

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

**Seventy-Sixth Session
June 2, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:03 a.m. on Thursday, June 2, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
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 John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cheryl Williams, Committee Secretary
Jenny McMenomy, Committee Manager
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Nick Vassiliadis, representing Lake Tahoe Gaming Alliance
Leo M. Drozdoff, Director, State Department of Conservation and Natural Resources
Lewis S. Feldman, Attorney, representing Lake Tahoe Gaming Alliance
Joe Johnson, representing Toiyabe Chapter, Sierra Club,
Carl Hasty, District Manager, Tahoe Transportation District
Kyle Davis, representing Nevada Conservation League
Rochelle Nason, Executive Director, League to Save Lake Tahoe

Chair Kirkpatrick:

We will open the hearing on Senate Bill 271 (1st Reprint) for further conversation from yesterday's meeting.

Senate Bill 271 (1st Reprint): Provides for withdrawal of the State of Nevada from the Tahoe Regional Planning Compact under certain circumstances. (BDR 22-988)

I want to make sure that everyone has their say before we take any action on this bill. I would like to take those who are in favor of this bill first.

Senator John J. Lee, Clark County Senatorial District No. 1:

Thank you for recognizing the need for further discussion on this bill. This building was very busy yesterday. I was in two other committees that were just as important. I would like to thank the many people who have been working in my stead while I was out yesterday to help out on this particular and very important piece of legislation. I wanted to come up here and answer some questions that might validate what took place to get to this point.

On a personal note, I want you to know that I am an Eagle Scout. I am a master trainer in a national organization called Leave No Trace. I also am a master trainer in Tread Lightly. I have lived in Glenbrook at Lake Tahoe for the past four sessions, which is eight years. I have engaged in a lot of activity around Lake Tahoe. I rode my bike around the lake, which is 72 miles. I have hiked and completed the 165-mile Tahoe Rim Trail. I have chaired the

Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System and I have been a member of it for six years. I am an honorary chairman of the Tahoe Rim Trail Association. This is not just another day at the office for me. I love Lake Tahoe and if I thought for one second I would be hurting our treasure, I would not have put this bill forward.

This is not just another issue to me. I hope to do some good here today. If I could, I have a couple of items that I would like to address. We have come up against the accusation that we have done nothing for the conservation of the lake. We on the Nevada side want to continue to keep this lake pure and clean. Nothing in this legislation changes anything regarding the environmental aspects. We are here to make sure we continue to keep the lake clean. There are a couple of places within the bill that give Nevada equal footing and standing in the Tahoe Regional Planning Compact with the Tahoe Regional Planning Agency (TRPA).

The supermajority issue is very important. I am a very basic person. If you want me to understand something, I need the basic information first. If you talk to me in large language, I sometimes do not understand. In my simple mentality, the supermajority concern would arise, for example, if you were on this Committee and you were in the minority and, as a minority member, you were coming here to do a good job and work hard. However, if you want to get a bill passed, you would have to have a supermajority, say three quarters of the people, approve of what you want. But, the opposition party does not like you, your chances are going to be very slim. It would make it extremely hard for you. Let us just say that the opposition party had the ear of the Speaker, and if someone on that side was going to vote and help you in the minority, that person could then be removed from the Committee and another person put in his place. That is exactly what is happening in the supermajority voting between California and Nevada with the TRPA.

We are trying to make it more equitable so that when Nevada shows up to the meetings, the decisions and votes are not already made in advance. There is nothing that the people from Nevada who are on the board can do about it at that point. We are asking for a regional plan. The reason we are asking for this is because if you are a homeowner, builder, et cetera, you need options. Homeowners cannot build decks at this point. If there is no regional plan that we can resort to for the rules and regulations, people have a hard time complying with rules that are constantly changing.

Every single project that comes before the TRPA gets micromanaged. I know of someone who wanted to put an addition onto his house. He had impervious

water permits, and the TRPA said that they would let the addition be put on the house. However, the TRPA required that this person had to give up land to them. This is a taking. This is an exaction. It did not affect the water quality of the lake at all. The TRPA decided to take the area of land that was his driveway. He would not be able to even approach his property if he got to add onto his house.

We need a regional plan that works with our zoning issues a little bit better. The reason you are not hearing the local governments here that have some responsibility over zoning is because they have walked away from the entire process. The League to Save Lake Tahoe threatens to sue them every time. My friend, Jill Derby, has a small home in Glenbrook, where I live. We were on her deck one day and she told me it took 2 1/2 years for her to get a bathroom addition onto her house; however, she did not increase the size of her house at all. They wanted to rebuild a portion of her house that was already under her roof and it took 2 1/2 years. Finally, her husband Steve went down to the TRPA and was lucky enough to see a person who worked there that he knew. Steve was the veterinarian for his horse. He discussed the problems with this gentleman and he took care of it within 48 hours. It took 2 1/2 years of the TRPA putting them off. Nevada residents cannot get any service from the organization.

We talked about changing economic conditions. Changing economic conditions if you are a homeowner might be changing windows or fixing something. The TRPA is so draconian that if a homeowner wants to fix a piece of asphalt that is crumbled between his house and the driveway, it will take him years to change that because the League to Save Lake Tahoe will tell you that there is too much asphalt in the basin already. They do not want that asphalt spilling off into the lake. There is no way that would happen. Half of this asphalt would not even get into the runoff but they still stop people from doing it.

When the TRPA was established in the 1960s, there were 16,000 additional building lots to be built on. It was like a Disneyland for developers. The developers were projecting to do a whole bunch of different things up there, and the TRPA was created when Governor Reagan of California and Governor Laxalt of Nevada partnered together and put this plan into action. There were 16,000 lots. They did not want this to turn into a circus.

At this point, 90 percent of all the lots are built out. We do not need a regulatory planning agency that shuts down everything on the lake. We need a TRPA that oversees the environmental challenges of the lake. That is what we want to participate in. I do not want to take any of the environmental

issues away from what we are doing. I am excited to get the TRPA back to the environmental cause, which is what they were doing in the first place.

I have been involved with the TRPA on the Glenbrook stream restoration project. We have been working on this for six years. We have had a lot of trees that have fallen into this little stream. The water has to run around everything. It is just a mess. For six years we have been trying to simply get in there to clean the trees out and put in a little walkway to make it a bit nicer so that people in the homeowners' association can walk along the stream. I will take my time, I will let all the studies go through, and I will do all of the environmental things that we need to do. Right now, we are waiting for a songbird study to be done. This year, we have not had a lot of songbirds come out. I am willing to wait my turn for those kinds of projects to come into effect.

I am here today to answer any questions that the Committee might have. As the chairman of the past oversight committee on Lake Tahoe and as the sponsor of the bill, I will answer any questions that you might have concerning how we got to this point. I am very proud of all the people behind me. As the Committee members know, sometimes you know that a change needs to be made. I am one of those guys who sees an issue and tries to help. It is not my issue; I live in southern Nevada. I never went past Indian Springs until I got elected to this body. I did not even know what northern Nevada looked like. I have fallen in love with the area. I became very passionate about this issue. I was hoping that someone would pay attention and that they would help me out.

We have a serious problem on this side of the Nevada border. I have been very impressed by the number of people who have come forward. At the beginning, I had a lot of people come forward to say that they were in support of my efforts. I asked them for help, but they responded that they did not want the TRPA or the League to Save Lake Tahoe to seek retribution against them. Finally, many of those people became fed up with all of it. In the wake of this, some wonderful people have come forward to help me get this issue settled.

Assemblyman Ellison:

I went through this bill quite thoroughly. This is a good bill. It is fair. It is equitable. It protects the environment. In listening to some of the testimony, some people said they were trying to fix areas that might be environmentally sensitive at the lake. They could not even get the permits to address some of the environmental issues. It is like you are leading the horse to water but there is nothing in the creek. I think you have done a good job on this bill. Are you on board with the amendment that was proposed by the Secretary of State ([Exhibit C](#))?

Senator Lee:

Yes, through many conversations with many people at the highest level, from the federal government on down, about this amendment and the bill. I have had meetings with the Governor, the legislative body, and local government. I am not sneaking up on anyone. I have allowed everyone to take a look at this bill. This is not just something that I quickly put together. I have the Governor, who said that he will sign this bill when it comes. I have the Secretary of State, who sits on the TRPA board, in support of this bill. The federal organizations that we support here in Nevada are on board with this. This is not a Senator Lee amendment but an amendment by all participants on the Nevada side who are looking to see this go forward.

You know as well as I do that I cannot bind future legislators for next session. There are things in this bill that we will look at and work on. Two years from now, maybe someone will look at other issues that come up with the TRPA. This is not so binding that future legislators will not have an opportunity to go back and look at the progress that is made. The oversight committee that I chair is going to get progress reports on how everything is going. Mr. Drozdoff from the State Department of Conservation and Natural Resources is here today. He came up to me and said that it was amazing to see how much more open California was to discussion on this issue now. He has had three phone calls in the last month from them. They understand that we are serious about being taken seriously.

Assemblyman Ellison:

Another issue is the underbrush. You have seen the fires that have been in California for the last couple of years. It was because no one could get in there to clean out the underbrush. If you do not do that on the Tahoe side, eventually you will lose houses in Tahoe. We have to address concerns such as this. We can only do that if we plan. It is important. The people who live there know that.

Senator Lee:

In the last four years, Senator Rhoads and I have worked on the Nevada Fire Safety Council issues. We were able to get them \$1.85 million to pull those ladder fuels away from the underbrush on private properties and to clean around the houses so that there is a defensible fire space. Not only was that money used in the Lake Tahoe Basin but throughout many of the rural counties as well. The fire issue is a large one.

Assemblyman Livermore:

I am proud to have you as an honorary citizen of Carson City right here at the foot of Lake Tahoe. You are welcome to come to my community any day you

wish. It is a pleasure to have you here. I do not know what took you so long to get past Indian Springs but you are here now. What will this bill do to the federal funds pledged in that Compact? Is that going to have any effect?

Senator Lee:

I had a conversation with Senator Reid when this bill came up. Senator Reid is a very close friend of mine. We respect each other, but we also know our passion about what we are working on. He called and asked me about what we were working on. I promised him that I was not trying to destroy the Compact. I am here to see that Nevada gets footing within the TRPA. He said that he has given a lot of money to that area. He has more money to contribute. Senator Reid would like to work with California on these issues. I assured him that our goal was to continue to receive that money from the federal government and work collaboratively with California to work out the environmental issues. I am expecting that in six years, this problem will be fixed and we will be on equal standing with the California side.

Assemblywoman Neal:

On page 21 of the bill there was some added language. It says, "In addition, there is a rebuttable presumption that a regional plan adopted, amended, formulated or maintained pursuant to this compact is in conformance with the requirements applicable to this compact, and a party challenging the regional plan has the burden of showing that it is not in conformance with the requirements applicable to this compact." I wanted to know the intent to insert that language. Was there a need within the kinds of legal actions that were presented? What would happen if the way that the action was handled was not necessarily in favor of certain parties? I am wondering about the background of that language.

Nick Vassiliadis, representing Lake Tahoe Gaming Alliance:

We are trying to make it so that lawsuits that come through the TRPA are similar to those that you see around other courtrooms in America. If someone sues, typically the burden of proof lies on the person suing, not the person getting sued. In the past, after the TRPA creates a regional plan, they get sued, and they then have to prove that they are all right. That is not how it works in every other courtroom. We do not believe that is how it should work up there either.

Senator Lee:

This insertion of language basically provides that a person who challenges the regional plan has the burden of proof showing that the plan has violated the Compact. You just cannot throw out a lawsuit if you want to stop a project.

You have to show a burden of proof of how that person is violating the new Compact that will be put together.

Assemblywoman Neal:

So you are just strengthening the aggrieved person language. Is that correct?

Senator Lee:

Yes.

Assemblywoman Pierce:

I do not understand why you need this language. Is there some other place in statute that says that judges are to treat lawsuits within the area of the TRPA differently? Why would you need this language?

Senator Lee:

That is the language that our Legal Division put together to prepare itself if the Office of the Attorney General gets involved. California needs to understand what we are trying to accomplish on the Nevada side. I am not a lawyer. This was not my language. It was the Legal Division that put that in there.

Assemblywoman Pierce:

Why would you want this situation to be treated differently than other situations in courts of law?

Senator Lee:

I do not want that, Assemblywoman Pierce. This is what our legal staff said they wanted to have in the bill. I can get someone from the Legal Division to come explain it to you, but this was added to the bill for the protection of Nevada if a master plan gets put in place.

Assemblywoman Pierce:

You brought up being the Chair of the interim committee. I have heard of these problems before. Someone cannot paint their house or do other improvement projects on it because of the TRPA. We got a report in the Committee in the 2005 or 2007 Legislative Session that said that the TRPA had done a lot. They had done a survey and they had streamlined a lot. I do not have the report with me but they had solved a lot of these problems. I am sorry to hear that these problems have cropped up again. I am curious as to why this was not talked about at all when you were the Chair of that interim committee and had control over the agenda during the last interim.

Senator Lee:

I would like to recognize your leadership in the past in the same capacity that I served. You might recall that we had a field trip and toured the state line area. As I walked up the hill with a member of the family involved with the Boulder Bay project, she started telling me of all the things they were doing for the ecology and what they were forced to do to get the zoning changed for their building. They had to take off a certain amount of square footage. It was amazing all the things they had done to try to get the support of the TRPA. We had a lot of people come in and testify that they were not getting the proper service that they wanted but that it was better than it had been in previous years. As I listened to these challenges and problems, I realized that there was a problem that was not being addressed. Conversations take place after interim committees meetings, and it just festered in my brain. The property rights issues just kept coming back. I do not believe that these people were trying to do anything to harm the lake. These people are trying to bring positive growth and building green units. It is all of the types of things we wanted in Lake Tahoe. That was our last interim meeting, and therefore, there was not an interim committee meeting to bring it back to. I kept working this issue. Sometimes you grab an issue and work in the interim and come here. It was not that you were waylaid on the conversation; it just grew after that final meeting.

Assemblywoman Pierce:

The project that we toured has been approved.

Senator Lee:

That project has been approved. They had one meeting two weeks before. They had the votes for the meeting, and the Governor of California, Jerry Brown, pulled off one of the people who was going to vote yes and put the attorney for the League to Save Lake Tahoe on the board so that there was a guarantee that, after four years, this project was going to be pulled out from underneath them [the project sponsors]. This bill made California react in such a way that they know that Nevada is watching. When the issue came up again, it was successful. I am thinking this bill had a lot to do with the oversight that we were giving that project at this time.

Assemblyman Stewart:

Senator Lee, I have known you for a long time and I know that you have a few faults here and there, as do I. One of them is not being against nature or the environment. You are sort of like the Marlboro Man without the cigarette. I take a lot of comfort to know that you are the sponsor of this bill. You have a great love for the outdoors and the environment. You would do nothing to harm Lake Tahoe. One of the main problems is the veto power. We have

seven people on each side. If we have ten people voting for something, four people from California kill it, and that is what is constantly happening. Is that correct?

Senator Lee:

That is exactly what is happening. I am prepared to say that the Secretary of State made that case yesterday for you. The votes are there before you even show up to the meeting.

Chair Kirkpatrick:

You said that we cannot bind future legislators. I understand that, but I am wondering why you did not put a report in the bill so that people would have to come back to the Legislature knowing that we could not bind them. That would have been helpful at least to determine what progress had been made.

Senator Lee:

I have given you a few things, but this is the floor statement ([Exhibit D](#)) that we read on the Senate side. I am glad you brought that up. This bill requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to the impacts of withdrawing from the Compact. We are going to have meetings about this. I do not know that I will be on the committee this time around. There is going to be an assessment that will come to this Committee about what has happened since this bill has passed. On the other side of it, the Office of the Attorney General in Nevada is going to be taking a look at it. If this ever did happen, six years from now, this would be our requirement to pick up those costs. We have three sessions to take a look at this and get those reports back to you.

Chair Kirkpatrick:

I see that Lee Bonner, the Douglas County Commissioner, did not make it today, but he sent an email to me ([Exhibit E](#)).

Leo M. Drozdoff, Director, State Department of Conservation and Natural Resources:

I do not have any prepared testimony. I followed the hearing on this bill yesterday and then this morning as well. I just wanted to explain from my vantage point how this bill evolved. Chair Kirkpatrick, I know you talked about wanting to get into the bill. That is important. You have heard in testimony that we want to stay in the Compact with the TRPA but we want it improved. Within the State Department of Conservation and Natural Resources (DCNR), that is precisely what my position is.

In the DCNR, all of our divisions play a significant role at Lake Tahoe, whether it is the Division of Environmental Protection, which has spent thousands of man hours and millions of dollars working with California to develop a total maximum daily load, or our Division of State Lands, which has administered about \$86 million worth of environmental improvement projects from water quality restoration to forest thinning. The Division of Forestry has done a yeoman's job to clear thousands of acres to make the basin safe. Our Division of State Parks operates a number of state parks, including Lake Tahoe State Park. We are a big stakeholder. The Nevada Natural Heritage Program makes sure that sensitive species do not cause a problem in the basin. You get the point.

I have been in a lot of meetings since this bill first dropped. We were not aware it was going to come forward, but it did. We were there with people who are very much against the TRPA. I tell them at the start that the best way for Lake Tahoe to be protected is to have a strong and healthy TRPA. That is where I sit on that issue. It is because of that belief that I am at a point where I believe that the best way to have a successful TRPA is to pass this bill.

I testified on the record when this bill first dropped that I had significant concerns with it. I talked about the legal, economic, and budgetary challenges that would be put into place if we were to drop from the Compact within 18 months. That is what the original bill called for. I offered suggestions about things that we could do in the interim to make this better. I talked about the delegation of activities of the local, state, and federal entities within the basin. I talked about trying to get the executive branches together working one on one. I had some discussions with the California Secretary for Natural Resources, John Laird. They have been excellent conversations. I think it is important that the Committee members know something about his position on this issue. I also talked about the need for Legislature-to-Legislature involvement. That is all on the record.

That has been my guiding principle as this bill has evolved. This bill has probably been amended three or four times formally. There have been numerous versions that have been kicked around. Essentially, section 22.5 is our section. I can walk you through that. It talks about looking at all of the things that I addressed. Right now, the Nevada TRPA has a budget of \$1,200 a year. That is clearly not what is needed to do any kind of work to replace what the TRPA does. There are very definite questions about the kind of impacts that would happen if we withdrew from the Compact. What would happen to federal funding? What would happen to the ability to have adequate legal requirements? All of those things are addressed in section 22.5.

I have listened to the horror stories about TRPA and I understand a lot of them. A lot of the work that the TRPA does bleeds into the work that we do. I understand those stories. I have had a lot of people complain about this. I have had people on my own staff who have been part of something where they invite the TRPA out to do one thing, and it turns into a multi-thousand-dollar expansion.

The TRPA has two fundamental issues. The first is that they have an organizational challenge. They have to figure out what they are. Joanne Marchetta, who is the executive director of the TRPA, has talked about the fact that maybe they need to move away from being the "lake police" and be more of a planning agency. I agree with that. I think Joanne is up to the challenge to make those changes within her organization.

The other problem that TRPA has is that they have two masters. They have to be responsible to both the State of Nevada and the state of California. It is not that one is right or one is wrong. The two states have a different view on things. They have a different idea of how things should work. If I was to characterize it, Nevada is more entrepreneurial. Nevada is more focused on the bigger picture. California is more rigid and focused on the process. The states just have different ways of doing things. There has been frustration with the TRPA board, but both states have made this process more difficult. Both states are frustrated and both have taken positions that satisfy their own needs but, in reality, all that does is create a problem. That is really not fair for TRPA to be held accountable for the infighting. The TRPA is just a convenient scapegoat. The two states are the ones that need to come together and recognize that we have this one national treasure that we both share. We have two vastly different ways of doing things, and we have to figure out whether there is a level of compromise that can happen.

I am prepared to support this bill now, with the amendments that the Secretary of State brought forward yesterday. I see this playing out in two ways. The bill recognizes that there are these three issues with regard to the Compact that the Nevada side is frustrated with. That would be the majority issue, the ability to recognize economics, and the business about the regional plan. At the same time, from section 22 down, the bill outlines an entire process where we are going to evaluate if it is really in Nevada's best interest to pull out. It will be a thoughtful decision made over a long period of time. It will provide for reports to the Legislature.

Secretary Laird has given me assurance and vice versa that we are going to spend a lot of time working together to see if we can organize our differences and figure out the best way to move forward. It evaluates whether the TRPA

can delegate some of these programs so that they can get out of being the lake police. We will not have to hear about the problems with residents building anymore. The TRPA should look to delegate those responsibilities to the local officials. What you have then is one path where we are getting information on the legal, economic, and budgetary challenges. On the other path, we have basically outlined what our concerns on the Nevada side are for the California side. We need to hear from them about what their concerns are. Those will all take place. The Governor has the ability to issue a proclamation to extend this bill. We are talking about three more legislative sessions. That is a reasonable amount of time.

I saw a bill yesterday that was signed. There were some issues with it. A new bill was redone in a matter of a day. I believe that if we find that there are problems with this bill, over three legislative sessions, there is a way to fix it. From where I sit, six years is enough time to get enough information to make a valid judgment on whether we have the economics and budget to get this done. It is also enough time where we would have a discussion with California. I think it is the wrong thing to send a message to California. This legislation is simply, "Here is our perspective. What is your perspective?" It is opening the floodgates of communication. It is asking where we sit and if there is room for compromise. If we cannot figure that out in six years, then I think it is time for a different discussion.

Chair Kirkpatrick:

As the building codes are updated, how is the plan put together? I wanted to ask a person from Douglas County this question but they are not here. Do you know anything about that?

Leo Drozdoff:

I do not know much about that. From my perspective, I know that the TRPA has some memorandums of understanding (MOU) with local governments but they can have more. I hope that, as part of section 22.5, subsection 1, paragraph (e), subparagraph (1), where we talk about "Delegation of appropriate planning matters to local, state and federal governmental entities as may be allowed by law." What that is trying to explain is what the function of the TRPA should be. Why should the TRPA be looking at somebody's deck? That is something that should be done at the local level. This bill just makes it clear that the TRPA should be spending a lot of time trying to get out of that business so that they can focus their attention on the bigger picture. I do not know what the arrangements are with the local governments, but what I would like to see is the TRPA have arrangements with as many local governments as are willing to do it to get out of the business of being the lake police, so that local governments can function up there like they do almost anywhere else.

Chair Kirkpatrick:

That is the heartburn that there is right now.

Leo Drozdoff:

I agree. That is why I think the timing is right on this bill. What we are talking about doing over the course of this bill, with the ability for the Governor to issue a proclamation, involves six years. I view this as a wait-and-see process. I would like to see a year from now what kind of progress has been made. The time frames work. It is difficult, but it works.

Chair Kirkpatrick:

If they turn it over to the local government, it would still have to get approved by Congress for them to make those changes. Is that how it works?

Leo Drozdoff:

No. The way this bill works is that the first part of the bill is the Compact. Those are the three areas that would have to be adopted not only here but in California and in Congress. From section 22.5 on, that is not Compact related; that is just the ability to make progress on a number of different fronts. That is the ability to make progress on the delegation. Those MOUs are not required to be looked at by Congress or the state of California. That is perfectly within TRPA's purview right now.

Assemblyman Anderson:

You said you have been working with your counterpart in California. Have you also been in discussion with our federal delegation and California's federal delegation? We are still going to need their help in this project. Are you planning on doing that in the future?

Leo Drozdoff:

Yes. I would like to give California some credit here. It was Secretary Laird who got together with the federal government. He is a man of substance. He has been in the California Legislature for close to three decades. He is the one who initiated the calls, and they have been productive. That is where I spent most of my time when this bill dropped. As part of educating ourselves about what this means from a federal funding perspective, those discussions have to take place at the federal level. I have not had those discussions, but I plan to have them.

Assemblywoman Pierce:

You described TRPA as having two bosses, but Congress is part of this also. Do you think Congress will have any opinion on this one way or another?

Leo Drozdoff:

I am sure that members of our delegation will care. There have been discussions as mentioned yesterday with Senator Heller's and Senator Reid's offices. Senator Feinstein has been very interested in Lake Tahoe activities as well. There is interest. To be candid, however, this is primarily a state-to-state relationship. Congress cares and they have a role, but the bigger players here are the states.

Lewis S. Feldman, representing Lake Tahoe Gaming Alliance:

I have been a land use attorney in Lake Tahoe for over 30 years. I have worked on projects such as the Marriott Project at the south state line, the Boulder Bay project at the north state line, and others. When S.B. 271 (R1) was initially proposed, we thought that was a bad idea. We thought that blowing up the TRPA was not the answer to the problems that plagued the basin. However, as the amendments evolved and the outreach occurred to try to bring California to the table, we felt that S.B. 271 (R1) was, and is, a vital piece of legislation. Within the last ten years, \$1 billion has been spent to try to reclaim clarity at Lake Tahoe, \$275 million of which was private sector contributions. Over the next 15 years, it is projected that we will be able to invest \$1.5 billion to reclaim 15 feet of clarity. That is \$100 million a foot. That would be a private sector contribution in the neighborhood of \$375 million. That is not going to happen with the current playing field. The status quo today is broken. We were supposed to have a regional plan in 2007. It is 2011 and there is not even a drafted regional plan.

The planning agency is dysfunctional, it is broken, and it needs to be fixed. The question is how to do that. This Committee had the benefit of some fairly extraordinary testimony from some very experienced people. You have had seven TRPA Governing Board members testify. You also had a much esteemed group of alumni governing board members support this bill, including Senator Heller, who was the chair of TRPA. Allen Biaggi, who was also a former chair of TRPA and a great champion of the cause to restore Lake Tahoe, and the current Secretary of State, Ross Miller, also testified as well. You have representatives from the local jurisdictions, a few of whom have been on the governing board. These are the people who are in the trenches. These are the people who are telling you that it does not work. We do not have a regional plan because the voting mechanism is broken. You also have the local jurisdiction, including California, the City of South Lake Tahoe, and Councilman Bruce Grego, who has also expressed that California supports

revision to the Compact and this bill. We have an extraordinary opportunity to reach out to California to try to fix what is broken.

Science tells us that 70 percent of the contamination that flows into the lake is coming from the built environment. That built environment is about 50 years old but for a handful of exceptions. The basin is substantially at build out. The fix is that we have to fix the built environment. The 1987 regional plan addressed getting to the point where we were at build out. That plan is of little utility today. What we need is a plan to take us forward and fix the problem that is contaminating the lake. We cannot do that under the existing voting structure. It is critical for Nevada to show leadership and step up and pledge to fix this problem. Nevada needs to hold TRPA accountable. The state needs to invite California to collaborate. It needs to make the environmental improvements and create an opportunity to partner to fix the environmental harms that are hurting the lake. Every day, the status quo continues the contamination that is flowing into the lake from the built environment that is unable to be remedied until we get a new regional plan.

Chair Kirkpatrick:

We apologize that you had to come back today, but we appreciate that you did. I will call for those to testify who are neutral on this bill.

Joe Johnson, representing the Toiyabe Chapter, Sierra Club:

We have followed this bill along the way and had conferences with various people. As many people are aware, we were very concerned with the original proposal in the bill. We are happy to see the modifications. We still stand in opposition to the clause to withdraw, whether it is in three years or six years. We feel this is setting a very harsh challenge to the collaborative process that we would hope to see develop along the way. The bill has stimulated discussion within the environmental communities of both state and national organizations. The Sierra Club is a participant in these processes. We have indication that the California Legislature is seriously considering these issues. We think the threat of withdrawal is irresponsible in this case. That was the basis of our opposition.

I would like to speak to the bill as it is. That was my purpose to come forward today. In section 1.5, the changes in Articles III, V, and VI caused us some concern. If you adopt this bill, these are actual proposed changes to the Compact that would have to be approved in California and Congress. Those three articles, with the amendments to the voting requirements, have improved our position. We are prepared to take a neutral stand on those issues.

We fully support the position held by Mr. Drozdoff in section 22.5. We think that is the appropriate point to develop the proposed amendments. It would seem that, in this process of review, two years from now when the report went to the Legislature that we had adopted an amendment to the Compact, and now we are now proposing something different after having had the exposure and the information presented to the standing committee that has the oversight. We think if section 22.5 was passed, it would give direction to the study committee to take action and make recommendations.

It is then inappropriate to have the very harsh challenge that is put forward to the California group as an ultimatum, even if it is three years or six years later. This raises a red flag and is hardly stimulative to a discussion on mutual concerns if we have already taken a position. Sections 3 through 17 are changes to the statutes in case we were to withdraw, either by the Governor's proclamation or the three- to six-year time frame. Those are appropriate issues. We did not address those. We stand in support of section 22.5. Perhaps that would be the appropriate place that those issues would be addressed if you did not accept the proposed amendments to the overall Compact.

We are taking a neutral position on those first three provisions of Secretary of State Miller's proposed amendment ([Exhibit C](#)). It certainly improves the process. The question of state sovereignty is allayed a bit. There is still a misunderstanding of the issue of a supermajority and or a bistate responsibility. From our records over the last ten years, we have not seen any projects that failed on the basis of the "existing membership." It is a deterrent and a subject that should be addressed. It was adequately discussed in committee, but our group has not taken a position on a preferable option on the membership. I would like for our position to stay as supporting section 22.5 and the issues that Mr. Drozdoff had brought forward. We support continued discussion regarding the regulatory oversights between the states.

Assemblywoman Neal:

You said that you did not see a problem with the supermajority in your testimony. You said that you had not experienced an issue with the supermajority. You did say that it was a deterrent. Can you give me specific examples of why you think it is a deterrent? What do you think is the real issue? If it is not the voting arrangement, then what other part of the way the TRPA is structured is the problem? Why are people having such a hard time getting their projects approved?

Joe Johnson:

To answer the last portion of that, the question is somewhat misdirected in that the problems have come in scheduling where there are absences or vacancies on the board. Our records have not indicated that there has been a denial of projects. It is a deterrent in a sense because of scheduling problems. That is a matter of having attendance requirements. The Secretary of State's proposal would lessen that deterrent and make it more predictable. Mr. Wittenberg in his description of Boulder Bay noted the uncertainty that he would anticipate in the future. The TRPA approved Boulder Bay by a 12 to 2 vote in April. A 12 to 2 vote is still a persuasive argument for continuing some portion of a bistate or individual state sovereignty and the ability to have a majority vote on issues within their jurisdictional area.

Assemblywoman Neal:

Would you agree that the Secretary of State's amendment ([Exhibit C](#)) addresses the issue of the absences and how a person who is not there impedes the process? What was stated yesterday was that it was implied that there was a strategy to not show up to the meetings so that the members can prevent a voting action to occur. If that is the behavior, that means that people are deliberately blocking the process by physically not being present. That is not good.

Joe Johnson:

I would agree with you that the absentee vote in that issue is certainly of concern. That is why our recommendation is that the issue of the voting constituency be fully aired within the review process of the oversight committee. We do not stand in opposition to the Secretary of State's amendment.

Carl Hasty, District Manager, Tahoe Transportation District:

My board does not take an official position in either support or opposition on this bill. I wanted to make the Committee and Legislature aware that there is a second bistate Compact agency that is potentially affected by this legislation. That is the Tahoe Transportation District. The 1980 Compact revision added the Tahoe Transportation District onto Article IX. That gave the Transportation District the authority to own and operate and therefore basically implement transportation improvements, which include road improvements, transit, and planning in the Lake Tahoe area. It is the only article that Congress allows the two states to amend without going back to Congress. That was last done successfully in 1997.

This Legislature and the California Legislature changed the Compact under Article IX, changing the board composition and a few of the authorities in 1997.

That is what we operate under today. We look forward to working with the oversight committee as well as the administrations in both states to address transportation and preserve the capacity and capabilities that we have in dealing with the transportation system from that regional and bistate perspective. I want to make the Committee aware of that. The amendments related to the time that is allotted to address these types of issues is very important compared to what first came out.

Chair Kirkpatrick:

Is there anyone else who would like to testify as neutral? [There was no one.]
Is there anyone who would like to testify in opposition?

Kyle Davis, representing Nevada Conservation League:

I wanted to make a couple of points. We have heard a lot of people who have testified in favor of this bill say that it is not their intent to harm the environment. They would certainly not want to harm Lake Tahoe's environment. I believe this. I am sure that everyone in the building and everyone in the state does not want to harm Lake Tahoe. The problem is that that is not enough. Just because you do not want something to happen does not mean that it will not happen. If that was the case, if it was just an intent, there would be no need for environmental laws. There would be no need for the TRPA. I probably would not have a job. The fact is that environmental protection is much more complicated than that. That is what has happened under the Tahoe Regional Planning Compact. It is why we have made environmental progress.

I would like to address the stories that you will hear about the cumbersome process to build a deck or repave a driveway. When you hear those stories in the specific, it sounds unreasonable to those of us who do not live in the Lake Tahoe Basin. It is not that big a deal to do things like that outside of Lake Tahoe. When you do live in the Lake Tahoe Basin and there is a requirement and responsibility to protect the health of the lake, all of these things add up and that is how we make progress. That is how we protect the environment. That is how we make environmental improvements. We regulate certain things such as this to keep Lake Tahoe healthy. It is a special place. It is a different kind of place, and it is going to require some different rules in place. In return, you get to live at Lake Tahoe. It is just a point that has been coming up and it is something that I wanted to address.

Chair Kirkpatrick, you requested that we speak to the specific things that are in the bill. I am not sure how this bill is going to solve a lot of the problems that you have heard about. Regarding the complaints about problems with permitting, agency staff, and decisions being litigated, I do not see how passing

this bill changes any of those problems at all. All of those problems do not appear to come back to the voting structure, which is the one change that is the most significant in this bill. Just because you change that voting structure does not mean you are going to change the problems. If you do change the voting structure, you are going to end up with projects with less consensus. We will certainly see more litigation. Beyond that, I do not see how that changes what might be an internal problem within an agency. The problems can be solved without this bill. I do not see how this bill is solving the problems that are being put forward.

I do not see where the case has been made that we need to pass this bill to address some of these problems. One of the things you heard about is the issue of fire and defensible space. This was an issue. It came to the forefront during the Angora Fire. As a result, the agency has made changes. The guidelines for defensible space are much better. These are things that can be solved. It does not have to happen through this kind of an aggressive process.

The fact that everyone else who has testified today has said they feel it is important for us to stay in the TRPA, and that they think these are reasonable amendments, means we need to take the provision out of the bill that pulls us out of the TRPA. We do not need to gamble Lake Tahoe on things that we could sit down and negotiate between the two states. California and Nevada are already talking. We have heard that from a number of different people who have spoken on this bill. We need to let that process continue.

It was brought up yesterday that we need a list of the cases where this voting structure has been a problem and has actually denied projects. It is going to be tough to find that list because I am not sure that it exists. Projects have not been denied because of the voting structure. We have heard some stories where maybe someone might not have brought something forward or maybe people were afraid to develop. These are all on a case-by-case basis. There are many different reasons why people do not go forward with projects.

The final thing I would like to address is that I worry about what this says about the State of Nevada. We are willing to pass a bill that is essentially saying that if these changes do not happen, we are going to withdraw from a bistate compact that has been the most responsible thing for restoring clarity to Lake Tahoe and improving the environment of Lake Tahoe. Why are we willing to put something like that on the table for these changes that I am not even sure address the problems that we are seeing? That is something we need to keep in mind. The country is watching us. This is an international jewel. Nevada wants to be a part of the solution to continue those environmental

improvements. Putting this threat on the table and not negotiating in good faith with California is the message people are going to be left with.

Chair Kirkpatrick:

From my experience, the local governments are ready to work with me during session, but outside of session, I do not receive any willingness to work together. I can see the same thing happening with California. They will work with us now, but once that threat of withdrawal is off the table, they will go back to their old ways. Why would we not want to have a more equal voice as far as the voting block? That is troublesome to me that we want to count on what the other state is doing. There are many compacts where we have tried to work with others and it does not work out. We tried to work out the tristate compact for water. There are instances where California will choose to work with us. Why would we not, at the very least, want to have an equal voting right? That means that everyone needs each other and everyone has to be part of the discussion. In this room, I have to have eight people for a measure to pass, but I strive for everyone to agree. If I only had four people who were in support, why would we bother to allow any kind of input? Why would you participate in a process where you are always going to lose? Why would we not want to have at least an equal voice from your perspective?

Kyle Davis:

I appreciate the question. I meant to answer this in my previous testimony. The first thing that I would do is challenge the premise that there is not equality in the voting structure. The voting structure, as it is currently set up, for doing things like approving a regional plan, requires a majority of each state. It is not a supermajority of each state. In my view, that is a good thing. It maintains our state sovereignty. If a proposal comes forward that is not going to work for Nevada, we then have the opportunity to say no to it. If we change the voting structure, something could go forward that Nevada does not like but we could be overruled by the seven members of the California delegation and a minority of our delegation. I think we should be looking at it. I do not think it is an equality issue.

Chair Kirkpatrick:

From the perspective of the board members, it does not appear to be equal. It appears that California definitely has more presence on the board as opposed to Nevada. That would give them more voting rights. That is my perspective from reading all of the different compacts, the minutes, the press releases, et cetera. It is really about policy in some respect. That is what I am trying to get out. I understand your point that we should look at it in a different way. There is some confusion for this Committee on whether or not there is an equal voice. I do not live in California for a reason. I have never been shy about not wanting

to implement or work with them on certain things. I think they are over the top at times. However, I do support a compact of working together so that we can do things more efficiently. In the renewable energy field, we cannot get California to stay on the same page for more than two hours.

I believe that section 22.5 gives a little bit of flexibility to the local governments. However, I have seen what local governments can and cannot do. Is there something specific in there that could bring a little bit more clarity to ensure flexibility so they could make some choices? It is interesting because this is very similar to the Legislature. Local governments complain that they have to wait for the Legislature to decide what they can do for the future. We have been giving them a little bit more power over time. If we give the local governments the ability to do a little bit more, that could resolve some of those issues. Do you think that is possible?

Kyle Davis:

I certainly do think that is a possibility. I do not think we have any opposition to having local governments do some of the planning and review that is traditionally left to a local government.

Chair Kirkpatrick:

If that happens, more of the public will have a say on that. That is how it should be. I am trying to find where the consensus is or is not. What do you think would be a different motivating force if we took out the threat of withdrawal? People do that to us all the time in our state. We sit back and take it. For once, we have to be the ones to stand up and defend ourselves.

Is there a different motivating force that you think is better than pulling out of the Compact? From everything I understand about the TRPA and how the Compact works, both sides know that if you pull out, the TRPA does everything. I am perplexed as to why there is not a regional plan, especially knowing that the 2009 International Building Code is the most environmentally friendly. Why would they not want to agree to start using those codes? Those have been in the works for two years. Those codes are so environment-oriented that every single home will be a Leadership in Energy and Environmental Design (LEED) home within our state. Every single building will be LEED efficient by 25 percent Energy Star and above. It seems silly to me that they would not be moving forward so that they could try to do everything in a greener manner.

Kyle Davis:

I am not sure why a regional plan has not been forwarded to the governing board. I am not sure why there has not been more progress on it. Under the

current voting structure, it would only take eight members of the board, regardless of state, to direct the agency to bring forward a regional plan. There is certainly a lot of work that needs to go into that. I absolutely agree with you on this. There needs to be a new regional plan that takes into account some things that have changed since the last regional plan over 20 years ago. To say that is specifically because of the three changes that are proposed in the Compact is where I might jump off board.

Chair Kirkpatrick:

I do not disagree; however, that has been a big crux of the discussion. Whether it is the developer saying there is no certainty, or the homeowner saying he cannot get his plans through because he is waiting for the TRPA to make a decision, it is still a problem. In a good local government it takes 18 months from the time the permit is started to the time it takes to get everything done. Ms. Gilbert and you would know from the 74th Session (2007), when local government said that they could not get the regional plan for water. They said it would take them 25 years because it had to be discussed and all of these hearings had to take place. When we put a driving force in there and made them do it, or told them that we would do it for them, it was amazing that in the 16 months, it got done. I think that is all that everyone wants. Everyone wants to know what the future holds going forward.

Kyle Davis:

The driving force that you put in during the 74th Session (2007) was an appropriate one because it said that if you do not get it done, we will get it done, so either way, it will be done. That was a good thing. The problem that I have with this specific hammer is that if it does not get done, then we are going to blow the whole thing up, and that would be very bad. That is where I have some concern.

Chair Kirkpatrick:

That was a successful thing that we did for the environmentalists to have some certainty back in 2007. I am wondering if there is a better way to do this. I would ask that you really look at it. I really looked at it when it was important to water issues in the north. I am wondering if you require that the Legislature come back and look at this again. I am wondering if this should be a priority for the interim committee. I am trying to bring it back to 2007, when we were in the same boat with water. We have made huge strides with water. I do not work with the federal government. I have no desire to work with them. I understand that they are part of this. I am wondering on the state level if we could bring something that is good for everyone. Lake Tahoe is one of the seven wonders of our state. That has to be considered. I would love to see the new building codes put into place. I think we have to try to figure out

something. This is a calming discussion. It is a good discussion. We all share the same love of Lake Tahoe. There must be a way to get it all together.

Kyle Davis:

This is not the first time that there has been a bill introduced to pull us out of the Compact, but this is the furthest this bill has ever gone in the legislature. As a result, it has awoken some people and started some conversations. I understand the point that once we adjourn sine die that could change things. I would look at the fact that because it has made it this far, there has been considerable discussion on it, and that if nothing happens over the next two years, this bill will be back in its original form and have a lot more support for going forward. That does provide a good impetus for us to get something done. Looking at the things we are tasking the interim committee with studying, a good thing to add might be that the interim committee would come back to this Legislature with a recommendation of what we ought to do and a bill draft that does exactly that.

Chair Kirkpatrick:

What if the interim committee came back and requested that we withdraw from the Compact? We cannot do studies unless we are really going to work on this, but if it comes back in the opposite opinion than what you agree to, then we have made no progress and we have wasted two years. I think the water oversight committee is fabulous. We keep that going to 2017. During the interim, we did some great things to keep everyone on check. We got the regional plan in a year instead of the 25 years that they needed. I want to have that discussion.

Assemblywoman Neal:

You stated that this is the furthest that this bill has ever gotten and it has created some kind of conversation and has been an impetus. You then went back on a statement. You were thinking that in two years this would get more support. Why would it not get support now? What is the delay? What is the difference between right now and two years from now in moving this legislation? What is going to change? It does not appear that the outcomes will change, so what do you envision coming about in 2012 that will change this discussion?

Kyle Davis:

Specific to this piece of legislation, the biggest concern that I have with it is that it would set into place a move to withdraw from the Compact. When we start talking about potential withdrawal—and this comes back to answering Chair Kirkpatrick's question about if this comes back and the recommendation is to withdraw—that would not be something we would support, but it is

something that we would be more prepared to do. We would have taken the two years to figure what needed to be changed within our state, regarding budgetary issues and updating our regulations, to handle something of that magnitude. All of those things would have a better chance of being discussed, and we would be more prepared for that to happen if it was something that the Legislature eventually decided to do.

Assemblywoman Neal:

You believe it is an issue of preparedness regarding how we would actually fund this \$11 million undertaking. That is your issue? Your issue is that we do not have the ability, if we actually withdrew, to fund TRPA on our own?

Kyle Davis:

That is one of my issues if withdrawal were to go forward. That would be one of my concerns. Just to be clear, I do not think we should withdraw. I think that, in a lot of ways, the current structure has had a lot of success, and it has certainly had a lot of success in improving the environment at Lake Tahoe. There are issues that have been discussed in this hearing, but at the end of the day we need to realize that working in concert with California is better than working alone. Some things are going to be a little bit different than planning in any other type of setting because you are dealing with the Lake Tahoe Basin.

Assemblywoman Neal:

This is what I thought I heard yesterday and today, that they really do not want to pull out but they want to create pressure. You agreed that this occurred because you said that conversations had started, creating some impetus. If the goal is to get conversation—to move people to negotiate and think about how they have not planned appropriately, how they have blocked things inappropriately—and if that conversation is occurring, why would you want to stop it?

Kyle Davis:

I would not want to stop the conversation, but the reason that I do not think this is an appropriate thing to leave in this bill is because it does put into law that we are going to withdraw by a certain date. There is no incentive for people who do not want to be a part of this Compact to work together and work in a consensus fashion to come to a resolution. They can just wait out the clock and withdraw from the Compact. Additionally, if you put this into a bill, it is going to predestine where those discussions go. It is going to favor moving away from environmental protection and more towards a development perspective than if we do not have the withdrawal in the bill and we are actually negotiating in good faith with California. The issue that I see in this bill is that we are making these specific changes to the Compact and telling California that

this is exactly what we want; we will not accept anything different and if you do not like it, we will withdraw from the Compact. I do not see that as good faith negotiations that is going to move us towards a consensus down the road.

Assemblywoman Neal:

I am confused because it appears from the testimony that there has been a good faith effort going on. There have been environmental concerns that have been taken into consideration. The lake is fragile. We understand that. The issue of actually being able to move forward and get a decision on a project seems to be the crux of the problem. You mentioned that the case was not strong, but you did not cite anything to prove that it was false, that some were just trying to delay the process. To me, you need to come back to the table with some evidence and present how the case is weak. You need to come back with some other substantial piece of information to help us judge this issue within the context of whether or not they are blocking decisions inappropriately. We need to know if they are preventing the process from moving forward, knowing full well that their environmental concerns are completely outlined in the Compact. They are outlined in this bill. The developers are not doing that.

The TRPA thinks that the developers are going to come in and completely ruin the lake. I want to hear that. Do not come in here and say that the case is weak, but you did not present any other kind of cases where the litigation was false. I understand the environmental concerns. We totally understand that the lake is fragile. We do not want the developers to have free license to do what they want. We are not interested in that. You need to come back with a balance. If there is a conversation under way and people are coming off their position, and if that is the goal and that is what we are seeking with this legislation, you need to accept that. That is moving forward, and wherever that gets you by June 6 is what you need to deal with and come back with the conversations that are taking place. I would like to know what California is saying now. I would like to know what California is saying by June 5.

Assemblyman Livermore:

By admission, Mr. Davis, we have been here before. We have had this discussion in previous Legislatures. One of the things that I have been told is that the California delegation does not think that we are willing to do this. They think that we do not have the stamina and the willpower to say that we have had enough and that we are going to go our own way. I would like to compliment Assemblywoman Neal for her passion about how we make the change. That is the point. I do not think I want to come back next time and rehear all of these issues again. Is it time for this body to take this position and give California a timeline?

Kyle Davis:

First of all, you could interpret it that, because this bill has never passed, it is not a case of whether we have ever been willing to withdraw from the Compact before. I think that is a good thing, but it should not be something where we are willing to withdraw from the Compact. We want to have discussions with the other state involved in this Compact. From the testimony that I have heard in this hearing, and in the hearing on the Senate side, it sounds like the last time there was an attempted Legislature-to-Legislature conversation was over four years ago. Why are we not continuing to try to have these conversations? I have not heard where this breakdown has occurred. There should be a discussion; I just do not think that the threat should be that we are going to withdraw from the Compact. As I said to Chair Kirkpatrick, a threat that we are going to do it for them makes sense because then the goals are still being accomplished. I am not sure the goals are still being accomplished if we withdraw from the Compact.

Assemblywoman Pierce:

I need some clarification. Numbers are numbers and there have been a lot of them flying around. As things stand today, for a project on the Nevada side of the lake to be approved, it requires five votes from Nevadans. Under the bill, which is S.B. 271 (R1), for a project to be approved on the Nevada side, it takes one Nevada vote to approve it. Under the amendment ([Exhibit C](#)), it takes four. Today, as it is, it takes five Nevada votes; under the amendment it takes four, and under the bill it takes one. I do not understand how going from five to four Nevadans making decisions about what happens in Nevada, or one Nevadan having influence over what happens in Nevada, is making ourselves stronger.

Nick Vassiliadis:

Under the theme of balance, which is what we are trying to bring to this Compact, and the removal of supermajorities, knocking it from five to four members puts us [Nevada] on an equal playing level. We will then just have a simple majority. That is what we are trying to do. We are trying to get rid of a supermajority. If we are trying to keep our own supermajority but knock off California's, that is not fair. For the sake of balance, we are doing the same thing to ourselves that we are doing in California.

Assemblyman Ellison:

I want to get some facts out there. I have been in the contracting business for 30 years. When you start restricting and zoning things in such a manner that people will do anything in the world to not get a permit, it creates environmental problems. That is what is happening right now. I went through a class with the Occupational Safety and Health Administration (OSHA). A lot of the

pictures that were shown of people being hurt and damage being done were caused by people who did not obtain permits. I sat on the Nevada Blue Ribbon Task Force to Evaluate Nevada Department of Transportation Long-Range Projects, and one of the problems the state had and one of the worst areas to work in was in Tahoe. From the construction field, when you start zoning these people to death, they will not get a permit and not comply. If you put it on a home rule basis, you work with the state, you work with the people there, you will get permits, and you will be able to go in and do things the right way. If you continue to do it the way you are, I guarantee you will see backdoor things happening.

Assemblywoman Benitez-Thompson:

I see the original language of the bill and a couple of different amendments. I was not quite sure where we were going with public policy. Section 17, which is the complete withdrawal from the TRPA, is still in on these amendments. This concerns me. In making this public policy decision, I see a lot of conflicting information. I hear that it is extremely burdensome and difficult to build things up at Lake Tahoe, but then I see a picture or visit and there are lots of new buildings. There are really big projects up there that have made their way through the process. It might be difficult, but there is nowhere else in the world like Lake Tahoe. I feel as if I have received conflicting information about what is actually happening up at Lake Tahoe.

I still am concerned with section 17 being in the bill. I know that Nevada wants to have more of a say under the current structure. It is difficult to talk about the public policy when we have amendments going in such different directions. On the status quo, Nevada has a minimum number of votes, as California has. They have the same number of minimum votes to decide what happens in 100 percent of the lake. If section 17 came to fruition, we do not have the whole thing. Nevada and California do not split Lake Tahoe evenly. Nevada has, at most, 40 percent of the lake. We would lose a say in what happens in 60 percent of the lake. We are cheating Nevadans and our Nevada delegation out of what happens at a majority of the lake.

We are talking about this as if we share the lake evenly with California. We do not. Many people have not actually been up to Lake Tahoe. As a person who is up there constantly, I know that we have a lot of say when we are not indeed equal. I would beg the question that in any other type of setting, if someone is a 40 percent shareholder in a company, they might not be happy with what the other 60 percent says, but right now we have more of a say because we are an equal partner. If we pulled out of the Compact, we no longer have a say of what happens over 60 percent of that lake, so if we do not like what is

happening right now, we are going to like it less when California is doing things with their majority part of the lake and we have no say over it.

Rochelle Nason, Executive Director, League to Save Lake Tahoe:

I wanted to address a couple of things that I heard in testimony this morning that I thought were important. Just to be clear, the voting structure right now is absolutely equal. There is no inequality in the voting structure. Californians could argue that Nevada is so much more powerful at TRPA because the seven members of the Nevada delegation usually vote together, whereas the Californians disagree a lot more frequently. There is a lot of split voting on the California side. The notion that the Compact as it is presently structured is somehow not fair to Nevada is not correct.

I wanted to touch on a very fundamental issue which is not within the bill. The bill, as written, with the withdrawal threat, puts the TRPA on a death watch. What we are facing at Lake Tahoe is a need for regulation. It is part of the picture to save Lake Tahoe, but it is only part of the picture. An at least equally important issue is public and private investment to make things happen for restoration. A lot of that money is federal money. It is federal funding for Lake Tahoe protection. Because it is not a national park, all the resource money that comes to Lake Tahoe is predicated on the notion that the TRPA is there to protect that investment.

If Nevada is not going to be part of the TRPA, if we are not going to have an entity that assures that the public investment is protected, I think we may run into problems in getting that investment. If I am a taxpayer in Minnesota and I am asked to help invest in the environment of Lake Tahoe, I want to be sure that that investment is protected. At this point, we can tell that taxpayer in Minnesota that their investment in this national resource is protected. It is protected by the TRPA. If we have to tell them that the TRPA is on a death watch, then we cannot really say what kind of protection is going to be in place, other than the Clean Water Act. That taxpayer is a reluctant one because we do not have a way to protect his investment. Unless California agrees to turn over planning to Nevada, which is what the bill requests, we will no longer have a TRPA. The bill requests that seven Nevadans and two Californians can make plans for both sides of the basin. They can even make plans that only apply in California. We do not support that.

Assemblyman Stewart:

Are you concerned that we do not have a plan under the present system? Are you concerned that under the present system 70 percent of the debris that is coming in to Lake Tahoe is coming from developed areas? Nothing has been done.

Rochelle Nason:

There is nobody in the Tahoe Basin who is more concerned than the conservation community about the lack of a plan. The plan was due in December of 2006. It has not been produced. The reason it has not been produced is that the staff will not bring forward a plan unless and until it is confident that it has a board and a voting structure in place that will defer to the staff plan. There was an election in California, and now there are Californians who may want policy changes from what the staff will recommend. Therefore, the plan will just sit there. The bill is not going to be successful in bringing forward a plan. This is another reason to understand why this is a death watch, because if the belief is that the voting structure will change so that we could adopt a plan without the concurrence with a majority of Californians—we are not talking about a supermajority—then they will sit on the plan indefinitely because of the hope that they will be able to put through a plan without California having to agree. I do not think that is realistic.

As far as the problems with individual projects and the best management practices which come with development, we think that is very important. We are strongly supportive. We have been very supportive. It is very important for development to happen. Everyone is behind that. That is not what this voting structure issue is about.

Chair Kirkpatrick:

Did I hear you say that Nevadans would never agree with California on the plan, which is why it is going to be held up?

Rochelle Nason:

The TRPA staff should be here to explain why there is not a plan.

Chair Kirkpatrick:

Honestly, I am amazed that they are not here, considering that this bill is being heard. It makes me wonder how engaged they are if they do not take us seriously. Where are they if this bill has been out for as long as it has?

Rochelle Nason:

The problem, as we see it, is that the staff insists on controlling the plan. They will not bring it forward. It takes only seven Nevadans and one Californian to move a plan forward, but the plan never comes forward. The reason is a concern that Californians will participate actively in the policy-making and seek to influence the plan. They will not defer to the staff recommendation. That is why we do not have a plan.

Chair Kirkpatrick:

To me, you are selling me more on why I should support this bill. The problem is that the staff runs everything. That is why we do not give them home rule. They should be part of this process. The TRPA should be here discussing this. That is not a very good excuse for not having a plan. I understand that we need to have a plan, and I understand that not everyone agrees, but at the end of the day we need to get rid of that staff or change the makeup of it. It is not helping your argument. That much I can say.

Assemblyman Anderson:

You stole my thunder a little bit. If I have a staff and I want them to bring this plan forward to discuss it, and they refuse, that is a shocking abdication of authority. That shocks me.

Rochelle Nason:

Yes. As the Nevada Legislature, you should be looking at your delegation and asking them to get their staff going.

Assemblyman Anderson:

We have representatives, but they do not answer to us. They are set up independently through the law. We could change the law. That is part of what is going on. We are talking about changing the Compact. I feel put in a box on this bill.

Rochelle Nason:

Where we would be in agreement is that you do need a hammer, but withdrawal from the Compact is the wrong hammer. The hammer should be that you have funding authority; they are expending your state funds that are being put in to protect and save Lake Tahoe. You need to tell them to move forward. It has to come forward.

Assemblyman Anderson:

No matter what happens, I am reserving my right in future sessions, if I am still here, if I do not like where things are going, if this passes, to change things. We are not there yet. Something sounds wrong. When you tell me that the staff refuses to implement what they have been told, it sounds like you need new staff. It signifies that the agency is dysfunctional and cannot do its job in protecting Lake Tahoe.

Rochelle Nason:

The staff reports to the board. Any eight members of the board could require that a plan be brought forward. The problem is not the structure.

Assemblyman Anderson:

Why are they not requiring that a plan be brought then?

Chair Kirkpatrick:

We could debate this, and it is the structure. If we cannot get eight people to agree to bring a plan forward, in my opinion, regardless of who they are, that structure needs to be wiped out and started over. You brought some good things to light. We are trying to have some conversation. Funding does not really scare anyone anymore because nobody has funding. That is not a hammer to scare anyone.

Assemblyman Goedhart:

It sounds to me, from what you are saying, that the staff has not presented a plan to the board because they are not confident that the board is going to give them enough support to actually adopt the plan. I thought that when you brought a plan forward, you engage in a dialogue and a conversation. That is why you bring a plan forward in the first place. It is a draft the first time usually. Do they have a working document that they have released yet as to a draft portion of that plan?

Rochelle Nason:

Yes. There have been various versions that people have seen. There is material out there, but nobody really knows where it stands as of now. The latest that we have heard is that there will be a drastically downscaled version of that plan. As we see it, some sort of plan should come forward, be presented to the board, and be worked on. It should give everyone a chance to work it through. It would then ultimately be put to a vote. If it is not precisely the plan that is sought by the staff, that is something that people from both states and on all levels should be able to live with.

Assemblyman Goedhart:

Does the board have the authority to pick the staff? Who actually puts the staff in their positions? Who gives them their jobs?

Rochelle Nason:

Any eight board members give the staff their jobs.

Chair Kirkpatrick:

I will now ask the presenters of the bill to follow up with anything they would like to say.

Nick Vassiliadis:

I would like to briefly touch upon three quick points that the opposition mentioned. The first was that we should be having good faith negotiations with California. We have been trying to have good faith negotiations with California for 20 years now with no result.

The second was that the hammer of withdrawal was not the right one. Ironically, Mr. Davis did agree with your hammer on the water rights issue. I believe it is the same hammer if you look at what we are doing in this bill. It says if you are not agreeable to the changes that we would like to see, and if we do not get some better environmental and economic changes that we would like to see at the lake, then we will pull out and we will do it ourselves under the Nevada Tahoe Regional Planning Agency (NTRPA). That is codified further in the language of the bill.

The third point that I would like to make is that Mr. Davis said that just because our intent is not to harm the lake, it is not going to happen. The opposite is equally true. Just because he says we are going to hurt the lake does not mean it is going to happen.

Before I leave you with my closing remarks, allow me to state, and to be completely clear, that the environmental standards of the lake, and the environmental requirement maintained by the TRPA are unchanged. Almost every committee member has, at the very least, acknowledged room for improvement within the TRPA. The five local jurisdictions that have signed on in support have acknowledged this need as well. Additionally, all of the current and past board members who have come and testified before you have talked about the changes needed.

This bill provides the Nevada Legislature with an opportunity to take action against obvious deficiencies in the process. The fact that there is even a possibility that four votes can invalidate ten votes is undemocratic. President Theodore Roosevelt once said, "In any moment of decision, the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is nothing." We have been asked why we believe that this legislation is the right thing. It is because we find success hard to attain by operating on the opposite assumption. All one can truly ask for is an opportunity. I am asking this Committee to give S.B. 271 (R1) the opportunity to be successful and create a more balanced relationship between the great State of Nevada and its hopefully lifelong partner California.

Considering the safeguards contained in this bill, Nevada has nothing to lose but much that can be gained. If I am wrong, if progress has not been made, and

this body decides to do so, any negative outcome that is at the heart of the opposition's concerns can be avoided. The potential benefits to Nevada are worth giving an opportunity to. This body has the power to protect Nevada's interests while giving Nevada an opportunity for much needed improvement. I would like to reiterate this last point: The Nevada Legislature can repeal this before this takes effect. I maintain faith that this legislative body would take the preventative steps necessary to protect Nevada. In the interim, why not afford this bill the opportunity to be effective and reconsider it during the following sessions? There is a potential for six years, three total sessions, for reconsideration.

I would like to conclude my testimony with one final, albeit personal statement. As a native Nevadan, I want to see that Lake Tahoe remains a place we all can enjoy. If I thought for one minute that this bill would harm the environment near my home or on the lake where I have spent many summers, I would not be supporting it. I hope that after carefully considering this testimony, you will vote to support S.B. 271 (R1) with amendments proposed by Secretary of State Ross Miller.

Assemblywoman Pierce:

Who are you representing today?

Nick Vassiliadis:

I am representing the Lake Tahoe Gaming Alliance.

Chair Kirkpatrick:

Are there any other questions? [There were none.] We will close the hearing on S.B. 271 (R1). Is there any public comment? [There was none.]

Meeting adjourned [at 11:00 a.m.].

RESPECTFULLY SUBMITTED:

Cheryl Williams
Recording Secretary

Jenny McMenomy
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: June 2, 2011

Time of Meeting: 9:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 271 (R1)	C	Ross Miller, Secretary of State	Amendment
S.B. 271 (R1)	D	Senator John Lee	Floor Statement
S.B. 271 (R1)	E	Lee Bonner, Douglas County Commissioner	Comments