

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

**Seventy-fifth Session  
May 13, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 1:12 p.m. on Wednesday, May 13, 2009, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator John J. Lee, Chair  
Senator Terry Care, Vice Chair  
Senator Steven A. Horsford  
Senator Shirley A. Breeden  
Senator William J. Raggio  
Senator Randolph Townsend  
Senator Mike McGinness

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Ellen B. Spiegel, Assembly District No. 21

**STAFF MEMBERS PRESENT:**

Heidi Chlarson, Committee Counsel  
Michael Stewart, Committee Policy Analyst  
Olivia Lodato, Committee Secretary

**OTHERS PRESENT:**

John Slaughter, Washoe County  
James E. Sala, Senior Representative, Political Director, Southwest Regional  
Council of Carpenters  
Clara Andriola, President, Associated Builders and Contractors, Inc., Sierra  
Nevada Chapter  
Yvonne L. Murphy, Tahoe-Reno Industrial Center

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Russell M. Rowe, American Council of Engineering Companies of Nevada;  
Biodiesel of Las Vegas, Inc.  
Douglas R. Lyon, Organizational Development Administrator, Office of the  
County Manager, Clark County; Southern Regional Planning Coalition  
Chris Giunchigliani, Clark County Board of Commissioners, District E  
Tim O'Callaghan, Chair, Housing Authority of Clark County  
Stacy Shaffer, Service Employees International Union Nevada  
Father Dave Casaleggio, Chair, Housing Authority of the City of Las Vegas  
Ted J. Olivas, Director, Government and Community Affairs, City of Las Vegas  
Francisco Aguilar, Commissioner, Housing Authority of Clark County  
Gregory E. Rose, City Manager, City of North Las Vegas  
Cecilia G. Colling, Chief of Staff, Office of the State Treasurer  
John O. Swendseid, Attorney  
Mark Winebarger, CPA, Chief Deputy Treasurer, Office of the State Treasurer  
Randall C. Robison, Nevada Association of School Superintendents  
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities  
Debra Gallo, Director, Government and State Regulatory Affairs, Southwest Gas  
Corporation  
Fred Schmidt, Clark County Water Reclamation District; Southern Nevada Sewer  
Entities  
Judy Stokey, Director, Governmental Affairs, NV Energy  
Brian McAnallen, Director, Government Affairs, EMBARQ  
Veronica Meter, Vice President, Government Affairs, Las Vegas Chamber of  
Commerce  
Wes Henderson, Government Affairs Coordinator, Nevada Association of  
Counties  
Mary C. Walker, Carson City; Douglas County; Lyon County; Storey County  
Robert F. Joiner, Government Affairs Manager, City of Sparks  
Dan Marran, Purchasing Manager, City of Sparks  
Jack Mallory, Director of Government Affairs, International Union of Painters  
and Allied Trades, District Council 15; Nevada AFL-CIO  
John L. Balentine

Chair Lee opened the meeting with an announcement that the work session  
would be the first order of business as all the Committee members were  
present. He opened the hearing on Assembly Bill (A.B.) 119.

**ASSEMBLY BILL 119 (1st Reprint)**: Requires the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources. (BDR 22-750)

Michael Stewart, Committee Policy Analyst, said A.B. 119 incorporated in statute Washoe County Ballot Question No. 3 (WC-3). The issue required balancing land use plans with identifiable sustainable water resources within the County (Exhibit C). He said WC-3 was passed by Washoe County in the 2008 general election and required the amendment of the regional plan adopted by the Truckee Meadows Regional Planning Agency, Exhibit C. He said the bill clarified that the duties of the State Engineer were not affected by the bill.

Chair Lee said the bill was a northern Nevada issue.

Senator Townsend said Nevada Revised Statute (NRS) 278.0274 stated the comprehensive regional plan must include goals, policies, maps and other documentation. He said the new language in A.B. 119 narrowed the earlier definition. It required identification of water resources. He said he was concerned it was already in the law that they had to deal with population growth projections and the resources necessary to support the population. He said if it was only water in the bill and there was litigation, it implied that other things were purposely left out. He understood the concern about lack of appropriate plans. He said people who sat on the Board for the Truckee Meadows Regional Planning Agency were mainly elected officials. He said he did not know if it was necessary to change the law. He recommended the sponsors of the bill return to the Legislature in two years and discuss problems that might arise.

Chair Lee said there was an importation of water issue. He said there were water basins outside the area and wondered if that topic was discussed.

Senator Townsend said there was great concern in rural Nevada regarding the two largest counties' need for water. He said under current water law, water could be moved from basin to basin. He said A.B. 119 did not appear to have anything that would change 100-year-old water law or affect the current water laws.

Chair Lee said the regional plan had different procedures than those in the southern part of the State.

Senator Care said the ballot question WC-3 passed with approximately 73 percent of the votes. He said the question was whether the Truckee Meadows Regional Plan should be amended. He said the implication was the voters expected something to occur in a timely fashion. The testimony said the Washoe County Commission had begun the process, but stopped upon the introduction of the legislation. He asked what the Washoe County Commission would do if the Legislature did not act on the bill.

Chair Lee asked if anyone from Washoe County was available to answer Senator Care's question.

John Slaughter, Washoe County, said the County Commissioners were working toward implementation of WC-3. The Truckee Meadows Regional Planning Agency was the governing board responsible for the regional plan and would implement changes to a regional plan. He said the Washoe County Commission was reviewing their authority and requirements before the bill came to the Legislature. If the bill did not pass, Washoe County would review their responsibilities. The Truckee Meadows Regional Planning Agency would also review their responsibilities as changes were required from them.

Senator Raggio said he had input from both sides of the question. He said the Truckee Meadows Regional Planning Governing Board could enact the provisions without passing the legislation. He said the law for the regional plan already stated growth could not outpace the water supply. He did not know the reason for putting it in statute. He said the Truckee Meadows Regional Planning Governing Board was in the process of enacting the bill and could do so if it did not pass.

Senator Horsford said it was difficult to make a decision because he was not from Washoe County. His concern was it was voter-approved. He asked why there could not be a firm indication the bill would be enacted if the voters of Washoe County approved the action. He said the bill did not conflict with the will of the voters of Washoe County.

Chair Lee said Washoe County had moved forward but stopped when the bill was proposed in the Legislature.

Mr. Slaughter said there was a discussion on where the authority rested to make the changes. He said the County Commissioners did not have the

authority to change an ordinance to the regional plan. Their authority was to change county ordinances. He said the questions were specifically related to the regional plan.

Senator Horsford asked Mr. Slaughter if the Truckee Meadows Regional Planning Agency was required to adopt the regional plan.

Mr. Slaughter replied the Regional Planning Governing Board was the regional planning agency in Washoe County and they had the authority over the plan.

Senator Horsford asked if Washoe County was a participant in the Regional Planning Agency.

Mr. Slaughter said Washoe County, Reno and Sparks were members of the Regional Planning Governing Board. He said elected officials sat on the ten-member board.

Senator Horsford said after the voters passed the question, the plan needed to be adopted.

SENATOR HORSFORD MOVED TO DO PASS A.B. 119.

SENATOR CARE SECONDED THE MOTION.

Chair Lee asked if there was any further discussion.

Senator Care said the ballot question was phrased "shall" which he regarded as mandatory. He did not know what was considered a reasonable period to allow a body to incorporate the will of the people. He said if the Legislature passed the bill, the other authorities and agencies did not have to worry about it.

THE MOTION CARRIED. (SENATORS RAGGIO AND TOWNSEND VOTED NO.)

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Chair Lee opened the discussion on A.B. 135.

**ASSEMBLY BILL 135 (1st Reprint)**: Requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred. (BDR 30-617)

Mr. Stewart said A.B. 135 required the State Treasurer to review and approve certain financial obligations which required State payments of \$5 million or more (Exhibit D). The bill required obligations related to the federal stimulus package be completed within 15 days. The bill allowed the State Treasurer to waive the review, Exhibit D. The bill also clarified that in projects approved by the State Board of Finance, the cost of the review was paid as part of the project's cost. He said the bill exempted projects to retrofit State buildings for energy efficiency. He identified proposed Amendment 4887 clarifying the State Treasurer's review and that the State Board of Finance's approval did not apply to a State financial obligation of the Nevada System of Higher Education, Exhibit D. He said the amendment covered a lease, installment-purchase contract or lease-purchase contract that included a provision that the contract may be terminated if the Legislature failed to appropriate any money for payments due pursuant to the contract, Exhibit D.

Chair Lee asked the Committee if they had any questions regarding A.B. 135.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS  
AS AMENDED A.B. 135.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on A.B. 159.

**ASSEMBLY BILL 159 (1st Reprint)**: Prohibits the Governor or any other State officer or employee, without authorization by the Legislature, from binding the State to the requirements of an international trade agreement or otherwise committing the State to comply with the nontariff terms of an international trade agreement. (BDR 52-386)

Mr. Stewart said A.B. 159 prohibited the Governor or other State officers from approving the terms of an international trade agreement including nontariff terms unless the Legislature enacted legislation authorizing the Governor to act ([Exhibit E](#)). Mr. Stewart said there was testimony in support of and opposition to the bill.

Chair Lee said further information mandated the State comply with some federal requirements.

Chair Lee asked for a motion on the bill. No motion was offered on A.B. 159. No action was taken on the bill.

Chair Lee opened the discussion on A.B. 360.

**ASSEMBLY BILL 360 (1st Reprint)**: Authorizes the temporary creation of certain special districts. (BDR 25-733)

Mr. Stewart reviewed A.B. 360. The bill authorized the creation of a special district to manage money paid to the State or a county by the federal government. He said money received from the federal government based on a percentage of national forest receipts in the State was distributed directly to the special district ([Exhibit F](#)). He said proposed Amendment 4888 clarified that a special district formed would include members from the board of commissioners of a single county and the special district would act independently of that board of commissioners, [Exhibit F](#).

Chair Lee asked if the bill had to do with Payment in Lieu of Taxes (PILT) money. He said if a school district received money from the federal government, it reduced the district's PILT money by equal dollars. He said by enacting A.B. 360, the district would have access for two to four years from both areas of available money.

Mr. Stewart said the PILT program and Secure Rural Schools Program were the source of the funding. The Secure Rural Schools Program would offset the PILT payments.

Chair Lee asked if there was further discussion on the bill.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 360.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee said there was an amendment on A.B. 397 that was not yet available to the Committee. He said the bill would be heard at the next meeting.

ASSEMBLY BILL 397 (1st Reprint): Authorizes redevelopment agencies to expend money to improve schools located within certain areas under certain circumstances. (BDR 22-130)

Chair Lee opened the discussion on A.B. 467.

ASSEMBLY BILL 467 (1st Reprint): Makes various changes relating to the prevailing wage requirements. (BDR 28-910)

Mr. Stewart said A.B. 467 clarified requirements of a project subject to the payment of prevailing wages but did not have a public body as a party to the actual construction contract (Exhibit G). He said the project must include provisions required for a public works contract; require the public body to comply with the public works statutes; and required the contractor and subcontractor to comply with the public works statutes, Exhibit G. Mr. Stewart said a compromise amendment was proposed and a copy was attached in Exhibit G.

Mr. Stewart said proposed Amendment 4861 to A.B. 467 deleted section 1 of the bill and added a new section 1.9 proposing to amend NRS 244.286 to include contractual provisions requiring the payment of prevailing wage and provide that the board of commissioners, the contractor and any subcontractors shall comply with Nevada's prevailing wage requirements.

James E. Sala, Senior Representative, Political Director, Southwest Regional Council of Carpenters, said the deleted section 1 had caused concern for Yvonne Murphy's industrial development group and the Associated Builders and



Contractors, Inc. The focus was now on the clarification of the lease-purchase and installment-purchase sections. He said the ability for the Labor Commissioners to issue a public works project number that covered the developer was also added to the bill. He said there was a consensus from all the earlier groups.

Chair Lee asked Ms. Murphy to come to the table and express her opinion on the bill and the amendment.

Clara Andriola, President, Associated Builders and Contractors, Inc., Sierra Nevada Chapter, said they concurred with the amendment as proposed.

Yvonne L. Murphy, Tahoe-Reno Industrial Center, concurred with Ms. Andriola's comments. She said they were comfortable with the language as written in the amendment.

Chair Lee asked if there were any further questions for the panel.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 467.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARE ABSTAINED FROM THE VOTE.)

Chair Lee opened the discussion on A.B. 483.

[ASSEMBLY BILL 483 \(1st Reprint\)](#): Revises the provisions governing the terms of certain contracts between public bodies and certain design professionals on public works. (BDR 28-932)

Mr. Stewart said A.B. 483 provided that a public body require a design professional to defend, indemnify and hold harmless a public body only to the extent the damages are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional ([Exhibit H](#)). He said an amendment was proposed on behalf of the American Council of Engineering Companies. He said proposed Amendment 4905 added attorneys' costs. It also added language specifying if the contract conflicted with

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provisions in the contract, then the conflicting provisions shall be voided, [Exhibit H](#).

Chair Lee asked if further discussion was required on the bill.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 483.

SENATOR MCGINNESS SECONDED THE MOTION.

Senator Horsford asked if the amendment had been reviewed by the Chair of the Assembly Committee on Government Affairs.

Russell M. Rowe, American Council of Engineering Companies of Nevada, said the amendment had been reviewed in the Assembly.

Senator Care said he would support the motion although he was not sure the bill defined the term "defend" as distinct from "indemnify and hold harmless."

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on A.B. 508.

ASSEMBLY BILL 508 (2nd Reprint): Revises provisions governing the development of low-income housing. (BDR 25-1113)

Mr. Stewart said A.B. 508 set parameters on regulations related to the financing of affordable multifamily housing that may be adopted by the Housing Division in the Department of Business and Industry ([Exhibit I](#)). The regulation may not defer more than 60 percent of a developer's overhead and profits if the project was constructed or financed through the U.S. Department of Housing and Urban Development and secured by a performance bond, [Exhibit I](#). The bill also removed a 2009 reversion date for a \$1 million appropriation to the Housing Division, [Exhibit I](#). Mr. Stewart said there were no amendments offered.

Senator Horsford disclosed he was the President of the Board of Nevada Partners and they administered employer/worker housing programs. He said the bill did not materially affect him and he would vote for it.

SENATOR CARE MOVED TO DO PASS A.B. 508.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on A.B. 478.

ASSEMBLY BILL 478 (1st Reprint): Revises provisions relating to certain housing authorities. (BDR 25-1237)

Douglas R. Lyon, Organizational Development Administrator, Office of the County Manager, Clark County; Southern Nevada Regional Planning Coalition, said the bill was seen as a significant advantage for southern Nevada. They worked with each of the Housing Authorities in southern Nevada. He said the Chair of the City of Las Vegas Housing Authority Board and the Clark County Housing Authority Board approved the language in the bill creating a regional housing authority (Exhibit J, original is on file in the Research Library). He said the bill allowed the three housing authorities to regionalize.

Senator Horsford said he supported the bill. He asked for the time frame for implementation of the proposal.

Mr. Lyon said the language in the bill, as amended, would take place by January 1, 2010.

Senator Horsford asked if there were other provisions in the amendment.

Mr. Lyon said there was nothing else in the amendment that significantly changed the bill, Exhibit J.

Senator Horsford inquired about the assets owned by one or more of the housing authorities. He asked how they would be handled.

Mr. Lyon said the U.S. Department of Housing and Urban Development (HUD) had promised technical and legal expertise in making the transfers to the new Regional Housing Authority.

Chair Lee asked what was occurring in southern Nevada with the bill.

Mr. Lyon said the bill provided for regionalization of the three distinct housing authorities into one large housing authority. It would give southern Nevada the seventh largest housing authority in the Country. He said it meant better services for the people in southern Nevada. He said it streamlined processes, reduced redundancies, and should provide a cost savings.

Chair Lee reviewed the three areas the housing authorities encompassed and inquired about Henderson.

Mr. Lyon said the City of Henderson was under the Clark County Housing Authority.

Chair Lee asked about clustering of housing areas. He asked if residents of the Henderson regional area could continue to live there or would they be relocated to North Las Vegas.

Chris Giunchigliani, Clark County Board of Commissioners, District E, said nobody would have to move or change areas unless they chose to relocate. Their housing stayed as it was. It was a structural change for people trying to access housing. She said members of the Regional Housing Authority would have two members from Henderson, two from North Las Vegas, two from the City of Las Vegas and two from Clark County. She said there would be a tenant selected by the tenants. She met with HUD in order to clarify the transition and give them enough time to do the transition correctly. She said by July 1, local governments should make the appointments to the Regional Housing Authority. She said by January 1, 2010, the authority had to hire a permanent executive director, dissolve all the current housing authorities and move into the regionalized piece. She said section 3, subsection 3 of the bill discussed how to move the assets. She said the agency would continue to work with HUD. Ms. Giunchigliani said the housing authority cannot repeal local laws, ordinances or regulations. She said the housing authority should not nominate or reserve land; that determination should go through local governments.

Senator Horsford asked Ms. Giunchigliani a question pertaining to North Las Vegas and Las Vegas Housing Authorities. There had been a number of resident issues. He asked what assurance there was that some of those issues were addressed.

Ms. Giunchigliani said the process for the selection of the tenant member did not change. She said she was committed to putting together a working committee of employees on how to develop the best practices for customer service for clients. She was also meeting with a group of tenants to have a similar discussion. It was important to do what was best for the client.

Tim O'Callaghan, Chair, Housing Authority of Clark County, supported A.B. 478. He submitted his written testimony ([Exhibit K](#)). He said there was concern about the provision in the bill that kept elected officials from participating on the Board. He said it was important the new Board remain a citizen board. He said it protected the City Councilman and the Commissioners from having to make decisions concerning properties. He said North Las Vegas had an issue where members of the City Council acted as the housing authority and enacted policies; then as the City Council, they would vote them down. The bill allowed for citizens to participate in public service and kept the authority cleaner.

Stacy Shaffer, Service Employees International Union (SEIU) Nevada, said SEIU represented 18,000 health care and public sector workers in Nevada, including the employees at North Las Vegas Housing Authority, City of Las Vegas Housing Authority and Clark County Housing Authority. She spoke in support of A.B. 478. The housing authorities' goals were to provide the citizens of Nevada with the most-effective and efficient service possible. She said the regionalization allowed for the most-effective service.

Father Dave Casaleggio, Chair, Housing Authority of the City of Las Vegas, submitted his written testimony ([Exhibit L](#)). He suggested changes in the current draft of the bill. He suggested any individual authorities should be dissolved within six months following the formation of the regional authority. He said he disagreed with the prohibition against appointing elected officials. The final change he suggested related to the language concerning the selection of an executive director, [Exhibit L](#). He said for the purposes of managing the regional authority, the commissioners of the regional authority initially shall select an executive director by competitive, open and public process, [Exhibit L](#).

Father Casaleggio said the City of Las Vegas Housing Authority took over the North Las Vegas Housing Authority and ran their public housing. The Las Vegas Housing Authority asked Clark County Neighborhood Services to look at the situation. Once the Las Vegas Authority took it over, they could not deal with the many problems and provide safe public housing. He said they worked with HUD and North Las Vegas to remove people from condemned units. Other residents were being moved and given housing vouchers. Since then, they had received limited complaints and were servicing the people in a good manner.

Chair Lee asked if Father Casaleggio had made his points in the Assembly and talked to the Chair of Government Affairs in the Assembly.

Father Casaleggio said most of the proposed changes occurred after the Assembly met on the bill, and he had not spoken to the Chair of Government Affairs. He said he would talk to her about the changes.

Ted J. Olivas, Director, Government and Community Affairs, City of Las Vegas, said although he was not involved in the deliberations described by Mr. Lyon and Commissioner Giunchigliani, the Neighborhood Services department was a part of the discussion. He said the City of Las Vegas supported the bill as amended.

Senator Horsford asked about the resident councils that were established and how would they be handled with the new regional authority.

Ms. Giunchigliani said resident councils would continue. That was the reason for the appointments from each of the local entities.

Father Casaleggio agreed there was no reason to change any of the councils.

Senator Horsford asked if there were regionwide issues and how the councils brought matters before the authority.

Father Casaleggio said it would work the same as it did now. The council brought the issue to public housing, the director or whomever it involved.

Senator Horsford wanted tighter language in the bill. He said the residents' voice on the council was important. He wanted a tight process so there was no

disagreement afterward. He said the authority needed to realize they represented the entire area and not just the district that appointed them.

Mr. Callaghan said complaints would go to specific departments in the Regional Authority and it be handled at the staff level initially. He said issues would be brought to the Board if there was no resolution.

Francisco Aguilar, Commissioner, Housing Authority of Clark County, said the Chair of the Board testified in favor of A.B. 478.

Gregory E. Rose, City Manager, City of North Las Vegas, testified the City of North Las Vegas as well as the existing Housing Authority Board supported A.B. 478.

Ms. Giunchigliani said the language referenced in the amendments was in the original bill and considered by the Assembly. She said an open and competitive process for the selection of the executive director helped ease everyone's concerns about the person in charge of the authority. She said HUD said the January 2010 date was an excellent timeline and gave everybody the opportunity to move from one agency and dissolve the other agencies. She said she would work with Senator Horsford on any language he wanted added regarding the resident councils.

Chair Lee asked Mr. Lyon about the language stating none of the persons appointed to serve as commissioners of the authority may be elected officials of any government entity. He asked why that language was in the bill.

Mr. Lyon said in the process all the agencies met and the executive directors of the housing authorities met and agreed on the language. He said the language was added in the amendment in the Assembly.

Chair Lee asked about the language "authority may not be elected officials" and what the authority thought about it.

Mr. Lyon said the Southern Nevada Regional Planning Coalition was neutral on the language as were most of the jurisdictions.

Chair Lee closed the hearing on A.B. 478 and opened the hearing on A.B. 60.

[ASSEMBLY BILL 60 \(1st Reprint\)](#): Revises provisions concerning the administration and investment of public money. (BDR 31-453)

Chair Lee said A.B. 60 was the State Treasurer's bill and had an added amendment

Cecilia G. Colling, Chief of Staff, Office of the State Treasurer, said A.B. 60 had three components. She said proposed Amendment 4743 deleted the first three sections which dealt with the investment policies ([Exhibit M](#)). She said the Treasurer's Office was in agreement with the amendment. Ms. Colling said the second component of the bill in section 4 dealt with allowing the use of out-of-state banks for certain purposes with Board of Finance approval. She said section 7 of the bill was related to the stimulus package and bonds that allowed a 35-percent tax credit on interest on the bonds. Ms. Colling said they also offered an amendment requested by the superintendent's office. She said there was further language related to the stimulus package on page 15 of A.B. 60. She said another amendment was offered at the request of school districts ([Exhibit N](#)).

Chair Lee said section 1, section 2, and section 3 were added to the bill. He said many of the issues dealt with what was occurring now. He said people were pushing the State Treasurer to immediately sell an investment when it dropped below a certain amount. There was another section in the bill that said the State Treasurer could prudently sell the assets.

Ms. Colling said there was a conflict in the statutes that allowed the prudent basis upon which it was determined when to sell a bond. She said after discussion with the Attorney General's Office, the prudent statute clarified what "as soon as possible" meant.

John O. Swendseid, Attorney, said he served as bond council for the State. He spoke on section 7 and section 12 of A.B. 60 which dealt with tax credits or Build America Bonds. He said these were bonds Congress now allowed state and local governments to issue as taxable bonds. It meant the bonds had a higher rate of interest than tax-exempt bonds. He said in exchange for issuing higher rate-of-interest taxable bonds, Congress gave the state or local government a tax credit equal to 35 percent of the interest paid. He said the problem under NRS was many of the provisions were based on an assumption that tax-exempt bonds were issued. The interest rate limits that were applicable



to State and local bonds were generally a specified percentage above an index of tax-exempt bonds. He said that did not apply if taxable bonds were issued. The purpose of the amendment, [Exhibit N](#), in section 7 of A.B. 60 was to allow the State and local governments to take into account the receipt of the federal tax credit in calculating how much interest had to be paid on the bond. He said the amount of interest paid on a bond should always be net of the amount returned from the federal government in a tax credit. He said the provision only applied until June 2011. He said the stimulus package provision was scheduled to expire in December 2010.

Mark Winebarger, CPA, Chief Deputy Treasurer, Office of the State Treasurer, said he would answer any questions about the ability for State agencies to deposit funds in a bank outside of Nevada upon approval of the State Treasurer and the Board of Finance when it was beneficial to the State.

Chair Lee asked if the State's money was placed in an out-of-state bank.

Mr. Winebarger said the issue arose when the Department of Taxation received and accepted a lock-box bid in the state of Arizona. The deposits made in Arizona required being transported down the street to a Bank of America so it was a direct deposit into a Bank of America branch in Nevada. The amendment allowed acceptance of those funds in the Arizona bank to be wired as soon as available to the bank account in Nevada. It saved \$340,000 a year in fees and additional interest earnings.

Randall C. Robison, Nevada Association of School Superintendents, said he did not have an additional amendment, but he supported the amendment offered on behalf of the school superintendents as explained by Mr. Swendseid. He said the change allowed many school districts to take advantage of the stimulus funding for their projects.

Chair Lee asked if there was further testimony on A.B. 60. He closed the hearing on the bill and opened the hearing on A.B. 80.

**[ASSEMBLY BILL 80 \(1st Reprint\)](#)**: Revises provisions relating to excavations.  
(BDR 40-483)

Chair Lee said the bill had been problematic throughout the State. The Public Utilities Commission of Nevada (PUCN) had addressed the issue and

wanted clarification on how to proceed. He said cities, sewer operators, counties and rural areas had a vested interest in the bill.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, said each of the Committee members had been informed about A.B. 80 by someone in his group. He said A.B. 80 addressed the issue of sewer laterals. He said cities, counties and several utilities were involved in the bill.

Debra Gallo, Director, Government and State Regulatory Affairs, Southwest Gas Corporation, said the issue was addressed in two previous sessions. She said it was generally known as the Call Before You Dig law. She said the sections in A.B. 80 addressed excavator responsibility and operator responsibility when there was an underground excavation and dealt with sewer, water, telephone, gas and electric lines. She said it included all subsurface or underground installations. The Call Before You Dig law had existed since the 1980s. She said in the last few years, a new locating technology had helped solve the issue of unnecessarily digging up streets. But, the technology brought another problem to light, that of boring to install lines where certain types of subsurface installations were not marked. She said it was dangerous to bore into or through a natural gas line. An explosion could result.

Fred Schmidt, Clark County Water Reclamation District; Southern Nevada Sewer Entities, said Clark County was the biggest sewer operator in the State. The Southern Nevada Sewer Entities also represented the three major cities: Henderson, Las Vegas and North Las Vegas. He said it represented 525,000 sewer accounts out of the 710,000 that existed in the State. He coordinated the effort on the bill with Reno, Sparks and Carson City. He also worked with the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities because there were significant numbers of smaller, rural areas with sewer systems that would be impacted. He said for the last 50 years, sewer laterals were not marked. He said sewer systems collected the sewer and had no meters ([Exhibit O](#)). He said the problem arose when they tried to mark sewer laterals. Sewer laterals were usually the lowest utilities in the ground and so they were not marked as all the other utilities were above them, [Exhibit O](#).

Mr. Schmidt said when the Public Utilities Commission decided sewer laterals needed to be marked, they did not disagree. He said sewer operators were the best entities to take on the responsibility for marking sewer laterals. It was

important to ensure flexibility. The sewer operators had no resources to take on new responsibilities. He said some entities were trying to identify where laterals were located when they received a request from a contractor. Mr. Schmidt said the PUCN decided to treat sewer operators the same as all the other utilities. The PUCN said the sewer operators should pay for locating laterals and mark at two points in every location. He said that would cost up to \$100 million statewide and cause a sewer rate hike in every district in the State. The bill was relatively simple and ensured the sewer operators did not take on new responsibilities to operate and maintain the laterals.

Mr. Schmidt said the other parts A.B. 80 made sure sewer service laterals were included in the Legislation under the Call Before You Dig program. He said the bill made the entity imposing the markings of the laterals pay for the cost. He said sewer operators would mark when asked by a Call Before You Dig ticket. He said new construction could be identified or marked to make sure new laterals were marked. He said A.B. 80 added sewer service laterals to the definitions. He said it was not clearly covered and sewer operators never accepted the responsibility before.

Mr. Schmidt said section 4 of the bill provided three different options for existing laterals. Section 4, subsection 2 of A.B. 80 said if sewer operators could not mark the laterals within two days, they would make best efforts to identify the laterals. He said the bill made clear the excavator would reimburse the sewer operator for the actual cost. He said they did not know what the cost will be at this time. He said the original bill had a \$200 cap which was higher than the cost for most of the areas. He said the bill was modified to state it was actual cost without a cap. Mr. Schmidt said section 4, subsection 4 made clear that once the marks were made, the sewer operator was responsible to maintain records of the location. He said section 5 of A.B. 80 was deleted. Mr. Schmidt said section 12 of the bill was intended to be flexible. He said they proposed three options where the developer and operator worked together. He said section 16 required the sewer operators to report to the Legislature in two years on their progress and what it cost.

Judy Stokey, Director, Governmental Affairs, NV Energy, said the company supported A.B. 80 as written in the first reprint. She said everybody compromised in some way or form to write the bill. She said everybody agreed the problem needed fixing and it was a safety issue.

Brian McAnallen, Director, Government Affairs, EMBARQ, said the telecommunications company agreed to A.B. 80. He said it was difficult reaching agreement in the Assembly. He said EMBARQ realized it was a public safety issue. He added the company was concerned about the cost issue. He said the report language in section 16 would be useful to the Legislature when it reconvened. He said EMBARQ would like to be part of an informal working group.

Chair Lee said the Assembly had worked very hard on the issue to arrive at A.B. 80. He said he had a proposed amendment in conceptual form, Amendment 4889 ([Exhibit P](#)). Senator Lee said he recognized it was a dangerous issue. He said the amendment provided that on and after January 1, 2010, sewer operators located in counties with a population of 40,000 or more were prohibited from charging a person responsible for excavation for the cost associated with finding or marking a sewer lateral, [Exhibit P](#). Sewer operators located in rural counties with a population of less than 40,000 were not affected by the amendment. The amendment did not require local governments to find and mark sewer laterals within a specific time frame. The amendment also did not prohibit or require the sewer system operators to pass on the costs of finding and marking the sewer laterals to their customers. Chair Lee said any financial burden placed on sewer operators only applied when the operator received a Call Before You Dig request. The bill did not do enough to address public safety concerns around locating sewer laterals. The amendment addressed both the public safety issue and the financial cost of finding and marking the sewer laterals, [Exhibit P](#). He said due to the underground boring technology, excavations and utility repairs, the issue has become important. Chair Lee asked Ms. Chlarson to discuss the amendment.

Ms. Chlarson said the amendment, [Exhibit P](#), amended section 15.5, subsection 4 of A.B. 80. The change between proposed Amendment 4889 and the first reprint was in subsection 3 of the bill. She said the amendment stated the agency of a government that operated a sewer system may not charge a person in a public right-of-way for complying with the provisions of section 3. She said the amendment, if passed, was not effective until January 1, 2011.

Chair Lee said new work would be located when it happened. He said existing work with a Call Before You Dig ticket was responsible for allowing for location of the sewer laterals. He said the PUCN had a ten-year window for marking the locations. He said they were trying to take the cost off the utilities and place it

on the rate owners of the sewer district. He said everybody participated and used a sewer system. The problem needed to be fixed as soon as possible. He said the problem was not simply regional but statewide. His goal was to make sure the issue was handled.

Mr. Schmidt said the amendment he proposed would be in effect for two years. After two years, counties with populations in excess of 40,000 would be responsible for the costs.

Chair Lee said in the two-year period, the sewer operators would determine the costs and how they could pass the cost on to the sewer clients. He said the responsibility belonged on the users of the systems.

Mr. Schmidt said the concept was reasonable, but the idea of using a population as opposed to a number of sewer connections or lines needed further discussion.

Chair Lee said his goal was to capture the natural gas installations. He said underground boring created danger. His goal was to give the rural areas time to adjust to the new requirements. Chair Lee closed the hearing on A.B. 80 and opened the hearing on A.B. 147.

**ASSEMBLY BILL 147 (1st Reprint)**: Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services. (BDR 27-753)

Assemblywoman Ellen B. Spiegel, Assembly District No. 21, said she had a one-page summary of A.B. 147. She said the bill was designed to help the economy rebound from the current economic situation ([Exhibit Q](#)). The intent was to strengthen local economies and support local businesses with additional preferences for minorities, women and service-disabled, veteran-owned businesses. The bill provided a 5-percent bidding preference to local companies and industry sectors, [Exhibit Q](#). Assemblywoman Spiegel said section 1 and section 2 of A.B. 147 related to entities using competitive bidding. Section 3 of the bill dealt with things not conducive to competitive bidding, such as professional services. She said a 5-percent bidding preference was offered for areas of competitive bidding in terms of price, [Exhibit Q](#). She said in section 3 a determination was made as to whether bidders were qualified. If they were qualified, 5 percent of the point allocation was given to local companies,

[Exhibit Q](#). She said the local entity did not have to award the contract to the local bidder if it was not in the public interest. She said the bill included reporting to provide data for economic development, [Exhibit Q](#).

A proposed amendment had a provision for a four-year sunset. Assemblywoman Spiegel said 37 other states had local bidding preferences, [Exhibit Q](#). The fiscal impact of the bidding preference was offset by the multiplier effect of dollars spent in the local economy, [Exhibit Q](#).

Assemblywoman Spiegel said she had a proposed amendment addressing concerns that were raised by local entities. She worked with people from the City of Las Vegas, City of Henderson, NACO and the League of Cities and Municipalities. She said the amendment changed the threshold for the application of local bidder preference from \$25,000 to \$50,000 ([Exhibit R](#)). The amendment gave local government the option to consult with the State Purchasing Division on certain matters, but it was no longer mandatory they do so. She said in section 2 of proposed Amendment 4923 to A.B. 147, the wording was changed from "must" to "may" for criteria other than local preference, [Exhibit R](#). She said the requirement for local bidders to provide information on taxes and fees was deleted in section 3 of the amendment. Section 5 changed the reporting requirements, [Exhibit R](#). She said the act would become effective August 1 and expire on July 31, 2013, [Exhibit R](#).

Mr. Olivas said he supported A.B. 147 as amended. He said there was a lot of discussion concerning the bill. He said the current bill was supported by Clark County, City of Reno, City of Sparks, Las Vegas Metropolitan Police Department and the Counties of Carson, Douglas, Lyon and Storey. Mr. Olivas said the amendment was also supported by people who were unable to testify. Diane Fontes, Nevada Minority Business Council; Horacio Lopez, Nevada Minority Business Enterprise Coalition; Larry Viera, Nevada Small Business Development Center; Otto Merida and Carlos Gomez, Las Vegas Latin Chamber of Commerce; and Leonard Hamilton, Nevada Minority Business Enterprise Center, supported A.B. 147. He said Assemblywoman Spiegel delineated what the amendment represented and he was present to offer support.

Chair Lee said Mr. Olivas was interested in increasing the amount from \$25,000 to \$50,000. He asked Mr. Olivas who received reports.

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Mr. Olivas said the bill required the reports be sent to the Legislative Council Bureau. He said they would work with the Committee on Local Government Finance to define the appropriate submittal for all jurisdictions.

Chair Lee requested the reports be sent to the Senate Committee on Government Affairs.

Veronica Meter, Vice President, Government Affairs, Las Vegas Chamber of Commerce, said the Chamber of Commerce supported the bill. It was beneficial for businesses to keep employees employed during the downturn.

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, said NACO supported the bill and thanked Assemblywomen Spiegel for working with everybody to achieve language acceptable to all parties.

Mr. Fraser said the Nevada League of Cities and Municipalities supported A.B. 147 and thanked Assemblywoman Spiegel for her work on the bill.

Senator McGinness asked Mr. Fraser about the section of the bill allowing the local government to not award a contract if the public interest would be served by rejection of the bid. He said if price was the only consideration, was that section of the bill enough to reject the bid? He asked if the bid was too high, could it be rejected because it was not in the public interest? Amendment 4923 to A.B. 147, Exhibit R, said the bid may be judged on specifications and qualifications. Senator McGinness said price was usually the final consideration.

Mr. Fraser replied price was typically the biggest issue. He said in the example of the lowest bid being too high, the public interest was best served by rejecting the bid. A rejection of a bid could include poor past performance by the bidder. He said price was the primary issue, but the amendment allowed for the governing body to take into account other factors.

Senator Care said the factors in section 2, subsection 1 through 8 could be the basis for rejecting a bidder's preference.

Mr. Henderson said the items referenced by Senator Care were existing laws. The intent of the bill was to allow local bidders to come in with 5 percent over the lowest bid if all the other criteria were acceptable to the local government.

Mary C. Walker, Carson City; Douglas County; Lyon County; Storey County, said those Counties supported the bill with the amendment as proposed.

Robert F. Joiner, Government Affairs Manager, City of Sparks, said the City of Sparks was neutral on the bill.

Dan Marran, Purchasing Manager, City of Sparks, said preference programs eventually resulted in a reduction of competition in the marketplace, which eventually resulted in higher prices. The bill created a mechanism where local agencies were required to pay up to 5-percent more for products and services than was necessary. He said paying a premium for goods or services was a step backwards.

Chair Lee asked if the bill was working with local contractors. He asked how much of the City of Sparks' business was from out of state.

Mr. Marran replied very little business came from out-of-state companies. He said those companies that maintained a large local presence paid local taxes and employed local individuals. He said the bill looked at someone who had employees in the State. He said his concern was paying more than necessary. His mission as a public purchasing agent was to get the best deal for his agency. He said the bill was an admirable ideal and social goal.

Jack Mallory, Director of Government Affairs, International Union of Painters and Allied Trade, District Council 15; Nevada State AFL-CIO, said his organizations supported A.B. 147 as amended. He approved of the section of the bill where a municipality or local government had the ability to disqualify a company or service provider for various reasons. He appreciated the efforts to include service-connected disability language for veterans as part of the preference in the bill.

Russell M. Rowe, Biodiesel of Las Vegas, Inc., presented a friendly amendment ([Exhibit S](#)) which supported the concept of the bill. The amendment gave biodiesel fuel contracts the preference to qualify as a local bidder if the bidder purchased the fuel from a local manufacturer. He said as the bill was written, the distributor could qualify as a local bidder but import the fuel from outside of the State.



Senator McGinness asked Mr. Rowe to read the definition of biodiesel in the amendment, [Exhibit S](#).

Mr. Rowe said "biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated "B100."

Senator McGinness asked if that was the residue from French fries.

Mr. Rowe said it was the yellow grease from different plant products. He said Biodiesel of Las Vegas, Inc., made the fuel from yellow grease from restaurants.

John L. Balentine testified he did not support [A.B. 147](#). He said a purchasing agent's job was to keep a level playing field and receive the absolute best price for the best product and save money for the taxpayers. He said the bill was an additional tax with the 5-percent preference.

Chair Lee agreed with Mr. Balentine to a degree. However, he said, the preference was only for four years, then it would sunset.

Mr. Balentine said states surrounding Nevada all have reciprocity laws. He said the preference in Nevada would cause the surrounding states to invoke a penalty against the bidder for the same amount as the Nevada preference. He said almost 40 states had the same reciprocity laws.

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Chair Lee said the bill would be reexamined two Sessions from now. He asked if there was any further discussion. As there was none, he adjourned the meeting at 3:37 p.m.

RESPECTFULLY SUBMITTED:

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Olivia Lodato,  
Committee Secretary

APPROVED BY:

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Senator John J. Lee, Chair

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