

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

**Seventy-fifth Session
March 4, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 1:30 p.m. on Wednesday, March 4, 2009, in Room 2144 of the Legislative Building, Carson City, 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 William J. Raggio
Senator Randolph Townsend
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:

Senator Shirley A. Breeden (Excused)

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Gustavo "Gus" Nunez, P.E., Manager, State Public Works Board
Steve K. Walker, Douglas County; Lyon County; Carson City; Storey County;
Truckee Meadows Water Authority
Jason King, P.E., Deputy State Engineer, Office of the State Engineer, Division
of Water Resources, State Department of Conservation and Natural
Resources
Andy Belanger, Senior Management Analyst, Las Vegas Valley Water District,
Southern Nevada Water Authority

Pete Anderson, State Forester Firewarden, Division of Forestry, State
Department of Conservation and Natural Resources
Allen Biaggi, Director, State Department of Conservation and Natural Resources

Chair Lee opened the meeting with a statement concerning the introduction of a bill draft request (BDR). He said the BDR enacted provisions governing flood management projects. It was requested by the Legislative Committee to Oversee the Western Regional Water Commission.

BILL DRAFT REQUEST 20-239: Makes various changes to provisions governing flood control districts. (Later Introduced as [Senate Bill 175](#).)

SENATOR MCGINNESS MOVED TO INTRODUCE BDR 20-239.

SENATOR CARE SECONDED THE MOTION.

Senator Care said he had never heard of the Committee referenced in the BDR.

Chair Lee asked Mr. Stewart if he had an explanation of the request.

Michael Stewart, Committee Policy Analyst, said the BDR was from an interim study. He said it had to do with water issues in Washoe County.

THE MOTION CARRIED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

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Chair Lee asked Mr. Stewart to discuss Senate Bill (S.B.) 43.

SENATE BILL 43: Revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works. (BDR 28-323)

Mr. Stewart reviewed S.B. 43. He said the bill revised the criteria the State Public Works Board was required to adopt when determining the qualifications of bidders on contracts for public works ([Exhibit C](#)). He said the Board was required to adopt additional criteria about whether the applicant was disciplined or fined by the State Contractors' Board, [Exhibit C](#). Mr. Stewart summarized the

amendment proposed by the State Public Works Board ([Exhibit D](#)). The amendment deleted the proposed language concerning the adoption of criteria specifying whether the applicant entered into a consent agreement or settlement agreement relating to an action brought against the applicant by the State Contractors' Board. He said the Public Works Board would only consider fines or discipline related to the ability to perform the work required by the Public Works Board, [Exhibit D](#). He said there was concern about criteria which examined a history of settlement agreements or litigation. The proposed amendment eliminated the criteria.

Gustavo "Gus" Nunez, P.E., Manager, State Public Works Board, said the resolution was requested by their Board. He said the bill needed an amendment reflecting the Public Works Board's intention. He had not received any new language from anyone with concerns about the bill. He said the amendment appeared to satisfy everyone's concerns.

Senator McGinness asked if Marlene Lockard, Jim Sala and Keith Lee received a copy of the amendment.

Mr. Nunez said they all received copies of the amendment. He said they briefly discussed the amendments after the earlier meeting.

Chair Lee asked for a motion on the bill.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
[S.B. 43](#).

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on [S.B. 31](#).

[SENATE BILL 31](#): Revises provisions governing certain independent contractors with the State. (BDR 27-305)

Mr. Stewart said S.B. 31 lifted the existing language from chapter 284 of *Nevada Revised Statutes* (NRS) and placed it in NRS 333. The bill authorized the use of independent contractors for various services by heads of departments, boards, commissions and institutions of the Executive Branch ([Exhibit E](#)). Mr. Stewart said there were two exceptions to the new provisions, [Exhibit E](#). He said during the hearing, discussion was held concerning the use of licensed independent contractors and whether the provisions in the bill set forth a clear requirement that independent contractors were required to be appropriately licensed. He said Senator Townsend introduced the topic. He said language clarifying that independent contractors were licensed ensured they fulfilled the law, [Exhibit E](#). He said the amendment included a statement requiring independent contractors be appropriately licensed in accordance with Nevada law, [Exhibit E](#).

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 31.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on S.B. 66.

SENATE BILL 66: Allows for longer periods to complete work and apply water to a beneficial use for certain municipal and quasi-municipal uses. (BDR 48-618)

Mr. Stewart said the bill permitted longer periods for completion of construction work and the application of water to a beneficial use for some municipal and quasi-municipal uses ([Exhibit F](#)). He said the measure authorized the State Engineer to approve such uses for up to five years. Mr. Stewart said a working group was created of interested parties and consensus was reached by all the parties involved. Mr. Stewart said the amendment clarified the granting of extensions relating to municipal or quasi-municipal uses served by a public water system, [Exhibit F](#). The amendment also granted use of a stay by the court of an order made by the State Engineer. Finally, the amendment addressed the declaration of beneficial use of water from the Virgin and Muddy Rivers as it

related to the Intentionally Created Surplus or Developed Shortage Supply, [Exhibit F](#).

Steve K. Walker, Douglas County; Lyon County; Carson City; Storey County; and Truckee Meadows Water Authority, said they all supported S.B. 66. He said Douglas County developed legislation to reduce administrative costs of the utility operations in the State Engineer's Office by time-extension requests on water rights permits held by water purveyors. The request expanded time permits for the use of water for up to five years. He said the bill grew to address other water issues indentified by the State Engineer's Office and the Southern Nevada Water Authority. He said Douglas County's portion of the bill was on section 1, subsection 3 of S.B. 66. He said it granted any number of extensions. A single extension must not exceed one year. Single extensions for municipal use served by a public water system as defined in NRS 445A.235 must not exceed five years, [Exhibit F](#). He said the language was changed in order to reference one year in the statute.

Jason King, P.E., Deputy State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources, said the language submitted by his office was under section 3, subsection 5 of [Exhibit F](#). The language required any party requesting a stay of an order or decision of the State Engineer to notice the State Engineer and other affected parties. He said previously stays were issued by the court without any participation by the State Engineer. He said criteria were added providing guidance to the court in determining bond amounts for a stay. He said a stay may stop all activity in terms of issuing water rights. He said his office needed notification of court-ordered stays and bond amounts based on a set of fair criteria. Mr. King said his office supported all the amendments in S.B. 66.

Senator Care raised the issue of the stay. He asked if the bill would lead to fewer stays.

Mr. King said his office believed the bill would lead to fewer stays. He said the bill gave the State Engineer the opportunity to appear before the court before a stay was issued. He said the court may issue as many stays, but they would hear from the other affected parties.

Senator Care said it was not clear who normally requested a stay. He asked whether people who asked for a stay might not have money and believed they were championing a cause.

Mr. King said the two most recent stays were brought forward by protestors to the actual water rights applications. He said the State Engineer's Office granted permits; the protestor in the water right hearing appealed the decision and went to the court to get a stay. He said anyone may file a stay. They did not have to be involved in the original water right hearing.

Andy Belanger, Senior Management Analyst, Las Vegas Valley Water District, Southern Nevada Water Authority said:

The portion of the of the amended bill that we're interested in is sections 4 and 5 on pages 6 and 7 of your work session document. In December of 2007, the Secretary of Interior signed a Record of Decision on guidelines for shortage criteria for the coordinated operation of Lakes Powell and Mead. And one of the provisions of that document granted Nevada the authority to use precompact rights on the Virgin and the Muddy River and to use that to help augment our Colorado River supply. What this amendment does is it declares the use of water to the Virgin and Muddy River as for the purpose of creating Intentionally Created Surplus or Developed Shortage Supply which is that criteria, the augmentation of the Colorado River. That water, the use of the Virgin and Muddy Rivers for those purposes, would be declared a beneficial use under the laws of the State of Nevada. The State Engineer has issued an order related to this water, but that order had to be very crafted in a very artful way because, while it is beneficial for that water to be conveyed through the Colorado River to Lake Mead, the State Engineer couldn't say it was a beneficial use. So there was language in there that said it was beneficial to Nevada, but that it was not a beneficial use. And so this would clarify that the creation of Intentionally Created Surplus would be a beneficial use, and then the second part of the amendment, Section 5, would treat it the same way that all other Colorado River water is treated in that it would not be subject to change application for the place, manner or place of diversion of the use of that water. And we've worked with

all the interested parties to ensure that that language met their needs.

Senator Care said S.B. 66 was a Douglas County bill and it now had the Muddy River and the Virgin River in the bill. He asked Mr. Belanger about section 4, subsection 2 in the proposed amendment in [Exhibit F](#). He said the word he looked for was paddling. He said several sessions ago, prepipe line discussions were held saying you cannot "paddle." He asked if that was what was being discussed in this amendment.

Mr. Belanger replied:

The term was "wheeling" of water and the notion was that you couldn't take water of a tributary to the Colorado River and move it down through the Colorado River. Now what, what the seven states have agreed to is that water that was in use prior to 1929 when the Boulder Canyon Project Act was signed could not be considered waters of the Colorado River because it was currently being used and not flowing into the system and therefore that tributary water can be used to augment the Colorado River. So it was a legal gyration that the seven states had to go through to do that. But, in essence, we will be conveying the waters of the Virgin and the Muddy through the Colorado River to Lake Mead and taking it out at our existing intakes at Saddle Island.

Chair Lee asked if there were further questions. He asked for a motion on the bill.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 66.

SENATOR TOWNSEND SECONDED THE MOTION.

Senator Care said he was abstaining from the vote. He said he needed further information on the amendment in section 4 of the bill before the bill came to the floor.

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

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Chair Lee opened the discussion on S.B. 94.

SENATE BILL 94: Imposes various requirements relating to fire protection in the area of the Lake Tahoe Basin located in this State. (BDR 42-444)

Mr. Stewart said S.B. 94 required the State Forester Firewarden to adopt regulations for enforcement in the Lake Tahoe Basin of uniform guidelines pertaining to defensible space around properties located in the area ([Exhibit G](#)). He said a working group of interested parties met and addressed certain areas of concern, and consensus was reached by all the parties. An amendment was recommended. The amendment changed NRS 472.040 relating to the powers and duties of the State Forester Firewarden. The amendment also deleted the reference to the *Uniform Fire Code* of the International Conference of Building Officials and clarified that the State Fire Marshal and the State Forester Firewarden cooperated in the preparation of regulations relating to the mitigation of vegetation fire hazard risks, [Exhibit G](#).

Chair Lee asked Mr. Anderson and Mr. Biaggi to come to the table. He said the original bill only pertained to North Tahoe. Other counties that touched the Lake Tahoe Basin were now included. Chair Lee said he included the Lake Mead Basin and Mount Charleston because they were populated areas.

Pete Anderson, State Forester Firewarden, Division of Forestry, State Department of Conservation and Natural Resources, said several issues came together in the work group and were resolved. The program was expanded to include Washoe, Carson City, Douglas and Clark Counties. He said they did not name the counties in the bill, but their intent was to cover all those counties.

Allan Biaggi, Director, State Department of Conservation and Natural Resources, said his office was in contact with Clark County, and they supported the amendment and their inclusion in the bill.

Chair Lee asked for a motion on the bill.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 94.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee opened the discussion on S.B. 124.

[SENATE BILL 124](#): Authorizes the expansion of the number of members of the boards of trustees of certain general improvement districts. (BDR 25-196)

Mr. Stewart said S.B. 124 authorized the Overton Power District in Clark County to expand its Board of Trustees from five to seven members ([Exhibit H](#)). He said the bill set forth the election procedure for the new members and the process to keep the staggered terms for all the board members. He said one additional member would be elected from the City of Mesquite and the second would be elected at-large from within the boundaries of the service area, [Exhibit H](#). The two additional members would be elected at the 2010 general election. The additional member from the City of Mesquite would be elected for a four-year period and the at-large member elected for two years at the 2010 election and then four years every election thereafter, [Exhibit H](#).

Chair Lee said extensive work occurred between the City of Mesquite and the Overton Power District. He said everyone was satisfied with the amendment.

Senator Raggio said since a member of his law firm appeared in support of the amendment, he was abstaining from voting.

SENATOR McGINNESS MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 124.

SENATOR HORSFORD SECONDED THE MOTION.

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

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Chair Lee said a Committee of the Whole was scheduled for Monday and there would not be a Senate Government Affairs Committee meeting. He asked if there was any further discussion. As there was none, he adjourned the meeting at 2:12 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____