

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

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

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m. on Wednesday, March 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
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:

Assemblywoman April Mastroluca, Clark County Assembly District
No. 29

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cyndie Carter, Committee Manager
Sheryl Burrows, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Jeff Fontaine, Executive Director, Nevada Association of Counties
P. Michael Murphy, representing Clark County
Dan Musgrove, representing The Valley Health System
Steve Holloway, Executive Vice President, Las Vegas Chapter, Associated General Contractors; and representing Southern Nevada Home Builders Association; and Building Jobs Coalition
Jack Mallory, Director of Government Affairs, District Council 15, International Union of Painters and Allied Trades
Jeannette K. Belz, representing Nevada Chapter, Associated General Contractors of America
Russell Rowe, representing American Council of Engineering Companies of Nevada
Lisa Gianoli, representing Washoe County
Paul McKenzie, representing Building and Construction Trades Council of Northern Nevada, AFL-CIO
Rosemary Menard, Director, Department of Water Resources, Washoe County
John Swendseid, representing Washoe County
Steve Walker, representing Lyon County, Douglas County, and Carson City
John Rhodes, Legal Counsel, Western Regional Water Commission
Bjorn Selinder, representing Churchill County and Elko County
John Russell, representing Laborers International Union of North America, Local 169
John Sherman, Finance Director, Washoe County
Kathleen Conaboy, representing Truckee Meadows Water Authority

Chair Kirkpatrick:

[Roll was called.] We will open the hearing on Assembly Bill 209.

Assembly Bill 209: Revises provisions governing the use by a local government of the money in certain funds that are designated for capital projects. (BDR 31-756)

Assemblywoman April Mastroluca, Clark County Assembly District No. 29:

Today I am presenting Assembly Bill 209 for the Assembly Committee on Health and Human Services. In 1983, the Legislature created the Indigent Accident Fund (IAF) to help reimburse hospitals for some of the expenses for the treatment of indigent motor vehicle accident victims. The funding for this program has been provided for by an ad valorem tax on the assessed value of all taxable property in each county. Our current budget crisis has caused repeated sweeping of this account. The results of the sweep have created a serious hardship for hospitals around the state, especially University Medical Center of Southern Nevada (UMC) in Clark County. In 2009, the total uncompensated amount at UMC was over \$246 million. The current budget proposal will, again, sweep this fund.

Assembly Bill 209 will give counties the ability to transfer money from funds previously set aside for extraordinary maintenance, repair, or improvement of capital projects, and use the unexpended and unpledged money from this account to offset the expenses of the IAF. Each county will have to decide for themselves if they would like to do this. Some counties have already identified money in the accounts for needed projects and choose not to use these bills to pay for the IAF. The bill states that the money can only be transferred for use in the IAF and cannot affect any outstanding obligations, including bonds. The purpose of the bill is not to replace the IAF but to offer some assistance to the counties carrying this additional burden. The changes in the bill, in *Nevada Revised Statutes* (NRS) 354.6105, begin on page 2, and subsection 4 states that the money may be transferred:

A local government may transfer money from the fund to the local government's fund for medical assistance to indigent persons . . . the local government shall not transfer such money if the transfer would modify, directly or indirectly, any pledged revenues in such a manner as to impair adversely any outstanding obligations of the local government, including, without limitation, bonds and any other financing obligations

Assemblyman Ellison:

This account was swept the last two years, and there is no money left. What are you going to transfer?

Assemblywoman Mastroluca:

Mr. Ellison, the money that is being transferred is in the county's capital accounts, and would be moved to the IAF to pay the bills. We sweep the IAF, but money continues to trickle in. The money left is used to pay the bills, but it is nowhere near what was there before it was swept.

Assemblyman Ellison:

I sat on that commission. When the money is swept it can be hard to make the base payment.

Assemblywoman Mastroluca:

So this gives the counties the option, to pay down some of those funds. They can use unpledged money from this other account to try and cover those costs.

Chair Kirkpatrick:

Does anyone else have any questions? [There was no response.]

Mrs. Mastroluca, about how much do you think is available in capital dollars to be transferred?

Assemblywoman Mastroluca:

I would actually ask Mr. Fontaine to give you those numbers. I do not have that exact figure.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

I do not have the numbers right now. Under this bill, there are two accounts from which the money may be transferred. First, money could be moved from the account established by counties for extraordinary maintenance and repair of their infrastructure. My understanding, from talking to a number of counties, is that the fund balances are, for the most part, very low because they have been put toward maintenance. We will be working with Clark and Washoe Counties to get more detailed information on their fund balances. The other account from which money may be transferred is related to the 0.25 cent sales tax authorized under NRS Chapter 377B. My understanding is that the counties which have enacted that tax have, for the most part, obligated the money to specific projects. In Washoe County, I think it is primarily being used for flood control and in southern Nevada for water projects. But we will follow it with more detailed information as we can get it.

Chair Kirkpatrick:

Does anybody have any questions?

Assemblywoman Bustamante Adams:

Mrs. Mastroluca, are there any other parameters around transfers of funds? For instance, that funds cannot exceed a certain amount, or that the transfer may be done only on a semiannual basis?

Assemblywoman Mastroluca:

No, currently no such parameters exist.

Chair Kirkpatrick:

Are there any other questions?

Assemblywoman Benitez-Thompson:

Would this be a new fund that the counties would establish or is it the existing indigent fund?

Assemblywoman Mastroluca:

It is the existing IAF. This process does not create any new fund.

Assemblywoman Benitez-Thompson:

So the counties would be able to move monies from these capital project accounts into this account?

Chair Kirkpatrick:

I am concerned that there is no mechanism in place to pay back the capital fund. Just putting it on the budget, as described in section 2, subsection 5, is not sufficient. Is there any appetite to pay it back, or would it just be expended? The goal is not to be in this situation forever, so I would not want this to be a tool that is used for the long term.

Assemblywoman Mastroluca:

I understand your concern, but no plan is in place to pay back the IAF for all the money that has been swept. I would be more than happy to entertain an amendment to do that.

Assemblyman Ellison:

To save time, I suggest it be put to review and brought back.

Chair Kirkpatrick:

I would like to have a cooling-off period.

Assemblywoman Mastroluca:

I would be very open to a sunset provision.

Chair Kirkpatrick:

Are there any speakers in support of A.B. 209?

Jeff Fontaine:

On behalf of the Nevada Association of Counties (NACO), we want to thank Assemblywoman Mastroluca for bringing A.B. 209 forward on behalf of the Assembly Committee on Health and Human Services. We are in support of A.B. 209. This would allow, as Mrs. Mastroluca described, a transfer of money from funds that are currently available to counties for extraordinary maintenance as well as capital projects. Each county that has enacted that tax under NRS Chapter 377 is different. We think that this would give flexibility to the counties to meet their statutory and, I believe, moral obligation to provide for the medically indigent. These are people who do not qualify for Medicaid, cannot pay their medical bills, and have medical needs which require attention. That caseload is growing, the costs are escalating, and these are costs required to be paid for by the counties. We think that the ability to transfer these funds would be particularly helpful in counties that have hospitals they own or operate, UMC being, I think, the most important example.

I do want to make two comments for the record, however, related to this bill. The first is that it is an opt-in bill. It is enabling, and we want to ensure that this bill, if enacted, does not penalize any county which does not opt in by making them liable for any additional costs. Under NRS Chapter 428, counties have a statutory obligation to pay for the medically indigent. Still, while we appreciate the flexibility to be able to move money from a fund related to maintenance of our critical infrastructure and new capital projects to one that takes care of the medically indigent, which is obviously an important problem in our state, it does not solve the problem. The Indigent Accident Fund and the Supplemental Fund were started by the counties over 20 years ago, when the counties came and asked for a property tax levy of 0.25 cents to pay for the extraordinary costs related to treating the medically indigent. Issues such as the reduction in Medicaid reimbursement rates, transfer of services, and cost shifts also impact counties and hospitals and need to be considered. This may be a temporary solution. The last thing counties want to do is defer maintenance, because we know what happens when that occurs. So while we should not lose sight of the fact that we need to restore the infrastructure funding, we also need to make sure that counties can pay the costs for NRS Chapter 428. Lastly, I just want to clarify that, according A.B. 209, the money would actually be transferred into the county's medically indigent fund, so it could be used for more than just treating people involved in motor vehicle crashes. So, with that, I would be happy to answer any questions.

Chair Kirkpatrick:

Thank you. Does anybody have any questions?

Assemblyman Livermore:

As you know, Carson City has exhausted its indigent care fund and supplements it with general fund monies. Would this bill have recommendations on choosing from capital improvement funds to replenish the general fund?

Jeff Fontaine:

Mr. Livermore, I am not familiar with the specific budgeting in Carson City. As I understand it, the counties are capped in terms of how much they can levy in property tax to pay for indigent medical care. To the extent that you are supplementing your medical indigent care with general fund money, I am not sure.

Mr. Livermore:

Will this bill create an adverse effect to the enterprise funds that are sitting in utility accounts for indigent care?

Jeff Fontaine:

Mr. Livermore, I do not believe this bill would allow the transfer of funds from any enterprise fund. The only funds from which money can be transferred are the two that are specifically identified in this bill. One is the fund for extraordinary maintenance and the other is the fund derived from your 0.25 cent sales tax, which I believe you are using for other purposes right now.

Mr. Livermore:

Thank you.

Assemblywoman Benitez-Thompson:

Mr. Fontaine, do you have an idea how many counties would use this tool?

Jeff Fontaine:

Mrs. Benitez-Thompson, I do not. I think that those counties which own or operate public hospitals would potentially make most use of this tool, since every county wants to ensure they have a viable hospital and have a fiduciary responsibility to maintain that hospital.

Chair Kirkpatrick:

Are there any other questions? [There was no response.]

P. Michael Murphy, representing Clark County:

We are in support of A.B. 209. I know that is a strange position for me, lately. We want to go on the record for that support but also echo a comment that was made a moment ago—this is not going to solve the problem. Still, I think it is important that we remember that this is a time when we must be our most

creative. We compliment the Assemblywoman for bringing this bill forward. It gives us another tool in our belt, financially, to address the shortfalls that we are seeing. Certainly, infrastructure and ensuring that our buildings are safe and maintained is important but, at the same time, the health of individuals—their immediate, emergent health—should take priority. This bill allows us that flexibility. Therefore, I support it, and will entertain any questions if you have them. Thank you.

Assemblywoman Bustamante Adams:

Would the county be open to the sunset provision Mr. Ellison spoke about?

Michael Murphy:

I am confident that we would.

Chair Kirkpatrick:

Would that be like the 437 Fund in Clark County, which has been in place for some time and allowed for the pool to be redone one summer?

Michael Murphy:

I do not know.

Chair Kirkpatrick:

If you could, just find out for me which fund that is. It was about six months ago that you talked about it.

Michael Murphy:

Just for clarification, are you asking which fund this comes from? That part I know.

Chair Kirkpatrick:

I think there is a separate fund from which each county commission gets a certain allocated amount. I want to know if it is coming from this fund or any capital fund.

Michael Murphy:

I believe that is a completely different issue and that this refers specifically to a fund earmarked for maintenance, while the commissions have a separate fund.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] Mr. Musgrove.

Dan Musgrove, representing The Valley Health System:

We are supportive of the efforts by Assemblywoman Mastroluca. We believe that UMC is an incredible resource in our community, especially with its trauma center. We know that the county faces some enormous challenges with the facility, and we think that A.B. 209 provides them with the flexibility to come up with creative ways to handle some of their extensive expenses. Those expenses are generated especially because the trauma center deals with just the kinds of accidents relevant to the IAF. So we are in support of anything that gives the county an opportunity to help UMC.

Chair Kirkpatrick:

Thank you. Are there any questions?

Assemblywoman Pierce:

I do not have a question, but I did want to say that this is a really good idea. Some of us are on the Health and Human Services Committee, and this is a huge problem for Clark and all the counties. Because of the economy, there are more people who need government services, not less. So this is a really good idea, and I appreciate it being brought forward.

Chair Kirkpatrick:

Is there anybody else who would like to testify in support of A.B. 209? [There was no response.] Now let us take those who are in opposition. Good morning.

Steve Holloway, Executive Vice President, Las Vegas Chapter, Associated General Contractors; and representing Southern Nevada Home Builders Association and Building Jobs Coalition:

Good morning, Committee members. I am here on behalf of the Associated General Contractors (AGC) as well as the Southern Nevada Home Builders Association and the Building Jobs Coalition, which consist of over 30 associations and labor groups throughout the state. We sympathize with the need for more money for indigent care, if for no other reason than I suspect that many of the people seeking indigent care right now are some of those construction people who have been out of work for the last three or four years. We do oppose A.B. 209, however, for both economic and humane reasons. A.B. 209 is broad, sweeping, and does not designate any specific capital improvement funds. It can take from any capital improvement funds that the counties may have. For every \$85 million spent on needed infrastructure, you create 1,000 private sector jobs, \$38 million in wages and salaries, and \$130 million in taxable economic activity. You also save approximately \$25 million annually in Medicaid, food stamps, and unemployment compensation payments. If this bill is passed, it will put more people on

unemployment. We would all rather work and pay taxes than draw unemployment benefits or seek out general health care at the emergency room. I have a letter I was asked to read from Irene Porter, CEO of the Southern Nevada Home Builders Association ([Exhibit C](#)). [Steve Holloway read the letter.]

Chair Kirkpatrick:

Thank you, Mr. Holloway. Does anybody have any questions?

Assemblywoman Flores:

This is more of a comment than a question. Based on what I have just heard, it seems as if you are operating under the assumption that the local government will automatically choose to transfer the money as opposed to fixing a building or providing required maintenance. You seem to believe that, because we are giving them the ability to do this, they will automatically take all of the capital improvement money and switch it over into the medically indigent fund.

Steve Holloway:

Yes, we are. Two years ago, this Legislature authorized Clark County to take capital improvement money and put it in their operating budget. It was enabling, and they immediately did it. You just heard the representative from Clark County and representatives from NACO which represents, supposedly, all of the counties, say that that is what they intend to do. It has been done in the past whenever this Legislature has enabled the counties to do so. It is very easy to ignore our future needs for infrastructure. It is very easy, apparently, to ignore the nearly 200,000 unemployed workers in this state. This Legislature seems to continue to do that. Thank you.

Chair Kirkpatrick:

Are there any other questions?

Assemblywoman Bustamante Adams:

Mr. Holloway, while I appreciate your concerns, I also understand that we need to be flexible. If there were parameters put into this bill, including the sunset provision, would you have a different position?

Steve Holloway:

No, we would not be in favor of this bill if there were parameters. If you take the capital improvement money left in these counties for this purpose, you will be adding to the indigent rolls. It is just that simple. How many more construction workers is this Legislature going to put out of work because it continues to take capital improvement money to plug the holes in the state operating budget as the counties and cities do the same for their operating

budgets? How long will this go on? All you are doing is deepening the underlying economic crisis that is causing your fiscal crisis. We have been here three sessions in a row, counting the special session, plugging holes in the budget. And we will be here again a year from now, in a special session, to plug the holes in the operating budgets if we do not do something about the underlying economic crisis. That underlying economic crisis is the result of nearly 200,000 people being unemployed.

Assemblywoman Neal:

I understand the argument with regard to the underlying economic interests, and that in putting people back to work and helping them to take care of themselves, the indigent care crisis may be alleviated. But we have two crises, one pitted against the other. In the bill, at section 2, paragraph 4, it states the exception that local governments "shall not transfer such money if the transfer would modify, directly or indirectly, any pledged revenues in such a manner as to impair adversely any outstanding obligations of the local government including, without limitation, bonds or any other financing obligations." So, when you have that limitation within the legislation itself, do you not feel that that is enough to protect capital funds on the one side? Or do you have any suggestions about adding to that section so that protection of capital projects is strengthened? Perhaps you are thinking enough protection is not possible?

Steve Holloway:

I would respond to that in a couple of different ways. First of all, that paragraph talks about current outstanding obligations, that is bonds that exist for what the counties and cities have pledged to repay. These revenue streams, exactions, special fees, portions of the property tax, and other things, were voted on by the people for this purpose. So, you are taking money that was voted on by the people for this purpose, or money that was taken away from developers and construction companies in the form of fees, et cetera, for this purpose. A certain portion of those revenue streams must be used to repay those outstanding obligations, as obligated by contract through the security companies that provided the bonds. The rest of the money, and relatively speaking there is not a lot left, goes toward required maintenance of existing local facilities, for renovations, and for new facilities. There is sufficient need in these areas. For example, I was at a hearing the other day where the representative from the Clark County School District testified that they had \$4.9 billion in needed infrastructure over the next five years. Clark County itself has much infrastructure that must be done over the next five years, as does the University of Nevada, Las Vegas; the University of Nevada, Reno; and Washoe County.

So the money serves two purposes. One is to repay existing obligations. For example, if you have \$100,000 coming in or \$100,000,000 coming in annually in a revenue stream, you may bond against that to the tune of \$1 billion for new construction, and that is what has been done. That is what they are talking about here. But the remainder of that revenue stream is going for the maintenance of these buildings, for the renovation of buildings, and in some cases, for the construction of new buildings. The people who do that work have jobs, but if you take that money away, they no longer have jobs. They are going to go back on the unemployment rolls and, eventually, they are going to be down at UMC, or wherever, to get their emergency care, because without their jobs, they no longer have health care provided by their employer.

Assemblywoman Flores:

I understand the compounded effect and the argument you are discussing, but if we do not touch that, can you offer another solution?

Chair Kirkpatrick:

I am not sure it is his decision to make a solution.

Assemblywoman Pierce:

I just want to say I am a little offended by your sweeping condemnation. I have been a consistent voice for not cutting anymore and for raising revenue. I am a union member myself, and no one knows more than I do how hard my brothers and sisters in the building trades are struggling. So, I just wanted to say that. Thank you.

Steve Holloway:

Assemblywoman, I do know that, and I do apologize if I offended you. Thank you.

Assemblyman Livermore:

Mr. Holloway, my previous question to Mr. Fontaine is the question I pose to you. If you have bonds that have been sold for utility work, or bonds that have been sold for transit or for other things like that, do you think it is appropriate to use those broad base monies? In Clark County, almost two million people pay taxes toward general fund money to support indigent care payments. If bonds were sold specifically for utility, transit, and infrastructure costs, do you think it is fair and appropriate to put those toward indigent care coverage?

Chair Kirkpatrick:

Let me just stop here, though, because the utilities fund is a separate enterprise fund, and I do not want to muddy the waters. *Nevada Revised Statutes* Chapter 428 talks about the indigent care fund.

Assemblyman Livermore:

I understand that, Madam Chair, but we keep coming back to bond proceeds, money that was set aside for infrastructure repair and upgrades. I did not see in the bill a separation of utilities from that. That is why I asked that question.

Steve Holloway:

Assemblyman Livermore, no, I do not think it is appropriate to take money that the voters had voted on for a specific purpose and use it for another purpose. I particularly do not think it is appropriate at this time when we need the jobs. If we eliminate more jobs, we are only going to put more people on the indigent rolls.

Jack Mallory, Director of Government Affairs, District Council 15, International Union of Painters and Allied Trades:

We are in opposition to this bill, as Mr. Holloway stated, and he covered a number of the different points I was going to make. I would like to make the additional point that, even in good economic times, UMC had a tendency to run at a deficit. We are concerned about the bill giving the enabling ability to strip out all capital improvement program funds other than those that are obligated for debt service, whether economic times are good or bad, to service the debt in that indigent care fund. Part of the problem with indigent care is where the service is delivered. You can go into UMC on a Saturday night and you will find the emergency room full of people who have colds. Emergency rooms are the most expensive way to deliver health care services. If there were an accompanying Quick Care, where individuals who have the common cold could be sent to receive necessary services and medications, I think that you would reduce the overall cost of indigent care. Obviously, there are individuals that need to be seen in emergency rooms.

Chair Kirkpatrick:

Mr. Mallory, please stick to the bill. You speak to a whole health care policy that needs to be heard in the Health and Human Services Committee. I want to talk about this particular bonding and this particular capital improvements reference.

Jack Mallory:

Mr. Holloway already pointed out the impact on employment of sweeping these additional funds, particularly in counties that would elect to use the funds to cover indigent care losses. So this becomes a political decision, with elected officials setting budget priorities. When there are constant news reports about the financial condition of UMC, in particular, I think that it is more politically palatable to the general public that UMC be serviced over putting people back to work.

Jeannette K. Belz, representing Nevada Chapter, Associated General Contractors of America:

We are also strongly opposed to this bill. First, sweeping these accounts severely limits your ability to be able to bond future projects. Second, I did not hear, in the testimony provided by the counties, which types of projects have, in the past, been funded through this process. When future infrastructure issues come up, and there is no money in this fund anymore, how will government address that?

Assemblywoman Flores:

This might be a question that is more appropriate for the counties. I guess I am thinking that if we approve this enabling legislation, and the local governments do end up transferring money from this account to their indigent account, would the burden then shift over to them in terms of accountability? Since they are elected officials, the voters have recourse with them.

Chair Kirkpatrick:

So, let me help you with this. No disrespect to local government, but here is what happens. We hear it all the time. When we give enabling legislation, and when it says, "without limitation," that goes pretty far to cities that have charters that have a piece within their provision that says they can do anything unless the Legislature tells them they cannot do it. Ultimately, it comes back to the Legislature. If we give the power to local governments to take action, we have to go back and fix it if it is not right. I keep giving you a list of bills that we are fixing because of the unintended consequences and in spite of legislative intent. These were bills that were constituent-driven. At the end of the day, the local officials back home are the ones that make the decisions. I do not think that anyone at the table or in the audience can give you the answer you want. This is my perspective.

Assemblyman Ellison:

I have been on both sides of this as a contractor and also having been appointed by the Governor to the Board of the IAF. When it is mandatory for the counties to pay these bills, it has an affect, and they are either going to take a little bit out of the capital improvement fund, take it out of road projects, take a little bit out of maintenance, or stop other projects. They try to come up with an idea that they think is going to help plug the hole, or maybe they will let it blow up. Throwing money at the problem right now is not going to be the answer. I kind of like their idea. At least they are trying to come up with an idea of what to do, and no one said they are going to scrap this whole fund. I think they can address that. What they are saying is that maintenance money is not capital improvement fund money. So I would look to both sides of this, and if you do not come together to come up with a solution, this whole thing is going to

come down on everybody. It is useful to try to figure ways to get around this and to make this thing work.

Russell Rowe, representing American Council of Engineering Companies:

I am here on behalf of the American Council of Engineering Companies (ACEC), which is an association of professional engineers, land surveyors, and everyone associated with the engineering industry. We are in reluctant opposition to this bill, reluctant out of respect for the bill's sponsor and for the goals of the IAF. The reality is that well over 60 percent of engineers are out of work. There is not much private sector work going on, and capital accounts are all they really have to sustain them. We cannot keep taking money out of one account and shifting it to another account. With all due respect, we would encourage the Legislature to address the larger issues of this state, rather than continue to sweep money out of one account, affecting other accounts, and impacting industries like ours. All we want to do is to go to work. We are willing to work on the bill to help provide a solution to this, and we will sit down with the bill's sponsor and work on it. But taking money out of capital accounts cannot continue to be the answer.

Chair Kirkpatrick:

Does anybody have any questions?

Jack Mallory:

The full impact of this enabling legislation is not going to be known until sine die, and that is really going to depend on how much revenue is withheld from local government. There is someone who testified earlier that the debt service on that was \$246 million. That is a lot of potential construction jobs, and when you put people to work, obviously they contribute to the overall revenue stream and society.

Chair Kirkpatrick:

Is there anybody else who would like to testify in opposition? [There was no response.] Is there anyone neutral on A.B. 209?

Lisa Gianoli, representing Washoe County:

Washoe County is neutral. We presently have the majority of these monies obligated for debt. We appreciate the enabling legislation, and I agree with the sunset provision.

Chair Kirkpatrick:

Does anybody have any questions?

Paul McKenzie, representing Building and Construction Trades Council of Northern Nevada, AFL-CIO:

Thank you, Madam Chair. I have had to deal with this indigent care issue in many different venues. Having negotiated contracts since the early 1990s, this has come to bear on the cost of health care on every contract we negotiate. Our members increasingly pay more and more for health care, because medical facilities say they are writing this stuff off as operational costs. Someone has to bear the brunt of that cost. It is handed back to the person that has insurance, and he gets to pay more for his medical care because he can pay his bills. They will treat someone who does not have insurance because they know that the people who do have insurance will pay the rest of the bill. Health care costs have been skyrocketing. One of our affiliates phased in a \$4-an-hour increase in health and welfare costs because of increases in costs that the facilities are passing on to the people who have insurance. In today's poor economic conditions, they are experiencing more and more people unable to pay their bills. I think this legislation is very valuable, because we have a requirement to take care of indigent care, but also it is damaging to take money which could be used to create jobs and eventually reduce the burden on indigent care.

Chair Kirkpatrick:

Would anyone else like to testify on A.B. 209?

Assemblywoman Mastroluca:

I think it is very apparent that there is a lot of frustration on many sides of this issue. We recognize that there is frustration on the sides of the counties and of those who need this care and are having to use these kinds of medical services, because they are not in a position to pay. There is also frustration on the part of those who are out of work, and we need to do everything we can to get those folks back to work. I want to clarify just two things. One, the dollars we are talking about are not bonded dollars. They are not voter approved dollars. This ad valorem tax—it is a different kind of money. So, it would not be coming out of bonded dollars and should not have any effect on the ability of counties to bond for future projects. Also, I misspoke when I talked about the IAF. More importantly, the bill involves the fund for medical assistance to indigent persons, which addresses a broader base but still encompasses a very large portion of the county's debts carried for folks who cannot afford to pay for themselves.

Assemblyman Ellison:

Just for clarification, this is a voluntary and not a mandatory thing. Is that correct?

Assemblywoman Mastroluca:

It is an opt-in by the counties; that is, it is up to the individual counties if they choose to use these funds to help offset indigent medical expenses.

Chair Kirkpatrick:

There are a lot of different capital funds within the counties' purview. We could at least know which specific capital funds are used for maintenance. This may address Mr. Livermore's earlier question.

Assemblywoman Mastroluca:

I will work with the counties to get that answered for you.

Assemblyman Livermore:

It benefited Carson City to allow the county hospital to transition to a 501(c)(3) nonprofit status and provide indigent care without having to charge the county.

Chair Kirkpatrick:

Thank you, Mrs. Mastroluca. We are going to close the hearing on A.B. 209 and go to Assembly Bill 237.

Assembly Bill 237: Authorizes counties to issue securities for projects and programs concerning public water and sewer systems. (BDR 20-243)

Rosemary Menard, Director, Department of Water Resources, Washoe County:

Last session, the Legislature worked with Washoe County to establish authorization for us to lend money from utility resources to folks who needed to convert their wells or sewer systems to the community water or sewer systems. During the implementation process over the last couple of years, we discovered that we need authorization to provide a financing mechanism we did not anticipate when we did the legislation the last time. The program is being implemented. We have had 10 to 15 folks who have gotten loans or are in the process of getting loans, and it is helping them avoid paying the \$15,000 to \$20,000 typical conversion costs all at once. They are able to amortize that over a 20-year period. We are using utility rate revenue as seed monies to support that program. But the goal is to establish a revolving loan fund that would allow us, once we have a certain number of commitments made, to convert that to a bond, and then to replenish our seed money to continue to provide these resources. Assembly Bill 237 takes a previous bill and makes some amendments to it which would allow us to have the explicit authority to provide the mechanism to establish the bonding as a structured part of the implementation.

Chair Kirkpatrick:

How many people, out of the 10 to 15, are actually hooked up and ready to go?

Rosemary Menard:

Two or three are in process, but most are hooked up.

Chair Kirkpatrick:

And what was the cost for those folks?

Rosemary Menard:

It varies slightly. It was around \$15,000 per parcel for the southwest Truckee Meadows and for one in northeast Lemmon Valley, and then around \$14,000 for some folks in west Reno and in the Mayberry Ranch Estates who were converting from septic to sewer.

John Swendseid, representing Washoe County:

Section 1 amends the bill that was adopted last year to authorize the county to issue bonds to provide monies for the loans about which Ms. Menard spoke. It provides what those bonds can be used for and the types of loans that can be done. It also provides that the loans can then be used as security for a bond issue. The bonds can either be revenue bonds, if the county so desires, or they can be general obligation (GO) bonds, if the county goes through the procedures in the *Nevada Revised Statutes* (NRS) to authorize general obligation bonds. Section 2 makes the amendment to the county bond law. Chapter 244A of NRS conforms the county bond law to the amendments we just talked about in section 1, and specifically adds the power to issue bonds to make these types of loans to county bond law. Section 3 is just a reviser's section to include section 2 in the county bond law. Sections 4 and 5 make definitional changes in the county bond law to include this type of program and the types of programs that can be financed with bonds issued under the county bond law. Section 6 allows the interest on these types of bonds to be higher than the interest on normal county bonds. The reason we need this is that the Internal Revenue Service (IRS) has said that if a government issues bonds and uses the bonds for the purpose of making loans, the interest on those bonds is not tax-exempt, and so we will have to pay a slightly higher interest than we would normally pay on our tax-exempt bonds. Section 7 is just an effective date provision.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Goedhart:

When it comes to section 6, subsection 2, why is it that we have to specify interest rate, or maximum payout in the statute, when it may be assumed that the municipality would, generally, do its due diligence and shop to get the best rate?

John Swendseid:

Section 6 currently limits the rate of interest that a municipality can pay on bonds to no more than 3 percent above the Bond Buyer 20 Index or the Revenue Bond Index, depending on whether the bond issued by the municipality is a GO bond or a revenue bond. Those two indexes are indexes of tax-exempt bonds, so the Bond Buyer 20 Index, for example, is an index of bonds developed by a company in New York called the Bond Buyer. The Bond Buyer Index has picked out 20 GO bonds issued across the country that are tax-exempt, and provided an index of the average interest rate on those 20 bonds. In Nevada, our cities can issue bonds that have an interest rate of up to 3 percent more than that. The problem is that the bonds issued under this act will not be tax-exempt. The limit to 3 percent above a tax-exempt interest rate likely is not going to be enough for us to be able to issue the bonds. We would search around for a good market for a taxable bond, because the rate is higher than a tax-exempt bond, and usually by about 2 percent. For these types of bonds, subsection 2 would allow an interest rate that is 2 percent higher than the otherwise allowable interest rate. Today, a tax-exempt bond would probably have an interest rate of around 4 percent, and a taxable bond would have an interest rate of about 6 percent for counties with good credit like Washoe or Clark Counties. For the taxable bonds, we need to have a higher interest rate limit, and that is what section 6 does. It increases the interest rate limit for the bonds issued under this program. The municipality is still obligated to look around for the best interest rate, though.

Assemblyman Goedhart:

Is there any way that, statutorily, we can go ahead and make the program or fund available and be tax-exempt?

John Swendseid:

Under the current rules of the IRS, I do not think that would be possible unless you turn it into a grant program, which the county probably cannot afford. As long as it is a loan program, the IRS will say it is taxable.

Assemblyman Livermore:

Can you tell me what would be included in this loan amount? Would it just be the construction costs of the connection? Are you going to charge connection

fees and meter costs and the things generally associated with connection of a service?

John Swendseid:

The act presently allows all of those to be included.

Assemblyman Livermore:

It would include all of those, so even though the county is getting bonds on one side, you are going to make loans available to the public to buy that service?

Rosemary Menard:

We are actually covering both the public right-of-way costs, including, typically, the lines, the connection fees, meter boxes, everything up to the point at which the property owner could connect independently, as well as the onsite costs. For example, if you are converting from a septic tank to the community sewer system, there is a sewer line and a lateral from that sewer line to your property. Then you need to construct a line on your property from the sewer laterally to your house to let the sewer flow. You would also have an abandonment cost for your septic system which is covered. The purpose of the program was to allow us to cover the public right-of-way cost and the costs of providing the service, typically charged through connection fees, as well as the onsite costs. A lot of folks can come up with the money to pay for one and not the other, and this is a way to help people make the transition by making it the whole deal.

Assemblyman Livermore:

Would you require the property owner who receives this loan to pay some part of the fee, perhaps 5 or 10 percent? Are you going to loan them 100 percent of the cost?

Rosemary Menard:

We are actually letting them decide how much they want to finance, but we will finance up to 100 percent.

Assemblywoman Benitez-Thompson:

I want to understand who this is targeting. My district is a very old district in southwest Reno, where there are not a lot of new homes. Would this apply to existing homes? Say, if someone's sewer line went out, would he be able to go to the county for this and get a loan from these bonded dollars to help with that repair cost?

Rosemary Menard:

This is only being provided for county customers. I do not believe that the area you are talking about is a county sewer provider area. We have discussed with some of the other agencies the potential for providing the service through an interlocal agreement, but it has not occurred yet. In effect, it really is targeted for existing properties that are either on septic systems or domestic wells that need to convert to the municipal system exactly for the reason that you are describing in terms of the sticker shock. It is a pretty big issue, and many of the properties are underwater in terms of their values. That means homeowners cannot do the typical thing they used to do, which was go to their banks and get a second mortgage on the equity in their homes, because they do not have equity in their homes. This is a substitute for that, recognizing that wastewater utility service is really critical to maintaining occupied homes.

Chair Kirkpatrick:

Utility service project—that is pretty broad—would that include a sewage plant?

Rosemary Menard:

No.

Chair Kirkpatrick:

If you said it is about \$15,000 for the average person, how much would you be seeking to bond out in the long term?

Rosemary Menard:

We are estimating committing no more than \$1 million per year. It is not really financially feasible to issue a bond for amounts lower than \$1 million to \$1.5 million. We are estimating a couple of years of implementation of the program, then selling a bond for whatever we have committed at that point. I am guessing that, until things have turned around financially, we could be implementing this program for maybe a decade. So you would imagine up to around \$10 million total, perhaps.

Chair Kirkpatrick:

By specifying a population of more than 100,000 and less than 400,000, this targets Washoe County. How many people are there to help?

Rosemary Menard:

Within the Truckee Meadows Service Area, which is the boundary established by the Truckee Meadows Regional Planning agency for urban services, we have 15,000 properties with septic tanks on them and about 6,000 domestic wells. Not all of those are in the county service area, and not all of those would convert, but we do have pockets of folks who would need to do that.

For example, in Spanish Springs, we have 2,000 properties that are on one-third acre lots that have septic systems that need to convert to sewers. We are working on making a transition plan, but part of this would allow for people to finance their onsite costs.

Chair Kirkpatrick:

Last session we were trying to get the Spanish Springs folks online first, because they had contaminated water. Of those 15, how many are from Spanish Springs?

Rosemary Menard:

We have had one in Cold Springs, and then we have had several sewer conversions in Mayberry Ranch Estates in west Reno. The problem with the Spanish Springs conversion is that the sewer lines are not in front of the homes. For one phase of conversion in Spanish Springs, we had an approximately 75 percent reimbursement grant from the federal government to support the construction of the main infrastructure, and that mitigated the cost of the public right-of-way infrastructure from about \$30,000 per property to about \$5,000 per property. We cannot get further federal funding to help put in the lines. Establishing some kind of a special assessment district, for example, which would put in the lines, would be asking people to put an assessment on themselves of about \$30,000, plus the onsite costs. We are working to try to find a mechanism to get the lines in that would make this more affordable.

Assemblyman Goedhart:

I am just asking a question about the mechanics of it. I have seen this happen in southwest Michigan, where I have a house. The density of the housing necessitated hooking up to city water and city sewer. In that case, it was secured by a lien on the properties. It gets added to your property tax.

Rosemary Menard:

We are using the same mechanism as the county for collecting special assessments. We have a contractor that bills for special assessments, typically twice a year. So, quarterly, we are actually billing the property owners directly on that basis. If you finance \$10,000 at the current rate of interest—about 4.8 percent—the bill is about \$200 per quarter.

Assemblyman Goedhart:

And for how many years is that paid off?

Rosemary Menard:

It is amortized over 20 years.

Assemblyman Goedhart:

That is for \$10,000? It seems a little high. I need to refer to my tables, but usually \$10,000 financed over five years at 10 percent interest is about \$200 per month.

Rosemary Menard:

I said \$200 per quarter.

Chair Kirkpatrick:

What happens if these people do not stay in their residence for 20 years? Does the rest of the county pay the difference?

Rosemary Menard:

The way we are running this is that the amounts of the loan are not transferrable; they are due at the sale of the property. We do have a backstop of being able to put a default onto the property tax bill, but we are probably not the first in line. So there is some risk associated with this, but in implementing this program and in terms of the county ordinance, we worked really hard to try to appropriately balance risk against the need to help people stay in their homes.

Chair Kirkpatrick:

In Berkeley, they tried doing a similar program with solar panels, but they did not have a transient rate, and they did not have people who were upside down on their homes. Rather, it was an older, more established neighborhood. So what precautions do we have to protect the rest of the county, when these folks are upside down? At least in my district, people are leaving because they cannot ever get out from under it. What would happen in these cases?

Rosemary Menard:

We have established a review process. Our implementation mechanism includes a loan committee, which includes me, my finance and customer service manager, someone from the county controller's office, and someone from the Washoe County Health District. We look at the financial application information each party has to provide. So, again, we have looked at the circumstances, and even recognizing that people may not have equity in their homes, many people have the financial capability to make these kinds of payments. We are looking at that kind of information and making a judgment about whether or not to offer the loans. People have to apply, and we have to make some decisions about whether or not they meet criteria that are established in the ordinance and in the policies and procedures that have been adopted by the county and can receive the loan.

Chair Kirkpatrick:

Are there any other questions? I am disappointed that Spanish Springs is not any further ahead. I drove out there last session, since that is specifically what this bill was about. Two hundred folks had been in the flood, and it is pretty disappointing to learn that we are not there.

Rosemary Menard:

We have been working to get federal funds to help facilitate the implementation of the infrastructure.

Chair Kirkpatrick:

But I do not understand; that was the purpose of the bill, and yet we have helped other people. If I pulled the minutes, those were the folks that were here. Are you telling me that they still have the same issues they had last session?

Rosemary Menard:

I believe that a number of people who were here the last session were from the Heppner subdivision of northeast Lemmon Valley. We actually have completed that project, and we have made loans to a number of folks in the north Lemmon Valley service area. I am remembering it slightly differently than the way you are remembering it, but I think that they were one of the main areas that we were working on because the cost of getting them connected was pretty steep. These were people converting from domestic wells to the community system.

Chair Kirkpatrick:

I just remember Mr. Anderson and Senator Raggio both testifying and giving their input on Spanish Springs.

Assemblyman Goedhart:

I will revisit what I spoke of before, although I always hate to bring different states into play. Where I was, in southwest Michigan, when they had this type of situation, they were able to go in and basically secure that loan with a lien on the property. Is that something that we are doing in this case? You mentioned that you are not necessarily the first in line, but just like a tax lien, if you put a lien on a property, you would, essentially, be able to make sure that you will get paid on the loan that you extended.

Rosemary Menard:

We are, in fact, putting promissory notes and deeds of trust onto the property as part of the finalization of the loan. So we are looking at that as a security for the loan. In the existing economic circumstances, you could find yourself in a

situation in which you have done that and still not get paid, simply because of other things happening. But we are doing that.

Assemblyman Goedhart:

But if you put it through mechanically as you do on, say, property taxes, regardless of what happens, this is like a first or second deed of trust. If you put it on the property taxes, you are going to get your money. I do not want to put taxpayer money at risk here because we did not structure the loan in such a way that we know we are going to get paid back.

John Swendseid:

We have provided, not in this bill but in the bill passed last time, that the loan can be collected with the property taxes. We do not think it has the same priority as property taxes. Property taxes, as you just mentioned, have a super-priority. They are ahead of any existing mortgage loan. There was a whole bunch of publicity last year and the year before about voluntary programs that attempted to put voluntary loans ahead of loans made, but not to banks. It was the Berkeley situation, where they were making voluntary loans for solar installations. Berkeley and Boulder, Colorado, and several other cities wanted to have these voluntary loans for solar installations come ahead of a person's mortgage and be collected with property taxes. The big federal mortgage lenders—Fannie Mae and Freddie Mac—all said they would not allow that, and that if a city implemented a program like that, they would stop purchasing mortgage loans from that program. They did not want people placing voluntary loans ahead of interest in a federal mortgage. They do not mind taxes, which are involuntary, coming ahead, but the voluntary loan bothered them. So, we were scared away from that. We do not want to do anything that might hurt people from getting mortgage loans. We accept the fact that we may be behind the mortgage loan, even though we get collected with the taxes. But it all came about because of the solar programs about two years ago and federal mortgage agencies unhappy with getting put into a second position against their will.

Chair Kirkpatrick:

Mr. Goedhart, they tried to put that piece in there eight times with Senate Bill No. 358 of the 75th Session.

Assemblyman Livermore:

Have you done a risk analysis on what this program might end up costing you?

Rosemary Menard:

We are actually charging a nonrefundable application fee designed to cover our costs. We will review our actual costs on an annual basis and adjust the fee so that it is sufficient to run the program.

Assemblyman Livermore:

Will you set that aside in a separate account?

Rosemary Menard:

Yes.

Assemblyman Livermore:

When we did this in my community we waived the connection fee. The private ownership part was their cost to do, but the rest of the county cost was waived in the same arrangement. It became advantageous for them to accept that over a couple of years' time. I am a little leery when the county starts lending like a bank or a credit card facility. I have concerns with the risk you are placing on all your other utility plans.

Assemblyman Anderson:

I also was wondering, along similar lines, can there be a comp? Can the water authority and the county work something out?

Rosemary Menard:

The legal advice that we have had from our deputy district attorney is that the property owners who benefit from a project have to pay their allocated fair share of the project. So we have not had the ability, in many of these projects, to basically call the infrastructure free, and then spread the costs for the implementation or the installation of new infrastructure across other rate payers. We have been working on this mechanism, and that is the process we have been using to establish what the fees are for the various programs we have been implementing.

Chair Kirkpatrick:

Are there any other questions? Mr. Walker, I know you have an amendment ([Exhibit D](#)). I got one amendment one day, and then the next day I got a revised amendment, but I cannot figure out what is revised.

Steve Walker, representing Lyon County, Douglas County, and Carson City:

We are supportive of A.B. 237. To answer your question on the amendments, in the first one I changed a few words in a few places, and then, after John Swendseid looked at it, he said I needed to do more than that. So the differences between the first amendment and the second one, which is on the

Nevada Electronic Legislative Information System (NELIS), is that the title was changed because we are adding counties to the bill. We are also amending a different section of law that was not within the bill, so that had to be added. The amendment that is public today is the one we are supporting and is the one that is more legally correct.

Chair Kirkpatrick:

So, the statement of intent is the same, but then you changed the special act to include other wording?

Steve Walker:

Correct. Because the intent of the bill changed—a different section was added to it as well as a different group of counties that would be enabled to implement it—I was advised that I would have to change the title and received language to do that.

Assemblyman Goedhart:

What is the intent behind the population classification? If it is good policy, why is it not a good policy for any county regardless of its population?

Steve Walker:

The only county excluded under my amendment is Clark County. They could explain that themselves, I would think.

Chair Kirkpatrick:

Are there any other questions? Originally, the bill was just for Washoe County, because Washoe County had those issues. Now you are opening it up to 16 counties.

Steve Walker:

When the previous bill was being heard last session, there was an idea among the counties I represent—Lyon, Carson City, and Douglas—that this would be a relevant tool and program for us, also. We have allowed individual wells and septic systems to be placed on one-acre lots, and in doing that, invariably created ground water pollution from nitrates. Churchill County has the same issue. All of us have lots of domestic wells and high density septic systems we know in the future will have to be addressed. This law gave us a tool to address that, and now, the financing gives us another tool. I was remiss by not amending Assembly Bill No. 54 of the 75th Session. It would have been easier, and then we could have been part of it. But if you remember, the previous bill had somewhat of a rocky start, and I did not really feel like I wanted to jump on that wagon at that time.

Chair Kirkpatrick:

Was this fully discussed at the advisory committee?

Steve Walker:

I went to the advisory committee twice and offered an amendment at the final advisory committee meeting—and we are talking about the Legislative Committee to Oversee the Western Regional Water Commission. Because the agenda had already been produced, I was told at the time that I was too late to go to the hearing and make the amendment. They are very aware of it, and I have not heard any opposition to the amendment. They said it would be easier to do it in the normal process of amending the bill when it was heard.

Chair Kirkpatrick:

Mr. Bobzien is the chair of that committee?

Steve Walker:

Correct.

Chair Kirkpatrick:

Are there any other questions on A.B. 237? At this time, would anybody like to come up and testify in support?

John Rhodes, Legal Counsel, Western Regional Water Commission:

I am legal counsel for the Western Regional Water Commission. I am here this morning to testify on behalf of the Commission in support of A.B. 237 and A.B. 238. The Commission has determined that both of these bills will provide useful tools for regional water planning in northern Nevada. We wanted to put our support on the record and answer any questions you may have. Thank you.

Chair Kirkpatrick:

Are there any questions? [There was no response.] Thank you, very much. Good morning, Mr. Selinder.

Bjorn Selinder, representing Churchill County and Elko County:

We support A.B. 237 with the proposed amendment, and appreciate the opportunity to be included. This provides an additional tool for us to plan for our future water resource needs in these counties, and I, therefore, urge your favorable consideration. With that, I will take any questions.

Chair Kirkpatrick:

Are there any questions? [There was no response.] Does anybody else wish to testify in support of A.B. 237? [There was no response.] Is there anybody who

is neutral on A.B. 237? [There was no response.] Is there anybody who is in opposition to A.B. 237? Good morning, Mr. McKenzie.

Paul McKenzie, representing Building and Construction Trades Council of Northern Nevada, AFL-CIO:

We understand the issues around hooking established housing into water and sewer systems. There are many subdivisions in northern Nevada which were built without proper planning. The investment was not put into the infrastructure when they were developed, and therefore, there is a need to modernize those. But, to us, the particular mechanism that is utilized in this legislation, under the bonding, is a means for public bodies to circumvent the fact that they are doing public works. They are borrowing money and establishing the requirement for these people to hook into their systems. The discussion about Spanish Springs and waiting for additional funding to hook those people in—once they get the main line in, they are going to require other people to hook in. You could have a contractor on site doing the work at the time that you have the main ditch open, and you could hook the houses in at the same time, to reduce costs considerably. Using this mechanism, they will throw the main lines in and then they will go back and let people hook up individually. It will increase the cost, the duration of the project, and it will increase the liability on the taxpayers of the county where they are doing this type of work. We oppose any legislation that puts a liability on the taxpayers and is not treated like a public works. If we are going to make the taxpayers liable for the work, then we need to call a spade a spade and call it the public works it will be.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Goedhart:

Are you speaking in the anecdotal sense that this is going to be cheaper, or do you have some facts to back that up? Do you think it would actually be cheaper to necessitate everyone hooking up when that main line goes through?

Paul McKenzie:

The McGill-Ruth Consolidated Water and Sewer General Improvement District recently did a major revamping of their septic system. The sewer system was installed in the early 1900s when they first opened the mining towns in that part of the state. It was a mining town and it was undersized. They went in and put all new lines in the town of McGill. When they were doing that project they told any of the residents that if they wanted to hook in at the time they had the ditch open, they would have the contractor do the hook-up costs. The contractor did those hook-up costs at \$5,000 per house on that project. Those

people unable to be contacted were required to hook in at a later date, after we had closed the ditch. To tie them in, they had to break open the main line again, and those hook-ups cost \$20,000 to \$25,000 a piece. So, if you do it with the initial installation of the main ditch, you do not have to reopen the ditch, or re-break the main line, and it is considerably cheaper.

Chair Kirkpatrick:

Are there any other questions?

John Russell, representing Laborers International Union of North America, Local 169:

A lot of my concerns are the same concerns. The public body is using public money to fund a project but refusing to call it a public works project. The 10 to 15 projects they have ready to go constitute \$150,000 already, at \$15,000 a project. They definitely need to assess the risk to ratepayers if someone does default on that loan, because that will just put the burden back onto people who are paying their rates already.

Chair Kirkpatrick:

Does anybody have any questions? Does anybody else want to testify on A.B. 237? [There was no response.]

Rosemary Menard:

I just want to clarify. When we put the project into Spanish Springs, for example, or Mayberry Ranch Estates—that is a sewer project—we put the laterals in at the time we put the main line in. At each property that is going to be served by that line, the laterals go from the main sewer line in the street to the property line. As you will recall, when we did A.B. No. 54 of the 75th Session there were a lot of concerns about whether or not the county was going to require people to convert their domestic wells or their septic systems. We made sure that the language in the legislation said it was their choice to hook up or not. So with respect to comments made about the costs of putting laterals in the street right away into the main line, that is being taken care of by the infrastructure put in place when the project is installed. Basically, at that point, people can hook up on their property costs, and the property on-site items are the things that have to happen when someone hooks up, either to the water or the sewer system.

Assemblyman Goedhart:

So you are saying you already have the laterals tied in to the main sewer trunk line, but just probably have it capped off right where it hits the person's property. That does alleviate the necessity of having to go back into the main line.

Rosemary Menard:
Exactly.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] We are going to close the hearing on A.B. 237 and open the hearing on Assembly Bill 238.

Assembly Bill 238: Revises provisions concerning the refunding of certain municipal securities. (BDR 20-244)

Rosemary Menard, Director, Department of Water Resources, Washoe County:

The second piece of legislation coming out of the Legislative Committee to Oversee the Western Regional Water Commission is Assembly Bill 238, which is a change to county bond law to allow for refinancing of certain debt as well as for the issuing of new debt. This particular piece of legislation has been something that has come up specifically because it relates to the proposed consolidation of the Washoe County Department of Water Resources (DWR) water utility function with the Truckee Meadows Water Authority (TMWA). Our water utility has about \$30 million worth of debt that needs to be defeased or refinanced in order to allow for the asset transfers and to transfer our facilities, wells, pipes, et cetera, to TMWA as part of the consolidation. This particular mechanism just gives us another tool for doing the defeasing and refinancing. With me today are John Sherman and John Swendseid, who developed the draft.

John Sherman, Finance Director, Washoe County:

In essence, what county bond bank law allows is for local government, within a county, to use the county's credit rating and borrowing ability to assist the local government in issuing debt at a lower interest rate when the county's credit rating is higher than that of the local government. Currently, you can use a county bond bank law to assist a local government—in this case TMWA—to issue new debt for a new project. But it does not allow for a local government that issued debt outside of a bond bank to then refinance that through a bond bank.

In section 1, you can see the language being struck is that refinancing has to be done on a loan that was done through the bond bank originally. It removes that requirement. If a local government has issued debt previously and wants to refinance, but they can get a better interest rate by refinancing through a county bond bank law, now this amendment would allow that. The date put in there is the date that the bond bank laws were enabled, so that is the reference there. In section 2, it clearly states, in subsection 6, that refunds now can be

for any general obligation (GO) issued for a lending project that is originally financed through bond banks or for municipal securities that were issued on or after October 1, 1999, that were not part of a bond bank borrowing. Section 3 is just the effective date of the legislation.

Chair Kirkpatrick:

Does anybody have any questions? [There was no response.] This applies to the entire state, all 17 counties. Is that correct?

John Sherman:

That is correct.

Chair Kirkpatrick:

In what instances would they need to refinance their obligations that were not part of a bond?

John Sherman:

The TMWA has only issued debt on its own. It has been issuing revenue debt. They have not gone through a county bond bank.

Chair Kirkpatrick:

We heard that during special session. I think somebody was trying to get a bill to fix that. But this applies to all 17 counties, so what would the circumstances be and when would this happen?

John Sherman:

Maybe Mr. Swendseid can answer the statewide question.

John Swendseid, representing Washoe County:

The existing county bond bank law does apply to all 17 counties. To my knowledge, the only other county that has implemented it, though, is Clark County. And in fact, there, the biggest user of the county bond bank has been the Southern Nevada Water Authority (SNWA). The SNWA does not issue bonds on its own but has always used either the state bond bank, the Las Vegas Valley Water District, or the Clark County bond bank for issuing its debt. So it does not really have the problem. Nevertheless, because the law already applies to all 17 counties, we made the amendment. I think Clark County is the only other county that has a bond bank, and they already are actively financing bonds issued by the SNWA.

Chair Kirkpatrick:

Could all public quasi-agencies, like TMWA which did not issue monies through a bond—and there are well over 2,000 of those out there with different financing mechanisms—do the same thing?

John Swendseid:

I do not have the *Nevada Revised Statutes* (NRS) with me right here, but I believe the types of projects that can be financed through the county bond bank are limited to infrastructure projects like water and sewer, parks, and maybe police and fire protection. It is not everything. I believe there is also a limitation that would not apply to water and sewer but does apply to other projects—for instance, in Clark County, a project for an entity that the board controls. I am sorry I do not have the copy of NRS with me that has that limit in it, but I can look it up pretty quickly, if that would help.

Chair Kirkpatrick:

And then, what is the process and how are these done?

John Sherman:

First, the municipality that wants to access the bond bank has to approach the county with a project, define the project's purpose, and present that the project clearly fits into the allowed projects under a county bond bank law. They have to show what resources they are going to have to pay back that obligation, and then that proposal gets reviewed by the county. If it seems to meet the minimum criteria, it goes to the county commission to entertain whether or not the municipality may access the county bond bank. If all that goes forward, then there is an agreement between the county and the local government wherein the county buys securities issued by the local government. The county, in turn, sells GO revenue bonds—the revenue being the money from the local government—and issues that debt into the public market. Then it becomes, in essence, the county's obligation under the GO revenue bond laws, and gets a favorable interest rate. So then the county is obligated to pay the debt, but the money to pay that debt is coming from the local government.

Assemblyman Stewart:

Right now, Clark County has the authority to do this and SNWA does not?

John Sherman:

Clark County does have a county bond bank ordinance that they utilize. Right now, Washoe County does not, but we are getting ready to implement a county bond bank law next month to accommodate this particular bill. In addition to that, we recognize that on a going-forward basis, the TMWA may want to access the county bond bank, because Washoe County has a higher credit

rating than TMWA. So, in essence, there will only be two counties in the state that have that.

Assemblyman Stewart:

Prior legislation gave Clark County the authority to do this, as the only county. Is that correct?

John Sherman:

The 1999 legislation allowed any county in the State of Nevada to create a bond bank. Only Clark County has that, and the only other one pending that I know of is Washoe County.

Chair Kirkpatrick:

Let me help clarify this. It was already done in 1999, so people had the ability to do it. However, when you created the TMWA situation, you were bonding out on the revenues that you had from all the dollars you had collected between water rights and other things. Is that correct?

John Sherman:

Yes, that is correct. Truckee Meadows Water Authority issued the debt as revenue-only debt. It did not go through Washoe County to issue that debt.

Chair Kirkpatrick:

Which, in turn, created some rate increases, because you had a less ideal interest rate than did Washoe County. Is that correct?

John Sherman:

The rates that were imposed by TMWA on its customers at the time were not changed due to the issuance of debt and the interest rate that TMWA had to pay for that debt.

Chair Kirkpatrick:

Why would they never have used the bond rate? It sounds silly to use your own money if you had the ability to use someone else's all along. Now we have to fix the legislation, because that did not happen. Maybe Mr. Walker has the answer to that question, but it sounds foolish.

John Sherman:

I was, in fact, involved in the original acquisition of the water business from Sierra Pacific Power Company, the predecessor to NV Energy. Washoe County and two other cities formed a joint powers authority to create this. The issue at the time was that there was certainly an element of risk to the community to buy a whole water company wholly, which was unique in this country. The

thought process at the time was that we did not necessarily want to spread that risk to the taxpayers of the rest of the community but wanted to keep it isolated to the TMWA. But now, a decade later, it is a well-established water utility. In fact, its credit rating has increased over time, although it is still less than Washoe County's. We feel that it is solidly established and a well-run water utility. Now, the risk of going through a county bond bank is greatly reduced, and we have other mechanisms that we can put in place to further mitigate risk. It was really just a risk assessment at the time. We certainly thought about that, but the decision was made on that basis at the time. I hope that answers the question.

Assemblyman Stewart:

I still do not understand. If all the counties had this authority, and Clark County did it, what does this bill do? Why did you not do it in the past, and why does this give you additional authority to do it?

John Sherman:

What we are saying in this bill is that TMWA has outstanding debt. We can potentially refinance that at a lower interest rate. The current law does not allow us to do that. The current law says that if you want to refinance debt through a county bond bank, you can only do it through debt originally issued through the bond bank, and TMWA's original debt was not issued through the bond bank.

Assemblyman Stewart:

So, if you had done this originally, like SNWA had, then you could do it today without this law. But since you did not do it, you cannot do it. Is that right?

John Sherman:

Certainly, and Mr. Swendseid can speak about SNWA. I think there is a difference between SNWA and TMWA, in that TMWA was a private utility that the local governments bought, while SNWA was created as a public entity that evolved over time to provide water services at a wholesale level to local governments in southern Nevada.

Assemblyman Stewart:

And this is not going to happen to them, though? It will not affect their ability to do bonds?

John Sherman:

It will not affect Clark County's ability to operate its bond bank, nor SNWA's ability to access that.

Assemblyman Stewart:

Thank you.

Assemblywoman Benitez-Thompson:

Under section 2, subsection 6 dealing with refunds, if this legislation does not pass, then when TMWA and Washoe County's Department of Water Resources (DWR) merge, do you have a means by which to address refunds or to put the refunds back in, or is that part of it, too?

John Sherman:

Going forward, the issue at hand is to have that entity, which would now be the TMWA with the DWR, be able to issue debt for new projects through the county bond bank. What we are trying to do now is allow the TMWA to refinance its debt so that it can get a lower interest rate, which will provide a better economics, if you will, for the merger. So, that is one of the reasons we want to, at least, have the ability to refinance.

Assemblyman Anderson:

In the future, you are probably going to take advantage of the county bond law, correct?

John Sherman:

I am here representing Washoe County, as the Finance Director. The county commissioners are in support of being able to create a county bond bank for the purposes of refinancing TMWA bond debt, and potentially having the TMWA go through the county bond bank for new borrowings for new infrastructure. It really is just a matter of economics that the county has a higher credit rating, and that we can get better interest rates than every local government in northern Nevada. We are really trying to lower the cost of borrowing money to build infrastructure to our citizens.

Assemblyman Anderson:

I think we all understand that, and we obviously want you to get a better deal. Would you be willing to attach a sunset, or something like that, after you refinance, so we do not experience unintended consequences from this?

John Sherman:

I am going to have to think through sunseting a law that allows for refinancing through a bond bank.

Chair Kirkpatrick:

I would think that would make the situation more uncertain than it is now. If banks buy into it, I would think that you would have to have some kind of certainty when you do these types of things.

John Sherman:

The issue of refinancing is a market-driven timing issue. You just do not go out today and refinance a debt, because the market might not have interest rates that make the economics of the refinancing worthwhile. In fact, you might end up paying more. So, really, you have to be ready to execute a refinancing, but you have to do it at a point when it is economically sensible. Hypothetically, if we put it to your sunset, we might not have market conditions until three years from now. That is a hard one to answer.

Assemblyman Anderson:

Thank you, and I would defer to you on economics.

Chair Kirkpatrick:

Are there any other questions? [There was no response.]

Mr. Swendseid, I want to follow up, because this does apply to all counties. If they refinance, it says "municipal securities." That is very broad to me, and it says "any." If they did refinance, does that mean that TMWA residents will receive a rate decrease because they are refinancing at better rates?

Also, we have heard frequently this session that some of the local governments are struggling to make their bonding capabilities. What happens if a particular entity uses the county GO bond and then cannot make their bond payment? Who picks up the tab?

John Swendseid:

Let me clarify what types of bonds the county bond bank can finance or refinance. They can finance voter approved bonds that are issued for a library or a park. They can issue GO bonds, including the voter approved bonds we just talked about, that are for infrastructure projects other than libraries or parks. Infrastructures include libraries, parks, water, water reclamation—which is sanitary/sewer—flood management, and other sanitary/sewer projects. They can also finance revenue obligations issued by a water authority, revenue obligations issued by a wastewater authority, and revenue obligations issued by a flood management authority. That is all they can issue.

Chair Kirkpatrick:

Assume that a redevelopment area needed to add new infrastructure and that they could not necessarily make their bond payments. Would this allow them to work with the county on that?

John Swendseid:

Unless the redevelopment area bonds were issued for water, water reclamation, flood management, or sanitary sewer, it would not.

Chair Kirkpatrick:

But if they were, they could, correct?

John Swendseid:

If it were, they could go to the county bond bank. I cannot answer your second question on whether the refinancing would result in a decrease in rates. That would probably depend on other variables such as if the water authority's capital or operation and maintenance expenses were going up or down at the time. As for your third question, what happens if a municipality goes through the bond bank and then has trouble meeting its payments to the bond bank? The bond bank statute works in the following manner: The bond bank is the holder of that municipality's municipal bonds. If there are GO bonds of the municipality, the bond bank can require that the municipality raise their taxes to a level high enough to pay back the GO bonds. If there are revenue bonds, then the bond bank could go to court to get the issuer of the revenue bonds to raise their rates and charges to a level that is high enough to pay back the revenue bonds. That is the same remedy that a bond holder in the open market would have.

Chair Kirkpatrick:

I will just ask one more question, and maybe to Mr. Sherman. I understand that you want it specifically for your circumstances, but it is not written that way. I want to know what other entities and what other projects this would affect.

John Sherman:

The project is the merger between the DWR and the TMWA. That was the initial impetus, and we wanted to look at this mechanism in order to help the economics of that merger work.

Chair Kirkpatrick:

But there were other local governments involved in the conversations at the special session. Does anybody not know about them, because I will call all the local governments to testify.

John Sherman:

I was not aware of that, but I can certainly speak with our lobbyists who were present during the special session about it. The only two entities I know of that had any interest in this were the TMWA and Washoe County. Just to make them aware, we had advised other entities that this would be processed through the special session. Certainly, that might have caused them to have that conversation with you or other Assembly members, but we did not go out and seek their support or seek to incorporate their projects.

Chair Kirkpatrick:

I want to ask Mr. Swendseid one more question. I understand there is a process to go through for the county. They have to make sure they have the resources to pay these back; but if a local government or a local municipality comes to the county, is there a downside for the county besides them being obligated? At the end of the day, and we are seeing this a lot, if you borrow from Peter to pay Paul, eventually somebody's property tax or somebody's rate is going to increase. I am concerned this may also create that type of situation.

John Swendseid:

There is a downside. In effect, the county is putting its credit behind TMWA's debt here. If TMWA were to fail to pay the county, the county's remedy would be to sue TMWA to get them to raise rates and charges. But in the meantime, the county would have to pay the bond bank debt that is issued in the bond market, and that may mean that the county would have to raise taxes to do that or take money away from its general fund. It is putting its credit behind the bond, so it is promising that it will use all its resources to pay those bonds if it has to. That is why they got a lower interest rate.

Chair Kirkpatrick:

If the county fails or if is at its cap and it cannot raise its taxes, is the state's credit rating affected?

John Swendseid:

No, this just goes to the county level. The way our tax system works is that even if the taxes are at the cap, the taxes for bonded and indebtedness have a priority over other taxes. We have never had to do this, but in theory, the county would get enough taxes to pay back the bonds before other needs. This does not come to the state; it is just a county bond bank. We do have a state bond bank that works exactly the same way. There, if there was a default by the municipality, the state would be on the hook. But this bank is just a county bond bank.

Chair Kirkpatrick:

Are there any other questions? [There was no response.] At this time, if there is anybody who wants to come up and testify in support of A.B. 238, please come now.

Kathleen Conaboy, representing Truckee Meadows Water Authority:

For all the reasons you have heard from Mr. Swendseid, Mr. Sherman, and Ms. Menard, the TMWA fully supports A.B. 238, specifically because it expands the permitted uses of the county bond bank. This expanded use will allow other political subdivisions, such as TMWA, to take advantage of a refinancing mechanism previously closed to us. This expanded use will assist TMWA as we work to complete our merger with the Washoe County DWR and as we go forward together in financing joint projects.

Chair Kirkpatrick:

Does anybody have any questions? [There was no response.] Does anybody else want to testify on A.B. 238? Is anybody neutral on A.B. 238? [There was no response.] Is there anybody who is against A.B. 238?

Paul McKenzie, representing Building and Construction Trades Council of Northern Nevada AFL-CIO:

Although the people who have testified keep talking about a merger between TMWA and Washoe County DWR, this is not just limited to those two entities but applies statewide. Currently there are a lot of public entities that have some questionable bonds that would qualify for transfer under this. Ultimately, the funding mechanism for the bonds that was put in place when they were initially issued will affect the taxpayers of that county where that transfer is made. For example, tax increment financing (TIF) bonds for infrastructure on a project originally meant to be paid with property taxes within that development district in one of the cities could be transferred under this. That could be spread throughout the county. I can see this as a mechanism for people to try to create a way to make the payments they are not making because growth did not happen the way they predicted it would when they went out and jumped on board various plans for redevelopment. We object to creating a mechanism which would refinance debt initially understood to be paid in a different way.

Chair Kirkpatrick:

Are there any questions?

Assemblywoman Benitez-Thompson:

Mr. McKenzie, are you opposed to it in principle or are you opposed to it not being defined to the specific merger between TMWA and the Washoe County Department of Water Resources?

Paul McKenzie:

If this legislation was specific to this merger, we would not object. What we object to is that there are multiple other instances out there where it can be utilized.

Chair Kirkpatrick:

I want to clarify with Mr. Swendseid. I think that TIF bonds are a little bit different and are already obligated through something else. Could you go in and put in these new projects?

John Swendseid:

A tax increment financing bond is not a bond that could be financed through the bond bank right now. It is not permitted to be financed through the bond bank, either originally or through a refinancing. This applies only to voted bonds for the two projects I talked about. Tax increment financing bonds are issued by redevelopment agencies because they have the characteristic of being payable just from the incremental tax increases in the redevelopment area.

Chair Kirkpatrick:

I asked about redevelopment and have probably muddled the waters. There are instances within the state that I am aware of, where they may need these projects within their redevelopment area, or they have done a private/public partnership because one person could not do it. Could they go in and do it under this new bond?

John Swendseid:

A redevelopment area could go through this only if they issued a GO bond or a revenue bond, which is not typically what they issue. They generally issue TIF bonds. In fact, I do not know of an instance in Nevada where a redevelopment agency has issued anything other than TIF bonds. If they go to a GO, they usually have the city issue the GO for them. A city GO for a water project or a sewer project would be eligible for financing through the bond bank.

Chair Kirkpatrick:

That is my point. There are some cities that have got the GO bonds set. I could name about five. Are there any other questions? [There was no response.] With that, we are going to close the hearing on A.B. 238. At this time is there any public comment? [There was no response.] We are adjourned [at 10:19 a.m.].

RESPECTFULLY SUBMITTED:

Sheryl Burrows
Recording Secretary

RESPECTFULLY SUBMITTED:

Rebecca Richman
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 23, 2011

Time of Meeting: 8:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 209	C	Steve Holloway, Executive Vice President, Las Vegas Chapter, Associated General Contractors	Correspondence from Irene Porter of the Southern Nevada Home Builders Association
A.B. 237	D	Steve Walker, representing Lyon and Douglas Counties, and Carson City	Amendment