

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

**Seventy-Sixth Session  
May 18, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:33 a.m. on Wednesday, May 18, 2011, 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblywoman Irene Bustamante Adams, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman John Ellison  
Assemblywoman Lucy Flores  
Assemblyman Ed A. Goedhart  
Assemblyman Pete Livermore  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Joseph P. (Joe) Hardy, M.D., Clark County Senatorial  
District No. 12

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Cyndie Carter, Committee Manager  
Cheryl Williams, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Patricia Mulroy, General Manager, Southern Nevada Water Authority  
Kay Brothers, representing the Southern Nevada Water Authority  
Javier Trujillo, representing the City of Henderson  
Helen Foley, representing Pardee Homes of Nevada  
Steve Holloway, Executive Vice President, Associated General  
Contractors, Las Vegas Chapter; and the Building Jobs Coalition  
Randy Robison, representing Virgin Valley Water District  
Greg Ferraro, representing the Nevada Resort Association  
Jacob Snow, General Manager, Regional Transportation Commission of  
Southern Nevada  
Terri B. Barber, Director of Intergovernmental Relations, City of  
Henderson  
Greg Harrington, Attorney, Orrick, Harrington and Sutcliff,  
Los Angeles, California  
James Coyne, representing Atalon Management Group and  
Lake Las Vegas  
Robert McGibney, Senior Officer, KB Homes of Nevada  
Jennifer Lazovich, representing Pardee Homes of Nevada  
Mark H. Florentino, Attorney, Kaempfer, Crowell, Renshaw, Gronauer,  
& Florentino, Las Vegas, Nevada  
Jennifer McEntee, Administrative Services Officer II, Office of the  
Adjutant General, Office of the Military

**Chair Kirkpatrick:**

[Roll was called.] I was testifying before the Senate Committee on  
Government Affairs. They are currently in a work session, so we are going to  
go out of order and start with Senate Bill 432. To the Committee, there are  
a couple of the bills that I have not been able to get a consensus on.  
We cannot get everyone to agree. I do not like to send bills out that will be

a problem on the floor. We have a couple of those, so we will meet on Friday for a small work session if I can get them fixed. On Friday, we will meet with the Assembly Committee on Taxation at 10 o'clock. We will also hear these three bills this morning, and then we will take a quick recess so everyone can continue to look at their work session documents. Although the Committee has had them, they are now public on the Nevada Electronic Legislative Information System (NELIS).

We will now open the hearing on Senate Bill 432.

**Senate Bill 432:** Revises provisions governing governmental financing.  
(BDR 32-538)

**Patricia Mulroy, General Manager, Southern Nevada Water Authority:**

We appreciate the Committee hearing Senate Bill 432 this morning. This bill would lift the cap off the one-quarter cent sales tax that supports water and wastewater facilities for southern Nevada. The reason the quarter-cent sales tax is of such critical importance to us in this session is that we are in the middle of building one of the most difficult and critical projects for southern Nevada, which is the third intake into Lake Mead. To explain why this project is as important as it is, and the decision making that went into it, I have asked Kay Brothers, who is sitting on my right, to give you a brief presentation of what the third intake entails, what the significance is for the southern Nevada community, and why it is of the magnitude that it is. Ms. Brothers used to be the deputy general manager and was overseeing the whole planning and initial construction for this intake.

**Kay Brothers, representing the Southern Nevada Water Authority:**

You have a copy of the presentation ([Exhibit C](#)) in front of you, and I will quickly go through the slides. Starting with the bottom of page 1, it talks about the scope of the project. You can see that the intake tunnel is in green. It starts out at Saddle Island, goes under Lake Mead, and comes up in Lake Mead at elevation 8,060 feet. It is about a three-mile intake tunnel. Also, there is a connector tunnel that is in blue that connects to our current intakes, No. 1 and No. 2, which will also connect to intake No. 3. The water that comes through the intake structure can be pumped from either pump station. The discharge pipeline and the pumping station are parts of the total project scope, but it was deferred due to current economic conditions and relatively flat demands.

On page 2 ([Exhibit C](#)), you can see that the tunnel itself is about 60 percent complete. The connector tunnel is about 50 percent complete, and the valving that we need to connect the pumping stations and the tunnels has been

completed. We will quickly go over some of our thinking as we saw the drought take force in 2000. You can see at the bottom of the page the inflow that we had on the Colorado River.

On the next page, you will see that Lake Mead started going down because of the inflow. We really did not think much about it in the first couple of years. With the continuation of the drought, and the lake being so low, in 2002, we started to see some issues of lower lake levels and water quality. At the bottom of the page, we define the years between 2000 and 2004 as the years we were primarily concerned with water quality because of the lower levels in Lake Mead.

As the drop continued, we saw that we were also having some issues with potential loss of capacity. That is on the top of page 4. From 2005 until the current time, we have been concerned about pumping capacity and water quality. Those are the two primary drivers. The bottom of page 4 discusses some things that most of you know. We get about 90 percent of our water supply from Lake Mead. But there are no guarantees, even though the Bureau of Reclamation is watermaster on the Colorado River and Lake Mead. The Bureau of Reclamation does not guarantee water quality or water levels, and because of potential shortages, they do not even guarantee our allocation any more. It is our responsibility to treat the water and convey it to the citizens of southern Nevada. As we will show you, when lake levels are high, the treatment is not as difficult as it is when lake levels are low.

Page 5 ([Exhibit C](#)) shows the historic water levels of Lake Mead. In the 1950s, there was some drought because there was only one lake, Lake Mead. The other dip that you see in the 1960s was when they were filling Lake Powell. Since the Southern Nevada Water System came online in 1971, we have had relatively high lake levels, good water quality, and lots of water in the lake. We were concerned when the levels were going down in 2002. We knew there were going to be additional stringent water quality regulations on trihalomethanes. With the lower lake levels, it was going to be harder to make those limits.

There is a schematic of Boulder Basin of Lake Mead at the top of page 6. You can see the Colorado River coming in at the top, which is good quality water. The Las Vegas Wash actually drains the Las Vegas Valley. Everything that falls into the Las Vegas Valley drains through the Wash. Storm water, shallow groundwater, and treated wastewater enters Lake Mead from the Las Vegas Wash. That is the source for the organics, the undesirable constituents, which contribute to the difficulty in treating water. The bottom of page 6 shows a natural barrier. If you take Saddle Island, cut it away, and look

at Lake Mead, you get a natural barrier, or a thermocline, as temperatures increase in the summer. The water coming in from the wash floats on top and, if the lake is high, the two intakes are below that and are protected. The intakes are in the better quality water, but if the lake continues to go down, we could be pumping from the poor water quality zone.

Page 7 ([Exhibit C](#)) illustrates that as the weather cools off, the lake destratifies. When you have a lot of water in the lake, the constituents on top mix and are diluted. This is dependent on the volume of water in the lake.

You will see on the top of page 8, that if lake levels continue to go down, we will be pulling water out of the thermocline, or the level of poor quality water above the thermocline. What we did in 2002 was to start a snorkel on intake No. 1 that ensured we were pulling water from 1,000 feet in the deeper water. We were pulling water from a lower part of the lake. That was completed in 2004, which was good because the elevation went down to 1,126 feet again. If we had not done that, we would have been pulling from the thermocline.

The water quality is becoming an important aspect of our treatment as lakes continue to go down. You can see, as the water goes down, we are getting closer to the thermocline at level 1,126 feet, even though our lower intake is at a 1,000-foot level. We have started looking at the water quality issues, even for intake No. 2. We did a study to see what it would take to treat the water quality because of the organics in the water. The estimated cost today is about \$1 billion, although it was just hundreds of millions of dollars in 2004.

In 2004, the Bureau of Reclamation was also doing some modeling based on previous droughts, putting that forward, and looking into the future. We saw that there was a very high likelihood, as you can see at the top of page 10 ([Exhibit C](#)), that we would be losing our upper intake very shortly. We could see the lake continuing to go down, not quite as badly as what was projected in 2004, but it was still a huge potential that we could lose our upper intake. If you look at the bottom of the page, lake levels were continuing to go down and demands were going up in 2003 to 2004. We were growing at a very high rate in 2004. We knew that we needed both water quality fixes for our intakes, and pumping capacity. The only things that would deliver both were to get a new pumping station and a tunnel to get water quality at very low lake levels. That is why we started looking at tunnel options in 2004.

At the bottom of page 11, you will see that the target depth of our new intake was going to be very deep. Even if Lake Mead goes down to 1,000 feet, or "dead pool," we wanted the tunnel to be in a good zone of cooler water

quality. That was our target depth. We went to the community, our stakeholders, and our purveyors, and had many discussions with them about what we needed to do. We also brought in a panel of experts, tunneling experts and scientists, to help us make decisions on what we should do, and where we should go, with the tunnel into Lake Mead.

At the bottom of page 12, you see that we looked at a number of alternatives for tunneling. We decided on what we call the Black Island intake.

The top of page 13 ([Exhibit C](#)) is a schematic of what we are building at the Black Island intake. It is a three-mile tunnel that starts at about 647 feet and goes under Lake Mead and the Las Vegas Wash. Remember that the wash is the conduit that brings everything difficult to treat into Boulder Basin, and then comes up to elevation 860 feet north of the wash in good quality water. We also have provisions for a pumping station on Saddle Island. The pumping station needs to be on Saddle Island because that is where all of the electrical and maintenance facilities are. We are connecting that intake to pumping station No. 2, so good quality water coming in from the third intake can also be pumped by the other pumping stations. It is a very flexible system, an elegant system that gives us all kinds of flexibility.

You can see on the bottom of page 13 ([Exhibit C](#)) how far north we are of the wash, even at a very low level of 980 feet above sea level. We still have deep water there and can even have an additional pipe put on to go further north. That is where the good water quality comes in from the Colorado River, or the north part of the lake.

If Boulder Basin was at 1,000 feet and all of this water was coming in from the surface, you can see that our intake location is north of that poor water quality and is very deep in the lake. This is the surface, but we are deep in the good, cool water at an elevation of 860 feet.

Page 15 is another schematic to show you the flexibility of the system. We would have three pumping stations that could pump and take water at 860 feet from any of these pumping stations as long as the lake was sufficiently deep for that pumping station to be in operation.

In conclusion, the tunnel objective is met by what we are doing at the Black Island intake, and it provides water quality and pumping capacity for the future. I feel that this option takes us well into the future and gives us the flexibility for water quality and pumping capacity that southern Nevada needs for many, many years.

**Patricia Mulroy:**

We began building facilities out at Lake Mead in the 1990s and into the beginning of this century. If you flip to page 16 ([Exhibit C](#)), you will see two pie charts. We have a funding formula that was adopted by the Board in the mid-nineties, and developed by the Integrated Resource Planning Advisory Committee, which was made up of citizens and businesses throughout southern Nevada. It recommended to the Board that there be various funding sources. These were the regional connection charge, the sales tax, and a regional commodity charge. The wholesale delivery charge that you see here, which is the wholesale rate at which we sell water to our member agencies, only pays for the operational costs of the system. The new facilities and all of the debt service are paid for by the regional commodity charge, which is 30 cents per 1,000 gallons, sales tax, and the regional connection charge. The reason there was such heavy reliance on the regional connection charge, at that time, was that the community felt very strongly that growth needed to pay for itself, that existing residents should not be subsidizing the costs for facilities that were there to service new residents.

As you can see by the much smaller pie chart on the right-hand side of the slide, the reliance on the sales tax today is far greater than it has ever been before because the regional connection charge has all but disappeared. Although we do expect the regional connection charges to come back, it will never come back to the levels that it was before. As the economy recovers, we would expect some improvement in the regional connection charge. The sales tax has been an incredibly important part of the funding for these capital projects for the community in southern Nevada. As you can see from the bottom of the slide, what we collect is disbursed to various entities throughout Clark County.

On page 17 ([Exhibit C](#)) the reason we have asked for Senate Bill 432 is that in June 2025, or when we collect \$2.3 billion, this tax will sunset. Many people have asked us, "Why now? We still have to go to market for \$400 million in the spring of 2012." We only go out and bond for money as we need it to pay our construction costs. We will have used up all of our existing bond money on this project by the spring of 2012, and will have to go back to market for another \$400 million to complete the project. What happens is that you run the financial model and you see that in 2025 this revenue source disappears, and the next round of bonds will not be paid off until 2042. There is an enormous gap in our funding structure. Over the past decade, the tax has generated \$823 million with the authority retaining \$509 million. On the previous slide, you saw that the other revenue went to all of the various other jurisdictions in Clark County. When this sales tax option was adopted by the Legislature, the only county a sunset was placed upon was Clark County.

This tax is available as a county option in every other county in the State of Nevada with no sunset requirement. It is absolutely critical for us to maintain our credit worthiness so that this cap is lifted, and we have this as an ongoing revenue source with which to retire our debt.

Why do we need Senate Bill 432? It is an enabling bill. The authorization from the Legislature was an enabling authorization. It allowed the county commission to impose this tax if it felt that the tax was needed. Every ten years, the county has to hold a public hearing and must reaffirm and reenact the quarter-cent sales tax, which it did recently. We collect about \$42 million a year from this part of the sales tax. Without the sales tax continuing to come in, obviously, the ratepayers in southern Nevada would have to absorb that \$42 million, which is a significant increase to the water rates. Before the county commission approved this sales tax, they put it out to a vote of the people, and with a 72 percent approval rating, the voters said they wanted the sales tax included in the mix of how to pay for these capital facilities. It is the only way tourists participate in paying this. Thirty percent of the sales tax is paid through tourist revenue and this provides a way to bring the tourists to become part of the revenue stream that supports the capital infrastructure.

**Chair Kirkpatrick:**

Thank you. Are there any questions?

**Assemblywoman Neal:**

I have two questions. What is the plan after the quality of the lake diminishes? In the presentation, Kay mentioned that there is no guarantee as to the quality and intake from the Colorado River. Why is that? Is there an agreement?

**Patricia Mulroy:**

There is an agreement, but there is no guarantee. In other words, if there is a drought on the Colorado River, the federal government is not going to guarantee any entity water. Water quality is the responsibility of the various jurisdictions. No matter who takes it, they have to treat it to whatever the standards are in the Safe Drinking Water Act at any given time.

**Assemblywoman Neal:**

So what is the plan after we diminish the lake and the quality is no longer something that we can keep doing an intake for?

**Patricia Mulroy:**

We are going as low as we possibly can. That is what Kay was getting at. We have maximum flexibility now. We are in the lowest portion of the lake where the water is the coldest and the quality is the best. If the drought were



to get that severe it would also allow us to draw at least some water from Lake Mead for southern Nevada. We would be below what is called "dead pool" at elevation 890 feet. No water can leave Lake Mead and go downstream any lower. The pumps in Hoover Dam cannot pull it out and push it down the river. So, at elevation 890 feet, we are below the level at which water can no longer leave the lake.

**Assemblywoman Neal:**

If we extend the sunset, what other projects will be paid for out of the revenue or bonding that you are able to do? I know that you are trying to pay for the existing intake, but what other projects are online that will also be funded?

**Patricia Mulroy:**

The next project would be if the lake were to go down even further. We would need to put back the pumping station that we took out. Part of this construction project was a third pump station. That would allow us to draw water from below the 1,000-foot elevation. That is the only other thing. In terms of intake and major infrastructure into the lake, this will be the last project that southern Nevada will ever have to build.

**Assemblyman Stewart:**

Is this third intake as low as we can go?

**Kay Brothers:**

Yes, sir. It is at 860 feet, which is below dead pool, like Pat said. It will always have water over it.

**Assemblyman Stewart:**

Can you give us a report on the progress? I know we have had trouble with leakage. Also, can you give us an update on the rising of the lake this year, which we know may be temporary?

**Patricia Mulroy:**

Let me start with the rising of the lake. Yes, we have had a very, very good winter. There is one thing that is very important for this Committee to understand. In 2007, the state signed a new agreement with the federal government, which reoperated the way Lake Powell and Lake Mead function together. Had that agreement not been signed, Lake Mead would not be recovering this year. In fact, Lake Mead would end at elevation 1,067 feet. We would be right above the 1,050 feet critical line. It is only because the Upper Basin states and Lower Basin states agreed that more water would be released from Lake Powell that we are experiencing any recovery at all. We are

grateful that we are seeing some slight recovery. Whether it is a one-year phenomenon, or the beginning of a recovery, we do not know.

**Assemblyman Stewart:**

You had a great part in that, if I recall.

**Patricia Mulroy:**

As for the progress after we had the incursion in the tunnel, the tunnel is moving along very, very nicely. We are way past the point at which we saw the incursion, and we are getting very close to being able to put the tunneling machine in to start boring.

**Assemblyman Stewart:**

What is the current prediction of how much additional water we will get? How much will it rise? We are down about 120 feet right now?

**Patricia Mulroy:**

Right. We will probably come back and be around 100 feet down.

**Chair Kirkpatrick:**

Are there any other questions? I have a couple of questions that I do not think anyone ever thinks to ask. What are the increases in fees if this sunsets in the future?

**Patricia Mulroy:**

The \$42 million represents between 35 and 37 cents per 1,000 gallons on the regional commodity charge.

**Chair Kirkpatrick:**

What would that be to the ratepayer who is going to see an increase?

**Patricia Mulroy:**

It is more than a doubling of the existing regional commodity charge.

**Chair Kirkpatrick:**

And that would be across the board?

**Patricia Mulroy:**

Everyone in southern Nevada pays that. It is not tied to tiers; it is simply a straight charge. Whether you live in Henderson, North Las Vegas, Las Vegas, or the unincorporated county, you will pay that regional commodity charge.

**Chair Kirkpatrick:**

I want to know what I should tell my constituents to expect their increase to be if we do not allow this to continue to go forward to resolve this issue.

**Patricia Mulroy:**

I do not have it in front of me right now, but we have a sheet that shows what the increase will be to the average residence, to the many laundries that are huge users, and what it means to other business categories, like hotels. I would be happy to have someone bring that to you.

**Chair Kirkpatrick:**

It would be helpful for constituents to know what the alternative is because they are quick to call if their rates increase. Agencies are quick to say, "The Legislature had the policy decision." I feel that is important. This bill also has an amendment that came over from the Senate side and it works for the Regional Transportation Commission (RTC). Is that correct?

**Patricia Mulroy:**

That is correct.

**Assemblyman Goedhart:**

You said that in lieu of the elimination of the sunset, the commodity charge would need to double. Is that correct?

**Patricia Mulroy:**

It represents a doubling of the existing charge. The commodity charge is going to go up at some point. It has to. It is the extent to which it goes up that is the concern. This could be more than doubling of the existing commodity charge.

**Assemblyman Goedhart:**

What percentage of the total overall bill is represented by the commodity charge part of the water bill?

**Patricia Mulroy:**

That is going to depend on which jurisdiction you are in. Henderson, North Las Vegas, and the Water District all have different rate structures, so it is going to vary. We can show that to you.

**Assemblyman Goedhart:**

Is it approximately half or two-thirds, or 40 percent? What is the range?

**Patricia Mulroy:**

I do not think it is that high. If it is 30 cents per thousand gallons, it could easily be 10 percent of the overall bill.

**Assemblyman Goedhart:**

If you doubled 10 percent of an overall bill, which would mean your bill would go up 5 percent. Is that correct?

**Patricia Mulroy:**

It depends on the user and the rate structure.

**Chair Kirkpatrick:**

Are there any other questions? I see none. At this time, we are going to call the other people who would like to testify in support of the bill.

**Javier Trujillo, representing the City of Henderson:**

We want to lend our support to this bill as it would bring parity to Clark County. It is also very important to the City of Henderson and other local governments.

**Helen Foley, representing Pardee Homes of Nevada:**

We formed a coalition that brought together several entities that were very concerned about the third straw and being able to remove this sunset. It included Associated General Contractors, the Nevada Resort Association, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the Southern Nevada Home Builders, Associated Builders and Contractors, the Chamber of Commerce, the Latin Chamber of Commerce, and many other interested parties.

Besides the fact that we need water, and we strongly support this bill, there is another issue. Whenever builders, such as Pardee, need to build a major project or a hotel needs to refinance or build another tower, it has to prove to the lenders that there is a reliability of water. Southern Nevada Water Authority has to sign off that there really is a reliability of water. If they are not able to build the third intake, that would be called into question. It is not just a government entity building a structure; it is all major construction in southern Nevada. We find it extremely vital that this legislation is passed.

**Chair Kirkpatrick:**

Does anyone have any questions? I see none.

**Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter; and representing the Building Jobs Coalition:**

I want to stress two things in support of S.B. 432. First, the passage of this bill will allow Clark County to develop the water resources needed for future growth and diversification, as well as meeting our current needs. Also, we are behind on our infrastructure. This is one of the reasons we are behind. In the near future, it will support approximately 3,100 jobs, \$180 million in wages and salaries, and \$417 million in economic activity over the next few years. These are the primary reasons we support this bill, and we urge its passage.

**Randy Robison, representing Virgin Valley Water District:**

We are in support of this legislation. Over the years, this funding source has allowed us to keep pace with our growth to provide the facilities we need. Not only to provide safe water, but also to comply with various mandates. We are in support of this legislation. Also, Warren Hardy, who represents the Associated Builders and Contractors of Nevada, could not be here today and asked that I indicate that they support this measure as well.

**Chair Kirkpatrick:**

Are there any questions? I see none.

**Greg Ferraro, representing the Nevada Resort Association:**

As Helen Foley indicated, our organization is a member of her coalition, and we support the bill and urge your consideration of approval for this measure. I was here in 1997 when we initially passed Assembly Bill No. 291 of the 69th Session, which turned into the enabling legislation that allowed this sales tax to be put into effect and to finance the capital projects that are so critically vital to the economy in southern Nevada. Fourteen years later, we feel just as strongly about the importance of having sales tax to continue to finance capital projects. We are concerned that if it is not continued, the impact on our member properties and our residents in southern Nevada would be enormous. With that, we think it is important to stay in keeping with the legislation from 14 years ago and pass this legislation.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Is there anyone else who would like to testify in support of S.B. 432?

**Jacob Snow, General Manager, Regional Transportation Commission of Southern Nevada:**

I am here today in support of S.B. 432. As a regional entity, the Regional Transportation Commission (RTC) is responsible for funding roadway projects in five municipalities and Clark County. These are projects that are

built and designed by the private sector. We make every effort to get those projects out to bid as quickly as possible. In order to issue bonds today, however, the RTC has to ask Clark County to issue those bonds on our behalf. Those are revenue bond issuances, so the funding sources are specifically designated by the Legislature for transportation purposes. As such, those revenue streams are dedicated to transportation, so we would not lose any advantage in terms of bonding ratings by issuing the bonds ourselves. It adds an extra 60 to 90 days to the process to go through Clark County, and that administrative hurdle slows us down. We would like to speed up the process and get our projects out to bid faster. The RTC would welcome the passage of this bill.

**Chair Kirkpatrick:**

Does anyone have any questions? [There was no one.] Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who is neutral? [There was no one.] Do we have any final comments? [There were none.] We will close the hearing on S.B. 432.

We will open the hearing on Senate Bill 100 (1st Reprint). Is Dr. Hardy here? No, so at this time we will change our plan and take a ten-minute recess so Committee members can look at the work session document. We will come back at 9:20 a.m. and, hopefully, Dr. Hardy will be done with his work session in the Senate Committee on Government Affairs. We will stand in recess [at 9:08 a.m.].

We will call the Committee back to order [at 9:31 a.m.]. We will open the hearing on Senate Bill 100 (1st Reprint).

**Senate Bill 100 (1st Reprint):** Makes changes to provisions governing local improvement districts. (BDR 21-392)

**Senator Joseph P. (Joe) Hardy, M.D., Clark County Senatorial District No. 12:**

Senate Bill 100 (1st Reprint) is going to have a very friendly amendment ([Exhibit D](#)) to it that, hopefully, is in your hands, but I will address the first reprint. The existing law only authorizes modifications of local improvement projects (LIP) if no construction contracts have been entered into for the project.

Senate Bill 100 (1st Reprint) sets forth the circumstances under which these projects can be adjusted after that time and may be particularly helpful during these current economic downturn times when the LIP takes longer to complete, and the projects themselves may need adjustments.

[Read from floor statement on Senate Bill 100 (1st Reprint) ([Exhibit E](#)).]

What happened is projects were started then things changed technologically. The gravity-fed system may not work as well as the pump system, or the road to the end of the project does not need to be completed because the project is not going forth because of the economy. This particular bill will address problems that pertain to projects such as Lake Las Vegas, Inspirada, Mountain's Edge, and Southern Highlands. I have brought Terri Barber with me, representing the City of Henderson. I will be happy to answer any questions or we can continue with the presentation to go through the bill and see how it pertains to this.

**Chair Kirkpatrick:**

Are there any questions? I see none. Who ultimately ends up paying when these LIPs are put in place? Is it the constituents within those districts? Can you please talk about that?

**Senator Hardy:**

If there is a proposed change to the LIP, the person who is requesting the change is on the hook if the governing body says the person shall pay the cost of the changes. If there is a change that does not require any substantial money, or no money, then no one has to pay anything. There are some things that are cutbacks on the project that actually save money, like not making as many roads. I think walking through the bill with Terri Barber might help with some of those questions because there are multiple things that happen, or could happen.

**Terri B. Barber, Director of Intergovernmental Relations, City of Henderson:**

I would like to thank Senator Hardy for sponsoring this legislation. Nevada is one of the few states that currently does not have a mechanism in place for amending certain local improvement districts (LID). While we are supporting this on behalf of Lake Las Vegas, S.B. 100 (R1) will enable stalled projects to get going again and put people back to work.

What you have before you is a consensus document that has been worked on by our bond counsel in consultation with John Swenseid and Guy Hobbs. We also have the support of the Southern Nevada Home Builders Association. I have with me this morning our bond counsel, Greg Harrington. He would normally have been in the Committee room with us, but he was flying in from Los Angeles when they had high alert warnings, so he graciously continued on to Las Vegas. He will join us from the Grant Sawyer State Office Building in Las Vegas. Mr. Harrington will present the technical amendment that we have. If you have any questions on anything that has been explained, he will be happy

to answer those as well. To my left I have the developer of Lake Las Vegas, Jim Coyne. Henderson's City Attorney, Elizabeth Quillin, is in the audience. We would like to go to Las Vegas so Mr. Harrington can speak about what S.B. 100 (R1) proposes to do, and to present our technical amendment.

**Greg Harrington, Attorney, Orrick, Harrington and Sutcliff,  
Los Angeles, California:**

Senator Hardy did a great job of the overview of what the bill is intended to do, and that is to provide some flexibility when the project to be financed with the LID changes in some way. There has not been a way to accommodate changes in the past. This bill would allow us to do that, while at the same time incorporating protections for the stakeholders, who are the property owners that paid the assessments and the bond owners who provided the funds for the financing.

There are three ways to make changes, and I will summarize them since Senator Hardy has already explained them. The first is something that has been needed for quite some time, and that is the insubstantial changes to a project that result from physical impediments or efficiencies that might be gained, as was noted between gravity feed and a pump station. Those have no impact on the assessments. It is really just a modification that may be cheaper and make the assessments go down. In each of these cases, the assessment engineer needs to conclude that the benefits provided to each of the properties are commensurate with the level of the assessment. The first one happens without a hearing, without consent of the property owners because the property owners and the bond owners are not being affected.

The second method would be used when there are more substantial changes to the project. Those would typically result from what we are seeing now, changes in the marketplace that result in changes in development plans or timing. In order to accomplish that, the second way of doing this would be to obtain the consent of each of the affected property owners. Nothing would happen to change the assessment or the project without each of the affected property owners consenting, as well as the consent of the bond owners, or a bond counsel opinion that there is no adverse affect on the bond owners. That would be done without a hearing because consents were obtained from the stakeholders.

The third method would be to have a public hearing, what we in the assessment world call a protest hearing, so that the changes could be proposed. A public hearing would be noticed, and property owners and other stakeholders would have an opportunity to express their views. If there was a 50 percent protest, the project could not go forward. If there was not a protest, you would still



need either the consent of the bond owners or the bond counsel opinion that there is no adverse effect on bond owners. The public hearing procedure mirrors the protective procedure that must be followed when an LID is initially established. The procedures for establishing a district were mirrored in the provisions that allow the changes in the project. Probably 80 percent of what is in the bill are those procedural requirements for this third mechanism. There is a lot of detail about how notice must be posted, mailed, and published; when the hearing must be held; how it must be commenced and continued; et cetera. The bill looks long, but much of it is the procedural requirements. Those are taken from other parts of *Nevada Revised Statutes* (NRS) Chapter 271 for the establishment of the district. That is the overview of what we are trying to do with the bill. I would be happy to answer any questions.

First, I would like to make a couple of comments about the amendment that you have before you, which is basically typographical and clarifying. Section 4 clarifies that the projects Senator Hardy described are the type of project modifications that can be made, or they can be a combination of them and not just one at a time. There is a correction in section 9 that is only a cross reference correction. The reference should have been section 8, not section 7. In section 15, there are minor changes that should have been picked up the last time around. These changes resulted from conversations with constituents who wanted clarity that the governing body need not do things by ordinance for parcels that are prepaid, but could optionally do it by ordinance or resolution. None of these have substantive effect on anything in the bill.

[Vice Chair Bustamante Adams assumed the Chair, although Chair Kirkpatrick remained in the room.]

**Vice Chair Bustamante Adams:**

Are there questions from the Committee?

**Assemblywoman Neal:**

In section 6, subsection 1, paragraph (e), can you give me an example of the maximum special benefits that would be derived? And in section 16, please give me an example of when a single person would be able to come in and modify an arrangement within the improvement district.

**Greg Harrington:**

Let me take the first one. The notion in section 6, subsection 1, paragraph (e) is the fundamental premise of assessment financing, which is what the LIDs are. A project will be financed, and each of the properties will be assessed and will pay for the portion of the project that specially benefits that property.

When an assessment is put in place, an assessment engineer has to make an evaluation and determine that the amount of the assessment does not exceed the benefits that flow to that particular parcel of property from the project. What the bill does is implement that same notion any time a change is made in a project, so the assessment engineer would come back and evaluate the change and make sure the assessments from the modified project do not exceed the benefits flowing to each of the properties. For any of the three mechanisms to make a change, it cannot go forward and be implemented unless the assessment engineer confirms that the assessments are in balance with the benefits.

Was the other question in section 16?

**Assemblywoman Neal:**

Yes.

**Greg Harrington:**

Section 16 is intended to make it clear that if a request is made by an individual to the governing body to initiate proceedings to make changes, and the proposed changes are undertaken, the governing body can require the requesting party to deposit a sufficient amount of funds to pay the costs that it will take to undertake the changes. For example, the costs of an assessment engineer would need to be paid. If the proceedings are a public hearing, there are the costs of publication, the cost of notice, et cetera. So, section 16 is intended to make clear that the governing body is not required to go forward upon the request of a petitioner, but can require the petitioner to carry the cost.

**Assemblywoman Neal:**

Thank you for that answer, but I still want you to give me a more specific example of what a special benefit is. What is it if we are talking about Lake Las Vegas? Is it like getting a maximum special benefit of additional fountains? What is the maximum special benefit?

**Greg Harrington:**

What NRS Chapter 271 specifies is the project financed with the LID will be completed, and the special benefit is the increase in the value of the property by virtue of this project being undertaken. The assessment engineer goes in and says, "As a result of the completion of this project, each parcel will benefit at least by an amount equal to the amount that parcel will be assessed." So the property's market value will increase. Does that help?

**Assemblywoman Neal:**

Yes, it does.

**Assemblyman Anderson:**

My question is contextual. Can someone go over all of the governing bodies that might be using this new language?

**Terri Barber:**

Municipalities can use it, like the City of Las Vegas or Clark County. It can also be used by developers in conjunction with them.

**Assemblyman Anderson:**

I do not understand why they do not have a hearing every week, since they are meeting anyway. It is not going to be a burden to hold a hearing. I am looking at sections 6 and 7, which lay out procedures for not holding a hearing. To do all of that, why not just have a hearing? If we are going to be reopening assessments, and the municipalities are meeting every week, you would guard against anything unintended that may come from this new language.

**Greg Harrington:**

The notion is that if you have 100 percent consent or agreement by the landowners that pay the assessment, you have adequate protection. That also mirrors another portion of NRS Chapter 271, which says you can either establish a district through a provisional order and a notice of hearing in protest, or you can establish an LID without a hearing if 100 percent of the property owners sign an agreement saying that they want the district and they understand what the assessments are. This really tracks the mechanisms that are available for creating a district. Again, the real intent was to provide flexibility, but to ensure that each of the stakeholders was adequately protected.

**Assemblyman Anderson:**

I understand that it is great if you can get 100 percent on anything, but sometimes just giving everyone time to think about it, airing things out, and letting it stew around can be useful. As I said, you can have unintended consequences even if everyone agrees. We see it all the time around here where everyone thinks something is good, but we miss something important. One House may see something that the other House did not. That is why we give things time. I would urge you to think about whether it would cause undue constraints on the process over all.

**Greg Harrington:**

This mechanism is not a requirement in the bill, but the expectation would be that in any situation where you have homeowners, you are unlikely to be using the 100 percent consent mechanism because you are not likely to get 100 percent. People will want to understand better and will want to hear

presentations. I think the 100 percent consent mechanism will be used when you have large landowners in the development districts that need to change, which is exactly the same situation where we have the districts established by consent. Those are not homeowner districts; they are the large landowner developer districts that move forward that way.

**James Coyne, representing Atalon Management Group and Lake Las Vegas:**

The vast majority of the provisions in this bill will affect large landowners more than homeowners. This is more like Lake Las Vegas, for example. We would have four or five large landowners who are trying to develop an undeveloped piece of property with no infrastructure to it. We have a LID in place where the people who are paying on those tracts of land are the large landowners. If they want to amend or change a project, for example to change the tank system to a pump system, it does not affect any of the homeowners that are already in the district. It would affect the large landowners and their ability to develop that property. When we talk about the 100 percent consent, we are typically talking about getting a group of large landowners together and asking them if they would like to change, since it will be beneficial to them. The bill provides that if they support the change, and there is no impact on the landowners, the district is allowed to make those changes. In very few cases are we talking about homeowners being directly affected on the front end of this bill. If they are, as Mr. Harrington pointed out, there are provisions in the bill to protect the homeowners. I agree with Assemblyman Anderson about ensuring homeowners are not affected by change, and this bill provides adequate protection for that.

[Mr. Coyne provided prepared testimony, but he did not refer to it ([Exhibit F](#)).]

**Assemblywoman Benitez-Thompson:**

I want to make sure I understand the flow chart for how this process would be vetted. If there is going to be a change made in section 5, the bill explains everything that has to be prepared. The engineer has to provide a report and file it with the clerk. Sections 6 and 7 authorize the governing body to create ordinances to allow for those changes. Please tell me more about that. Would all of that be done with a public hearing? I do not see a protest period. I do see in section 8 that if the governing body chooses not to act on the report, there is a full public hearing where objections can be considered. I wonder why that is not in sections 6 and 7.

**Greg Harrington:**

Sections 6 and 7 are the sections that allow the insubstantial changes to be made, so there is really no impact on the assessments. These are the functionally equivalent projects.

**Assemblywoman Benitez-Thompson:**

It is all in the eye of the beholder, so the report that is filed subject to section 5 has a lot of big things covered in it. One of those is the estimated cost of the project. Ms. Neal spoke about maximum special benefits. It is a pretty juicy report, so it depends on how we define those, and what they mean. We are giving the local governments permission to act and to create an ordinance without taking any kind of comment, hearing, or protest on it.

**Greg Harrington:**

All of the things that you referenced about the engineer's report must be included for those types of changes. The engineer must have concluded that the benefits do not change by virtue of the minor changes to the project and that the assessments are not impacted. No one's assessment is going to go up or change. Again, these are functionally equivalent. You cannot go out and say that you are going to build a road instead of the pump station needed for water delivery. It is, "Gee, we ran into granite and the road needs to move over 100 feet." It is actually cheaper to move the road than it is to dynamite through the granite, and everyone will receive the benefit from the road that they were originally intended to receive. It is a win-win. Everyone is better off to allow the change. The districts have really been hamstrung where these minor modifications for functionally equivalent projects have not been able to proceed. There is nothing in statute to allow them.

**Vice Chair Bustamante Adams:**

Are there any other questions from the Committee members?

**Assemblywoman Pierce:**

The first thing I did while looking at this bill was to Google the term "defeasance district project," and the only thing that came up was this bill. Are we inventing something here? That makes me nervous. How is this situation handled now without this bill?

**Greg Harrington:**

A "defeasance" is a term used in the bond world. It is a common term, at least in the bond world, which means a deposit will be made that is sufficient to pay all of the debt service on outstanding bonds. Once that deposit has been made and verified by an accountant that there is sufficient money, together with interest earnings, to pay all of the debt service on those bonds, the bonds are deemed to be "defeased." The issuer of the bonds has no further obligation with respect to those bonds. They will be paid out of the escrow deposit. This is essentially what happens every time a local agency does a refunding bond deal. New bonds are issued because it will be cheaper. The proceeds of those bonds are deposited in an escrow account to pay the old bonds, and the

old bonds are determined to be defeased. There is usually a whole article in the bond indenture that states what needs to be done to defease bonds and no longer be obligated on those bonds. The notion here is that, in order to provide flexibility, a new assessment district could be in place in a portion of an existing district. Assessments would be levied in a new district, and those funds would be used to pay off the existing bonds, so that area of the district would no longer be responsible for paying the bonds. It would presumably have new bonds that it would be paying.

**Assemblywoman Pierce:**

The second part of my question is about how this situation is handled now; what happens?

**Greg Harrington:**

There is no way to make this work now. That is why this was intended to be added.

**Senator Hardy:**

Perhaps Mr. Harrington could address how this is done in other states. That may be helpful.

**Greg Harrington:**

Sure. In a manner similar to what this provides, in California, for example, there is a mechanism that says a new district can levy assessments or special taxes if it is that kind of district, and the project for that district is to pay off the existing liens of the prior district. It provides a mechanism where if changes have occurred in development or the market and the way things are structured in the existing district does not fit the changed marketplace, a new district to pay off the old one can be put into place. It allows flexibility as to what the project will then be and the timing in terms of the assessments.

**Vice Chair Bustamante Adams:**

Madam Chair, do you have a question?

**Assemblywoman Kirkpatrick:**

Currently, you do nothing, and the project sits stagnant until they have the ability to come back and finish the project. Is that the way it currently works?

**Greg Harrington:**

That is right. You have a pot of money, but there is no need for the project as originally engineered. It does not fit. The densities have changed or something else has happened in the development process.

**Assemblywoman Kirkpatrick:**

In section 4 of your amendment, how does this work when you start taking parts of the project out? I am familiar with Lake Las Vegas and the situation they are in, so using that as an example, you would take that project and as portions of the project are finished, you would take them out of the project. How is the dollar revenue neutral?

**Greg Harrington:**

Let me create a hypothetical situation for you. The district was formed. The assessments were levied on the 80 acres in anticipation of building the whole project and developing the whole 80 acres. The market changes in an unexpected way. The financial world changes in an unexpected way. There is no demand for the homes that were going to be built on 40 of the acres. Forty acres were built with homes, and they were sold. The homes built on the remaining 40 acres do not appear to be marketable in the foreseeable future. Rather than leaving money that had been generated from the bond proceeds in an unused pot for the next ten years, the bill would allow proceedings to be undertaken where the portion of the project that would have benefited those 40 acres is eliminated and no longer constitutes a part of the project. The result would be that the pot of money that would have been expended on that portion of the project would be used to redeem, or call, bonds. That would reduce the amount of bonds outstanding, so they are again in balance with the assessments.

**Assemblywoman Kirkpatrick:**

I get that because I can look around the valley at Mountain's Edge. Those people bought into what they believed to be a development community; however, only portions of it were finished. The amenities that they were waiting for have yet to come because the dollars are not there and are tied up. Although it could be beneficial, I also see it could be abused. We do not want this to become standard practice. We want it to help us get out of the situation that we are currently in, and have been in for about 20 years. It could be longer than that since we did not have the growth factor in the early 1980s when this was an issue. It is creative financing because it helps a project along. It increases the property values for people who had already invested, but are now stuck because the project did not get completed. Where in the bill is the long-term protection, so that it cannot be abused by local governments?

**Greg Harrington:**

Let us continue with the example where we have 40 acres billed out, and 40 acres not being built in the foreseeable future, so we are going to eliminate that part of the project. Of the three mechanisms for making changes, the first, which is functionally equivalent and does not require a hearing or consent,

is not available because you are eliminating part of a project, and do not have a functionally equivalent project. Under the circumstances described, you would never be able to proceed under that portion of the bill.

The second method would be if all of the affected property owners consented to the change. It is likely that it is a large developer or two, but if any landowner affected by the change in the assessments consents, and the bond owners either consent or there is no effect on the bond owners, then you could go ahead under that mechanism. Each and every one of the affected property owners would have to consent.

The third way would be to have the hearing, the noticed protest hearing, so any interested party could come and say that they do not think it is a good idea. The bond owners would have to consent, or there could be no adverse effect on the bond owners. In each instance, to go back to the beginning, the assessment engineer is going to have to conclude in a report that the assessments, as modified, are in balance with the benefit to each of the properties. There is that protection as well.

**Assemblywoman Kirkpatrick:**

Where did the definition of "functionally equivalent" come from? Is it an accounting definition? Is it something used in other states? This is the first I have ever seen it. Also, what would happen if we put a sunset provision on this bill just to come back and see where we have gone with it?

**Greg Harrington:**

First of all, "functionally equivalent" is probably less a term of art than "defeasance." In a number of jurisdictions in Nevada, minor changes have been made in projects as they have gone along. The engineers looked to ensure the project after modification is functionally equivalent to the project before modification. The notion is just that it serves the same purpose as the original project, and the property owners are deriving the same benefit from the project. It is not a modification that changes the assessments, or the benefit received by any of the properties.

The minor changes for the functionally equivalent have been needed for quite some time because there is no mechanism that makes it clear how you go about making those changes. It is obvious today, because of the tremendous changes in the market, that there is a need to be able to adjust to the changes in development and the marketplace. Those situations could arise in less extreme circumstances as well. I do not think that this is something that is just beneficial because we are in a world where there have been dramatic changes. I think that changes in the marketplace happen all of the time, and the notion



here is that there is adequate protection for the stakeholders. Nothing is going to happen that is detrimental to the stakeholders, the property owners, or the bond owners. It would be an appropriate and worthwhile tool to have in the toolbox as LIDs move forward.

**Assemblywoman Kirkpatrick:**

I do not have a problem going back and fixing all of the projects that we have out there that are in flux because they stopped building. It could do a lot of the roadways that are currently not complete. However, if we do not make it specific to existing projects, there is no guarantee that those projects will be completed.

I apologize to Dr. Hardy for not talking to you about this, but I just thought of it. Why not require that it be for existing projects that are in this situation, and then in the future, legislators that want to address it could? I believe there are plenty of projects out there that could benefit from this initially. I do not want to see creative financing for a bunch of other projects. It is very hard to explain to my constituents that part of their road is torn up because the project could not be finished. They have three years to complete it based on an agreement that they have made with the local group and then they use the money for something else. I would rather use this tool for current projects that meet this criteria so we can clean up some of these areas. In the future, if we prove this works, we could expand it.

**Greg Harrington:**

The changes for "functionally equivalent" ought to be in the statute because you run into those types of changes all of the time.

**Assemblywoman Kirkpatrick:**

If it meant just starting with this for now, or it being in the statute for the long term, what would you ask me to do?

**Senator Hardy:**

I think your compromise, or insight, is well taken. Obviously, we have problems with Mountain's Edge, Inspirada, Southern Highlands, and Lake Las Vegas. I think what the question would be is whether this would have an adverse effect on those projects if we do this retroactively and not prospectively. I do not see the downside to doing this retrospectively for any project that is currently on the books. I would take your amendment as very friendly.

**Vice Chair Bustamante Adams:**

Are there any other questions from the Committee? I see none. Senator Hardy, do you have any other individuals whom you want to testify?

**Senator Hardy:**

All those who are in favor.

**Vice Chair Bustamante Adams:**

I know there is another gentleman in Las Vegas to testify.

**Robert McGibney, Senior Officer, KB Homes of Nevada:**

I urge your support of Senate Bill 100 (1st Reprint) because of the positive effect I believe it will have on the economy. The bill will provide a way for projects to move forward with infrastructure, development, and other construction work on projects covered by LIDs. By allowing projects like Lake Las Vegas and Inspirada to respond to changes in the economy, market, geological changes, and basically anything that can happen, these projects will move forward quicker. It will create jobs and ultimately benefit our economy. As we have discussed, under the current law, I do not believe there is a way to make these changes and get these projects moving forward. If we have that ability, we can design these projects, and make the changes. There will be a better fit within the community, improve our economy, and result in an increase of jobs.

**Vice Chair Bustamante Adams:**

Are there any other questions from the Committee? I see none. Next, we will hear from the person in Carson City.

**James Coyne:**

I know that we have talked quite a bit about the language of the bill just to put a face on it if we could, and the impact, and what it means. At Lake Las Vegas today, we have road segments that are designed as part of the description of this project; for example, one is about 1 1/4 miles long. It is a road segment that will have water, sewerage, drainage, gutter, et cetera. We do not need a 1 1/4-mile-long road segment now. I need one about one-half mile long. There is no provision in the statute that allows me to build one-half mile today, and the next one-half mile in a year or two when we really need it. Some of the flexibilities that we are talking about are those types of things that impact us directly today. In 2005 and 2006, when the economy was roaring, we were building 35,000 houses a year in Clark County. It was not a big deal then. But today, when things have changed significantly, we are looking for a little flexibility to spend the money that is in the LID today, that has been approved, and that people are paying assessments on. It is not creative financing. I have heard that term and, in my view, it is not creative financing. We want to have additional flexibility in the way we spend this important infrastructure financing on projects. We talked about a road segment that is a mile long. Let us build

one-half at a time. I do not currently have any flexibility, but this bill would allow me that flexibility.

Mr. Harrington mentioned a similar example about a road that had a curve in it to the right. If we want to curve it to the left because there is granite in the way, it is functionally equivalent because it is the same road from point A to point B and it benefits the same landowners. But I cannot do that today with the current statute. It is a skinny statute; there is not much language in it to allow me flexibility.

For the third point, as a specific example, the sewer system was designed at Lake Las Vegas to lift the sewer up from one area to another, and through the southern portion of our property. We have encountered geological difficulties with putting it in. We have discovered that it is better and cheaper to go to the northern end. It is the same functionally equivalent mechanism, the sewer is for the community, but instead of providing it from the southern end, we provide it from the northern end. I cannot do that today given the current state statutes. I am not looking for any more money. I do not want any bond holders to pay out of pocket any more than what they have already paid. The funds are set aside; the projects are in place. We just want a little flexibility for exactly what the description of the project is.

How does this affect Nevada? It is important to Nevada because this money is in place today, ready to go on projects that are ready. It will help with the language in the state's statutes to allow us to modify the projects to better use the funds. This will result in people being put to work almost immediately at Lake Las Vegas. It will allow the land to be developed the way the home builders and landowners bargained for when they purchased the property from Lake Las Vegas. They have been paying their assessments for over five years. That is what our request is. It is beneficial to the state and to Lake Las Vegas, but it will also give other developers the ability to have flexibility on moving these projects forward.

**Vice Chair Bustamante Adams:**

We have a question from Madam Chair.

**Assemblywoman Kirkpatrick:**

Currently, if the scope of your project changes by 10 percent, you have to go back before the local government to address your concerns. Once your bond is in place, you are not allowed to do those minor modifications?

**James Coyne:**

No. There is no mechanism in statute today to allow me to build a 1 1/2 mile road segment in two parts because it was initially described as one 1 1/2 mile road segment.

**Assemblywoman Kirkpatrick:**

Let me ask this about hearings. I hear there is some concern about not having a hearing, but I also understand that hearings are very expensive. We currently do not require them if you do less than 10 percent of your project. That is a Planning Commission situation that goes through the Public Works Department. Is there a better definition of when you would require a hearing and when you would not? Some would have an administrative piece, which is currently how local governments do it. If you are just going to change the road from the right to the left, it is a very expensive process to go through. It could be anywhere from a couple thousand dollars to \$10,000. We are really not using the money that is tied up efficiently if we are spending it on hearings through this process. I could see the concern from the constituents, the Committee members, and the public that you changed the entire concept of what they had expected, and it becomes an issue. Is there a balance between the two because I understand both? If you are one of those who bought at Lake Las Vegas, you have had many challenges. They no longer have the golf courses, and the road that was to be finished is still not completed. At the same time, there is no hearing on significant changes, and it would create another issue with realtor disclosure because you cannot disclose what you do not know. I wonder if there is a balance between the two.

**James Coyne:**

In general, the vast majority of the changes that we are talking about are among large landowners that are developing vacant tracts of land away from single family residences. If there are three large landowners and they are all affected by changing the curve in the road, and all three want to do it and the district engineer says that it starts at point A and goes to point B and is about the same length and handles the same traffic volume, it is functionally equivalent if it goes to the left or to the right, it should be approved. There should be a public hearing regarding that, and obviously transparency is better, but my experience with local government is that it has to be a priority to someone before you can get a hearing on a calendar. The hearing process creates additional costs, expenses, and time for something that the landowners and the city staff unanimously agree they want to do.

**Assemblywoman Kirkpatrick:**

Some of the changes that you talk about are changes to the master streets and highways, or are changes to a lot of other plans. How would you envision

making those changes, as well as any right of way changes that you have to make? If you decide the road needs to have a circular radius for fire trucks, so you now want to change the road to a hammerhead type, how is the public, as well as other agencies, notified? I am trying to understand where the transparency comes in because you still have to notify all of those other people. The other agencies may have to make very large changes to the master streets and highways based on one project.

**James Coyne:**

The vast majority of these tracts are privately-owned tracts. They are conceptual transportation and structure plans that the city signed off on as the LID was put in place. It could be any municipality, which in this case is the City of Henderson. Any changes to the plan would always require the city's approval. We work hand in glove with the city for these changes at the staff level. None of the changes that you have discussed are made without the municipality working directly with us, and none of them come without its approval. These are not unilateral decisions made by the developers.

**Assemblywoman Kirkpatrick:**

That goes back to my point that there must be some kind of hearing. It cannot all be administratively done. The good Senator agreed to my friendly amendment that we do some existing ones. There are changes to the design review plans. There are changes, so there is already some type of public hearing. Right?

**James Coyne:**

There are multiple public hearings for changes that require mapping changes, for example. There are public hearings before the planning commission, and then the city council must approve it. There are public hearings whenever public roadways or right of ways change. That is part of the process.

**Assemblywoman Neal:**

I have two questions. Earlier, when you were talking to Madam Chair, you shifted your argument to discuss some of the public purposes of this legislation. How many jobs are you talking about, and how long will these jobs last that you believe will come into existence? The second question is, you stated that this will only directly affect the large landowners, but you have not clearly stated the indirect effect on the residents. We are talking about assessments and I know you have language in the bill about material adversity, but I still want to hear a discussion on the indirect effects.

**James Coyne:**

The indirect effect on the homeowners?

**Assemblywoman Neal:**

The indirect effect of the changes. Basically, under section 4 pursuant to NRS 271.325, you are adding four portions to that language: eliminate a portion of the project, make changes or additions to the project, modify the assessments to reflect the changes or additions to the project, and modify the assessment installments and the due dates of the assessment installments. I understand the maximum benefit and how you are going to determine whether those changes to the assessment are material or give a benefit. However, this is new, and when you talk about elimination of a portion of a project, I think that speaks to what Madam Chair was saying. My main issues are on numbers 3 and 4. What will be the indirect effects on the actual homeowners with the modification of the assessment once you realize that there is a maximum special benefit that will be derived from the change?

You said there is a public purpose to passing this legislation, so what are the jobs that are going to be created and how long will they last? For me, personally, I feel this is special legislation for a particular group.

**James Coyne:**

If I can touch base on the jobs question first, and then I might defer to Mr. Harrington about the special benefits because he is more versed on the legal side of it.

At Lake Las Vegas, there are currently about \$30 million in funds that have been raised for infrastructure improvements at Key 16. It is difficult for me to tell you how many jobs, but there would be construction and engineering jobs to design and construct these roadways, sewer and water infrastructure, sewer lift stations, and water facilities as well. What that does is open up areas that do not have infrastructure development to infrastructure development for the landowners. For example, Woodside Homes owns a considerable amount of land within Lake Las Vegas, and Lake Las Vegas is obligated to provide infrastructure improvements to the doorstep of their properties. We have been unable to do that so far. This would allow the master infrastructure to be completed to the doorstep of this big vacant tract of land where they could then subdivide their property with the City of Henderson, and build houses on their property. I do not know how many jobs, but it opens the developable area that the home builders have purchased from Lake Las Vegas.

**Vice Chair Bustamante Adams:**

Can you please answer the second question from Mrs. Neal?

**Greg Harrington:**

What subsections 3 and 4 do in section 4 is to say that you have made changes in the project, and the assessments are based on the benefit flowing from the project. So, if you have made changes to the project, what necessarily must flow from that is a change in the assessments. Back to our earlier example, if you have eliminated a portion of the project, now some properties are deriving no benefit, or a reduced benefit. What subsections 3 and 4 say is, you made changes to the project, now you must change the assessments in a way that takes into account that this portion of the project is not going to be built. If you reduce the assessment, the assessment installments will change somewhat, too. Subsection 3 and 4 are really changes that are necessitated by, and flow from, the changes to the project that are being made. Again, it is to keep the balance between the benefit and the assessment in place.

**Assemblyman Ellison:**

I look at these differently than everyone else. I have been out in the fields with these for many years. Improvement districts are a great thing because the people can get involved in their own future. The counties and the state cannot pay for these projects any more, so it has to be up to the individuals to come up with ideas and try to figure out how to do this. That is why LIDs are so important to these areas that need to expand for the people. I think, with the amendment, this is a good bill.

**Assemblyman Stewart:**

My wife and I enjoy going out to Lake Las Vegas very much, and I have been frustrated by the decline of it, but now it is coming back. One of the things that I get frustrated by is that, as I come around that turn past Lowe's, the right side of the road is gravel and not finished. I am very excited about voting for this bill, as long as you finish the right side of the road because I always want to go on that side. I hope that is the half mile you are talking about. I will enthusiastically vote for this bill.

**Vice Chair Bustamante Adams:**

Is there any other testimony that you want in support of the bill? [Senator Hardy indicated no.] We will take those individuals who want to testify in the neutral position. Is there anyone in Las Vegas who would like to testify as neutral for this bill?

**Greg Harrington:**

I do not believe so.

**Vice Chair Bustamante Adams:**

Is there anyone who would like to testify in the opposition of S.B. 100? I see no one. Senator Hardy, if you want to come up for any closing comments, I do have a question for you. I know we heard from people, mainly in southern Nevada, but I understand this also applies to other local governments. I did not see anyone else come to the table. Were they able to work with you on this, and did they have any feedback?

**Senator Hardy:**

I think the City of Sparks has an amendment that is included. Yes, it does affect other people, and it is not just a southern Nevada issue. In section 16, the City of Sparks suggested we put in that if a random person says he thinks there should not be a change, and that person is willing to pay for the hearing process since it is to his advantage, the governing body would not have to pay. I think that is where the idea came from.

Mr. Harrington may want to include that a state to the west of us allows changes to happen in its LIDs. It may be wise to put in that we are not the only state that is looking at this.

**Vice Chair Bustamante Adams:**

I am not sure if anyone else has that amendment in front of them.

**Senator Hardy:**

It is part of the bill in the first reprint.

**Vice Chair Bustamante Adams:**

That was in section 16?

**Senator Hardy:**

Yes, in section 16.

**Vice Chair Bustamante Adams:**

And that was provided by Washoe County?

**Senator Hardy:**

The City of Sparks. I appreciate the patience and the careful consideration that the Committee is giving to this bill. Realistically, it is probably good to have another bite of the apple when it comes back when doing something new. I wholly endorse the concept of looking at this retrospectively and seeing where it goes from there.



**Vice Chair Bustamante Adams:**

Are there any final comments from the Committee members on this bill?

**Assemblyman Stewart:**

I am grateful that this is Senator Hardy's last bill before us.

**Vice Chair Bustamante Adams:**

I have someone from the audience who has come up.

**Jennifer Lazovich, representing Pardee of Nevada:**

I apologize. I did not hear the call for those in support, so we did not have a chance to come up. I am here today representing Pardee Homes. We are here in support of the bill. There are other communities that could take advantage of the language that is contained in this bill. As an example, Inspirada, which also happens to be in Henderson, is a project that Pardee in particular is developing and working on. Because of the nature of the change in development patterns, it is likely that the community will become less dense and have fewer homes built, and bills like this will make it easier to get cost savings and ultimately pass that on to future homebuyers.

**Vice Chair Bustamante Adams:**

I see no questions from the Committee.

**Mark H. Florentino, Attorney, Kaempfer, Crowell, Renshaw, Gronauer, & Florentino, Las Vegas, Nevada:**

I will try to be brief. We are also here in support of this bill on behalf of the Focus Property Group. Maybe I can provide some clarity to this. The last thing I wanted to do was jump in the middle of a very technical discussion, but we might be able to provide some additional benefit to you. Focus is both the master developer of Mountain's Edge, which you have mentioned and asked questions about, and is part of the team, along with Pardee and KB and some others, that are developing Inspirada in Henderson. Mountain's Edge is in Clark County. I do not think this bill has any potential impact on Mountain's Edge. It is because of the way the process works. It goes to the heart of why you need this bill. Let us start with Mountain's Edge and contrast it with Inspirada so you can understand why we are here today. When we acquired Mountain's Edge and began to develop it and put the plans together, we did a complete infrastructure plan for all of Mountain's Edge: the roadways, the sewer, the waterway, et cetera. Then we did a special improvement district and went through the whole public hearing process. The process is laid out in this bill under existing law. The project was approved, both with specific infrastructure that we could finance, and a total dollar amount that could be raised. That was approved. The bonding company sold bonds to raise

the money. The county got the money and put it in an account. As we built infrastructure along with Mountain's Edge, we were reimbursed from that account. There is a lot of misunderstanding of how these projects work, and this goes to a lot of the questions that Assemblywoman Neal has. As a homeowner in Mountain's Edge, you think because you are writing your periodic check to the assessment that you are paying for ongoing infrastructure, but you are not. You are paying back the bond holder, paying back the loan. Your money has already been collected and used on the infrastructure. In Mountain's Edge, this will have virtually no impact because the infrastructure for Mountain's Edge is almost complete. The money that was collected and the debt that is being retired has almost all been spent, and most of the roadway and sewer projects are complete.

Now contrast that with Inspirada. We designed Inspirada at the very peak of the good times. We designed the entire infrastructure up front and we sold bonds. If you are one of the few people who are actually a homeowner, there are not many in Inspirada, and you paid an assessment, you are paying back the bond. The bond sold the money; it is sitting in an account. We cannot access it right now because we do not have projects because of the market crash. If you are also a large tract owner, just like the individual homeowner, you are also paying your assessment and starting to pay off that debt. Again, the money that was loaned is just sitting in an account and is not currently being used. The difference in Inspirada is that the market then crashed. We have this gold-plated, if you will, very intense infrastructure designed for the whole project, which is no longer necessary or has to be phased differently because the future market will forever be different. We need the ability, in those circumstances, to be able to adjust both the timing and the design on projects going forward to access those dollars. I would not say that the impact is necessarily immediate jobs. I think the impact is that it moves quicker because you have more flexibility to do what is needed. You have a roadway that was designed as a mile when you do not need the entire mile. You cannot start construction on it. We want to start construction on the half-mile road. We are going to put the same amount of people back to work. We are just doing it quicker because we can change the project to define it as a half-mile project and can get started on it right away.

I hope that was helpful to you. Frankly, I think the issues of applying it only to existing projects, and cleaning up the public hearing process, should be relatively easy. This is a very important bill to get the infrastructure and projects going. The concern about having enough public input in the process is legitimate and should be an easy fix.

**Assemblyman Livermore:**

I have been in local government. Local government has been able to work with developers who want to phase a project in to allow them to post bonds to ensure the project is eventually completed. Would this bill change that process, or prohibit that process?

**Mark Florentino:**

If I understand your question, it has no impact on it. That is a completely separate process that we go through. Once we have identified a project, say a roadway, whether it is a half-mile roadway or a full-mile roadway, we separately bond those projects to ensure that once we start them, they get completed. That is different from how we get reimbursed for the cost of doing it. Does that make sense? This bill has no impact on our requirement to separately bond to ensure the projects that get started get completed.

**Assemblyman Livermore:**

Does that also apply to water and sewer extensions?

**Mark Florentino:**

Yes.

**Assemblywoman Pierce:**

When we started this, it seemed that we were talking about a response to the recession, which is the deepest in 70 years. One of the gentlemen down south said, no, this would be a great thing moving forward. I wonder what happens to the future homebuyer who sees all of the glossy presentations of what this is going to look like. It is going to be so fabulous, and it is going to have all of these amenities. But now we are hearing that somehow there are all of these changes, that you cannot plan all of this very well. If you needed this to build all of these master planned communities, how come you were not here 20 years ago with this bill? How did you get through the last 20 years without this?

**Mark Florentino:**

I think it is a matter of the times were so good that we were not faced with these problems until we hit the economic downturn. We went through such a strong period of growth we could not keep up with the demand to build houses. That leads me to an answer to a question that you had asked earlier about the public hearing process. Do not confuse the two things. This bill deals with the financing and the money that is sitting in the pot, and how you use it to reimburse. In instances where you are changing the infrastructure from a cul-de-sac to a hammerhead, those go through a completely separate public hearing process under *Nevada Revised Statutes* (NRS) Chapter 278,

Planning and Zoning, and the public improvement chapter. If you are a resident in Inspirada, when you bought your house you were shown—I am making this up to the best of my knowledge—a master plan that showed the roadway going to the right, and that was important to you. Now they want to change the roadway to go left. The process of changing the roadway on the map is to go through a whole public hearing process through NRS Chapter 278. It is separately protected so that you have an opportunity to talk about whether you think it should go to the left or the right. It is an entirely different subject matter than how the assessments are used to finance the infrastructure.

**Assemblywoman Pierce:**

That also has to do with this bill. This bill has something to do with that road going right or left and whether there is a hearing. I think I am hearing two things. Is this a response to the biggest recession in 70 years, and you need this to move forward because of the effects of that recession, or would this just be a grand thing to have and you would have loved to have had it for the last 20 years?

**Mark Florentino:**

Do you want me to answer that from our perspective? It is probably the former. The primary need for this is in response to the economic downturn that we have all suffered. I agree that, to the extent that folks have testified, the original bill was not perfect, but none of us thought about it and it never occurred to any of us over the last 20 years because things were too good. We did not have a need for it. I would say, from my perspective, the primary need is to take those master planned communities that are now starting to experience some momentum again, and give them the tools that they need. We would be supportive of the notion that you made it retrospective only if that is a concern.

**Assemblywoman Kirkpatrick:**

I do not want to belabor this, but for me I do not want to worry about the future at this time when we have so many projects that we could get back on track. It really does impact the community for a lot of different reasons. We have all of these half-completed projects.

The reason I brought up the public hearings is that I was trying to make the point that there are opportunities for people to be part of the process, just not part of the financing. Retrospectively, this could really clean up some of these neighborhoods. I think it could increase some of the property values because there are people living in partial subdivisions. I have a big concern for going into the future because I think we have enough to clean up now, and for a few years. I can see that it was not a thought when the times were good and

bonding was not an issue because there was flush cash flow and people were selling homes faster than they could build them. There was never a cash flow issue. I can see where bonding is now stuck.

I personally would like the opportunity to work on the bill tonight to see if we can narrow it somewhat and make it retrospective. We will then come back and evaluate it for the future. I think it brings some merit retrospectively. We definitely need to talk about a few things.

**Vice Chair Bustamante Adams:**

Are there any other questions? I see none.

Senator Hardy, if Madam Chair is going to hold that meeting, I also want to express my concern that we have not heard anyone testify from local government. I know that it is not Friday, and they are usually here on Friday, but there is no one in the room. If anyone is interested, I would like to hear from them. I know we have heard from the City of Henderson, but I am talking about the other jurisdictions as well. I know that you have been very well represented and your input has been very valuable. I know that the City of Sparks has provided one amendment, but I would like to hear from the others as well. If they could be present at the meeting that the Chair will hold to strengthen the bill, that would be great.

We are going to close the hearing on Senator Hardy's last bill in the Assembly Committee on Government Affairs, S.B. 100 (R1). I will turn it back over to Madam Chair.

**Chair Kirkpatrick:**

At this time, we will open the hearing on Senate Bill 445. We will not need to take a ten-minute break before the work session. We will go right into our work session.

**Senate Bill 445:** Allows the Office of the Military to collect rent for the use of its facilities. (BDR 36-1205)

**Jennifer McEntee, Administrative Services Officer II, Office of the Adjutant General, Office of the Military:**

I am testifying on behalf of the Brigadier General William Burks, the Adjutant General. Thank you for allowing me to discuss S.B. 445. Currently, *Nevada Revised Statutes* (NRS) 412.108 provides authority for rental of the armories and the associated guidelines. This action will expand the authority to other facilities.

[Read prepared testimony ([Exhibit G](#)).]

**Assemblywoman Bustamante Adams:**

Can you give me a real-life scenario on how you would apply this, so that I can register it in my mind?

**Jennifer McEntee:**

Right now, we have a building that is split by square footage to the occupants, and we charge them rent. We do that now, and this bill just formalizes the process.

**Assemblywoman Bustamante Adams:**

So it does not apply to any other leasing of buildings, just for those who would pay rent. Is that correct?

**Jennifer McEntee:**

Yes. Right now we have an armory rental clause in the NRS that lets us charge for community activities, or if someone else is using it for a short term. This allows us to apply it to other facilities, more on a long-term rental. In our building, there are several different agencies. It allows us to charge them rent and continue our operations and maintenance of the building.

**Assemblywoman Bustamante Adams:**

If there is a conflict with the person you are leasing to, how is that handled?

**Jennifer McEntee:**

If there is a conflict, they would contact us, then it would depend what the conflict was. If it was a parking issue, like any other landlord/tenant relationship you would work out the interests of the parties and find a solution.

**Assemblywoman Bustamante Adams:**

Do you have those landlord/tenant relationships already defined, or do you do it on a case-by-case basis?

**Jennifer McEntee:**

It would be on a case-by-case basis. I have only been with the agency since February, and in that time I have not had any issues with any of the agencies. They would call me if they had a concern. They have my contact information and would let me know.

**Assemblyman Livermore:**

I understand your representation about an armory rental for a weekend event, but you mentioned long term. Can you describe your definition of long term?

**Jennifer McEntee:**

Currently, there are four other agencies occupying the building. Initially, when it was built and the occupants were deciding to move into the building, it was split by a percentage of square footage of the building and an appropriate rate applied. We have been charging that rent since 2009 when the original authorization was made.

**Assemblyman Livermore:**

My concern is that it does not specify who the renter can be. I am concerned about the current market conditions, especially in Carson City, that a lot of retail space is available. Office space is available. If you put your space available on this list, that is going to deplete further the opportunity for private investment to fill those spaces and leases. Why should you see this as an important issue, especially in our economic recovery?

**Jennifer McEntee:**

We do not have a lot of available space where we are going to be advertising for tenants to come in. These are current occupants of the Carson City complex right now. They are in the Emergency Operations Center building. There are some benefits to it, like the Department of Emergency Management is there. They would work with our military joint operation center if there was ever an episode where folks could come in and be able to conduct business there. I think it is pretty specific to the agencies that are there now.

**Assemblyman Livermore:**

I understand the partnership arrangements and the necessity for some to cluster together, but I did not see that in this bill.

**Jennifer McEntee:**

That is true. It was not stated in the bill, and this bill will also allow us to implement an arrangement with the university system when the Carlin sale is finalized. It does not limit us, but we do not have a lot of extra space available where we would be recruiting for business.

**Assemblyman Livermore:**

I understand it as you have explained it, but I would suggest that you define what your intent is in that role. I do not disagree with this, but I do not want to open it up. We are talking about the new site at Fairview Drive and Edmonds Drive.

**Jennifer McEntee:**

There is an amendment in there, some language in the bill . . . [She was interrupted.]

**Chair Kirkpatrick:**

Can I ask a question? You are still subject to giving all of your information to the Building and Grounds Division. Correct? Based on the Governor putting it all under one hat, your documents and your stuff is still public knowledge.

**Jennifer McEntee:**

Yes, everything would be public knowledge. Under section 1, subsection 1, it says that it is designed to prevent unfair competition with privately owned property and business.

**Assemblyman Livermore:**

I see that. I want to put on the record that what this bill is intended to do is as you described, and is not to be a flea market rental.

**Jennifer McEntee:**

Absolutely.

**Chair Kirkpatrick:**

I think you are also subject to the appraisal process, correct? Through the lease agreements based on the state?

**Jennifer McEntee:**

I would assume so, but I do not know the answer to that question. If you would like, I can get back to staff with the answer.

**Chair Kirkpatrick:**

Depending on if one of the bills pass, the state is subject to the entire appraisal processes as well. They will not be giving it away, but will still give you the ability to rent it to the university or nonprofits to use for different things for the short term, as well as the long term. Correct?

**Jennifer McEntee:**

That is correct.

**Assemblyman Anderson:**

Can you briefly go over the sort of properties that the Office of the Military has and what would be rented out?

**Jennifer McEntee:**

The majority of our facilities are the armories, which an NRS provision already allows us to rent out. This property is unique. It is on Fairview Drive, if you are familiar with that area. It has several different buildings on the complex, and a lot of those are federal buildings through a master cooperative agreement.



We are reimbursed by the federal government. We have air-support facilities throughout the state, and the Nevada Air National Guard, but we do not have a lot of locations that we would open for rental property. The bill is very specific to the agencies that are in there, and our intent is to use that space and legally charge for it.

**Assemblywoman Bustamante Adams:**

I know that we talked about the spaces in the north. How does this apply to anything in the south that you might have?

**Jennifer McEntee:**

To my knowledge, we do not have anything in the south that would meet these criteria.

**Chair Kirkpatrick:**

Are there any other questions from the Committee? I see none. Is there anyone else who would like to testify on S.B. 445? I see no one. Is there anyone in opposition? I see no one. Is there anyone neutral? I see no one. Do you have any final words?

**Jennifer McEntee:**

No. Thank you for your time.

**Chair Kirkpatrick:**

With that, we will close the hearing on S.B. 445. We will go into our work session. Please take your work session document out. We are going to turn to Senate Bill 65 (1st Reprint).

**Senate Bill 65 (1st Reprint):** Revises provisions concerning the quarterly publication of certain financial information by certain local governments. (BDR 21-400)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 65 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Nevada League of Cities and Municipalities. It was heard in this Committee on May 11, 2011.

[Read the work session document ([Exhibit H](#)).]

There is a mock-up showing the amendments addressing the Committee's concerns on page 2. You will see that it has been clarified on line 12 that the Internet information would be detailed, not the summary information. It also says the Internet information would remain on the Internet and would be

updated quarterly. Those changes are made throughout the bill in the three parallel sections.

To address the concern about the format of the financial information on the Internet website, there has been a proposal to include an amendment directing the Committee on Local Government Finance to adopt regulations dictating what that format would be, which would be done no later than January 15, 2012.

**Chair Kirkpatrick:**

I will just say for the record there is still some uncertainty as to who is actually posting and who is not. This in itself brings the rules very clearly on who should be posting. In the Senate, they heard that very few people were actually doing this, so this does make it clearer. The other thing is on the detail information; it should be information that constituents can look at. I do not believe it needs to be every single check that is written. I also do not believe that it needs to be a summary of operating cost. I believe the Committee on Local Government Finance has the ability to give us the correct information through regulations. Regulations would then be available to the Legislative Commission, as well as the rest of the legislators. That is why I threw that in there. The Committee on Local Government Financing strictly worries about financing for local governments. They would know and there would be a public process. Is there a motion?

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
SENATE BILL 65 (1st REPRINT).

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

**Assemblyman Livermore:**

I am going to vote no on this issue because I still believe the press is the place for that information. I do not know what age you want to put it at, but there must be reliability of information.

**Chair Kirkpatrick:**

I completely understand where you are coming from because I try to ensure that information is readily available. Currently, not all of the cities and counties are doing it. We are not getting any information, and this way we would get something. Is there any further discussion?

THE MOTION PASSED. (ASSEMBLYMEN ELLISON AND  
LIVERMORE VOTED NO.)

We will go to Senate Bill 77 (1st Reprint).

**Senate Bill 77 (1st Reprint):** Revises provisions relating to notaries public.  
(BDR 19-404)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 77 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Secretary of State. It was heard in this Committee on May 13, 2011 ([Exhibit I](#)).

This bill relates to notaries. I will not go through the summary. It is spelled out. Testimony is summarized and no amendments were proposed at the hearing, but subsequent to the hearing there has been a proposal to delete the reference in subsection 7, which is on page 3 of the bill, lines 15 through 17, which relates to the spelling out of a felony penalty with relation to those prior sections.

**Chair Kirkpatrick:**

I will give the Committee a few minutes to look it up on the website. There was a concern raised by many of the folks. I understand that it is the existing language that is the problem. In reference to this bill, we will take it out of subsection 7, if it pleases the Committee members. With that, I am happy to take a motion.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS  
SENATE BILL 77 (1st REPRINT).

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE  
MOTION.

THE MOTION PASSED. (ASSEMBLYMAN LIVERMORE VOTED NO.)

We will now move to Senate Bill 82 (1st Reprint).

**Senate Bill 82 (1st Reprint):** Makes various changes relating to governmental information systems. (BDR 19-267)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 82 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Attorney General. It was heard in this Committee on April 22, 2011.

[Read the work session document ([Exhibit J](#)).]

Sections 11, 21, 22, 23, 24, and 25 will be deleted by amendment. That means that those sections will not be amended in the *Nevada Revised Statutes* (NRS); they will stay as they are. Skip section 19 and go to section 26. There is an amendment proposed in sections 26 and 27 which parallel section 29, which is that it would be spelled out how long the notice for proposals must be published in the newspaper and on the Internet. The same parallel change is made in section 27 of the bill.

**Chair Kirkpatrick:**

I heard all of the concerns that we had out there. Section 21 through section 25 had all kinds of purchasing cleanup language in there. I did meet with the Office of the Attorney General and the Department of Information Technology (DoIT). This was probably not the appropriate bill for that. There was a homeland security issue that was also raised in section 11. I had issue with that myself. I heard the issue on posting it in the newspaper, as well as the Internet. This is a bipartisan fix. In working with the Attorney General's Office, the pieces that were important to them to help protect the security information were addressed in this bill. Do I have a motion?

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
SENATE BILL 82 (1st REPRINT).

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will go to Senate Bill 98 (1st Reprint).

[Senate Bill 98 \(1st Reprint\)](#): Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 98 (1st Reprint) was sponsored by Senator Hardy and was heard on May 13, 2011.

[Read the work session document ([Exhibit K](#)).]

Most of the testimony at the hearing focused on proposed conceptual amendments from the Las Vegas Chamber of Commerce. The Senate vote on the bill in its first reprint was unanimous.

**Chair Kirkpatrick:**

Here are my thoughts on this bill. First of all, the conceptual amendments that we had were not detailed enough for us to put the amendment in place. I believe they need to have some specifics to them. There needs to be more discussion on them. I spoke with the Chamber, which had been working on an amendment, but it was not ready today. They would like to create a working group. I spoke with Mr. McAllister and he agreed with the first part, but the second part was a surprise to most. I think, policy-wise for this Committee, that we need to move S.B. 98 (R1) out. If the working group comes up with further discussion, that would be an opportunity to put an amendment on it. I do not believe it is this Committee's purview to take the four things that were discussed without any detail and design language based on that. With that, I am looking for a motion to do pass.

ASSEMBLYMAN GOEDHART MOVED TO DO PASS  
SENATE BILL 98 (1st REPRINT).

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE  
MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 109.

Senate Bill 109: Revises provisions relating to local financial administration.  
(BDR 31-825)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 109 was sponsored by Senator Parks and was heard on April 22, 2011.

[Read the work session document ([Exhibit L](#)).]

Clark County presented an amendment, which is attached. The sponsor and the representative of Saguaro LLC did oppose the amendment. The Senate vote was unanimous on the original bill.

**Chair Kirkpatrick:**

On Senate Bill 109, there was concern and confusion on the Clark County amendment. I did not include that in the mock-up. I felt that it just muddied the waters. I did speak on the Senate side and they also did not agree with that amendment. What I have prepared today is the ability for the Committee to move the bill forward without the amendment.

ASSEMBLYMAN GOEDHART MOVED TO DO PASS  
SENATE BILL 109.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 137 (1st Reprint) will be next.

**Senate Bill 137 (1st Reprint):** Revises provisions relating to the construction of bus turnouts at certain locations. (BDR 22-917)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 137 (1st Reprint) was sponsored by the Senate Committee on Government Affairs and was heard in this Committee on May 11, 2011.

[Read the work session document ([Exhibit M](#)).]

There were amendments proposed relating to and including amenities within the bill. The Senate vote on the first reprint was unanimous.

**Chair Kirkpatrick:**

An amendment was presented by Ms. Lazovich, but has since been withdrawn. There was a commitment to Senator Lee from Ms. Lazovich and me that if they could not come up with a compromise, they would withdraw the amendment. What I have put before you is Senate Bill 137 (1st Reprint), which came to us without any amendments. I believe a motion for do pass would be appropriate.

ASSEMBLYMAN STEWART MOVED TO DO PASS  
SENATE BILL 137 (1st REPRINT).

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Our next bill will be Senate Bill 151 (1st Reprint).

**Senate Bill 151 (1st Reprint):** Requires certain governmental entities to develop a plan for a regional rapid transit system. (BDR22-612)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 151 (1st Reprint) was sponsored by Senator Schneider and was heard by this Committee on May 11, 2011.

[Read the work session document ([Exhibit N](#)).]

There were amendments proposed by the Regional Transportation Commission (RTC) which were determined by the Legal Division to not be germane under the joint rules adopted by the Assembly and the Senate. Subsequent to the hearing, there was an amendment proposed by Southwest Gas and NV Energy, which is attached. It includes a utility interest in the considerations on section 4, page 2, line 21 of the bill. The Senate vote was unanimous.

**Chair Kirkpatrick:**

I did speak with Senator Schneider about the amendment. Mr. Goedhart, this was something that you brought up that should be part of the discussion, so Senator Schneider is good with the amendments. The RTC has been notified that their amendment was not germane. At this time, I will take a motion for amend and do pass.

ASSEMBLYMAN GOEDHART MOVED TO AMEND AND DO PASS  
SENATE BILL 151 (1st REPRINT).

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The next bill will be Senate Bill 251 (1st Reprint).

[Senate Bill 251 \(1st Reprint\)](#): Creates the Nevada Sunset Commission to evaluate certain governmental programs and services. (BDR 18-745)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 251 (1st Reprint) was sponsored by Senator Kieckhefer and was heard in this Committee on April 29, 2011.

[Read the work session document ([Exhibit O](#)).]

Although no amendments were proposed at the hearing, subsequent to the hearing there were three amendments proposed.

[Read the amendments from the work session document ([Exhibit O](#)).]

**Chair Kirkpatrick:**

This Committee, on a Thursday night, heard from Dale Erquiaga, Mr. Hansen, Mr. Kieckhefer, and Ms. Smith about supporting one bill, which was Assembly Bill 474. We did hear that testimony. As far as it being one bill, that bill was from the Assembly Committee on Ways and Means so there was no opportunity to put any names on it; however, Senator Kieckhefer came onto this side. His bill had already been in the process of moving. I spoke with Mr. Kieckhefer and he has also spoken with the Office of the Governor. My recollection was that the Governor's Office did not support the full intent of his original bill. They thought it was a lot of responsibility going forward to go back and reevaluate every state agency. After working with Mr. Kieckhefer on Tuesday evening, we talked about mirroring Assembly Bill 474, that this Committee voted out unanimously. Mr. Kieckhefer also talked with Ms. Smith about instances where some folks wear two hats and the two hats actually conflict with each other, so this would prevent that for the future. The bill sponsor is fine, the Governor's Office is fine, and Ms. Smith is fine. The only person that I have not spoken to is Mr. Hansen, but I do not think he will have a problem having a name on his bill that he originally supported. With that I would be happy to take a motion to amend and do pass.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS SENATE BILL 251 (1st REPRINT).

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The next bill is Senate Bill 262 (2nd Reprint).

[Senate Bill 262 \(2nd Reprint\)](#): Provides for the incorporation of the City of Laughlin contingent upon certain conditions. (BDR S-125)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 262 (2nd Reprint) was sponsored by Senator Hardy and Assemblyman Hardy and was heard on May 13, 2011.

[Read the work session document ([Exhibit P](#)).]



The bill was presented by Senator Hardy and no amendments were proposed. The Senate vote is noted.

**Chair Kirkpatrick:**

I have always had concerns about allowing another city to incorporate. I think it can be problematic. We have heard other instances where it does not pan out the way they thought, but we have also heard from other cities where it does make a difference. I told Senator Hardy's group that I am willing to pass it out of Committee. I would like more time to decide if it is strong enough because I do not want any unintended consequences. He knows very well that I could put it on the desk for purposes of another amendment, so I was very upfront with him. I think this allows the voters to decide if that is the definition that they want to go with. I believe financially it would be very hard for them to do this, so I do like the mechanism of being able to have that before the Local Government Finance Board.

I also believe there is a second step in the process with the Legislative Commission and the County Commission being part of the process. For me, it is a concern that the hotels would be forced into this incorporation without any choice of their own. Those hotels are barely surviving down there, and higher property taxes in the city are a potential side effect of incorporating. The amendment was included for my concern that a majority of those hotels had to agree to be incorporated. They could not be annexed in by use of utilities, which is currently a way of doing it. With all of that being said, I am still bringing it to a vote. I still think the voters should be able to make the determination. I also think there has to be some real truth in what they are up against. I would be happy to take a motion to do pass.

ASSEMBLYMAN LIVERMORE MOVED TO DO PASS  
SENATE BILL 262 (2nd REPRINT).

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Our next bill is Senate Bill 384 (1st Reprint).

Senate Bill 384 (1st Reprint): Authorizes the governing body of a local government to adopt procedures for the sale of naming rights to certain public facilities. (BDR 28-172)

**Susan Scholley, Committee Policy Analyst:**

Senate Bill 384 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Legislative Commission's Committee to Study Powers Delegated to Local Governments and was heard in this Committee on May 2, 2011.

[Read the work session document ([Exhibit Q](#)).]

No amendments were proposed at the hearing, but subsequent to the hearing there are two proposed amendments by Assemblywoman Kirkpatrick with the general concurrence of the Chair of the Senate Committee on Government Affairs.

[She read the amendments from the work session document ([Exhibit Q](#)).]

**Chair Kirkpatrick:**

In the past, I have always voted against this and it has never made it out of Committee. I do have a reservation with it; however, I do understand that local government is going to take a very hard hit this time and they may need a mechanism to keep some of their programs in place. I believe this is a mechanism to do that. I did propose taking out the school districts and the others because I think it was meant for the counties and cities. I spoke to Senator Lee about that and he did agree. Clarifying the procedures on how that will be done, I think local governments will have to do it in a public process to look at the ordinances and policies that they currently have in place to allow this. I hope that future legislators will come back and reevaluate this to determine if it was in the best interest of the public to allow this. There will be some very good debates on the floor because people feel very strongly on both sides of the issue. However, this is a policy decision for this Committee to make, so I am all right with whichever way this goes. With that, I will entertain a motion to amend and do pass.

ASSEMBLYMAN GOEDHART MOVED TO AMEND AND DO PASS  
SENATE BILL 384 (1st REPRINT).

ASSEMBLYMAN STEWART SECONDED THE MOTION.

**Assemblyman Anderson:**

I wanted to say "me too" to your comments. I promise to be one of those legislators in the future, assuming everything goes well between now and then, to take a look at this. I will be supporting this, although reluctantly.

THE MOTION PASSED. (ASSEMBLYWOMAN PIERCE VOTED NO.)

**Chair Kirkpatrick:**

That concludes the bulk of our work session. I am working on a couple of different things, as well as the bills we heard today. If you have any desire or if there is something you have not seen, please get with me because I cannot think for everyone. The Senators have not asked about a single bill to determine if it was in the process.

I will set a hearing date on Friday to determine if there are other things we are able to move. At 10 o'clock we will have a presentation with the Assembly Committee on Taxation.

We will adjourn [at 11:43 a.m.].

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Recording Secretary

RESPECTFULLY SUBMITTED:

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Karyn Werner  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

## EXHIBITS

**Committee Name:** Committee on Government Affairs

**Date:** May 18, 2011

**Time of Meeting:** 8:33 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 432	C	Kay Brothers	Slide Presentation
S.B. 100 (R1)	D	Senator Joe Hardy	Proposed Amendment
S.B. 100 (R1)	E	Senator Joe Hardy	Floor Statement on S.B. 100
S.B. 100 (R1)	F	James Coyne	Prepared Testimony
S.B. 445	G	Jennifer McEntee	Prepared Testimony
S.B. 65 (R1)	H	Susan Scholley	Work Session Document
S.B. 77 (R1)	I	Susan Scholley	Work Session Document
S.B. 82 (R1)	J	Susan Scholley	Work Session Document
S.B. 98 (R1)	K	Susan Scholley	Work Session Document
S.B. 109	L	Susan Scholley	Work Session Document
S.B. 137 (R1)	M	Susan Scholley	Work Session Document
S.B. 151 (R1)	N	Susan Scholley	Work Session Document
S.B. 251 (R1)	O	Susan Scholley	Work Session Document
S.B. 262 (R2)	P	Susan Scholley	Work Session Document
S.B. 384 (R1)	Q	Susan Scholley	Work Session Document