

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

**Seventy-Fifth Session
April 17, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:03 a.m. on Friday, April 17, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Chad Christensen
Assemblyman Ed A. Goedhart
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Kelvin Atkinson (excused)
Assemblyman Jerry D. Claborn (excused)
Assemblywoman April Mastroluca (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Scott McKenna, Committee Counsel
Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
Denise Sins, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Michael A.T. Pagni, representing Truckee Meadows Water Authority,
Reno, Nevada
Bob Larkin, Washoe County Commissioner, Chairman, Truckee River
Flood Project Coordinating Committee, Reno, Nevada
Gregory A. Salter, Deputy District Attorney, Washoe County District
Attorney's Office, representing the Truckee River Flood Project
Coordinating Committee, Reno, Nevada
Geno R. Martini, Mayor, Sparks, Nevada
Ernest E. Adler, Carson City, Nevada, representing the Reno-Sparks Indian
Colony, Reno, Nevada
Roberta A. Ross, Public Policy Chair, Downtown Improvement
Association, Reno, Nevada
David Roundtree, P.E., representing the engineering community in the
Truckee Meadows, Reno, Nevada
C. Ryan Bauman, representing Nevada Chapter, Associated General
Contractors, Reno, Nevada
John S. Phillips, President, Heron's Landing Homeowners Association,
Reno, Nevada
Louise E. Kehmeier, Senior Landscape Architect, Foothill Associates,
Reno, Nevada
Jessica Sferrazza, Reno City Councilwoman, Reno, Nevada

Chair Kirkpatrick:

[Roll called.] We will open the hearing on Senate Bill 111 (R1). Section 1, subsection 9 is the piece that deems the Mayor of the City of Sparks to be a member of the City Council of the City of Sparks. Apparently in Sparks, the Mayor is not deemed a City Council person, like he is in Reno. Can you explain to us why the Mayor of Sparks is different than the Mayor of Reno?

Senate Bill 111 (1st Reprint): Revises provisions governing membership on the Western Regional Water Commission and the Northern Nevada Water Planning Commission. (BDR S-240)

Michael A.T. Pagni, representing Truckee Meadows Water Authority, Reno, Nevada:

Senate Bill 111 (1st Reprint) is the product of the interim Legislative Committee that had oversight over the Western Regional Water Commission. This bill has three technical cleanups that were proposed by the entities, the Truckee Meadows Water Authority being one of them, to Senate Bill No. 487 of the 74th Session.

The first cleanup is regarding the membership of the Western Regional Water Commission. Under the Sparks City Charter, the Mayor is not deemed to be a member of the Council for purposes of voting. We wanted to recognize that the Mayor of Sparks could be a member of the Western Regional Water Commission. That is on page 3, subsection 9 of section 1, allowing the Mayor of Sparks to be just a member of this board.

The second cleanup is on page 4, at line 12, in paragraph (h) of subsection 1 of section 2. As originally written, it described the membership of the Northern Nevada Water Planning Commission as intending to include a member of the Paiute Tribe because there was a member of that tribe already sitting on the Washoe County Water Planning Commission, to which the Northern Nevada Water Planning Commission became the successor. However, the way it was defined in the statute, it described Indian reservations as being excluded from sitting if a reservation was not located within the planning area, so it basically did not allow the member of the tribe to sit on the board. This cleanup allows Indian reservations which are contiguous to the planning area to be included, so that a member from the tribe may now remain on the Northern Nevada Water Planning Commission.

And the last cleanup is in paragraph (k). The legislation that came out of the 2007 Session provided for a member on the Northern Nevada Water Planning Commission to be appointed by the board of supervisors of the Washoe Storey Conservation District, which was just a typo that came out of the Legislative Counsel Bureau (LCB). The correct entity is the Washoe County Water Conservation District. For your understanding, the Washoe County Water Conservation District is the entity with the responsibility of operating the Boca Dam and the upstream storage for the irrigation users. That person has been sitting on the Planning Commission for years, so it was to allow that person's membership to remain.

Those are the three technical cleanups on behalf of the Truckee Meadows Water Authority, so we support this amendment. I also spoke with the legal counsel for the Western Regional Water Commission, John Rhodes, who wanted me to convey that the Commission also supports these changes. We all thank the work of the interim Committee and Assemblyman Bobzien, as well, who was on that Committee. I would be happy to answer any questions.

Chair Kirkpatrick:

The minutes from the Senate side made it clear that Mr. Rhodes fully supported the technical amendments, and Senator Amodei and Assemblyman Anderson were also in support. Considering that was a long, hard piece of legislation, at the end, those were the only three real technical errors we had, so for the most part, we did pretty well.

Michael Pagni:

Yes, we were pleased with what came out, and the fact that we only have these three small cleanups is pretty good considering how big that legislation was.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] Is there anyone who would like to testify in support of or in opposition to S.B. 111 (R1)? [There were none.] Is there anyone who is neutral on S.B. 111 (R1)? We will close the hearing on S.B. 111 (R1) and open the hearing on Senate Bill 175 (R1).

Senate Bill 175 (1st Reprint): Enacts provisions governing flood management projects. (BDR 20-239)

Bob Larkin, Washoe County Commissioner, Chairman, Truckee River Flood Project Coordinating Committee, Reno, Nevada:

I would like to make some opening comments, and then Greg Salter, counsel for the Flood Project Coordinating Committee, will go through any specific questions related to the technical changes that are being requested. I know the Committee has heard from the Flood Project Coordinating Committee; in fact, it seems as if we should open up an adjacent office down here so you can ask the questions directly. The entities that comprise the Flood Project Coordinating Committee are Washoe County, Reno, and Sparks. The Mayor of Sparks is here and if the Mayor would like to join us to answer any questions, I would encourage him to attend. We also have committee members from the City of Reno and from the University of Nevada, Reno (UNR), because such a large portion of the flood project overflow area interfaces with UNR farms. We also have various nonvoting members from Storey County and the Indian tribes, and

a host of nonmember individuals who also have a particular interest in seeing that the Truckee Meadows has flood management.

Over the last five years, since the inception of the Flood Project Coordinating Committee, we have been operating under an interlocal agreement with the jurisdictions. The Army Corps of Engineers, which is our major federal partner in this project, requires that one entity deal with the Army Corps of Engineers on these types of flood projects. Now, through the interlocal agreement and the Board of County Commissioners, Washoe County has been that entity. This is such a far-reaching flood control project, stretching all the way from the California border to Pyramid Lake, that the entities within Washoe County felt it was appropriate to have all the partners at the table, including those that may want to participate from Storey County. To do that, we initiated a broad-based study about three years ago. Those of you who live in Clark County are probably familiar with your flood project control district, and you might ask the question "Why not go in that direction?" We did consider that as well as some other options.

In Washoe County we have extensive experience with joint powers agreements, which create joint power authorities (JPA). For example, the Western Regional Water Commission is part of a JPA with the Truckee Meadows Water Reclamation Facility (TMWRF), which is our local sewer company. So there is a comfort level with these JPAs, in that we know how all the entities operate within Washoe County. The Truckee Meadows Water Authority (TMWA) is another example. We are very comfortable with JPAs and we feel confident that we can operate them very effectively. Rather than try to put together a flood control district, the notion here is to take the Flood Project Coordinating Committee and roll it into a JPA. To do that under the current *Nevada Revised Statutes* (NRS), we need some legislative changes, specifically to authorize flood management to be a part of a JPA. Some of us felt that we could do this under existing law, but, of course, our attorney friends want to protect everybody and they said, "No, to do this we need to modify the JPA language within the NRS."

Madam Chair, that is what brings us here today. We are seeking that change to enable the Flood Project Coordinating Committee to have full enablement from all the parties to be the single entity that the Army Corps of Engineers deals with, as we move forward. We have made great strides, and I know you have heard testimony about some of the flood features we have in place and the workings of the Committee. It is in excellent health. While in any relationship there are conflicts—and I do not speak out of turn on this—at the end of the day, all of the parties sit and work through those conflicts. This legislation seeks to modify the NRS so that we can move the project to the next level with

the Army Corps of Engineers, which is full funding. With that, Madam Chair, I conclude my comments and stand by for any questions.

Gregory A. Salter, Deputy District Attorney, Washoe County District Attorney's Office, representing the Truckee River Flood Project Coordinating Committee, Reno, Nevada:

Senate Bill 175 (R1) essentially does two things. It allows cities and counties which have a population of 100,000 to 400,000 to impose rates, tolls, and charges for a project of the magnitude of the Truckee River Flood Project. Then it allows those cities and counties to issue bonds on the revenues that would be generated by the rates, tolls, and charges. The cities and counties can contribute those powers to a JPA and then, using those powers, it can impose the fees, rates, tolls, and charges and issue bonds. The second thing the bill does is allow bonds that are issued either by cities, a county, or a JPA to be purchased by a county bond bank or a state bond bank, if that turns out to be an efficient way to finance the project. That is all the bill does; it just expands our powers to accommodate our project.

Chair Kirkpatrick:

Does anyone have any questions?

Assemblyman Bobzien:

I was looking at section 4 of the bill and also the repeated language in section 16. What you are doing is just putting language into NRS Chapter 244A and NRS Chapter 268 to clarify what a flood management project is. A key point to make, particularly for the folks on the Committee that may not be as familiar with the history of the flood management project, is that this is kind of the bread and butter of why a flood management project is different from your traditional flood district. The language includes such matters as ecosystem health and accompanying concerns, so I was wondering if you could talk about the specific items that you are laying out here and how they distinguish this effort from the traditional view of how you would use a flood management district to do this. That might be helpful for the Committee.

Gregory Salter:

I can partially answer that question, but we may need an engineer to explain some of the breadth of the flood project. Essentially, as it stands right now, the only power the cities and counties have is to do a drainage and flood control project, which is the first element of the definition in section 4. We do not want to make the same mistakes that were made in the 1960s when we tried to do a flood project. What we envision is a comprehensive project that not only takes into account the traditional levees of a flood project but also includes an ecosystem restoration in order to purify and preserve water, assist in the

management of flood waters, and add a small recreation element. As long as we are there and doing the project, what is wrong with putting in some grass or some terracing and that sort of thing? What we have envisioned here is much better than the flood project that was attempted in the 1960s.

One of the other elements that we need is in subsection 11 of section 4. We need the ability and the authority to purchase easements for properties that may become flooded as a result of our project. The ecosystem restoration is a project that may alter or divert natural waters to conserve floodwaters and put them to use, rather than have them rushing down the river. One of things we are already doing in the flood project is an ecosystem restoration project in the Lockwood and Mustang areas, where we are actually—again, to correct some of the problems that were made in the 1960s—rerouting the Truckee River and giving it better floodplain and better wetlands. This gives us the authority to use rates, tolls, and charges for that purpose.

Chair Kirkpatrick:

Does anyone else have any questions? In looking at section 14, at line 23, what is an "income-producing project"?

Gregory Salter:

The original county and city bond laws contemplated income-producing projects, for example, a water project where the county or city would build a water facility and charge fees, based on water usage, and those fees would be considered income- and revenue-producing. Our project is a bit different because we cannot base a fee on usage: we are building levees and fixed features, and we cannot say that a particular property is using so many gallons of water or processing so many gallons of sewage. We needed to get a statutory fix to make sure that the city and county bond laws cover our type of project.

Chair Kirkpatrick:

So there is no intention to go out and build other facilities? Are you just talking about the levees? What I want to put clearly on the record is that you are not going to go out and build a nice Taj Mahal building at the cost of the ratepayers.

Bob Larkin:

That is an excellent question, Madam Chair. The intention here is to build the absolute minimum amount of features—no add-on features such as what you suggested—in order to complete our project. We also have very close scrutiny by the federal government, which is auditing every step we are taking. This is the language we have to clean up, though, in order to move forward, as

Mr. Salter has indicated. For the record, we will not be building any Taj Mahal buildings.

Chair Kirkpatrick:

That takes care of my concern in section 23, at line 31, where it says, "equip, operate, and maintain" a project specified in NRS. That answers the question as to why you need the other pieces of it. Are there any other questions from the Committee?

Assemblyman Settlemeyer:

Within the river, do you have any agricultural structures that go completely across? I see that you are going to be adding a fish portage and things like that. I assume you will also try to have rafting type things that will help facilitate multiple use of the river system. Can you elaborate on that a bit more?

Bob Larkin:

Yes, we have all kinds of features that go across. Maybe the Mayor wants to talk about this. The City of Sparks just recently completed a kayak whitewater park with the full concurrence of the federal government. The intent here is to have full multiple use of the river through this process and coordinate it with the federal government as well as with all the users of the Truckee River, including the Indian tribes, so that we maintain it and get a true multiple use out of that tremendous resource.

Assemblyman Settlemeyer:

Since you are going to maintain it, would it still be a navigable stream under federal rules? You would still have to abide by that and help try to make sure everybody can float from one end to the other, in case someone has a steamboat or something they want to take up and down.

Geno R. Martini, Mayor, Sparks, Nevada:

We have gone through great lengths, Assemblyman Settlemeyer, to make sure that we are good friends and good stewards of the river. Our whitewater park is about 1,500 to 2,000 feet. It took us three years to get all the permits and things we needed to develop a whitewater park. It is not like the one in downtown Reno, which is a bit more professional. This one is for the average person who just wants to get in the water. It was developed at a place where there was very little access to the river. To me, our river is an underutilized asset, and this flood project is a perfect example of something we can do for generations in the future and ensure that it is very usable.

Chair Kirkpatrick:

Does anyone have any questions? This Committee passed Assembly Bill 54, which had another flood piece in it. Can you tell us how they work together or if they are not even close?

Bob Larkin:

Gregory Salter is the best person to speak to the juxtaposition of the two bills because he was the primary architect of the second portion of A.B. 54. In A.B. 54 we were seeking authority, with respect to the flood control, to use funds in one particular instance where homes needed to be jacked-up, and we needed legislation to do that. This legislation, S.B. 175 (R1), actually enables the Flood Project Coordinating Committee to assess the toll fees that would, in essence, pay for that. One gives us the authority to do it; the other would give us the authority to raise the funds to do it. That is the juxtaposition. Is that correct, Mr. Salter?

Gregory Salter:

Yes, this bill gives us the ability to impose tolls, rates, and charges. Assembly Bill 54 gives us the ability to use those tolls, rates, and charges, as well as our 1/8 of a percent sales tax, grants, and other funds that we obtain, to provide financing for flood-proofing individual buildings, but only if there is a very significant savings as opposed to building a levee or raising houses. Then, A.B. 54 gives us the ability to do a financing program, which is not directly authorized by S.B. 175 (R1).

Assemblywoman Spiegel:

What kind of tolls are you talking about when you say rates, tolls, and charges?

Gregory Salter:

We retained a consulting firm, and that firm has prepared a draft report, but I am not privy to what kind of tolls are being suggested.

Bob Larkin:

It is rates and fees. As a matter of fact, the City of Sparks has already assessed fees on the sewers for the realignment of the north Truckee drain. We have that report in progress and would be more than happy to come back and present the rates, tolls, and charges at a separate presentation. But it would be user-based fees, and they would be based upon the impacts that the flood, or past floods, has caused in a particular area.

Gregory Salter:

And they would also be based on the benefits that would be received by the fee payer. This is not a tax, it is a fee, so there has to be a relationship between

the amount of the fee and the amount of benefit that the property owner is enjoying from the project. So it would be a benefit-based fee.

Chair Kirkpatrick:

Does anyone else have any questions? [There were none.] Is there anyone who would like to testify in support of Senate Bill 175 (R1)?

Ernest E. Adler, Carson City, Nevada, representing the Reno-Sparks Indian Colony, Reno, Nevada:

The Reno-Sparks Indian Colony is located along the Truckee River and recently participated with the county in doing a flood-control project off of Glendale Avenue. It was a very successful partnership. The Indian Colony invested about \$2.8 million in cash and land donations for the project, and the county donated another \$1.7 million. It is currently under construction, which is great, but the overall problem that the Indian Colony and the other Indian tribes along the river have is, unless you have a comprehensive project that covers the entire river, you are still going to have a great deal of flood damage. So that is why the Reno-Sparks Indian Colony strongly supports this bill: even though we have taken care of a small portion of this problem, unless you address the entire problem, it is never going to be fixed within a reasonable time frame.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] Is there anyone else who wants to testify in support of S.B. 175 (R1)?

Roberta A. Ross, Public Policy Chair, Downtown Improvement Association, Reno, Nevada:

We are here in support of S.B. 175 (R1). With that, we are a bit concerned about the benefit-based fee. In the long run, we hope that the joint powers that take control of this understand that the developers, who are up on the hill and have paved and put cement on those hills, benefit also. Even though the people get flooded with water and sticks, they are not the only people who will benefit from this: the developers will also benefit. They would be able to build more, and have safer ground to build on, and they will not be getting flooded out. It is not just the hundred-year floodplain which is the big concern of ours. With that, I just want you to know that we do support it, and we hope they look at that aspect for the future. My own apartment building of 162 people was flooded four feet up the side of that building in the 1997 flood, so whatever we can do to help people survive in their homes and businesses through future floods would be appreciated.

Chair Kirkpatrick:

Ms. Ross, did you testify on the Senate side as well or just this side?

Roberta Ross:

I only testified on this side, thank you.

David Roundtree, P.E., representing the engineering community in Truckee Meadows, Reno, Nevada:

I personally have been involved with trying to pursue flood protection in the Truckee Meadows for more than 20 years. I was previously the Public Works Director for the City of Sparks and subsequently the Public Works Director for Washoe County and have been through the two most significant floods. After those floods, we worked diligently to come up with a solution to the flooding and to provide flood protection in the Truckee Meadows. Unfortunately, we did not make a lot of progress. However, as a result of the coming together of Reno, Sparks, and Washoe County to form the Flood Project Coordinating Committee, they have made tremendous progress towards creating a plan that will provide flood protection for the Truckee Meadows. Without that coming together of the three jurisdictions, I do not think we would be where we are today. This legislation will give the local jurisdictions the wherewithal to provide the local funding match that will go together with the Corps of Engineers funding to create this project. We have never been as close to the success of a flood-control project as we are today, and we certainly encourage your support of this bill. It is one of the last remaining steps to make flood protection a reality in the Truckee Meadows. I hope that you will support it. Thank you very much.

Chair Kirkpatrick:

Are there any projects ready to go right away?

David Roundtree:

Naomi Duerr is the Director for the Flood Project and is here, so she might be able to speak to it. There are projects that are in place and are actually being created now. The project that Mr. Adler just spoke about is one that is already being put in place. There are projects that are ready to go and more to come.

Chair Kirkpatrick:

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

C. Ryan Bauman, representing Nevada Chapter, Associated General Contractors, Reno, Nevada:

[Read from prepared testimony ([Exhibit C](#)).]

John S. Phillips, President, Heron's Landing Homeowners Association, Reno, Nevada:

Our association of 122 residents is approximately 2.5 miles south of the Truckee River, and I am also representing today other homeowners associations, including Rosewood Lakes and Hidden Valley. The issue with the Truckee River is that it affects us as well, even though we are far away from it. We are strongly supportive of the flood-control project. All you have to do is go back to 1997 and 2005 when we had water in our backyards. It was not considered the hundred-year event, but it was getting close. As the Corps of Engineers so succinctly stated, time is marching on, and it is just a matter of time before we have another event of the 1997 magnitude. The homeowner associations are strongly supportive of S.B. 175 (R1) and certainly recommend passage of the bill.

Chair Kirkpatrick:

You came and testified for Assembly Bill 54 representing your homeowners association, correct?

John Phillips:

Yes.

Chair Kirkpatrick:

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

Louise E. Kehmeier, Senior Landscape Architect, Foothill Associates, Reno, Nevada:

[Read from prepared testimony ([Exhibit D](#)).] This bill brings all the social, cultural, and environmental opportunities together in one effort.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] Is there anyone else who would like to testify in support of S.B. 175 (R1)?

Jessica Sferrazza, Reno City Councilwoman, Reno, Nevada:

First of all, I want to thank you for your work on Assembly Bill 54, which was a very important bill for us. I know there were some changes that needed to be made, but I just want to thank you, Madam Chair and members of the Committee, for helping us with the bill. I want to go through a couple things. We are doing several projects right now: the 102 Ranch, Lockwood, the Reno-Sparks Indian Colony levee, and the Mustang Ranch restoration project. One of the great things about this project is that we have been able to work with the private sector to help us with the funding on levees and walls and really making this project move forward. This bill is very important to us. It is

great that all of the local jurisdictions have blessed this bill. We have Reno, Sparks, and the county on board with this, so we have agreement. This project is a long time coming, and I just want to say thank you and any way we can work with you to get this passed, we would appreciate it.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] Is there anyone who would like to testify in support of or in opposition to S.B. 175 (R1)? [There were none.] Is there anyone who is neutral on S.B. 175 (R1)? [There were none.] With that, we are going to close the hearing on Senate Bill 175 (R1).

We will probably do a work session on Thursday. I understand this bill is effective upon passage and approval. We need to get through deadlines—that is most important.

Is there anything from the public? [There was none.] Is there any comment from the Committee? [There was none.] With that, we will close the Assembly meeting on Government Affairs until Monday.

[Committee received letter of support for S.B. 175 (R1) from David Kersh ([Exhibit E](#)).]

Meeting adjourned [at 9:42 a.m.].

RESPECTFULLY SUBMITTED:

Denise Sins
Committee Secretary

Michelle Smothers
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 17, 2009

Time of Meeting: 9:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 175 (R1)	C	C. Ryan Bauman	Prepared testimony
S.B. 175 (R1)	D	Louise Kehmeier	Prepared testimony
S.B. 175 (R1)	E	David Kersh	Letter of support