

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

**Seventy-Sixth Session
February 23, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m. on Wednesday, February 23, 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
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman John Ellison
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:

Assemblywoman Lucy Flores (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Clark County Assembly
District No. 42

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
Jenny McMenemy, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Carole Vilardo, President, Nevada Taxpayers Association
Kim R. Wallin, Nevada State Controller
Kate Marshall, Nevada State Treasurer

Chair Kirkpatrick:

We have a change in the agenda today. We are not hearing Assembly Bill 168.

Assembly Bill 168: Revises provisions governing the formation of general improvement districts. (BDR 25-846)

[This bill was not heard.]

We are going to take Assembly Bill 166 first. I will now open up the hearing on that bill.

Assembly Bill 166: Makes changes relating to the authority of municipalities to hold special elections for certain purposes. (BDR 30-769)

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42:

Thank you for the opportunity to present Assembly Bill 166 today. I will begin by summarizing the bill and then provide you some background on the intent of this legislation. Assembly Bill 166 clarifies the provisions relating to special elections on general obligation bonds. [Reads from prepared text ([Exhibit C](#)).]

Assemblywoman Benitez-Thompson:

Was the incident, what you consider misuse of this legislation, an isolated event or has there been a trend of local governments calling special elections for refunding bonds?

Carole Vilardo, President, Nevada Taxpayers Association:

At this point, it was a one-time issue. The concern is that it will happen again. I would like to testify in support of this bill. In 1993, we worked with Assemblyman Petrak on the original legislation that would preclude using a

special election for tax issues. We did this because there were some examples in Clark County where there was an approximately 13 percent voter turnout for a special election, and 7 percent of registered voters approved a tax question that would impact 100 percent of the people.

Assemblyman Petrak introduced the bill to limit special elections. In fact, these elections were only allowed for recalls until the hearing was held. When the hearing was held, local governments were concerned that if there was an emergency they wanted to be able to use a special election to ask for a tax rate to cover the emergency, whatever that might be. That is still in statute. The bill was amended to allow that. Refunding bonds is not an emergency. There is no scenario whereby it would constitute an emergency. In order to preserve the integrity of the original bill, this bill mandates that if there is a tax question, it will be kept at a general election. The June election is the municipal general election. If, for some reason, they should be done away with there is the provision for the third Monday in June. This bill clarifies the original intent of the 1993 legislation. We do urge your support.

Assemblyman Ellison:

A county can still declare and call for an emergency election if need be under this bill. Is that correct?

Carole Vilardo:

That is correct. It does not change that statute. This bill states that refunding bonds is not an emergency. There are conditions such as natural disasters, riots, or unforeseen events. In these events, there is no cash flow. That is something that needs to be taken care of with an election. If the council or commission unanimously votes to hold it, which was the original language, then a special election may be held for that purpose.

Chair Kirkpatrick:

Is there currently any penalty for this or do we just want to clarify legislative intent?

Carole Vilardo:

There is no penalty. I am not sure if you want a penalty. I would hope that this would not be used. I hope that most elected officials realize that special elections should not just be called on a whim because they are expensive for one question. This will ensure that we will not have the same problem in the future. From my perspective, it clarifies that original intent that an emergency is an emergency.

Chair Kirkpatrick:

I appreciate your trying to bring forward the legislative intent from past legislation. I think that we are going to have to constantly rehash legislative intent because we will always have new legislators. Also, the statutes are getting more in-depth. That will be helpful for the future. Is there anyone else who would like to testify on A.B. 166? [There was none.] Is there anyone in the audience that is in opposition to A.B. 166? [There was none.] Is there anyone wishing to testify that is neutral on A.B. 166? [There was none.] We will now close the hearing on A.B. 166. We will now move to the presentation by State Controller's office.

Kim R. Wallin, Nevada State Controller:

I want to introduce some of my staff. I think I have a top-notch staff, and I am very lucky to have them. Michelle Mann is my executive assistant. Mary Keating is my American Recovery and Reinvestment Act reporting and accountability officer. [Reads from prepared testimony ([Exhibit D](#)). Refers to [Exhibit E](#) in testimony.]

Assemblyman Stewart:

I would like to ask a question on the Extensible Business Reporting Language (XBRL) that the Department of Agriculture has picked up. Why have no other state agencies utilized this system? Do they not understand it?

Kim Wallin:

This program was a pilot to test the technology to see if it would work. The reason why other agencies have not been using XBRL is because part of the program is creating a standard. We are in the process of identifying the common areas between different agencies. Those areas that are different will then be examined. We will then look at those and see if they are different because of laws and regulations, or if it is just the way their process has always worked. We can take the technology and extend it for those agencies that are different because of laws and regulations. For those that are different, because that is the way the process has always worked, we are going to develop a best practice so that the process is standardized. That is why it has taken so long. It is in the works. We are focusing heavily on debt collection right now. The next major focus will be on standardization.

Assemblyman Stewart:

On the section "revenues and expenses" in the handout ([Exhibit E](#)), your percentages are different from those in the *Guide to the Nevada Legislature 2011-2012*. Normally the sales and gaming taxes are around 55 to 60 percent in our pamphlet. The expenses for Education are also different in these two documents. Can you explain the discrepancy?

Kim Wallin:

The reason ours are different is because we also include the money that we have received from the federal government. For fiscal year (FY) 2010, 48 percent of those funds came from the federal government.

Assemblywoman Benitez-Thompson:

How do people go about incurring debt to the state? I see varied levels from \$2.88 to \$25,000.

Kim Wallin:

Someone can incur debt in various ways. If someone writes a bad check to the Department of Motor Vehicles (DMV) that is one way to incur debt. When there is interest that has been charged, and the principal amount is paid but not the interest that means that you incur debt to the state. There are prisoners that incur debt if they get into fights and are charged for the damages or medical care. There are fines for candidates who do not file campaign and expense reports. There is an example of a company in Las Vegas that had been audited by the federal government. They were providing food and claiming they were feeding 100 children but they were only feeding 50. They owed over \$500,000 after that audit. It is just a variety of areas where you can owe. It is any number of things.

Chair Kirkpatrick:

When would the legislators call your office for help? When would they reach out to you? What types of issues do you cover? Is it just on debt processes? We worked last session to streamline the collection process. We were told that the Department of Taxation was one of the pilot programs. It is working very well.

Kim Wallin:

You can reach out to me at any time. Even though you are not serving in Ways and Means, all of you still have to vote on the budget. If you have questions about our financial statements or money, you can reach out to us. If you have a question on debt in general, we can help in that area. Even if you have questions about other agencies, we can help. If you would like to know how Nevada can save money, we can help. I have identified many places where Nevada can save money. We have an open door policy as well, so I can answer your questions.

Chair Kirkpatrick:

I wanted to make sure that the Committee knew that there were opportunities to reach out. When I did my reporting mechanism, I worked directly with you and the Department of Taxation. That has been instrumental for me.

Kim Wallin:

We have been working with the Department of Taxation. They have started to turn debts over to us for debt offset. It has been a negotiation process. One of the things I have as an enhancement is \$200,000 to automatically gather the data from the agencies' systems. This way we do not have to wait for them to send us the information. We can get it directly. If we could tap into the Department of Taxation's system, we could have their debt instantly so we could do debt offset at any given time. It would help us to start collecting the debt sooner.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

[A recess was called at 8:31 a.m. Committee resumed at 9:04 a.m.]

We will call the Committee back to order. We would like to invite Kate Marshall to come present for us.

Kate Marshall, Nevada State Treasurer:

With me today is my Chief of Staff, Steve George, and my Chief Treasurer, Mark Winebarger. I know there are a lot of people that are new and some of you have heard me before, but I will go over what the Treasurer does.

I was an antitrust lawyer for the United States Department of Justice. I prosecuted white-collar crime. Antitrust is really about unraveling the layers of a corporation and determining what they do, what their profit margins are, what their financials look like, and the competitive landscape of a particular industry. I did that for seven years. Frankie Sue Del Papa then asked me to come create an antitrust division for the State of Nevada. I consider Ms. Del Papa a mentor and a wonderful person. The party and I decided that I would then run for treasurer. I am most humbled and grateful to serve you.

As the State Treasurer I handle the money. That is not the budget; that is the automated teller machine (ATM). We manage the money of the State of Nevada. We invest that money. We do not have as much as we used to. We have about \$2.8 billion. Prior to this financial crisis it was certainly more. We also handle debt. We buy money. If we want to build a road, hospital, a building, we do not have that kind of money lying around. We then go and buy it in the market. We have an AA+ rating, which is a critical point; it saves us millions of dollars. We have the second-highest credit rating that can be obtained in this country. It costs us about 4 percent to buy money because we have an AA+ rating. If we had an AA, A, or less than that the percentage goes up. It can get very bad. During the financial crisis, because the state had an

AA+ rating we could buy money in the market and issue debt. An AA rating could not buy money in the market. The credit rating of the State of Nevada is very critical.

We have about \$2.8 billion that we invest on a daily basis. I have a lot of people behind me. My staff gets to work at 5 a.m. because the markets open at 6 a.m. and they are still there at 5 p.m. They work very hard. The regular offices open at 7 a.m. because we deal with banks. We do handle the Local Government Investment Pool, which includes municipalities, school districts, water districts, and counties. We hold and invest their money for them. We have about \$637 million in that account right now. We also oversee the Permanent School Fund. That is made up primarily of land grants that the federal government gave us sometime in the 1880s. It is in a fund. Constitutionally, we are not allowed to touch the corpus of that fund. The interest of the fund goes to K-12.

We also handle cash management. Over the last couple of years, during this financial crisis, I have watched my staff go grey. My staff have come into my office several times and said that it is touch-and-go. They have managed the state's money so that it can pay its bills. That is phenomenal. Think about other states that are going out and borrowing to buy basic necessities. We have seen that in California and Illinois. They cannot even pay payroll. You do not see us doing that. That is because we manage that money very well. This state is very prudent and fiscally conservative. We keep things nice, steady, and even.

We also handle the state's education programs. My favorite is the Millennium Scholarship. This is a win-win for Nevada. Sixty-five thousand Nevada high school graduates have taken advantage of this program. Twenty-two thousand degrees have been earned through that program. This is a legacy of former Governor Kenny Guinn. It is a great legacy. You will see that the current Governor's budget put \$10 million into the Millennium Scholarship. He would like to begin again with putting \$7.6 million that comes from Unclaimed Property into the Millennium Scholarship Fund. If you do these things the Millennium is then good until FY 2017, assuming that we have the same rate of taking advantage of the Millennium.

We have some 529 plans. We have pre-paid tuition plans. This is a great plan. The tuition is bought at today's rate. A recipient of this plan can go to the University of Las Vegas (UNLV), the University of Nevada, Reno (UNR), Great Basin College, et cetera. The money can also be sent to an out-of-state or trade school. It can also be refunded with a \$100 deductible or it can be transferred to a sibling. In the 529 plans I have set up these matching grant

programs. There is a Distinguished Valor Matching Grant Program for soldiers that have served in the line of duty. If these soldiers have been wounded, their children can get a matching grant for college savings. This is something that I instituted. It is a pilot program in Nevada only. I intend to take this program nationwide if I can because soldiers do not have state boundaries. There is also the Silver State Matching Grant Program. It is income based. If a person needing a grant makes less than \$60,000 a year, the Office of the State Treasurer will match contributions up to \$300 a year for saving for college. There are no tax dollars used on this program. A private benefactor gives our office the money for that program.

Last year we had \$66 million in unclaimed property go to the General Fund. That is not the mandate of the program. The mandate of the program is to get the money back to the people of Nevada. I work very hard at that goal. That is the first thing I try to do. We gave \$20 million back last year, but I cannot find everyone, especially when homes are foreclosed and they move away, leaving no forwarding address. Sixty-six million dollars went to the General Fund. That is triple what it used to be before I came into office. That is something that our state should focus on. Are there any questions? [Ms. Marshall used [Exhibit F](#) as a guide during her testimony.]

Assemblywoman Neal:

With all of these tax abatements which will capture future revenue streams, how will this affect the credit rating? Technically, we are pledging money in hope of receiving money in the future.

Kate Marshall:

Are you referring to the insurance premium tax?

Assemblywoman Neal:

That would be one that you could touch on. I am also referring to abatements that come in bills. For instance, your office is pledging a revenue stream. Your office borrows that money and then gives it to an entity to do business. Where does that money come back around? If we do not have a lot of money and you are giving it away before we get it, how does that impact the credit rating?

Kate Marshall:

If the government uses taxes to motivate certain corporate behavior, that does not affect the credit rating of the state; if the state takes future revenues to pay for today's expenses, that will affect the credit rating of the state negatively.

Chair Kirkpatrick:

We can also ask to have them touch upon that issue in the Committee on Taxation tomorrow. The difference is that we are giving something to our state. We are putting stipulations on it. It is more than likely something that we do not already have and that the state will benefit from.

Assemblyman Munford:

What is the status of the Public Employees Retirement System (PERS) and Public Employees Benefits Program (PEBP)? You oversee those programs. Is that correct?

Kate Marshall:

I am not on the PERS board and I do not oversee either PERS or PEBP. That question would have to be directed to Dana Bilyeu.

Chair Kirkpatrick:

We do have that presentation coming before us.

Assemblyman Stewart:

The Millennium Scholarship is now funded through FY 2017. Will the tobacco funds be gone entirely by then? Will we have to find another source of revenue to keep that program going?

Kate Marshall:

The Millennium Scholarship will be funded through FY 2017, assuming the Governor's budget proposals with respect to the Millennium are enacted. That is \$10 million from the General Fund and \$7.6 million annually going forward. It also assumes a reduction in tobacco revenues annually. Every year we expect those revenues to go down. People are smoking less. Currently, and going forward, we will have a cash flow problem. We will have bills owing without money. The cash will then come in later so we will not have a solvency problem. We will be able to fund the Millennium Scholarship through FY 2017. Thereafter, we will not have enough money. We will still have some money but not enough under the current assumptions.

Assemblyman Stewart:

At what point will the tobacco funds be completely gone?

Kate Marshall:

Our projections indicate that the fund will run out in approximately 15 years.

Assemblyman Stewart:

We will have to find additional funds or have continually higher standards. Is that correct?

Kate Marshall:

That is correct. The policy decisions are yours. We only use 40 percent of the tobacco funding currently for the Millennium Scholarship and 60 percent goes to the Fund for a Healthy Nevada.

Assemblyman Stewart:

The Distinguished Valor Matching Grant Program is funded privately. Is that correct?

Kate Marshall:

We partner with the United Services Automobile Association (USAA) for a 529 plan. I have been working with them for the last four years on this concept of matching scholarships for our soldiers. I was able to convince them to donate that money.

Assemblyman Stewart:

Thank you for doing that.

Assemblywoman Pierce:

I am confused about the Permanent School Fund. Is it land or is it money?

Kate Marshall:

When the western states were still being formed, the federal government granted land to those states. The states sold the land or leased it. The money from that and various kinds of fees goes into this fund. The corpus of the fund is not constitutionally touchable under article 11 section 3. We are not allowed to touch the corpus. The interest can be used for educational purposes only. We cannot diminish, repossess, or redirect the interest of the fund. The interest goes to K-12. Last year the interest was \$8 million. There is somewhere between \$300 million and \$400 million in the fund. That \$8 million represents a very small amount of the funding for education.

Assemblywoman Bustamante Adams:

Some of the local governments' credit ratings have been affected. Does your office interact with local governments to help them restore their credit rating?

Kate Marshall:

Clark County has the same credit rating as the state. Some of the municipalities have had their credit rating go down because they have not

handled their finances in a way that they can maintain that credit rating. One of the things that I can do is the Permanent School Fund can also be used as a guarantee for school districts. If school districts want to issue bonds and the fund is used as a guarantee they will get an AAA rating. I have saved school districts across the state millions of dollars. I have had 13 counties' school districts use that fund to get an AA rating, which lowers the cost of them doing construction and maintenance. I also have an AAA rating on the municipal bond bank which allows us to do things like water treatment. It is a revolving fund where the federal government will match things that local municipalities want to do.

Chair Kirkpatrick:

Are there any other questions? [There were none.] We like to be able to reach out to you and put a face to a name. We like for people to reach out and work with your office so that all the issues are addressed up front.

Is there any public comment? [There was none.]

The meeting was adjourned [at 9:26 a.m.].

RESPECTFULLY SUBMITTED:

Jenny McMenomy
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 23, 2011

Time of Meeting: 8:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 166	C	Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42	Prepared Testimony
	D	Kim R. Wallin, Nevada State Controller	Prepared Testimony
	E	Kim R. Wallin, Nevada State Controller	Fiscal Report
	F	Kate Marshall, Nevada State Treasurer	Testimony Guide