your own municipal water?

**Dennis Porter:**

We are not. We are under the city charter; we are municipal water.

**Chair Kirkpatrick:**

So you are not regulated by the PUC?

**Dennis Porter:**

That is correct.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.]

**Edwin D. James, P.E., General Manager, Carson Water Subconservancy District, Carson City, Nevada:**

Today, ironically, the subconservancy is working on a huge water conservation program. We hired a consultant and are putting money into a program. And now, the first bill that we oppose has conservation in it; so it is a little ironic.

When I gave a presentation to this Committee about our goals, we talked about conservation being critical. Not all water rate increases are designed to conserve water. There are a lot of reasons why entities raise rates. Water quality has become a big issue. A lot of entities are being forced to meet new standards because of arsenic in their water. Carson City has a lot of different water quality standards to meet. The water has not changed, but the standards have, and that is costing the customers.

In our Carson River Watershed, we met with every water purveyor to talk about the conservation program and how we could meet our goals. Every entity does not use conservation to promote growth; they already have their water resources in place. If you take out lawns to get more water, it does not mean more growth. Yet the public always assumes that when you push conservation, it means you want to conserve water so you can grow more houses, and that is not the case.

The key reason we are pushing for conservation is to avoid waste. We live in a very dry area and cannot afford to waste water, so we need to be smarter. We are looking at the conservation programs that really work here in northern Nevada. We want the best programs, but not every entity is the same. You would be surprised how different the entities' water rates are, and the reason is because of their lifestyles. Every entity has a purpose behind its rate structures and goals.

When you look at the Minden area versus the Stagecoach area, their rates and water usage per dwelling are quite different because of the lifestyle that has developed around each community. Minden is an older community with larger lots. They do not want to look like southern California, so we are trying to avoid that. Not every conservation program fits every community.

One of the issues with the bill is the reporting every year. Last year, the water usage was probably very high because we had very little summertime rainfall. If you have a couple of thunderstorms in the summertime, your water usage could drop significantly. You could have a conservation program, raise the rates, and if you have a wet year, people might say that the water conservation was due to the conservation program, which is misleading. It was probably due to the rainfall. Those are the issues we are trying to resolve because there are so many factors that have an impact on rates and how much water is used. We are trying to get a uniform message out to the public that water conservation is critical because we live in a desert, but we do not want to change the lifestyle.

**Daniel R. Sweeney, Town Manager, Round Mountain, Nevada:**

I have one of those small water companies you were talking about. I have only about 500 connections in Round Mountain, and we do not report to the PUC. There are several systems like ours around the state that you can reach through the Nevada Rural Water Association. My recommendation would be to exclude the small companies because we already have water conservation plans.

It is very trying for us to be out in Round Mountain. In talking with the town manager of Tonopah, they were worried about how to report rate increases to the state in an easy way. It was going to cost them a lot of money to figure it out. With the amendment, some things may be a little easier, but I would like to see you work with us and give us a bit of a break. We do conserve water in Round Mountain and are in support of water conservation. I heard this morning you might exclude the rural people that do not report to the PUC. We will be keeping an eye on the bill.

**Mike Nevin, Director, Public Works, Storey County, Virginia City, Nevada:**

The Virginia City Water System serves the towns of Virginia City, Gold Hill, and Silver City. Our water is purchased from the State of Nevada through the Marlette system. We are certainly concerned about conservation measures. We fall under the provision of a municipal supplier through NRS Chapter 540, and we currently comply with the water conservation measures that are in that statute. We are opposed to the bill as currently submitted and would like to find a way to exclude some of the smaller systems.

In our customer base, we serve fewer than 600 customers with connections, but Virginia City, of course, is tourism orientated, and we have a large population of visitors who come through town. It would be almost impossible for us to calculate an amount per person per day saved with the plan. I do not know how we would do it without hiring additional staff. Our current rates are based on operations plus a little money for capital improvement programs. I simply want to go on record as opposing A.B. 376 as currently written.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody here, by chance, who is with a small municipality that is regulated by the PUC?

**Jeff Fontaine, Executive Director, Nevada Association of Counties, Carson City, Nevada:**

There is no doubt that every county that operates water systems supports water conservation, as does the Nevada Association of Counties (NACO). You have heard what a number of county-operated water suppliers do for water conservation. You have also heard about the impacts of this bill on their operations and their ability to comply with the requirements of the bill. The important thing is the variability in water consumption in water systems across the state and how these water systems operate.

I want to thank Assemblyman Hogan for presenting A.B. 376; we have had a couple of conversations about this bill. I believe he recognizes the impacts of this bill on the smaller water utilities, so we talked about a possible amendment that would exempt the smaller water suppliers. The way the bill reads today, I cannot tell you for sure that 80 percent of the smaller water suppliers would not be impacted by this bill. I can tell you that there are a lot of smaller county-owned water systems that would still be affected by this bill. We have an amendment prepared and would be happy to work with Mr. Hogan, but basically, we would be seeking an amendment to exempt water suppliers with fewer than 100,000 service connections.

**Chair Kirkpatrick:**

Do you have anything in writing today?

**Jeff Fontaine:**

Madam Chair, as a matter of fact I do. It is right here, and I would be happy to distribute it if you wish ([Exhibit C](#)).

**Chair Kirkpatrick:**

That would be great if you can distribute it to us.

**Bob Foerster, Executive Director, Nevada Rural Water Association, Carson City, Nevada:**

We have about 200 members around the state, and most of them are small water systems. We also have the benefit of the larger water systems being support members. With respect to the bill as it is written, I do not think that we could support it because it seems burdensome. It would not be workable, particularly the part where missing a reporting cycle would result in changing water rates back to what they were. These water systems, like the larger systems, adjust their rates to meet their budget needs and to go back on that would be very difficult. Often, their rates are tied to loans and grants that they have received, so there would be an impact there. We could support A.B. 376 as amended here today, and if there were a cutoff with a fairly high population threshold.

**Chair Kirkpatrick:**

Does anybody have any questions for the two speakers so far?

**Assemblyman Stewart:**

Can we question the NACO amendment yet?

**Chair Kirkpatrick:**

Go ahead, please.

**Assemblyman Stewart:**

In section 3, would the 100,000 service connections limit it just to Clark County?

**Jeff Fontaine:**

I believe it does. I am not exactly clear which specific utilities in Clark County, but I believe it does.

**Assemblyman Stewart:**

There is nothing in Washoe that would be affected?

**John A. Erwin, Director, Resource Planning and Development, Truckee Meadows Water Authority, Reno, Nevada:**

The reporting process would include Washoe County.

**Chair Kirkpatrick:**

Does anybody else have any questions?

**John A. Erwin:**

Our position at the Truckee Meadows Water Authority (TMWA) is that we do not support A.B. 376 as written, and I can list the reasons for you. Several of the speakers have already identified some of them, so I will not elaborate on those. First of all, NRS Chapter 540 already makes a provision for this reporting, including the gallons per capita per day. In TMWA's resource plan, we include this measurement and it is available online. Also, our Regional Water Resource Plan for the southern part of Washoe County includes these estimates and is available online and is published. We file our reports with our conservation plan to the State Engineer's Office, and they do a good job posting that information and making it available. I get calls from customers who ask me for this information which, being a public agency, we provide to them. The information on gallons per capita per day is readily available. How you use it and interpret it is a whole other discussion that I will not get into, but the information is available.

The second item of concern is that many utilities do not have the staff to isolate the factors resulting from a rate increase and its impact on revenues and water use. As an example, TMWA came into existence in 2001 as a result of being separated from Sierra Pacific Power Company. The water bill was no longer part of the Sierra Pacific bill—it was a stand-alone. The fact that the customers were getting individual water bills resulted in a decrease in water use. Information alone can provide a sufficient signal for people to be more conscience of their water use. In addition, I have a Ph.D. on staff, and I am trained in econometrics; it is not simple work.

We are in the process of contracting with the University of Nevada, Reno, for about \$25,000, to assist us with some of the isolation work on price elasticities and impacts of rate increases on water use. The variables are many and complex when you try to isolate what is proposed in the legislation. As an example, last year the City of Reno raised its sewer rates, and there is a cross-price elasticity component when you deal with any kind of rate that affects water use, so it had a negative impact on TMWA water use. Now, we have to isolate that variable in our calculations. It is not an easy task for a large utility, where there are two of us who can do this work, versus a small utility, which would probably have to contract the work out.

The third element is that, if an entity fails to provide the report, the refunding process would be an administrative and financial nightmare for a utility to comply with. And to figure out which customer would get the refund—I do not even want to contemplate the idea. A fourth point is, we checked with bond counsels, and though the bill does not have a financial impact, it does have a potentially reportable item. Should we go to a bonding or financing market, now we have this risk we have to report. Any kind of risk could result in an increase in cost to the bond issuer. Lastly, we get calls from customers all the time requesting this kind of information, be it on an acre-foot basis or gallons per capita per day, which we readily supply. This information is currently readily available as a result of the conditions in NRS Chapter 540. I would be more than happy to answer any questions.

**Assemblyman Stewart:**

In the bill it talks about "per person per day," and you have been talking about "per capita." Is your "per capita" per connection or per household?

**John A. Erwin:**

The term per capita refers to a water usage divided by the number of people in a population. That is typically how you calculate per capita.

**Chair Kirkpatrick:**

Does anybody else have any questions? [There were none.]

**Carl Ruschmeyer, Director, Public Works, Douglas County, Minden, Nevada:**

By way of background, Douglas County owns and operates seven water utilities. Our smallest customer base has about 30 connections, and our largest system has about 1,700 connections. We came into the water business by default, primarily through court orders, bankruptcies, and condemnation proceedings. We have a lot of small systems that are in need of major capital repairs and rebuilding.

Like many other utilities in the state, we find that our customers are already burdened by rising water rates to address failing infrastructure and unfunded mandates. We also believe that A.B. 376 imposes a fiscal impact on our utilities. We have seven systems, so each time we have to report, we are multiplying that by seven. It compounds the complexity, amount of work, and the potential cost.

We also have a concern regarding pricing as it relates to rate design. Water rates are already periodically reviewed and analyzed by using accepted industry practices and standards. In any given year, water usage is driven, primarily, by geographic and climatic conditions more than by any other economic

measurement. Based on current practice and rate methodologies, it is not clear we can make reasonable estimates on how much water may be conserved by increasing our rates.

This could be a pretty complex process, given that we are a smaller utility; we contract our services for our rate designs. A typical rate study can cost anywhere from \$20,000 to \$40,000. Multiply this seven-fold, because each utility is operated as a separate enterprise fund, and it is a very costly process. The bill also brings up a question regarding the development of fair and equitable rates that are defensible. If we are really trying to set pricing to conserve water, it raises the question of whether this is a defensible rate and whether we are setting a rate based on cost of service versus pricing. Currently, we meter our systems in Carson Valley and are in the process of metering all our systems in the Lake Tahoe Basin. Our commercial customers in the Tahoe Basin are also metered. We used multi-tiered inverted block rates to support and encourage water conservation. We are conscious of that. With that, I will answer any questions.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.]

**Ken Arnold, Deputy Director, Public Works, Carson City, Nevada:**

A lot of what I have to say has already been said. In Carson City, we currently have five tiers. In the last couple of years, we have increased our rates enough to meet the slight increase in operating cost and current debt service. There is very little if nothing for capital, which is very discouraging for me, because we are faced with a multitude of water issues in Carson City, with the changing of uranium and arsenic standards. We have nine wells impacted by uranium and arsenic to one degree or another. To treat 11,050 gallons a minute from two wells affected by arsenic is costing the community roughly \$3 million.

We are extremely aware of water conservation in Carson City. We are unable to fully operate wells because of the lowering of standard charges in uranium. Any connection between future rate increase approvals and conservation, which I fully agree with, would be a tough number to estimate. During the summer, if you have a couple thunderstorms, usage can drop. It is just an impossible number to speak to accurately. If there is a cutoff for the smaller populations, I suppose that would be all right. It is understood by everyone in this business that conservation is extremely important, and we have been working on it for a long time.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.]



**Bjorn Selinder, Fallon, Nevada, representing Churchill, Eureka, and Elko Counties, Nevada:**

We are expressing our opposition to the bill as it is currently written. The reasons regarding rates and water consumption have been pretty well explained. All water purveyors are concerned with conservation as a practical matter, simply to keep the cost reasonable for their customers. We would support an amendment to A.B. 376, as proposed by NACO, and that concludes my testimony.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify in opposition on A.B. 376?

**Mike Workman, Director, Lyon County Utilities Department, Dayton, Nevada:**

Lyon County is opposed to A.B. 376. We are a small rural utility. We operate six permitted water utilities that range in size from 4 connections up to 5,200 connections in the Dayton and Mound House areas. Calculating a water savings through rates is very difficult, if not impossible. As an example, in the last two months, we have noticed a 10 to 12 percent reduction in water usage and are trying to figure out what that is attributed to. We have 250 vacant homes right now because of foreclosures, but after analyzing the water usage, that did not account for that water reduction so we are attributing it to the economy. People are using less water, even though at this time of year there is no outside irrigation. So it is very hard to isolate where that water savings is. If we have a cool spring or a cool one-week period in the summer, that will throw our water consumption off significantly.

With the different systems throughout the state, another thing to be mindful about is unaccounted-for water. Over the last four or five years we have developed an audit system that allows us to do monthly water audits. We can tell how much water is being produced, and sold, and how much water is lost through system leaks. In a system like ours, which is relatively small, if we get a good-sized water leak, it is very difficult to catch sometimes. But by watching our unaccounted-for water on a monthly basis, we can catch them. In a large system that would be tough to do. Last year, they opened a new park. The water usage throughout the park was much higher than expected, and it was attributed to leaks. There are a lot of variables.

In conclusion, Lyon County opposes A.B. 376. We have conservation programs for all of our systems. We have provisions, in our rates, that if a person uses more water than is allocated for his lots, his rates will double and the cost per 1,000 gallons will go up. We are committed to conservation, but we oppose this bill.

**Chair Kirkpatrick:**

Are there any questions? Is there anybody else who would like to testify in opposition? [There were none.] Is there anybody who is neutral?

**Jason King, Deputy State Engineer, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources:**

Our office is neutral on A.B. 376. While the State Engineer supports all water conservation efforts, for clarification, the role of our office in regard to this bill is only to verify that the bill's requirements are incorporated into the report that must be submitted to our office and that the follow-up report is posted on our website. The responsibility to submit the rate increase report must fall squarely on the purveyor, as our office has no authority to dictate water rates or the price of water, nor do we want that authority. It is short and sweet, so with that I would be happy to answer any questions.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.]

**Andy Belanger, Manager, Management Services Division, Las Vegas Valley Water District, Southern Nevada Water Authority, Las Vegas, Nevada:**

Our amendment ([Exhibit D](#)) preserves the intent of Mr. Hogan's bill. The changes to sections 1 and 2 would revise some of the ordering of words and does not change, in essence, any of the substance of those two sections. Section 3 would eliminate a requirement to that section of the State Engineer's Office and also provide a report to the State Engineer, who is responsible for that office. So that is just clean-up language.

Subsection 4 is really the heart of the concern we have—the notion we would have to rebate money for failure to comply with this requirement. There should be some mechanism to require enforcement, but there is no problem, at this point, with anyone complying with the provisions of NRS Chapter 540. Until there are problems with that, I am not sure that this heavy legislative hammer is necessary. Instead, I would recommend that subsection 4 be changed to a definition of what gallons per capita per day is, so that there is less confusion and more continuity among all the different water agencies that would have to submit a report. It means the total amount of water delivered, divided by the total population served, divided by 365 days a year. If that is defined, it makes it much simpler for the water agencies to be able to look at the last 12 months; what was delivered, what the population was, and how many days. Those are the changes to that provision of the bill.

We are also recommending some minor changes to the provisions related to conservation plans on the back page of the amendment. In essence, we would

request that overall conservation and the conservation plan be estimated in gallons per capita per day, but that the estimates for each conservation element in the plan are to be calculated in another way that makes sense. For example, if you are doing a toilet rebate program, you can estimate conservation based on three gallons per unit, and that makes a little more sense than the way it is currently drafted in the statute.

Speaking to the NACO amendment, we have some concerns with it. If conservation and conservation reporting is a good thing, and we believe it is, then everyone who uses water in the State of Nevada should comply with this requirement. We have some concerns with targeting this bill just to the water district or the water authority or the water agencies in southern Nevada. We believe conservation reporting, if it is the will of the Legislature, ought to be the will of the Legislature for every water agency in the State of Nevada. That concludes my testimony on the amendment. I could spend some time correcting misinformation that was provided. We had 24 conservation rate scenarios that were considered and each one included an estimate of conservation. We are happy to provide any more information that the Committee wants.

**Assemblyman Goedhart:**

On per capita, how do you break it out? The water used for specific commercial applications, like the Strip hotels, can really skew water usage on a per capita basis if you do not factor in the right elements, correct?

**Andy Belanger:**

In southern Nevada we calculate our gallons per capita per day as total water use, divided by total population. Gaming is our industry. We calculate the water use for all of our industry divided by all of our population, which is why our gallons per capita per day is sometimes higher than other communities that exempt golf courses, large turf areas, and water use in the back yard, such as in the case of Phoenix, Arizona.

**Assemblyman Goedhart:**

Do the numbers include the water, for example, that is used for generating power through a coal-fired power plant like Reid Gardner near Moapa?

**Andy Belanger:**

If it is water delivered by the municipality, it is included in that number.

**Assemblywoman Mastroluca:**

Is SNWA already doing a similar report, or is this something new that you would have to generate?

**Andy Belanger:**

When the water district did its water rate increase in April 2008, it provided each rate scenario to the Citizens Advisory Committee, which met six times. Each scenario included an estimate of how much conservation would be achieved if that scenario was adopted. Three of the scenarios went before the Water District Board of Directors, who is the ex officio Clark County Board of Commissioners, and they received that information as well. So we do provide that information at all of those meetings, and we disclosed that if the rate increase scenarios were adopted, it would induce a 6 percent conservation savings.

**Assemblywoman Mastroluca:**

So creating this report would not be a burden on SNWA from a cost perspective?

**Andy Belanger:**

From a cost perspective, we are willing to do it. We will have to calculate it in a different way if A.B. 376 passes. Typically we do it as a percentage, but we are happy to do that as long as every other water agency does it as well.

**Assemblyman Stewart:**

Would you agree that it is difficult to be accurate in determining exactly which factor is saving water, whether it is the economy, the weather, turf removal, or the increasing of rates? Is that your testimony?

**Andy Belanger:**

It would be my testimony; that is very true. We have seen that problem in southern Nevada this last year. We actually used 63,000 acre-feet less in 2008 than in 2002. Probably the most significant reason is our conservation program, but we cannot discount the impacts of the economy and the foreclosure rate. If we were cutting off service for everyone who was delinquent, we would be cutting off a lot more people. The economy is having an impact on water rates in southern Nevada just as it is in every other part of the state.

**Chair Kirkpatrick:**

Does anyone else have questions? Is there anyone else who would like to testify in the neutral position on A.B. 376? [There were none.]

**Assemblyman Hogan:**

I certainly appreciate all the testimony. It does make me happy that I am not a taxpayer in Henderson. If I were working in that government, I would call in the person responsible for the estimate, call a meeting of half a dozen

knowledgeable people, set the clock for 30 minutes, introduce the subject, and at the end of the 30 minutes take the number we think is best. It is a forward estimate. You would have to guess what the rainfall might be. Essentially people are going to assume it is a normal year, or if you know of things that will happen, make an effort to work them in. I respect the effort to get extreme specificity and to pay consultants to calculate 20 different impacts, but I do not think that is what is intended. Whatever precision you think you have attained; these things are not entirely predictable.

A best estimate is all that was contemplated. There is no hammer if the real number turns out quite different; there will be easy ways to explain it. The idea is to bring the public into the discussion about rates and the relationship of rates to conserving our precious water. This bill will do that, and it will also give them a reading on how the rate change worked out. I do not think the cost estimates are really costs that will be incurred at all. The estimate can be worked out quickly, and the two actuals are from available data. I thought it was a very mild burden, but we are willing to try to reduce it. Other than that, I have nothing more to add. I will work as quickly as I can to meet with those who have amendments and to offer my take on them.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] We are going to close the hearing on A.B. 376. We will now open the hearing on Assembly Bill 377.

**Assembly Bill 377:** Revises provisions governing the approval of an application for the beneficial use of water. (BDR 48-887)

**Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:**

Thank you for the opportunity to present A.B. 377. I have an amendment for this bill, and with your permission I will present it as the amendment because it essentially rewrites the whole bill (Exhibit E). If you were to look at the original bill and see the condition that it placed upon the review of applications, you could see why this could create some concern, because it could theoretically shut down all future approvals of applications. This is a bill about the future and looking ahead to different situations that we might find ourselves in. I want to thank both Susan Lynn, with the Great Basin Water Network, and Jason King, at the Division of Water Resources, for helping me encapsulate my concerns in this amendment. It is my belief that the State Engineer and Water Resources are, in fact, doing this, but it does concern me that in future years, under a different State Engineer or a different set of resources or pressures, that the best available science would not be used to render the decisions related to ground and surface water in Nevada. So it is with that desire to see this shored

up, and to establish a good foundation for the future, that I bring forward the bill and the amendment.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] For the freshmen in the front row, this is what you call "legimatic;" you get the whole bill and you put something else in. You will see a lot of that in the next few weeks. We will now move to anyone who is in support of A. B. 377.

**Jason King, Deputy State Engineer, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources:**

We support A.B. 377 as amended. I would also echo what Mr. Bobzien said, in that the State Engineer has always used the best available science in this decision making process, but I believe it is important to memorialize that in statute. Again, we support the bill and would be happy to answer any questions.

**Susan Lynn, Coordinator, Great Basin Water Network, Reno, Nevada:**

I concur with Mr. Bobzien and Mr. King, in that we support A.B. 377 as it is amended, which means the original is gutted and the new language is inserted as appropriate.

**Chair Kirkpatrick:**

Does anybody have any questions?

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

This is one of four bills for the Conservation Priorities for Sustainable Nevada, which is a group of 18 conservation/environmental groups throughout the State of Nevada. These groups come together around priorities that we could bring to this legislative session. Putting something into statute, to make sure that we do this into the future, is something that we felt was very important. That is why we asked Mr. Bobzien to come forward with A.B. 377 today. We are absolutely in support of the bill as amended. I think it is the intent of what we were looking to do in legislation. This is one of the few times I would testify on behalf of all the groups that are part of our coalition and who are all in strong support of this legislation.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Is there anybody else who would like to testify in support of A.B. 377?

**Joe Johnson, representing Toiyabe Chapter, Sierra Club, Reno, Nevada:**

We are here in support of the amendment.

**Andy Belanger, Manager, Management Services Division, Las Vegas Valley Water District, Southern Nevada Water Authority, Las Vegas, Nevada:**

We are also in support of A.B. 377.

**Chair Kirkpatrick:**

Is there anybody else who would like to testify in support of this bill? [There were none.] Is there anybody in opposition of A.B. 377? [There were none.] Is there anybody who is neutral on A.B. 377?

**Steve K. Walker, Minden, Nevada, representing Truckee Meadows Water Authority, Reno, Nevada:**

We were very much opposed to the initial bill, and we want to thank Assemblyman Bobzien for moving the bill to where we can be neutral. We would support the amendment, except it is a neutral bill that is focused on State Engineer policy, so we really have no issue. Again, we would like to thank Assemblyman Bobzien for accommodating our concern.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify on A.B. 377?

**Assemblyman Bobzien:**

That pretty much sums it all up.

**Chair Kirkpatrick:**

We are going to close the hearing on A.B. 377 because water is always a very dry issue, contrary to what people might say.

We are going to take a five-minute recess until 9:30 a.m.

Meeting called back to order. We will open the hearing on Assembly Bill 416.

**Assembly Bill 416:** Requires the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances. (BDR 48-732)

**Assemblyman Pete Goicoechea, Assembly District No. 35:**

I brought a bill forward today that I believe is going to provide us with a snapshot in time, as we look at water resources across this state. I will slowly walk you through what A.B. 416 does. It will require the State Engineer to require the proponent of an interbasin transfer to fund a water inventory of the basin he is projecting to transfer the water from. If we had had this legislation

in place 20 years ago, we might well have 50 percent of our basins fully inventoried today. I know there will be some changes. It is extremely difficult to quantify surface water. The groundwater is easy, and we have the estimates of perennial yield; we also know what groundwater has been appropriated. We have surface water appropriations in place, but again, how do you quantify whether it is a wet year, a dry year, or an average year, and what are those flows? I anticipate as we go into section 4, subsection 1, paragraph (a), when we talk about "the total amount of surface water," the fact is that we will probably end up with an estimate of some type, or language that talks about estimate, rather than a total amount available, because it is extremely difficult to quantify.

The bottom line is that A.B. 416 requires the State Engineer to require that a proponent of an interbasin transfer do a water inventory of that basin. You will hear from some people who say, "Why are we doing it prior to the application rather than the permit process?" It truly gives the State Engineer the ability, if he had a full inventory of that basin beforehand, to say, "Look, we have this much water appropriated, and our numbers show this much available." It gives him a place to start with, another tool in his toolbox. The other thing I feel very strongly about is that we have a number of projects that start and stop, start and stop. Let us get some benefit out of it; let us have these people fund it. With that, I will close my testimony because I know other people are ready to testify in support or in the neutral position. I will be happy to answer any questions from the Committee.

**Assemblyman Christensen:**

You said it can be difficult to measure the above groundwater, and a little easier to measure below groundwater, which I had a hard time understanding.

**Assemblyman Goicoechea:**

With groundwater, you can drop a measuring device down the well, and that tells you what the static level is in that water. You already have estimates on the perennial yield of that basin, so you can make calculations. In regard to surface water, we have to be extremely careful and make sure what we are calling surface water is truly perennial waters, waters that run year-round. You do not want to be out there doing a measurement of surface water inventory in May when all the creeks are running. If you are in Incline Village and snowmelt is coming down, it would show four or five acre-feet running out of a canyon, but on the first of August it is a gravel bed. Those seasonal variations, and whether you have a wet or a dry year, make it difficult to quantify.

What I want A.B. 416 to do is provide that snapshot in time, a one-time shot that says, okay, this spring was running approximately 20 gallons a minute on



this date. That way, you have this database in place, so when there is development of that basin, or water is transferred out of that basin, you can say, by pumping this amount, we have impacted that water source. We have that measurement in time, and if it needs to be reviewed next year or 20 years from now, the data is available.

**Assemblyman Aizley:**

When you say in the bill that the State Engineer or his designee shall conduct an inventory of the basin, would that be someone outside of the State Engineer's authority or the person requesting the transfer? Who would the designee be?

**Assemblyman Goicoechea:**

The State Engineer would have the ability to choose the person in-house if he had the staff. We have a bill following that might help him bring somebody in, so he would have the staffing. At this point, the State Engineer's Office would not have the staffing or the resources to do a full-blown inventory of a groundwater basin. He would hire a consultant, and it would be up to the State Engineer's Office. The bottom line is that we want to ensure that the State Engineer buys into whoever is doing the inventory, and not have it done in-house by somebody that he or no one else in the region would agree with.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.]

**David K. Schumann, Vice Chairman, Nevada Committee for Full Statehood,  
Sparks, Nevada:**

We strongly support A.B. 416. We have seen several instances where SNWA has impaired the water table in the ranches such as the Pine Valley Ranch in the middle of the state. Now they have gone as far as White Pine County to drill water. This will hopefully raise the price to SNWA so they will start to do more rational things, like going to the Pacific Ocean and using industrial-scale reverse osmosis saltwater conversion, which they do in Israel and have been doing for decades in the Persian Gulf. They will not lower the Pacific even one millimeter. They can take all the water they want. It is crazy for a big city like Las Vegas to depend on a desert to get its water. So this is a great idea.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.]

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

[Spoke from prepared statement ([Exhibit F](#)).]

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who is in support of A.B. 416?

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

I do not have too much to add to what has already been said. We are in support of A.B. 416. We think it makes good sense to have all the data we need when we are considering large interbasin transfers of water. We support anything we can do to advance our knowledge and data related to the water resources in our state.

**Susan Lynn, Coordinator, Great Basin Water Network, Reno, Nevada:**

We support A.B. 416 because it gathers new information at the discretion of the State Engineer, according to this law, if it is enacted. The bill also provides for public awareness of the data and provides a mechanism to pay for the information gathering. So we think this is a great bill.

**Joe Johnson, representing Toiyabe Chapter, Sierra Club, Reno, Nevada:**

We are in support of A.B. 416 for the reasons previously mentioned. Our national policy includes supporting and gathering this type of information.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify in support of A.B. 416?

**Bjorn Selinder, Fallon, Nevada, representing Churchill, Eureka, and Elko Counties, Nevada:**

I am a member of the Central Nevada Regional Water Authority. My participation with the authority has made me acutely aware of the need for information regarding our state's precious water resources, so certainly I would say that my clients are in support of A.B. 416.

**Chair Kirkpatrick:**

Does anybody have any questions? Is there anyone who is in opposition to A.B. 416? [There were none.] Is there anyone who is neutral on A.B. 416?

**Jason King, Deputy State Engineer, State Engineer's Office, Division of Water Resources, Department of Conservation and Natural Resources:**

If the language can be slightly modified, our office will be neutral on this bill. Language clarification is needed, as is a provision for an inventory exemption for *de minimis* surface water flows. One example is in section 4, with respect to conducting an inventory in a basin. As written, our office will be required to identify "the name of each person" who owns a water right in the basin. I

would request that the language be clarified to read "the owner of a water right as shown in the records of the State Engineer." As many of you know, water right ownership changes hands frequently, and the deeds involved in that sale may or may not be submitted to our office to transfer title. We cannot report on ownership that we do not know about. There are other language clarifications that we would like to see; I will not go into those right now.

If the purpose of A.B. 416 is to require an inventory of all water sources, whether water-righted or not, it would be wise to provide an exemption for very small flows, so that a small wet spot on the ground, for example, does not necessarily have to be inventoried, as it would not provide useful data. With that, I would welcome any questions.

**Assemblyman Bobzien:**

How many basins are there total in the state? How many have been adequately inventoried, leaving how many that has not been inventoried?

**Jason King:**

We have 256 hydrographic basins and sub-basins. Our office conducts either crop or pumpage inventories in approximately 60 of those basins. But are you also asking how much we inventory aside from pumpage and crop inventories? Obviously, we have a database that shows all the water right holders in every single basin in the state. So that is a type of an inventory as well.

**Assemblyman Bobzien:**

So there are partial inventories for some of these basins, versus full inventories that the bill contemplates?

**Jason King:**

That is a fair statement, yes.

**Assemblyman Goedhart:**

What additional information is this going to bring to your office? As you said before, you have the record of ownership and you have the pumpage records. What does A.B. 416 specifically require an applicant to provide in addition to what is being provided?

**Jason King:**

If we were to inventory a basin, not only would we look at water-righted resources, groundwater, and surface water, but we would also look for and quantify those water sources that do not have a water right on them. As Mr. Goicoechea put it, it would be a snapshot in time. If there are springs that do not have water rights on them, get a measurement on those as well as the

springs that have water rights. Again, get some baseline data. We would inventory those water sources that do not have water rights and try to quantify the flow.

**Assemblyman Goedhart:**

So it would relate more to surface water rights than to groundwater water rights?

**Jason King:**

Yes, it would.

**Vahid Behmaram, Water Rights Manager, Department of Water Resources, Washoe County, Reno, Nevada:**

Washoe County is neutral on A.B. 416. We certainly concur with the State Engineer's comments. I want to make a quick comment on section 4, subsection 1, in paragraph (c), where it requires "the number of persons who have a decreed, certified or permitted right to appropriate water in the basin to be indentified." The quantity of the appropriation is certainly important and a good piece of information to have, but to have simply the number of people, I am not quite sure what the usefulness of that piece of data would be. In its place, Nevada water law provides for a perpetual right for certain parcels to drill a domestic well and to use up to two acre-feet annually. That number is not readily incorporated in the amount of appropriations within a given hydro-basin because domestic wells are exempt from the appropriation process.

In place of the number of persons, maybe it would be useful to have a number of parcels that have a domestic well, or have the right to sink a domestic well, to better define what the impacts of those domestic wells would be on the hydrographic basin. With that, I will answer any questions you may have.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Mr. King, I thought we discussed that topic last session in Senate Bill No. 274 of the 74th Session?? Did we not create an avenue to know who had domestic wells and where they were located?

**Jason King:**

Yes, we did. We actually assigned a priority to domestic wells, which was something that had been needed for a long time. Vahid is correct in that there is not a water right required to drill a domestic well. There is not a piece of paper that is filed with our office and for approval. However, the well log is filed with our office, and we regulate the well driller. We know when a domestic well is drilled. We know by statute that they are allowed to pump two

acre-feet per acre, but there is not a water right to inventory, which I think is what Vahid is talking about. In talking to Assemblyman Goicoechea, I am sure that would be part of an inventory. He would want to know where the domestic wells are, and the number of domestic wells, because we do have to look out for those interests. There is a little bit of separation, but yes, we did a lot last session to assign priority to domestic wells.

**Chair Kirkpatrick:**

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

**Andy Belanger, Manager, Management Services Division, Las Vegas Valley Water District, Southern Nevada Water Authority, Las Vegas, Nevada:**

We want to stay involved as A.B. 416 goes through the process because I know there are going to be some changes and amendments, given all the testimony and what Mr. Goicoechea said. We have some concern about the terms that are in the bill and also the applicability to some of the basins where inventories have already been conducted, for instance, in Snake Valley, Nevada. The United States Geological Survey did a \$6 million study a couple years ago and characterized the valley and a lot of the springs there. In some places this research has already been accomplished. As this bill moves forward, we want to make sure we have a full understanding and agree with the concept of knowing what is out there. We want to make sure we are not duplicating efforts and that we are using the state's resources and our resources to the best of our abilities.

One of our concerns, having some experience in east central Nevada, is about the studies that are funded by the water authority. For instance, we might have to fund a study on such matters, and in the past opponents of the project have raised questions. There might be some value in broadening who pays for these studies, so there is an understanding of impartiality. Those are some of the conversations that we need to have as we talk about the language of the bill and figure out what we want to accomplish.

**Assemblyman Bobzien:**

I certainly can appreciate the concern, and maybe that is something we have to look at. I think it is clear enough, because there is a fee being charged by the State Engineer to do the study, but perhaps it requires an additional look at accountability measures to make sure that those two poles are duly separated. I am not sure how we would do that.

**Chair Kirkpatrick:**

I have a question. We do studies all day long for planning. I believe A.B. 416 allows the State Engineer to make the final decision based on what they are

doing. I completely support this bill, because as long as I have been in this building, everybody has talked about creating a database. It is a prime opportunity to get this on-line, especially in a time when we are not growing. Hopefully, we will be able to help the department work well, which has always been a concern. We need to do everything we can to create this database. Tracy Taylor and Jason King have done a great job at trying to bring us up to speed.

Are there any other questions? [There were none.] Is there anybody else who would like to testify in the neutral position on A.B. 416?

**Assemblyman Goicoechea:**

I am more than willing to work with the people acting in the neutral position on the bill to clean up some of the language; we knew there would be some points to discuss. I agree with you, Madam Chair, that the State Engineer will have the discretion, and it is his duty to determine who will do that inventory. If it is done outside or in-house, and if he feels comfortable with whatever party does the work, that is fine. In relation to Snake Valley and those areas, the State Engineer has the ability to look at the inventory for that basin and determine if it is adequate. As it pertains to the bill, I think that is fair. Regarding the number of persons, we need to look at the number of parcels. A number of parcels in this state have the right to drill a domestic well, and those numbers have to be incorporated in a water inventory. I am sure the State Engineer understands that. Whether we talk about the number of persons or parcels, I still want to find the number of actual permits that would be available in the event that the area was totally built out. With that, I would appreciate your support and passage of A.B. 416. I am looking forward to working with people to get some clean-up language back to you in the next couple of days, and we will go from there.

**Chair Kirkpatrick:**

Does anybody else have any questions? [There were none.] We are going to close the hearing on A.B. 416. We have 11 Committee bills; I was only aware of about 5. I am going to be asking the Committee to help me do the presentations on them. I asked Ms. Mastroluca to present Assembly Bill 480 to the Committee, so we will now open the hearing on A.B. 480.

**Assembly Bill 480:** Makes various changes relating to fees collected by the State Engineer. (BDR 48-1161)

**Assemblywoman April Mastroluca, Clark County Assembly District No. 29:**

This Committee bill raises most of the fees charged by the State Engineer to what is the estimated actual cost of doing each of these permits or applications.

Many of these fees have not been raised since 1989. From a cost standpoint, this has become a real hardship on the State Engineer's Office. The State General Fund is funding the State Engineer's Office at a cost of about \$5 million. The State Engineer's Office is cutting 11 positions in the current budget because there is just not enough money to go around, yet we continue to pay fees that were in existence 20 years ago. Last week, an Assemblyman from Amargosa Valley talked about the delays in applications being processed. With those 11 positions being cut, those delays will increase and be even longer. They have worked very hard in the last four years to try to reduce the backlog, but losing those 11 positions will really cut down on their ability to get the work done. This is a way to put some money back into that office and allow it to continue to operate efficiently.

Obviously, the State Engineer's Office is not going to come up and support A.B. 480 with a fee increase, and we know that Governor Gibbons has stated he is going to veto any fee increases. I feel strongly that we can make sure we get the same level of efficiency from the State Engineer's Office by allowing them to raise these fees, instead of continually pouring money from the State General Fund into this division. I am open to comments and questions, not only from the Committee, but also from the people who are going to be paying these fees. The numbers we came up with are based on the State Engineer's Office's estimated actual cost of processing these permits and applications.

**Assemblyman Goedhart:**

I agree with you that the Division of Water Resources is doing a commendable job with limited resources, and I have enjoyed working with them in the past. Here is a hypothetical situation: Someone files an application for a permit to change a place of use within the same hydrographic basin on an existing permitted water right. Say it gets held up because someone files a protest. You could be paying those fees for five to seven years. Every year you have to file for an extension, and now you are getting hit over the head with a higher fee. You could be paying for multiple years, for extensive amounts of time, on one transfer of a water right. As the price goes up, it becomes a higher burden for the person who wants to use that water. Is there a way we could differentiate between the first time you apply for it and the times you have to file extensions because of a protest? Could we bifurcate that into a lower rate class?

**Assemblywoman Mastroluca:**

Are you asking for a grandfather-type rule?

**Assemblyman Goedhart:**

Not so much. It would be for anyone who is going to file a water right in the future. Say they change five acre-feet, and if it is protested and held up for five to seven years, they have to pay that fee every single year. So they end up paying that fee multiple times on one transfer.

**Assemblywoman Mastroluca:**

I am going to defer to Assemblyman Goicoechea on that question.

**Chair Kirkpatrick:**

Because it is the Committee's bill, I will take Mr. Goicoechea off the hot seat for just a second. One of the fees that did not go up was for extensions, and the filing fee for the protest went up only \$15. Currently, the division is not paying for itself, and all fees are open for suggestion. If we expect our state government to be efficient, we at least have to pay for it, and I do not know if we have that ability. From my research, the extension is the most-used process, and we did not raise that fee. Quite frankly, we probably should have, but with all these other increases, I was not going to push my luck.

**Assemblyman Pete Goicoechea, Assembly District No. 35:**

I am in complete support of A.B. 480. I agree we need to get the State Engineer some funding. However, as I walked through the fee structure, I became somewhat concerned that there was a significant increase in some fees. People might fail to bring forward a conveyance or an application, whether for stock water or wildlife watering, so that is an issue. Again, even though the fees might be true to the context of the time it takes the State Engineer to validate that permit; it might cost a person \$300 or \$400 to do one of these programs. So if we do not have people coming forward with water rights because of the fees, I would be concerned.

Although I am very supportive of A.B. 480, I would like to walk back through this fee structure. I agree that you are maintaining \$100 on the application for an extension, but clearly, given the number of extensions the State Engineer issues on an annual basis, if you went up \$50 there, you are going to do a lot more good than you are putting another \$500 on a dam, because we just do not have any dam applications. You might see \$5,000 there, whereas if you added \$10 to the extensions, you probably would see a \$500,000 increase. I understand the rationale, that this is what it costs the office to do it. By working with the State Engineer and the Committee, we might be able to come up with a narrower range.

I realize that we are going from \$2 to \$5 on an acre-foot charge, but I might like to see that ratcheted up a little more slowly. That is going to be a big hit when



you increase the fee 2 1/2 times. I do not think it will stop anybody, but in these economic times it might be a hardship on some people. Also, subsection 2 of A.B. 480 requires that the fees be raised 5 percent every other year and indexed after 2011. That will be all right for a while, but over ten years that could be a significant increase. Again, we need to fund the State Engineer's Office, and that is why I am very supportive.

**Chair Kirkpatrick:**

As long as I have been in the Legislature, we talked about how if we just had a little bit more backing we could have those databases. I am aware that Governor Gibbons may veto this bill, but if we do not try, we will never know. I understand that the amount of work it takes to file another exemption is very little, but sometimes in my business I can sell you the croissant for my cost, but I am going to make it up somewhere else. I would bet, Mr. Goedhart, you probably look at that in your dairy too. Overall, it is a working document; it is something that we need to really try. I hope the Committee can make suggestions and go forward. I realize the division is going to be in opposition, but that is okay. We are the legislators; we are supposed to be the leaders.

**Assemblyman Bobzien:**

This bill is definitely needed and has been a long time coming. I am very appreciative that we are going to take this head on. That said, it is important to get something on record philosophically, and with the Committee's permission, I will wax on about it a bit.

**Chair Kirkpatrick:**

I just want it to be clear for Ms. Mastroluca that I would never want this bill to be used against her. This is a Committee bill that I submitted, and I have asked her to present it.

**Assemblyman Bobzien:**

I agree we need to look at increasing some of these fees. Some General Fund support for the State Engineer's Office is a good and necessary thing because, frankly, the effective management of water use in our state is in the public's interest. I would hate to see us lose sight of the need for assessing good user fees, with the overall state interest in the management of the office. That is my philosophical point. I understand that this an attempt to try to quantify the cost of doing business for any fee that we put in place, but I have a hard time looking at a \$250 charge for changing use, and then a \$300 charge for wildlife conservation purposes. I certainly have a distinct interest in that, having done a bill on that subject last session.

If it is true that the cost of making that temporary change is greater than other temporary changes, I am willing to look at that. I would hope that we could perhaps change the business process that makes that a higher charge. I hope it is on the same level playing field as any other change in use. Those are my own thoughts. I do not know if there was any discussion about why wildlife and conservation was higher than the other changes in use.

**Assemblywoman Mastroluca:**

We had to start somewhere, and it was easier to go across the board. There was no point in picking and choosing, and saying we made this one higher for this reason and this one lower because someone was going to be upset. The Committee and the State Engineer can have that discussion and look at the feasibility of that suggestion.

**Assemblyman Bobzien:**

Thank you. I appreciate that.

**Chair Kirkpatrick:**

I am the one who submitted the actual numbers to staff, so I do not know how much more clearly I can say that it is not Ms. Mastroluca, and it is not Mr. Goicoechea. I asked them to help me present A.B. 480. I submitted the numbers, but unless you throw something out there, you do not know everyone's concerns. I am tired of sitting in this building and not taking a leadership position in figuring out what it costs. I know the General Fund has to have a piece of this, but it is about time that we stand up as leaders and put these issues in the forefront. So Ms. Mastroluca and Mr. Goicoechea did me a favor; I asked them to do this. Unless someone has a better idea, this is where we are going to have this discussion this session.

**Assemblywoman Pierce:**

Remind me again when these fees were raised last?

**Assemblywoman Mastroluca:**

The majority of these fees were raised in 1989.

**Assemblywoman Pierce:**

That is 20 years ago. If you had told someone who was paying these fees in 1989 that they were not going to go up for 20 years, they would have said that is ridiculous, of course they will go up sooner than that. And here we are, so I think this is a good bill.

**Assemblyman Stewart:**

With these rates, would that make the office self sufficient, or would we still need some General Funds?

**Chair Kirkpatrick:**

We would still need some General Funds, especially when we have to make terrible cuts this session. This would allow them to at least continue to do business.

**Assemblyman Goicoechea:**

Clearly, this bill goes a long way and probably saves the State Engineer from having to cut those 11 positions that we funded in the last session. We were trying ramp up their output, and they started to catch up, and what do we do? We cut 10 percent of their staff. I hope that the Committee and the State Engineer can sit down and look at some of these fees; some could be raised up a little bit and others could go down. I do not think it would take longer than an hour to figure out how to get the same dollars and not have those big numbers jump out at you, like \$1,000 for a dam. I think we can hammer this out and come up with some reasonable fees.

**Chair Kirkpatrick:**

Since we are not doing a lot projects right now, and our state is not growing, this would be a perfect opportunity to look at this matter. Is there anyone who would like to testify in support of A.B. 480?

**Andy Belanger, Manager, Management Services Division, Las Vegas Valley Water District, Southern Nevada Water Authority, Las Vegas, Nevada:**

We applaud the Committee on the introduction of A.B. 480. We fully support the increase of the fees as listed in this bill. We believe there is one other area where it might be appropriate for the Committee to consider raising fees. When an application goes to hearing, the water authority and the protestors pay a *pro ratis* share for the cost of the transcript, but there is no other charge that the State Engineer could impose. It might make sense, given the depth of knowledge and staff time it takes to hear some of these hearings, that the cost of hearings be considered as well, and allow the applicant and the protester to pay a *pro ratis* share of the cost of hearings before the State Engineer's Office.

The Snake Valley hearing, which is going to happen September 28, 2009, is scheduled to last the entire month of October. We will be taking up the State Engineer's time for an entire month, and the cost of that hearing ought to be paid for by those who are using the service. We fully support this bill, and we would support an amendment that would require the applicant and the protestors to pay the actual cost of the hearing.

**Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada, Carson City, Nevada:**

I am here this session to talk about fees, taxes, and everything we can do to restore the programs of our state. I applaud this Committee for introducing this bill; Every Committee should be looking at the fees that are being charged in our state. If you looked at 20 years of raising a fee 5 percent a year, it would be a 100 percent increase or more. These increases are moderately relative to the number of years that have gone by without us raising the fees. I also like the indexing in the last section; I think it is very important that we do that. Costs go up, no matter what we do, and we need to fund our agencies appropriately. I urge your support.

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

I thank the Committee for bringing the bill forward; this legislation is definitely long overdue. I know that this Committee has talked about these concepts in the past and has been a leader in dealing with the water issues of our state. It is a good idea to lead on these issues and be able to direct some dollars to the services that the State Engineer provides. For a matter of record, working with the State Engineer's Office has been great; they are very responsive and work very well with all parties. We need to do whatever we can to provide their office with the resources to continue that record of strong customer service.

I would be interested and willing to assist the Committee in any way, as you work through A.B. 480, and figure out the fees. Looking through the bill, when it talks about water for conservation purposes, we want to make sure there is public interest in that issue as well.

**Chair Kirkpatrick:**

Does anyone else have any questions? [There were none.] Is there anyone else who would like to testify in support of A.B. 480?

**Joe Johnson, representing Toiyabe Chapter, Sierra Club, Reno, Nevada:**

After listening to the testimony, I think it is relevant that in previous sessions we would have supported additional staffing for the State Engineer's Office to evaluate and work through water issues. It is very important that we maintain General Fund support in addition to the fees, so that we have people to do this very important work.

**Susan Lynn, Coordinator, Great Basin Water Network, Reno, Nevada:**

You already have heard many of the arguments for A.B. 480. I commend the Committee for bringing this bill forward. I share the concern over the \$300 charge for livestock watering or wildlife purposes. I realize that it takes more effort to go out and look at those resources, and therefore it probably

needs to be more expensive. I also note the questions equity. For instance, reviewing subdivision maps seemed very low. There is a higher opportunity for profit on subdivision maps. That does not mean they should be soaked, but that fee could possibly go up a little. That is my only comment.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify in support of A.B. 480? Is there anybody who is in opposition?

**Allen Biaggi, Director, Department of Conservation and Natural Resources:**

You have already alluded to what my statement will be today, which is in opposition. I want to thank this Committee and Assemblywoman Mastroluca for working with us and for her interest in the Office of the State Engineer and, more importantly, in the water resources of the State of Nevada. As you already mentioned this morning, the Governor has a very strict policy of no new fees and no new taxes, so we are unable to support the bill at this time. I would be happy to answer any questions.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify in opposition of A.B. 480? [There was none.] Is there anybody who is neutral on A.B. 480?

**John A. Erwin, Director, Resources Planning and Development, Truckee Meadows Water Authority, Reno, Nevada:**

I appreciate the efforts made here today. Our policy at the Truckee Meadows Water Authority (TMWA) is cost, cause, or pay. This is a service provided by the State Engineer's Office. This potential increase will have a significant impact on TMWA. In order to implement the Truckee River Operating Agreement (TROA), the negotiated river settlement in the Truckee Meadows, we have 78 primary applications and 312 secondary applications pending. Under the current fee structure, it would be an impact of about \$108,000. Based on the proposed rates I see in the schedules here, that fee jumps to about \$254,000, resulting in about a \$150,000 increase to TMWA to implement TROA. In addition, the City of Reno, the City of Sparks, and Washoe County have yet to file similar applications to move water into storage with primaries and secondaries, and their fees would go up about 150 percent as well. Ours is about 20,000 acre-feet; theirs will be about 10,000 acre-feet. In addition, the Paiute Tribe is going to make similar applications. I am trying to give you the magnitude of some of the costs that we will be facing with this change.

Our position is neutral; we want to work with the Committee. I heard testimony earlier about this starting as a working document; I appreciate that. I just wanted to make the Committee aware of TMWA concerns, and I look forward to working with the group to help, or perhaps moderate. Regarding the automatic escalator, the only concern is that automatic perpetuity can result in a very big number. I hope we would look at that, perhaps each session, to find out our costs and true those up to make sure those fees do not keep escalating without some control. There are other issues, but I appreciate your time.

**Chair Kirkpatrick:**

Does anybody have any questions? [There were none.] State services are not free; I would hope that TMWA would come back to me with a statement on the fiscal impact to its ratepayers if we cut 11 positions to their services. If we are asking our staff to be efficient or accountable, we need to give them the tools to do their jobs. Whether we are from the state, North Las Vegas, Reno, or Washoe County, we need to work together to make sure that our vital services, like water, have support. We need to have those serious discussions this session.

**Assemblywoman Mastroluca:**

I hope the Committee is willing to work with all the interested parties in trying to come to an agreement on these bills. I want to thank Madam Chair for asking me to present this bill, because it gave me an opportunity to do a lot of research and to really educate myself on the water issues, so I appreciate that.

**Chair Kirkpatrick:**

Mr. Goedhart, you seem to be a water buff. Can you work with Ms. Mastroluca and me? We do not have time to do a work session, but we could have folks submit their comments to the two of you, and we can see where to go with this working document. Do you have time to do that, Mr. Goedhart?

**Assemblyman Goedhart:**

Absolutely, I have time.

**Assemblyman Aizley:**

Can you explain why the bill calls for 5 percent indexing, instead of a cost-of-living indexing on fees?

**Chair Kirkpatrick:**

That number is in there because unless you throw out a figure, you will never know. One thing I have learned in this building is you always go higher so that you have room to move, and I do that in sales all day long.

Does anybody have any comments on A.B. 480? [There were none.] We are going to close the hearing on A.B. 480. Is there any public comment? [There were none.] Are there any comments from the Committee? [There were none.]

With that, I will adjourn the meeting until 8:30 a.m. tomorrow.

Meeting adjourned [at 10:28 a.m.].

RESPECTFULLY SUBMITTED:

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Michelle Smothers  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** March 24, 2009

**Time of Meeting:** 8:02 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 376	C	Jeff Fontaine	Proposed amendment
A.B. 376	D	Andy Belanger	Proposed amendment
A.B. 377	E	David Bobzien	Proposed amendment
A.B. 416	F	Doug Busselman	Prepared statement