

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

**Seventy-Sixth Session  
March 28, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:01 a.m. on Monday, March 28, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/76th2011/committees/](http://www.leg.state.nv.us/76th2011/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Tom Grady, Assembly District No. 38  
Assemblywoman Debbie Smith, Washoe County Assembly District  
No. 30  
Assemblywoman Marilyn Dondero Loop, Clark County Assembly District  
No. 5  
Assemblyman David P. Bobzien, Washoe County Assembly District  
No. 24  
Assemblyman Crescent Hardy, Clark County Assembly District No. 20  
Assemblyman James Ohrenschall, Clark County Assembly District No. 12

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Pat Whitten, County Manager, Storey County  
Holli Kiechler, Administrative Officer, Storey County  
Kathy Clewett, representing the City of Sparks  
Rand E. Tanner, Private Citizen, Sparks, Nevada  
Jennifer Lazovich, representing Pardee Homes  
Cadence Matijevich, representing the City of Reno  
Alex C. Woodley, Code Enforcement Manager, City of Reno  
Renny Ashleman, representing the City of Henderson  
Lisa Foster, representing the Nevada League of Cities and Municipalities  
Teresa McKee, Legal Counsel for the Nevada Association of Realtors  
John J. Slaughter, representing Washoe County  
P. Michael Murphy, representing Clark County  
Luke Andrew Busby, representing Clean Energy Center, LLC  
Richard Hamilton, Owner, Clean Energy Center, LLC, Reno, Nevada  
Kermitt Waters, Private Citizen, Henderson, Nevada  
Kyle Davis, Political and Policy Director, Nevada Conservation League and  
Education Fund  
John C. Sagebiel, Private Citizen, Reno, Nevada  
Patrick R. Millsap, Attorney, Reno, Nevada  
Jeff Fontaine, representing the Nevada Association of Counties  
Karl Hall, Private Citizen, Reno, Nevada

**Chair Kirkpatrick:**

[Meeting called to order; roll taken.] I want to thank the Committee members who are here on time. We will be starting at 7:30 a.m. on Wednesday. If we need to start at 6:45 a.m., we will do that. We do have 109 bills and we will have anywhere between 7 and 10 bills every single day. It is important that everyone be on time. We have a work session that we did not finish on Friday that needs to be done today. One of those bills could be someone in this room's bill. With that, we will open up with Assemblyman Grady.

**Assembly Bill 262:** Revises provisions relating to public administrators.  
(BDR 20-1039)

**Assemblyman Tom Grady, Assembly District No. 38:**

I have a bill this morning, and I hope that you will look favorably upon it. I believe last session we changed some wording for the public administrators. We inadvertently left out Storey County. This is for the smaller counties. What Assembly Bill 262 does in section 1, is it adds Storey County to the list of other rural counties that have the right to appoint their district attorney to be the public administrator.

Currently, on page 2, line 15, you see that Humboldt, Lander, Lincoln, and White Pine Counties all appoint a public administrator, and Storey County is asking the Legislature to allow it to join that group.

In section 2, line 32, it again adds Storey County.

In section 3 it states that, as of the election date or June 30, when that position would expire in Storey County, Storey County would then be able to join the other counties and appoint its public administrator. It affects only Storey County. That is all the bill does.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Assemblyman Goedhart:**

Does this really only apply when an office becomes vacant during the middle of a term because someone quit, or does it mean they will completely circumvent the electoral process for those positions?

**Assemblyman Grady:**

This would allow the county commissioners to do away with the election. I am sure you know we many times cannot find people to run for this position in the smaller counties. First, it does not pay anything if you do not

have a number of cases. Second, many of the people that apply for these jobs do not have the qualifications, and it is easier for the district attorney to handle this job than it is to put it on the ballot.

**Chair Kirkpatrick:**

Does anyone else have any questions?

**Assemblyman Ellison:**

Did you say that other counties were also doing this?

**Assemblyman Grady:**

Yes. If you look on page 2, line 15, the district attorneys of Humboldt, Lander, Lincoln, and White Pine Counties now have this prerogative. Storey County is hopefully being added to that list.

**Chair Kirkpatrick:**

On another note, I know you are just trying to insert Storey County, but on the public administrator, in subsection 3 of section 1 is this all the qualifications that are required to be a public administrator?

**Assemblyman Grady:**

That is correct.

**Chair Kirkpatrick:**

It seems very broad.

**Assemblyman Grady:**

Basically, anybody can file for the job. And I can give you stories from my own county of Lyon County. The two public administrators prior to the current administrator went to jail because they did not have any qualifications as well as they abused the process. This is what we are trying to get away from. There needs to be expertise, and what better place than to put it with the district attorney at their request.

**Chair Kirkpatrick:**

Perfect. Would you mind if I added some qualifications to this particular job within your bill?

**Assemblyman Grady:**

If you want to, that is fine.

**Chair Kirkpatrick:**

We have heard some other bills, and it is scary to know that they are responsible in statute for handling a lot of different fees and people's assets, and yet we have no qualifications for them. So, maybe I will find a different bill.

**Assemblyman Grady:**

If you want to add qualifications, that is fine with me.

**Chair Kirkpatrick:**

Are there any other questions?

**Assemblywoman Flores:**

For the record, are the district attorney and everyone in Storey County okay and wanting this?

**Assemblyman Grady:**

Storey County is located just up the road a few miles from Carson City, and it extends to Interstate 80, and follows Interstate 80 down to Lyon County. Basically, about five miles out of town, you run into Storey County and it goes over to Interstate 80 and then over to the Fernley area. Virginia City is one of the oldest towns in Nevada, and it is now proudly supporting one of the largest economic developments in the country. So, things are changing for the positive for that little county.

**Assemblywoman Flores:**

That is fabulous news, but I was actually asking and making sure that the district attorney and the county is okay with this change and wants this to occur.

**Assemblyman Grady:**

This is at their request, and Mr. Pat Whitten, the County Manager is here to answer any questions that you might have.

**Chair Kirkpatrick:**

Are there any other questions? I only have Mr. Whitten signed in to testify on behalf of this bill.

**Pat Whitten, County Manager, Storey County:**

Yes, we definitely support this. In total candor, we do not currently have a public administrator, to get to Assemblyman Goedhart's comment and question. We kind of neglected to know about this provision for awhile, and rather than go through either a special election or a continuing election

we would like to opt . . . . Holly Kiechler is with me and she has a few facts and figures relative to the minimal number of cases that we have.

And if I may, I would like to have her fill you in.

**Holli Kiechler, Administrative Officer, Storey County:**

As Mr. Whitten mentioned, in the last approximately 15 years we have had fewer than five cases put before a public administrator, and we do not currently have an elected public administrator. We feel this is a logical amendment, given that Storey County has had such a small caseload. Currently, our district attorney has been practicing law in Nevada for 34 years, including service as Carson City's district attorney, a special prosecutor for Douglas, Washoe, and, Esmeralda Counties, a United States Attorney for the District of Nevada, a District Court Judge for the First Judicial District Court, and much more.

As you can see, we have an incredibly qualified elected official in place who can provide appropriate care and counsel to the estates that would be assigned to our public administrator.

Finally, given the infrequent need, the cost associated with placing this position on the ballot every four years, and the adequate counsel we have already have in place, this would not be very cost-effective for our small county. We respectfully request that this amendment, which would provide us a more streamlined and cost-efficient public function in compliance with the state law, be approved. Thank you.

**Chair Kirkpatrick:**

Does anyone have any questions? Would anyone else like to testify in support of A.B. 262? [There was no one.] Is there anyone who is in opposition of A.B. 262? [There was no one.] Assemblyman Grady, do you have any final words?

**Assemblyman Grady:**

No.

**Chair Kirkpatrick:**

With that, we will close the hearing on A.B. 262, and we will open the hearing on Assembly Bill 97.

**Assembly Bill 97:** Revises the Charter of the City of Sparks to make various changes in provisions concerning city government. (BDR S-535)

**Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:**

I am here to introduce A.B. 97 to you. This bill was carried at the request of the City of Sparks Charter Committee. I am going to turn this over to a representative of the Charter Committee and also to the City of Sparks to discuss the history of the bill with you and the merits of the legislation. This legislation was brought forward, as the Chair will remember, last session and it got sort of tangled up with some amendments at the end, and we are hoping to keep this bill clean and polished and get it through this session. As you can see, it deals with appointing the mayor pro tem and the provisions of how the mayor pro tem works within the city.

**Chair Kirkpatrick:**

Before you start your presentation if you could just fill us in, because a lot of the Committee members are new, and committees for charters do not exist in a lot of places. If you could acknowledge some of that, that would be helpful.

**Kathy Clewett, representing the City of Sparks:**

That is exactly what I was going to do. Mr. Tanner is actually going to talk to you about what the committee process was this past year.

[Read from prepared text ([Exhibit C](#)).]

**Chair Kirkpatrick:**

Does anyone have any questions on how the charter process works?  
[There was no one.]

**Rand E. Tanner, Private Citizen, Sparks, Nevada:**

It is pretty simple, if you take a look at this one. I am not going to insult you by pointing out the different changes to it. We are changing happy to glad. It is all administrative. It does not have a financial impact. It does not impact the city. It does not impact the state.

This bill was brought before the Legislature two years ago, and as Ms. Clewett said, unfortunately, it did get tangled up in a web somewhere. So we thought we would bring it back exactly as it was two years ago. Hopefully, it will clear that web.

It makes a few minor administrative changes, gives the mayor pro tem some definition, and gives definition also to what the city manager can do. Other than that, I am open for questions.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Assemblywoman Pierce:**

I do not remember this bill from two years ago, but I do not have the Chair's memory.

**Chair Kirkpatrick:**

I can just tell you that it got tangled up with voting.

**Assemblywoman Pierce:**

I like the first part, but what was the thinking on section 2, subsection 4, having the city manager basically creating the organization for the city instead of continuing that with the city council? It seems to me that you can have a city manager that comes in and decides that everything is going to be in one department. I would like to hear the thinking on that.

**Rand Tanner:**

The thinking on that was very simple; it was to allow the city manager to be autonomous. He is certainly, as any manager would be, fully capable of determining who should work for him as his department heads. Not everything needs to be brought to the city council, and not everything needs to be a vote.

This is to provide a little bit of autonomy for the city manager. Does that answer your question?

**Assemblywoman Pierce:**

I think so. Maybe it is the way I am reading the bill. Maybe it is not like the city manager could just get rid of entire departments.

**Rand Tanner:**

I have assistance to my starboard side.

**Kathy Clewett:**

This was really done to simplify the procedure. It is like this for the rest of the city for all the department heads. This made it uniform and easier so that things would not have to go before the council. The final say so is the city council. So if the city manager were to do something that the council was not happy with and it had not been cleared, or it was not properly done, the city manager would know really quickly. When the city manager makes decisions like this, it does end up going before the council. This was just to make it so that the city manager and the rest of the city and department heads were on the same page.



**Assemblyman Ellison:**

I agree that the city manager should hold the interviews and handle the process however he feels fit, unless the board deemed that it wanted something different.

Usually when you get into professional staff, engineers and the like, there is a committee and the committee brings forth to the full body the recommendations of the city manager. Is this what you are talking about here as far as the engineers, or do you think the city manager can make that appointment?

**Rand Tanner:**

Once again, it is not an appointment; it is a hiring, and certainly with any hiring you post job descriptions and you are always looking for the very best candidate.

**Assemblyman Ellison:**

That is correct, but in most cases that I see once it gets to that level, then the board makes the higher appointments, not the city manager.

**Rand Tanner:**

As Ms. Clewett said, we are trying to give the city manager the autonomy to make the decision who should be hired, but the city council could at any time override that, should it choose to do so.

**Assemblyman Livermore:**

Does the City of Sparks have a residency requirement for the city manager?

**Kathy Clewett:**

The answer is yes.

**Chair Kirkpatrick:**

Are there any other questions? The one thing that I do want to point out for the Committee is that the citizen community participating in charter changes is always more comforting because they have to do public hearings and the whole process. The City of Sparks is one of the few cities that do that. I know that other legislators have tried to get other cities to do it because then the community has a process to be involved in what their city is supposed to. I am assuming that you had your public hearings, and you had the full discussion. Usually it does not go real fast; it takes months, correct?

**Kathy Clewett:**

The process actually starts in December of the odd year, so it is after session has been completed. The notices are sent out to the 11 appointers and

they pick their person that they would like on the charter committee. The only rules to be on the charter committee are you have to be a registered voter, and you have to live in Sparks. You do not necessarily have to live in that person's ward or Assembly district. As long as you meet those two requirements, you can be appointed to the committee. That is why there are 11 on the committee: the city council, the mayor, and the five legislators—our two Senators and three Assemblymen.

**Assemblyman Ellison:**

I am not familiar with your charter. What do your police and fire fall under? Are your police chief and your fire chief appointed or elected?

**Rand Tanner:**

They are hired.

**Assemblyman Ellison:**

They are appointed by the city manager?

**Rand Tanner:**

Yes, sir.

**Chair Kirkpatrick:**

Not to volunteer Mr. Daly, but I believe he sat on this charter committee last session. Unfortunately, this bill got tied up when people got a vote. I think they were trying to change it last session. I think the only question that came up last time was why we had to write in statute how their mayor pro tem was picked, which to me seems silly, but we have done worse. So, I am sure I can get you the bill number from last session.

**Kathy Clewett:**

The reason the mayor pro tem change is in here is we actually had a city mayor that passed away. They had always done it this way on the city council. They had always discussed it, voted on it, picked a mayor pro tem, but it was a little "loosey-goosey." So for the last two times we have been trying to make it solidified, so that it is very clear cut, that anybody who is sitting on the council understands how the mayor pro tem is chosen, how long the term is, when he would stop being mayor pro tem, and those types of things. So we are just solidifying that so that it is very clear for everybody sitting on the council.

**Assemblyman Ellison:**

I believe in home rule, and I believe the counties should have the right to pick and choose. I have seen problems in other counties where the appointed

chief of police ended up being a problem, and they had to go back to the board. This is your county, and you know what works best for your county.

**Kathy Clewett:**

Our two chiefs are not appointed. They are hired. They go through a process. Both our chief of police and our fire chief have actually worked up through the ranks. They have been in Sparks for 15 or 20 years. You will find that that is very common in Sparks. A lot of the department heads come up through the ranks. They come in as entry-level and now, years later, they are the department head. They are hired; they are not elected or appointed.

**Chair Kirkpatrick:**

Okay, thank you. Are there any other questions? Is there anyone who would like to testify in support of A.B. 97? [There was no one.] Is there anyone who is in opposition that would like to testify on A.B. 97? [There was no one.] Is there anyone would like to testify in neutral on A.B. 97? [There was no one.] With that, do you have any final remarks?

**Kathy Clewett:**

I would just like to thank the Committee today for the consideration of A.B. 97. This is one thing that the charter committee worked very hard on. They started in February of 2010 and they finished deliberations in July of 2010. Also for the record, one of the things that the charter committee does even though it does not have to is receive approval from the city council. Our charter committee is independent but when it makes these decisions and it has voted on them, the Committee members go before the city council to let the council know what the changes are. But the city council does not approve decisions, because it has appointees on the charter committee as well. So, it really is an independent group, and it does look at a lot of different discussion items and it does make very cogent decisions. Thank you.

**Chair Kirkpatrick:**

With that, we close the hearing on A.B. 97, and open the hearing on Assembly Bill 168.

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

**Assemblywoman Marilyn Dondero Loop, Clark County Assembly District No. 5:** Assembly Bill 168 pertains to the general improvement districts (GIDs) that are being formed within seven miles of a town advisory board or citizen advisory council. *Nevada Revised Statutes* (NRS) 318.055 does not currently address

town advisory boards or citizen advisory councils. I have Jennifer Lazovich here with me, and she will explain the proposed amendment in more detail.

**Jennifer Lazovich, representing Pardee Homes:**

Pardee Homes is the master developer of a large community known as Coyote Springs. [Continued to read from prepared text ([Exhibit D](#)).]

**Assemblyman Ellison:**

For the record, Ms. Lazovich's mother is my personal attaché, but that will not affect my abilities or how I feel about this. I can tell you up front that when I see people out there wanting to do GIDs and improve their own GID it is the people in those GIDs that pay for this and pay for what they want.

Will this GID include roads, water, and what infrastructure are you looking at, or is it everything as a whole?

**Jennifer Lazovich:**

Water and sewer for sure, and the next step that we have looked at is fire and emergency medical services (EMS). I can tell you that there has been some discussion that for future services we may also form GIDs for those, but for right now we have limited it to fire, EMS, water, and sewer.

**Assemblyman Ellison:**

What about roads?

**Jennifer Lazovich:**

It could be.

**Assemblyman Ellison:**

I think GIDs are the way to go in some of these areas where they cannot afford it, and I think everyone pitches in because the counties cannot.

**Chair Kirkpatrick:**

Are there any other questions? Ms. Lazovich, I typically look to the people from the rurals, like Assemblyman Pete Goicoechea, Assemblyman Tom Grady, and Assemblyman John Ellison. I assume that you did speak with them and they are good with this idea.

**Jennifer Lazovich:**

Yes, we have spoken with Assemblyman Goicoechea. I have not spoken with Assemblyman Grady, but I will follow up with him.

**Chair Kirkpatrick:**

For the Committee, when I looked this up in the statute, it was 1977 when it was originally put in for the rest of the GIDs to have a full unanimous vote. So, this will actually take it back to just a majority, which is something that has not been changed in 40 years.

I looked at the history and the ironic part is that there is no history. I think they just decided that all had to agree or nothing was going to happen. Looking at a lot of the votes since then, they have all agreed 99 percent of time.

**Assemblyman Stewart:**

I know the seven miles is already in the existing statute. Can you enlighten me on how did we come about the seven miles originally? Do you have any idea on that?

**Jennifer Lazovich:**

I do not. I wish I could. I also looked back to the legislative intent of NRS 318.055, and it did not give any specific history that I could find on why the seven miles was put in.

**Chair Kirkpatrick:**

In talking with Mr. Goicoechea, there really was not any history on anything. It was just made up. Are there any other questions?

**Assemblywoman Neal:**

I just want some clarification. Will the Clark County Board of Commissioners levy the taxes, and if not, who will?

**Jennifer Lazovich:**

If a GID is formed, it is actually done through the formation of the GID. The GID itself sets forth what the tax rate would be in order to provide for those services. Ultimately, that plan is approved through the board of county commissioners, but it is levied through the GID itself.

**Chair Kirkpatrick:**

So basically only the people living within that GID pay the price.

**Jennifer Lazovich:**

Correct.

**Chair Kirkpatrick:**

I do not see anyone here to testify. At this time is there anyone who would like to testify in support of A.B. 168? [There was no one.] Is there anyone who

would like to testify in opposition to A.B. 168? [There was no one.] Is there anyone who would like to testify as neutral on A.B. 168? [There was no one.] I will tell you that this is a first, because I have seen GID bills have 55 amendments on them. Do you have any final comments?

**Assemblywoman Dondero Loop:**

Thank you for letting me visit on this side of the dais.

**Chair Kirkpatrick:**

With that, we will close the hearing on A.B. 168, and we will open the hearing on Assembly Bill 360. Somehow I think I have seen this bill before or parts of it. This is a repeat today. We are hearing all the bills that did not make it last session.

**Assembly Bill 360:** Revises provisions governing the imposition of civil penalties for violations of city ordinances regarding the abatement of certain conditions and nuisances on property within the city. (BDR 21-266)

**Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:**

You are right; you have seen a version of this bill in the past. I heard earlier the mention of the web. I thought that was a very kind way of putting it. Members that were here last session will recall this very serious issue that we have in Reno that has been made more problematic with the current economic conditions: the issue of abandoned nuisance properties and what the localities have at their disposal as far as tools for dealing with the problem. The City of Reno did bring forth legislation last session to try to get some of those tools to deal with the problem. Unfortunately, this Committee uncovered a lot of problems with the proposal, and so in the interim I sat down with the City of Reno and we worked through a revised approach to the bill. What you see before you today is that bill to deal with the problems.

With me today I have Cadence Matijevich and Alex Woodley. Mr. Woodley is the Code Enforcement Manager in the City of Reno, and he can share with you a number of horror stories. I can tell you, as someone who goes to a lot neighborhood advisory board meetings back in my home district, his presentations are always the highlight of those meetings, just showing some of the pictures and just how bad some of these properties can get. Certainly, I have these properties in my neighborhood. I hear about them from my constituents, and that is why we are bringing this bill forward. I will have Ms. Matijevich walk through this legislation with you and give you the details of what we are doing with the civil penalties and the assessments that we feel we need to collect. Some of these civil penalties can rack up and go uncollected. With that, I turn it over to Ms. Matijevich.

**Chair Kirkpatrick:**

Okay, but Ms. Matijevich, I would like to ask you a question. I do not have an amendment. I know that yesterday we went back and forth. Is someone proposing an amendment that the Committee does not have a copy of?

**Cadence Matijevich, representing the City of Reno:**

I do not believe that there is a proposed amendment available right now. I had inquired with the Chair yesterday, and I have been approached by my colleagues in counties seeking to have this same ability. When we wrote the bill, it was written just for cities. *Nevada Revised Statutes* (NRS) Chapter 244 has very similar language to this, and this would essentially be mirroring this same language. Certainly, we have no opposition to that. I would be most pleased to work with the counties to get that language together.

**Chair Kirkpatrick:**

Okay, and just so the Committee is aware, I like parity myself. What is good for the cities should be good for the counties and visa versa. I just did not see an amendment, and I did not see anyone signed in to propose an amendment.

**Cadence Matijevich:**

I am going to walk through the bill, but first, I would be remiss if I did not thank Assemblyman Bobzien for bringing this bill forward on behalf of the City of Reno. This is a very important piece of legislation for us and we are hoping that this bill stays clean and makes it through the web this year.

Section 1 of the bill expands our ability. Currently, if we abate a nuisance on a property we have the ability to attach a special assessment to the costs of the assessment. What we are seeking also is to be able to make the civil penalties that are associated with those nuisances a special assessment as well. Also in this section, it sets forth that we are only seeking this ability in those cases where the penalties for these nuisances have exceeded \$5,000, and have been outstanding for more than 12 months.

As you move through the bill, section 2 spells out the process by which a property is defined and found to be a chronic nuisance. In those cases, I point you to section 2, lines 8 through 35, which spell out the process by which we have a court find that a property is, in fact, a chronic nuisance. In those cases, it spells out how we can go about attaching the special assessment to those properties.

Section 3 is very similar to section 2. It spells out the same process for abandoned nuisances rather than chronic nuisances. Again, it gives us the ability to impose those civil penalties. It does spell out what those penalties can

be each day that those penalties are not abated. On commercial properties, that penalty would be \$1,000 a day, and on residential property it is \$500 per day. And then again it spells out that these may only be made a special assessment in those cases where it does exceed \$5,000 and is more than 12 months past due.

This would assist us in addressing chronic nuisance properties within our communities. The City of Reno has encountered a number of property owners who repeatedly create or allow nuisances to be created on their properties. In certain cases, the cost for the city to abate the nuisances is either excessive or it is deemed not to be a good use of taxpayer money because there is strong reason to believe that the property owner will either cause or allow the nuisance to return. This would be a method for us to give these property owners incentive to abate these issues in their communities. These are serious health and safety issues. We have provided for the Committee an exhibit that describes and depicts the type of nuisances ([Exhibit E](#)) that we are attempting to address with this bill. I believe that it is available on Nevada Electronic Legislative Information System (NELIS), and you do also have copies.

These are not day-to-day code enforcement issues. I know that Mr. Woodley can speak to the Committee if you have questions about our standard process. These really, truly are our repeat offenders that are not just impacting one or two neighborhood properties. These properties are bringing down health, safety, and quality of life in entire neighborhoods and business districts. With that, we would be pleased to answer any questions.

**Assemblyman Ellison:**

Looking at your penalties, \$1,000 per day seems a little on the steep side. I mean I ran into one of these here a while back and the city's hands were tied. So, former Assemblyman John Carpenter and I went to the insurance company and made a deal with them to take the property, clean it up, tear down the house, and then turn it back over to the title company. It was the only way we could get it cleaned.

I can see your first picture and that is right. The second picture, I totally understand. You have one in the back where there is graffiti written on the sides of the building and the truck in the backyard. I do not know if you know for some of these trucks or cars, people are having a hard time trying to get titles and cannot dispose of the vehicles, and that might create a problem. If you have people with those types of penalties, that might be a little stiff.



**Assemblyman Bobzien:**

I would like to point out that the \$1,000 per day is for nonresidential properties. If you go a little bit further in the presentation, Mr. Woodley will address this. We will go past some of the residential properties that we are seeing and I appreciate that they put one in there from my district in northwest Reno. But, you will see an example of a nonresidential property where yes, indeed, \$1,000 is a little more in line with what exactly the problem is that needs to be abated.

**Assemblyman Ellison:**

Is it after notification? When do you access the penalties? I mean you just do not show up one day and say, "Here is a \$1,000 fine and it will be back tomorrow." It has to have some kind of legal notification, and I still believe that \$1,000 a day could be very heavy.

**Chair Kirkpatrick:**

I was going to say, it is in section 2, correct?

**Assemblyman Bobzien:**

Exactly. It is a 12-month period if the penalty is appealed, and whenever that appeal is settled, that is when the 12 months begin, and there are also notification requirements. You cannot just hit someone with a \$1,000 fine and immediately give them a tax assessment. There is a whole process that you have to build up to before it gets to that point. It is also important to note that it has to accumulate above \$5,000 for it to be eligible for the assessment.

**Assemblyman Goedhart:**

On some of these nuisances that you showed us in your presentation, there is all that garbage and junk on the property. The way it is now, does the city have the statutory authority to actually clean it up itself, and then take the cost of the cleanup and put it as an assessment on the property? Is that correct?

**Alex C. Woodley, Code Enforcement Manager, City of Reno:**

Yes sir, there is a process, and I will quickly delineate it for you. First and foremost, I would like you to understand that every citation that is issued has due process, which means they can appeal it at any time. Every citation process starts off with an initial courtesy letter or notice of violation, and then there is a \$100 citation, which is required per the Reno Municipal Code and the NRS. Then there is a \$250 citation, a \$500 citation, and then, ultimately, a \$1,000 citation for commercial property.

Please keep in mind that each and every citation has an appeal process and due process that is allowed to the property owner, which requires us to provide

the citations with at least 15- to 30-day interims. So, we could not give a \$250 citation without waiting a minimum of 15 days, or 10 business days before we could issue the subsequent \$500 citation.

With regard to the abatement of a nuisance, that is correct sir; we do have the ability to go to a hearing, get the required warrant, and perform the abatement. Typically when we conduct an abatement like you see in the photo you referred to, it costs the city approximately \$3,000 to \$5,000. That money is taken out of a fund which is implemented each fiscal year through taxpayer dollars. Typically, the city does not get that money back until the property sells, or if 3 to 5 years have passed and there is not a bankruptcy, we then have the ability pursue it with the county assessor's office.

**Assemblyman Goedhart:**

I was told that the money could go back to the city once that property is sold because there is lien, but there is another process that you mentioned.

**Alex Woodley:**

That is correct. If after three years, the assessor's office has assessed it as a tax lien or an assessment lien and they do not pay, then after the three years the assessor follows the process.

**Assemblyman Goedhart:**

Thank you. On page 2 of your presentation it states that there have been 63 different nuisances on this property since 1999. What I have seen in areas of my county, they are very good at writing the citations and the violations, when really the best way would have been to just abate the nuisance and put it on their property taxes. Sometimes we spend all this money on continually filing claims against the property owners, instead of just abating the nuisance.

**Alex Woodley:**

We do like to take that approach as well, but unfortunately that approach does sometimes become very expensive for the city, especially with a chronic nuisance property. Unfortunately, we have properties like this one that started before 1999 where every year we spend \$3,000 and wait for it to come through.

**Assemblyman Goedhart:**

But then they could only be behind three or four years before it was sold. So, you could not be in a situation where you had to clean this property up for 10 or 12 years in a row and not get your money back. You have performed the abatement, and if the property owner does not come up and pay the full amount of money, his property is going to be sold for a tax lien.

**Alex Woodley:**

That is correct, and sometimes it does happen and, unfortunately, sometimes there are legal ways to get around it, through bankruptcy, through change of hands, going through the sale and the city not being notified, or the buyer, whether it is a partner or a limited liability company (LLC) and it has no concern with the assessment that exists, so we have to wait through the assessor's office.

Currently we are dealing with the King's Inn and the Washoe County Assessor's Office was going to take over that property. I believe that the King's Inn went into bankruptcy three times and as many of you know, the King's Inn has existed the way it is now for over 20 years. That is where we find ourselves with this particular piece of property. Obviously this is an extreme, but it does happen.

**Chair Kirkpatrick:**

I was going to say I was watching some city council meetings in Las Vegas during the interim. They had actually a full agenda that day where the title searches were coming back clean yet the city was not getting its money back, and it had expended a bunch of different dollars to try to clean some of these properties up. There are still quite a few loopholes.

**Assemblywoman Neal:**

I just wanted a point of clarification. This bill would actually include foreclosed homes, and if so, is the cost of this fine for the residential property going to be passed on to the bank or passed on to the homeowner, who may be in the middle of going through the process?

**Alex Woodley:**

Our experience with the foreclosed homes is that we do deal with the bank. I will be honest with you because I have dealt with them for five years. There has been a change in the banks. The banks now are paying those fines and citations. I think they found it to be in their best interest to flip these properties and get whatever liens or issues they may have with the local jurisdictions out of the way so they can move on and sell the property. It appears that they are much more responsible than the individuals or the chronic properties that we deal with.

Typically, foreclosures will not even get to the level of a chronic nuisance or an abandoned nuisance because the criterion for an abandoned nuisance is 12 months abandoned. It has to at least been abandoned for 12 months. The minimum requirement for a chronic nuisance is that you have three nuisance activities within 30 days.

It has to be a really serious problem property for us to have that many activities within 30 days. It is the same thing for the abandoned nuisance; it only addressed those two particular issues.

As far as foreclosed homes, typically we will get a minor nuisance like the weeds overflowing or unsecured property. The cost compared to the chronic nuisance issues we have is minute for the City of Reno. It costs the City of Reno about \$100 to secure a property and chop down some weeds. We will never get to the point of issuing a \$500 citation or a \$1,000 citation for that type of violation.

**Chair Kirkpatrick:**

Are there any other questions?

**Assemblyman Ellison:**

What about illegal dumping? This is a big problem in our county.

**Alex Woodley:**

We do have that. I think every jurisdiction has the same problem. We have identified areas and we do work with the property owners. We have never had an experience where that became a chronic nuisance. Typically what happens is we have a situation in an area and we identify it and work with the property owner because it is very relevant to us that he is, himself, a victim of an illegal activity. We work with the property owners at that point. Many times we do not issue them a citation; as I stated before every case starts with a courtesy letter or a notice of violation, so no citation is issued whatsoever.

**Chair Kirkpatrick:**

Are there any other questions? Is there a definition within statute that defines nonresidential versus residential? I am only asking because what happens if everyone defines it just a little bit different? What if it is defined nonresidential within the assessor's office on whether or not you get the 3 percent or the 8 percent? I like to throw out anything that could possibly go wrong. So, if there is a definition it would be helpful for legislative intent.

**Cadence Matijevich:**

Yes, there is. I apologize. It is sitting back there with my other papers, and I believe you may hear from another interested party. Just late last week the realtors' association brought that forward to us, seeking to have that clarified within provisions, and we are very open to that.

**Chair Kirkpatrick:**

With that, we are going to go ahead and move to those who are in support of A.B. 360. Just for the record, I have a lot of people signed in, but no one really wants to testify.

**Renny Ashleman, representing the City of Henderson:**

We are essentially a "me too" on this. We have similar horror stories and if it were to go through this would be another tool in the tool box. It probably would not get used all that often, but it is very useful with the chronic offenders where you go, you clean it up, and you get your money back eventually. But in total throughout the city, you can get a lot of money committed to these problems and some people unfortunately use us as a convenient service to fix their property up.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Assemblywoman Flores:**

I am a little concerned, because I feel like some of these properties, especially senior citizens or people that have been in their homes for a long time, might have accumulated some of the stuff but do not necessarily have the means to pay to have it removed, or pay to have it cleaned up. I certainly understand what it does to surrounding property values and what the city has to go through and that aspect of it. But I am a little concerned that there are people that cannot afford to have it cleaned up.

Not that they should use the city as a service, but what then of the senior citizens or those who are low income and cannot afford to have it removed? They end up having this placed on their property, perhaps a lien and bankruptcy, and they could potentially end up without a home.

**Renny Ashleman:**

The penalty here is for the chronic offender. You have to go through quite a lot of things over and over again before you get to this penalty in the statute. The kind of person you described, presumably someone who simply could not afford to do it would be a one-time offender and it would be an assessment on property.

Now indeed, eventually that will come to cause some grief if he does not pay us back, but I do not know any other answer to that. You cannot expect the other taxpayers to bear the burden of someone's home cleanup. So, yes, he could

have a problem. He certainly would not have it immediately; he would have plenty of time to raise the money and pay it off if he was able to do so.  
[Vice Chair Bustamante Adams assumed the Chair.]

**Vice Chair Bustamante Adams:**

Are there any other questions? Are there any other individuals that would like to testify in support of A.B. 360?

**Lisa Foster, representing the Nevada League of Cities and Municipalities:**

I am one of the parties that signed in, in support of this bill. I just want to emphasize that this will give all the entities a little more control over the properties that they need to take care of. Thank you.

**Vice Chair Bustamante Adams:**

Are there any questions for Ms. Foster? Is there any individual in support of A.B. 360? [There was no one.] Is there anyone who is opposed to A.B. 360 and would like to testify? Is there anyone in Las Vegas that is opposed to A.B. 360? [There was no one.] We will then move to those that are neutral on A.B. 360.

**Teresa McKee, Legal Counsel for the Nevada Association of Realtors:**

We are concerned with the definition of residential and nonresidential property, and we are continuing to work with the City of Reno to come up with a solution to that concern.

**Assemblywoman Benitez-Thompson:**

Other than the definition between residential and nonresidential, do you have any issues with the premise or the concept of the bill, or is it just working out that technicality?

**Teresa McKee:**

We are neutral on the bill, and this is our only concern.

**John J. Slaughter, representing Washoe County:**

We are neutral but supportive of the bill. As mentioned earlier by Ms. Matijevich we would seek that similar provisions be provided for in NRS Chapter 244, which are provisions impacting counties. We are supportive of the concepts and the idea and would see this as another set of tools that we could use in similar situations.

**Vice Chair Bustamante Adams:**

Is there any other individual who is neutral and would like to testify? Mr. Bobzien, do you have any closing remarks?

**Assemblyman Bobzien:**

I appreciate the concerns that the realtors have brought forward, and we will be working with them. And I also believe Madam Chair appropriately characterized the parity issue between the cities and the counties. So, we will be working with Washoe County and others to make sure we can have those tools that are laid out in this bill also be available to the counties.

**Vice Chair Bustamante Adams:**

With that we are closing the hearing on A.B. 360 and opening the hearing on Assembly Bill 400.

**Assembly Bill 400:** Revises provisions relating to town advisory boards.  
(BDR 21-818)

**Assemblyman Crescent Hardy, Clark County Assembly District No. 20:**

This bill relates to town advisory boards in Clark County.

[Continued to read from prepared text ([Exhibit F](#)).]

I would like to go on to say that, with this bill, we do not want to preempt any county commission authority and do not want to impose our will on the county, but we would like the county to allow those in the townships who are elected to be allowed to represent their constituents.

[Chair Kirkpatrick reassumed the Chair.]

**Chair Kirkpatrick:**

Are there any questions?

**Assemblyman Goedhart:**

Maybe you can also make that applicable to Nye County as well. I am joking because in Amargosa Valley we have a town advisory board and for 15 years we had a ballot box of the different candidates and it was just done on an ad hoc basis at a particular town board meeting that was announced. The last time a couple of people that the commissioners did not like were selected by the townspeople, and now they are not going to appoint those people. When you do not have an elective process, you have so much room for shenanigans and for different interpretations, so I can appreciate the impetus for this particular bill because when you go through this process, once they are elected officials, now you have a state law on how to actually properly execute the will of the people. I appreciate your bringing this bill forward.

**Assemblyman Hardy:**

We want to make it clear that this mostly represents those communities that I represent. Moapa, Moapa Valley, Laughlin, Searchlight, and Bunkerville have the town advisory boards, and the rest are within the City of Las Vegas. I do not think that we want to touch that. It would be very difficult to preempt those rules and have that convolute things any more badly. The people in our rural communities do have a desire to be represented by those whom they elect and not necessarily by some commission that appoints them knowing that they do not have any power.

**Assemblyman Ellison:**

These positions in your county are nonpaid, right? They are all volunteers, right?

**Assemblyman Hardy:**

I believe that they are volunteer positions.

**Assemblyman Ellison:**

So that means that they will have to go out and buy signs and that kind of stuff if they want to run for those boards?

**Assemblyman Hardy:**

Not necessarily. What has happened in the past is the community usually puts a number of people out there that would like to run and represent the community. The community then has a straw poll. It is not necessarily a formal poll, but it is a straw poll and the county commission in the past has appointed those individuals to that. Just recently it has been whomever the commission decides to appoint.

**Assemblyman Ellison:**

In some cases that I saw, the town boards would go out and solicit letters and bring them in. The county commissioners and the city council would review the requests and then appoint that way.

**Chair Kirkpatrick:**

Mr. Ellison I might give you a little bit of history from last session. I get your concerns because we tried to address this during the interim as well. Last session Commissioner Woodbury had represented these particular areas for a very, very long time and he always went with the will of the people.

Last session, Laughlin was trying to incorporate and there were a whole bunch of new people who had been appointed to the board that did not necessarily get along with the rest of the town. If that is politically correct, however, we tried



to give them a hearing in this Committee, we videoconferenced, we moved heaven and earth to try to give them a voice. Assemblywoman Pierce will remember; they were literally fighting over the microphone at the desk because they were both supposed to be on the advisory committee. We had to shut down the entire Assembly Committee on Government Affairs meeting because they could not get along. This one was an old timer and had been appointed, and then this one was new, and it was literally a ruckus. I thought we were in a barroom at 10 o'clock at night, but it was actually 8 o'clock in the morning.

I think for the residents of these particular areas they have not had a general consensus, so an election was a direction that they had wanted to go. I will say for myself, I go to Laughlin every single Wednesday, and I am sensitive to the needs down there. This is something that I have particularly heard about for at least two years.

**Assemblyman Anderson:**

Do you want to make this a full-on election with voting machines, or are you looking for a straw poll?

**Assemblyman Hardy:**

I think the town boards will be satisfied with a straw poll of those people who were the highest vote getters and being appointed based on that, as it has been done in the past.

**Chair Kirkpatrick:**

Are there any questions? Mr. Anderson, I am going to get a little bit of information and Mr. Goicoechea is probably really the expert on this. My understanding is that they can make an agreement with their counties to have an election, as opposed to an appointment. However, in this situation, they cannot get the agreement so they are looking for representation from the citizens. That does not happen very often, but when you go four years without any representation, it makes it kind of hard to love the city that you live in. I think that we can look at some language that is already in statute on the straw poll as the deciding factor for how this is done.

**Assemblyman Anderson:**

For everyone's information this issue cuts close because my entire district is unincorporated Clark County, and Winchester.

**Assemblyman Hardy:**

That is one thing that we want to make very clear. We do not want to impose upon those things that are already functioning well within those communities.

It would be far more difficult to be done in the City of Las Vegas and the Clark County area than it is in the rural communities. It is the rural counties that I represent that I am looking at. There are different views and a different mindset of how people think about things from the rural communities, as you can tell by me sitting here.

**Assemblyman Livermore:**

How many town boards are we talking about? Is it just one or is it the communities that you referenced? Do each of those towns have a town board?

**Assemblyman Hardy:**

In my district alone there are five town boards; there is the Moapa, the Moapa Valley, the Laughlin, the Searchlight, and the Bunkerville communities that have town advisory boards. In Clark County itself, there are somewhere between 13 and 15 boards. I did not check that out completely, but right in the City of Las Vegas there are a number of boards.

**Assemblyman Livermore:**

You think this process would fit everyone?

**Assemblyman Hardy:**

I do not. I think it needs to stay within those rural communities.

**Assemblyman Livermore:**

You used the word election, but you referenced a straw poll. What is your wish to do?

**Assemblyman Hardy:**

The wish is just to have that straw poll election, which it is what it is. It is relatively easy within those smaller communities to pick those whom they feel best represent their ideals and views.

**Assemblywoman Pierce:**

Just so that I am clear, we are looking to amend this to make this a straw poll? Is that where we are going?

**Chair Kirkpatrick:**

Is that your wish, Assemblyman Hardy?

**Assemblyman Hardy:**

That would be sufficient for me. I do not know if it would add any extra costs if we wanted to put it on the poll at the same time as other elections. But, my

wish is just to give those people the opportunity through the straw poll or otherwise to do that.

**Chair Kirkpatrick:**

I think there is probably a better way to narrow the scope on this so that it does apply to the rural, unincorporated counties within a larger county. There are 17 unincorporated town advisory committees within Clark County, so probably 12 outside of your 5, and I know a lot of them are pretty happy with the way that it works. At the same time, I do know firsthand that if we can give them their voice, we would not have all these incorporation bills, and we would not have people going to petitions. I know that Moapa Valley did the petition for two years to try to get a voice to be heard. I get both sides of it, but I think that this is a little broad and we could probably work on it.

**Assemblyman Hardy:**

I agree and I am willing to work on it.

**Chair Kirkpatrick:**

Does anyone else have any questions? Is there anyone who would like to testify in support of A.B. 400? [There was no one.] Is there anyone who is in opposition to A.B. 400?

**P. Michael Murphy, representing Clark County:**

We have spoken with Assemblyman Hardy about this bill and we understand his concerns. I would tell you that there are several issues with this. One of the first ones that I think some of you are trying to get your arms around, as we are too, is the term "straw poll" versus an election. A straw poll does not cost any money and an election would have a fiscal note attached to it. That is one of our concerns. We also think that it is important to note that these town boards are advisory in nature, and it has been traditionally the ability of the county commission to appoint those individuals to advise the commissioner about that area. We understand that they are vital to the citizens of that area so that they make sure that voice is carried forward to the commissioner in a more succinct and poignant way.

Having said that, we also believe that the commissioners have the right to appoint those individuals they think they will be able to work with and, at the same time, will represent the community.

We would also like to advise you that there have been times where we have had difficulty in recruiting members to some of those town boards. It is a voluntary process. We are concerned that, should we go to a more formal process in reference to straw polls and elections, it may dampen our ability to get individuals that want to be involved in the process.

The last thing I would add to that is we are concerned about the concept of creating two different systems within our county to deal with town boards. As you have heard, we have rural areas, we have more urban areas, and we have felt that this process has worked well. There occasionally are some glitches in it where there is some disagreement between some of the individuals within a location and the county commissioner that represents that particular area. But, generally it works well and that we can continue to have it like it is and make it work well for all citizens.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblywoman Bustamante Adams:**

On page 2, line 44, in section 2, it does address the issue of vacancies if they were to occur and it would revert back to the commissioners to appoint. I just want to make sure that that would address your concern regarding the difficulty recruiting for these positions.

**Michael Murphy:**

I believe that would address our concerns about being able to reappoint. I think that there are always situations on some of the town boards where our commissioners have literally had to go out and recruit individuals. But, I think that does address our ability to appoint.

**Assemblyman Anderson:**

Can you very briefly go over the duties of the town boards and what they do, so that we have that contextually?

**Michael Murphy:**

I am not going to sit here today and tell you that I know all of their duties. My understanding is that they act in an advisory capacity to the commission. They will oftentimes address different issues within the community that may be brought forward by citizens—whether it is in reference to zoning issues or issues that concern the community at that particular time—that they feel need to be addressed by the county commission. Once that issue has been vetted in the local community, then that information from that town board will be pushed forward to the county commission for action. In some instances it is important for that to happen so that the community does not have to travel to Clark County to the government center so that they can have their voice within their community and vet those issues they believe are of importance to them. I think that serves a good purpose. I think that it provides them with the voice that they need and then it lets them bring that information forward without having the citizens travel up to an hour to get to a county commission meeting.

**Assemblyman Anderson:**

Just to be clear, the final decision for anything that the town board votes on lies with the county commission, correct?

**Michael Murphy:**

Yes, that is correct. They are advisory in nature, their power is only to advise, and the ultimate decision lies with the county commission.

**Assemblyman Goedhart:**

I think I would take a little exception to the idea of an elected board and the candidate running for that position, having to buy signs and all of a sudden getting involved in a big campaign. I think on a small local level, whether it is a straw poll that is taking place in the community center or whether it is an elected position, it is going to be word of mouth, and I would not necessarily assume that just because it is an elected position all of a sudden signs have to go up and all the money has to be spent. This is just my observation. Thank you.

**Assemblyman Stewart:**

With urban Las Vegas boards, are they elected? How does that work?

**Michael Murphy:**

Currently as it stands, all of the boards are advisory in nature. Some of them will take straw polls in some areas. I think where some of the problems may have come up are the straw poll winners were not always who were appointed. Currently, all of them are volunteers, and all are appointed by the county commission.

**Assemblyman Stewart:**

Can you tell me exactly how that straw poll works in Spring Valley and areas like that?

**Michael Murphy:**

I cannot give you the exact details of that because I have not been directly involved. It is my understanding that they will oftentimes in some of the smaller communities float two or three names. They will ask for volunteers. They will then push that back to the community and say these are the people whose names have been brought forward and then, as Mr. Goedhart may have said, they will talk to the citizens of that community and see where some of the sentiment lies within that community.

**Assemblyman Stewart:**

The vote usually takes place at the town board meeting; is that correct?

**Michael Murphy:**

I do not know for sure, I am sorry.

**Chair Kirkpatrick:**

Does anyone have anything else? Mr. Murphy, I think that this was an extreme circumstance that happened this last election cycle. I believe we have always had a good process in place, but maybe the town boards could decide if they want an election or an appointment. That has been done before throughout the state. Maybe there is an opportunity if the appointment does not work then the town could have a recall.

I know we heard this during the interim. I know that this issue is not going away, so we have to try to fix the problem or the perceived problem. I probably had a couple of hundred emails in the last couple of years from constituents who feel that they do not have a voice. At the end of the day, this is their house and we have to make sure that they feel like they have a voice.

Is there anything else? Is there anyone else who would like to testify in opposition to A.B. 400? [There was no one.] Is there anyone who is neutral on A.B. 400? [There was no one.] Mr. Hardy, I am sure that Mr. Murphy would be happy to work with you, and there is probably some recourse that we can come up with.

**Assemblyman Hardy:**

Thank you, Madam Chair. I have a few comments towards some of those things that were addressed. One, the reason it has become so difficult for some of these rural communities to get people appointed now is I think they became disillusioned because they vote for someone and then someone else is put in place. Why would you do it? The fundamental organization of this country is to have the right to vote and have someone represent you in your area who you feel is your representative.

The other thing I would like to clarify is that some of those things have to be done within those town advisory boards. They deal with things like parks, streets, dog catching, policing, and other situations. Sometimes the citizens of the community might have other priorities or other suggestions that would be at the top of their priority, whereas sometimes that representative from the county is not necessarily looking for that information as much as the community is. I think that addresses some of the things that Mr. Murphy spoke of.

**Chair Kirkpatrick:**

Is there anything else? Thank you both. We are closing the hearing on A.B. 400. I look forward to working with you. We will do some

Committee business because I seem to have trouble getting you all here at the same time. We will move to some introductions for some Committee bills. For those of you who have never been on the Committee before, I have always tried to let Committee members have some input on a Committee bill if they had any issues. This time I did not because most of the Committee members left, but I do have quite a few bills that we need to introduce today.

We will begin with Bill Draft Request (BDR) 20-133, which has to do with provisions related to local government. This talks about centralizing some of the business licensing, the permits, and different things throughout local government.

**BDR 20-133**—Requires consolidation on accountability for various local and state agencies. (Later introduced as [Assembly Bill 467](#).)

ASSEMBLYWOMAN PIERCE MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 20-133.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE  
MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

**BDR 28-553**—Revises provisions governing public works contracts involving construction managers at risk. (Later introduced as [Assembly Bill 470](#).)

I know that during the interim I tried working for over a year and at the end there is not necessarily a consensus but I had already submitted the language to legal and I think we need to work towards a consensus because it is just a lingering problem that we have for the future.

ASSEMBLYMAN STEWART MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 28-553.

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

The reason we are doing this now is because the deadline is 10 o'clock to get them on the floor and get them introduced. Otherwise they die. I think there may be a second floor, but we do not want to push our luck.

**BDR 27-678**—Revises provisions governing purchasing by governmental entities. (Later introduced as [Assembly Bill 469](#).)

I know that we have heard some of the local and county governments being able to utilize some of their property with the appraisal. This affects the state, plus it does have some issues in it such as bid provisions and defining a best value within local government.

ASSEMBLYMAN LIVERMORE MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 27-678.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

For those that have not been on the Committee before all this does is it gives us the ability to have a hearing. So you are not locked into anything.

**BDR 22-1118**—Revises provisions relating to redevelopment. (Later introduced as [Assembly Bill 468](#).)

We heard plenty of issues on this last session. This creates a redevelopment advisory committee. This has dollars that are spent accountably. There is an entire report and this also allows for an 18 percent set-aside for each redevelopment agency across the state, of which 9 percent can be used for educational facilities and 9 percent can be used for affordable housing.

There are a couple of hiccups with it because for the rural counties—like Elko for Assemblyman Ellison—it would take them a long time to get the 9 percent, but those are things that we want to work on.

ASSEMBLYWOMAN PIERCE MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 22-1118.

ASSEMBLYMAN LIVERMORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)



I am probably giving you a lot more detail than most of your other committees give you, but I do not want you to be shell-shocked on the floor because most of the bills today are going to come from Government Affairs or Taxation.

**BDR 31-915**—Revises provision relating to enterprise funds and other local governmental accounting procedures. (Later introduced as [Assembly Bill 471](#).)

This bill really tightens down when you can loan and transfer money within local governments. I think it is pretty self-explanatory.

ASSEMBLYMAN LIVERMORE MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 31-915.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE  
MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

**BDR 20-1134**—Makes various changes to provisions concerning youth shelters. (Later introduced as [Assembly Bill 472](#).)

This BDR actually comes out of a group home interim study, and this one has to do with youth shelters. When we have issues within the juvenile facilities that are in the neighborhoods, this clarifies it. This was a subcommittee that we did during the entire interim session.

ASSEMBLYMAN ELLISON MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 20-1134.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

**BDR 48-1120**—Revises provisions relating to water. (Later introduced as [Assembly Bill 466](#).)

This is something that was discussed at the Legislative Committee on Public Lands, allowing the State Engineer to adopt regulations defining *environmentally sound* when making water basin decisions. The reason that this BDR is before us is because the Governor put in an executive order that

stopped all regulations. So, this would be the Legislature allowing for this to move forward at this time.

ASSEMBLYMAN ELLISON MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 48-1120.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE  
MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

There are about six more BDRs coming. We are saving the best for last. We will probably recess today and have a behind the bar meeting. We do have one for taxation that was delivered, but we will do that one on the floor as well. The interim committee had five. I have only seen one of them, but I know they are coming.

Thank you for the BDR inductions. We will now move to the work session that we did not finish on Friday.

We did take Assembly Bill 248 off of the agenda at the request of the bill sponsor. There are some items that they were working with administration on. I believe we ended on Assembly Bill 114.

**Assembly Bill 114:** Revises the amount of the fee for issuing and recording a certain permit for an existing water right for irrigational purposes.  
(BDR 48-209)

**Susan Scholley, Committee Policy Analyst:**  
[Read from work session document ([Exhibit G](#)).]

The Committee expressed some concern that it was not clear in the application of the fee actually above the one that is being amended, so the Committee suggested perhaps it should be looked at as to whether that can be made clearer.

**Chair Kirkpatrick:**  
Are there any questions?

**Assemblyman Goedhart:**  
I want to verify for the record, for a person that has made that application and has paid the \$500 fee, that if there is some holdup with the

Department of Water Resources because of a protest filed, that applicant has to keep on filing for an extension of time for proof of beneficial use (PBU). It is not the \$500 but actually the \$150 and that is only for the initial first-time application and not for subsequent renewals and extensions of time.

**Chair Kirkpatrick:**

Ms. Scholley can clarify that.

**Susan Scholley:**

It is my understanding that the State Engineer testified that it would just be the extension fee he would be required to pay, but he would not be required to reapply.

**Chair Kirkpatrick:**

Is there a motion?

ASSEMBLYMAN ELLISON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 114.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

We will now move to Assembly Bill 130.

**Assembly Bill 130:** Revises provisions relating to affordable housing.  
(BDR 25-874)

**Susan Scholley, Committee Policy Analyst:**

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

The Insurance Commissioner wished to submit some additional amendments, which have been incorporated into the mock-up that is attached ([Exhibit I](#)). That would be the green, underlined language. I think it is fair to characterize this additional language as clarifying the Commissioner's enforcement and oversight authority. Also, I would turn your attention to page 5 of the mock-up. The Chair has suggested a biennial reporting requirement so that the Legislature may assess to what extent the entities are taking advantage of the provisions of this bill.

**Chair Kirkpatrick:**

Is there a motion?

ASSEMBLYMAN ELLISON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 130 WITH AMENDMENTS FROM BOTH THE  
INSURANCE COMMISSIONER AND THE CHAIR.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Anderson:**

I just wanted to clarify the amendments on page 3 as well;  
Assemblyman Ellison said 2 and 5.

**Chair Kirkpatrick:**

It is all the amendments proposed here today. Is there any further discussion?

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

We will now move to Assembly Bill 146.

**Assembly Bill 146:** Makes various changes relating to the Office for Consumer  
Health Assistance. (BDR 18-179)

**Susan Scholley, Committee Policy Analyst:**

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

Although no amendments were specifically proposed at the hearing, there was concern that the bill might unduly expand the scope of the office's regulatory authority.

In response to those concerns, the Chair is proposing an amendment to clarify that the office regulatory authority would extend from *Nevada Revised Statutes* (NRS) 233.560 to NRS 233.580 inclusive, and that is kind of a halfway point between what it was how it is proposed to change in the bill. The Legal Division would decide exactly where that amendment would go.

**Chair Kirkpatrick:**

Is there a motion?

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 146.

That amendment would be to clarify the concerns from Mr. Ostrovsky from United Healthcare, that it would not be expanding it.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS ABSENT FOR THE VOTE.)

We will now move to Assembly Bill 174.

**Assembly Bill 174:** Designates June 19 as Juneteenth Day in Nevada.  
(BDR 19-137)

**Susan Scholley, Committee Policy Analyst:**  
[Read from work session document ([Exhibit K](#)).]

**Chair Kirkpatrick:**  
Is there a motion?

ASSEMBLYMAN ELLISON MOVED TO DO PASS  
ASSEMBLY BILL 174.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS ABSENT FOR THE VOTE.)

We will now move to Assembly Bill 182.

**Assembly Bill 182:** Authorizes the creation of inland ports. (BDR 22-177)

**Susan Scholley, Committee Policy Analyst:**  
[Read from work session document ([Exhibit L](#)).]

Although there was a discussion of amendments, nothing specific was presented at the hearing. However, subsequent to the hearing, Assemblyman Atkinson has submitted the attached mock-up ([Exhibit M](#)) with additional amendments to address concerns.

Looking at the mock-up, the amendments do change the criteria for creating inland ports in section 10 on page 2, line 18. It also changes the runway length. Page 3 relates to the membership of the board. Page 5 has something to do with airports.

**Chair Kirkpatrick:**

I will give a little bit of background on this. Assemblyman Atkinson did sit down with the airports as well as economic development and some of the logistics companies. He was the Chairman for this Committee during the interim. Most of you may remember Assembly Concurrent Resolution 4 that was the resolution that talks about the plan and in which direction that you want to go. This is actually the legislation that will help expedite this process. One of the big things that Assemblyman Atkinson had was the 5,000 feet that was utilized from Texas. In the State of Nevada we did not have an airport runway that long, so we would have not done it, and that was amended. Also, I do know that the airports' concerns of them being an authority and them trying to take their job was revisited, which was never the intent to begin with. Assemblyman Atkinson worked with both northern and southern Nevada airports to address their concerns on the language. So, I think the language is changed on page 5 to allow the director of aviation to be part of the process.

**Assemblyman Stewart:**

So the McCarran Airport people are in support of this bill?

**Chair Kirkpatrick:**

Yes, that is my understanding, but I will have Assemblyman Atkinson clarify that. You have to have your airport in order for your inland port to work.

Any other questions? Is there a motion?

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS ASSEMBLY BILL 182.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

I will say for the Committee as a whole, just because we pass the bills out of this Committee does not mean that we will not all get to see the amendments. I have always been very open about making sure that the amendments do what we think they do before they are all released to the floor. You may hate me

when we release 200 amendments on the floor that day, but at least we have read through them and made sure that they are this Committee's intent.

We will now move to Assembly Bill 201.

**Assembly Bill 201:** Revises provisions pertaining to informational statements provided for the adoption of administrative regulations. (BDR 18-83)

**Susan Scholley, Committee Policy Analyst:**  
[Read from work session document ([Exhibit N](#)).]

**Chair Kirkpatrick:**  
Do I have a motion?

ASSEMBLYMAN LIVERMORE MOVED TO DO PASS  
ASSEMBLY BILL 201.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE  
MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

Now I am going to go back to Assembly Bill 59 from last week that we already passed out. Assemblyman Anderson, can you please do the floor statement? This was on the open meeting law from the Attorney General's Office.

Assembly Bill 73 was a water bill. Assemblywoman Benitez-Thompson will do the floor statement. I believe you were on the subcommittee.

Assembly Bill 76 has to do with public employee benefits. Assemblyman Livermore will do the floor statement.

Assembly Bill 98 is the volunteer medical which is Assemblyman Segerblom's bill, and I will give it to him.

Assembly Bill 114 will go to Mr. Goicoechea, but I will tell you because that is part of the existing budget that this bill will be snatched away to the Ways and Means Committee as quickly as it gets there.

Assembly Bill 115 I will do myself because I want to make sure that we have as much water intent on the floor as possible.

Assembly Bill 130 is the housing insurance bill, which is Assemblywoman Smith's, and I will let her do it.

Assembly Bill 146 is the consumer health assistance and that is Ms. Mastroluca's bill, and I will give it to her.

Assembly Bill 174 is June 19th day and that was Assemblyman Munford's bill, and he will carry the floor statement.

Assembly Bill 182 is Assemblyman Atkinson's bill for inland ports, and he will do the floor statement for that.

Assemblywoman Woodbury will do Assembly Bill 201, which is the legislative regulation.

With that, we are finished with our work session. For the Committee's knowledge, we do have 109 bills currently within our possession that we are responsible for, but we have to get them on work session. So, it is important that everyone is here where we can at least have a work session for 20 minutes. So if you are testifying in another committee, please let me know, and if you could refrain from going and hanging out in that committee, that would be helpful.

We will now hear our very last bill this morning.

We are in recess [at 9:54 a.m.]. Meeting called back to order [at 9:57 a.m.]. We are going to open the hearing on Assembly Bill 386. Assemblyman Ohrenschall, the last time we had a bill similar to this, which was Assemblyman Livermore's Assembly Bill 122, it took us five hours to get through it. We only have 50 minutes.

**Assembly Bill 386:** Makes various changes relating to systems for obtaining solar energy and systems for obtaining wind energy. (BDR 22-880)

**Assemblyman James Ohrenschall, Clark County Assembly District No. 12:**  
I will try to be brief. It is an honor to be here.

[Continued reading prepared text ([Exhibit O](#)).]

I have with me at the table Luke Busby and Richard Hamilton, who have quite a lot of expertise in this area.



**Chair Kirkpatrick:**

Who will go through the bill, because I have some concerns within the bill specifically?

**Assemblyman Ohrenschall:**

Mr. Busby will.

**Luke Andrew Busby, representing Clean Energy Center, LLC:**

I will start with the problem. The problem here is that during the last legislative session, the Legislature passed a law which said that local governments can pass reasonable restrictions on the height, noise, and safety of small Distributed Generation (DG) wind systems.

The problem is that "reasonable" can be interpreted in numerous ways, and some local governments have chosen to interpret that term such that building an efficient wind energy system in that jurisdiction is impossible. For example, Carson City has adopted a wind ordinance which states that if you have any neighboring property that is less than an acre, your wind turbine cannot produce more than 25 decibels at that property line. Twenty-five decibels is the amount of noise in a quiet library or a quiet theater.

No existing wind turbine technology could possibly meet that standard. It is a de facto prohibition on the implementation of wind systems. It is not reasonable if it is impossible for you to meet the standard. That is essentially the argument here. We feel that this bill solves that problem by setting specific minimum standards below which a local government cannot restrict a wind turbine. They are 75 feet tall if the system is on a parcel that is less than 5 acres, and 100 feet if the parcel is over 5 acres. Height is critical for wind because in order to get an adequate resource, you have to place the tower high enough to be able to be above neighboring objects which create turbulence. Wind speed increases logarithmically the higher the tower is built. So in order to make these systems cost effective, height is essential.

The noise standard we recommend is 55 A-weighted decibels measured from an adjoining property. Fifty-five A-weighted decibels is approximately the noise that you would hear on a quiet street or office. Right now, I have a sound meter with me on my phone and, if we are all very quiet, the ambient noise in this room is just over 55 decibels. If I speak, it goes up to 72 decibels.

This bill also clarifies an issue with third-party ownership of systems that are subject to local government regulations.

Finally, section 1 contains a provision which we think is critically important because it will create one-stop review for large-scale renewable energy projects and utility projects within the state. This would only apply to renewable energy systems that are subject to the Utility Environmental Protection Act (UEPA), and in order for such a system to qualify it has to be over 70 megawatts. This would only apply to the largest of the large systems for the UEPA review. For a National Environmental Policy Act of 1969 (NEPA) review, there either has to be a federal nexus or significant federal involvement in the project. That standard would only apply to the bigger projects.

We would like to submit a point of clarification on section 1 where this section would only apply outside of an incorporated city. The zoning standards that exist within that incorporated city would still be required for UEPA approval. We believe for projects built outside of cities, the UEPA and NEPA reviews are substantial and sufficient to provide for environmental protection and site planning for these projects.

**Chair Kirkpatrick:**

Mr. Busby, can you give us some examples of where specifically that would be within our state?

**Luke Busby:**

For example, in northern Washoe County it would be outside the City of Reno or the City of Sparks. In Clark County, it would be on the outside the City of Las Vegas, the City of Henderson, and the City of North Las Vegas.

**Chair Kirkpatrick:**

So you are talking about the unincorporated pieces.

**Luke Busby:**

Yes, Madam Chair.

**Assemblyman Anderson:**

I just wanted to check your intent with your last statement because, as I said in the previous hearing, my district is all unincorporated Clark County, but it is very, very urban. Is it your intent to have it out of the urban areas, or is it just your intent to be out of unincorporated versus incorporated?

**Luke Busby:**

Our intent was to have it out of urban areas where the review would be less necessary. If the standard of an incorporated city needed to be modified to account for situations such as the one in your district, I believe we would be perfectly open to that.

**Richard Hamilton, Owner, Clean Energy Center, LLC, Reno, Nevada:**

The reviews that are done under NEPA and UEPA are generally more extensive than what would be required by a county. We would have to do viewshed environmental work. We would have economic impact; it is quite extensive. Therefore, even if it were within an incorporated area—say, NV Energy was building a power line that came through an incorporated area—it would have to do a NEPA or an UEPA review; usually in Nevada you have a federal nexus and a large power line would need that.

So there is a lot in there and it would not really be usurping responsibility; it would be trying not to duplicate what we are doing when we are already doing a large body of work. I think our biggest issue is not having to have pancake layers of regulation over the same study that we are doing.

**Luke Busby:**

If I could add to that, under both the UEPA and NEPA, local governments have statutory party status in UEPA proceedings and participating agency status in NEPA proceedings so that in no way would they be cut out of the state or federal process under this provision.

**Assemblyman Livermore:**

First of all, I have many questions on your bill. One of the things that you have in your bill on page 3, line 15, says, certified by professional engineer. My question is, is that professional engineer an owner of the store that sells it, or a shareholder of that, or is he an independent professional engineer of his own? How would you describe that?

**Richard Hamilton:**

That would actually apply to any other type of construction; you have to have an engineer's stamp. So an engineer would stamp, essentially certifying that this is a physically sound structure. It would be difficult to require a third-party engineer on a renewable energy project when you would not do it on a different type of a project. We are silent on that. I guess that engineer has a stamp, he is licensed by the state of Nevada, and we are going to trust the state to say we have good, qualified engineers.

**Assemblyman Livermore:**

I have a lot more reliability with an independent engineer. I am not questioning his credentials or his stamp, but when he owns part of the store and he makes a profit off the sale of a product, that is where you have a separation of responsibility from his engineering knowledge and his ability to sell products. It is all about the profit motive in the long run. That is why I asked that question.

To Mr. Busby, you referenced Carson City's ordinance at the beginning of your testimony. I was a member of the Board of Supervisors during the period of time when we debated the ordinance that this county adopted, and I brought an amendment to that ordinance which was basically to clarify what I thought were some concerns that my community had. Let me just say that it took the Board of Supervisors roughly six months of multiple public hearings to come to a decision that this community felt it could live with. You do not live in Carson City. I do not know if you have any interest here other than the Legislative Building, but I would suggest that in some cases, home rule is an example of how good the laws are and how we live within a small community like this. There are probably different circumstances for the size of the community and the inclusiveness of it. When you look at Washoe County and Nye County and Elko County, and the assortments of those, you could probably put ten Carson Cities in some of those counties. It is what it is.

Finally, I want to make another statement. There was a planning commission appeal of a proposed structure of 160 feet, and it was recognized at that meeting that not all land, because of its topographical nature, is sufficient to ever provide wind turbulence just because of where it is located. An example would be a parcel that is behind a hill or behind a blocked structure like the one referenced about the Capitol Building. If you own a piece of property behind the Capitol Building, would you be amenable to have the structure taller than the Capitol Building because of where your property is located?

I just want to caution here not only to the people that sell this product but we the people that make the laws that allow this. This is not one fit for everyone. We also agreed because of the small properties; we do not have a lot of five acre properties existing in Carson City anymore. One to two acres is probably the largest in our exclusive neighborhoods. We come with a height limit of 65 feet because that was agreed upon, and I would ask the maker of the ordinance to reconsider changing that 75 feet to 65 feet.

**Chair Kirkpatrick:**

Does anyone else have any questions? I have a couple of things directly related to the bill. Let me tell you that we did hear Assembly Bill 122 and it did take us five hours to get through it, because Carson City residents were here. Since that and just so the Committee knows as well as the bill sponsor, I drove to those projects that were there. I went to the school and saw the solar place where they are putting that up. There is concern on my side that it is not as safe as it could be and I am wondering if the school is going to incorporate it into their fifth grade science class or something, because it is pretty open. I did do that and I also went three times. I went once when it was windy, once when it was not windy, and once when there was a cool breeze. I drove to

those homes in our presentation where the windmills were, and I get their concerns.

I get it, because on any given day you have a constant buzz noise going on. What I do not see within this bill is really within three different sections of this bill. It says pretty much that and it is kind of ironic because I said to Carson City, when they came before us on the other bill, what if it is considered a nuisance? Will you be able to give them a ticket? Ironically it popped up in this bill that it can never be a nuisance. I do not feel that is fair to the constituents; there has to be a balance.

Quite frankly, within the bill on page 10, lines 40 through 45, and I know it is on page 6, I really do not think that is fair because that is not giving constituents a voice regardless.

You know where I stand on energy; I support energy. But at the same time, the constituents deserve to have a voice.

Second, I do not see anything in here that talks about any particular setbacks and that is one of the reasons the ordinance provision works; what if a particular person has four or five of these on his property? What does that mean for the property? Does it change the zoning of the property because now you are more of an industrial corridor, now that he has different things? So I think that if we are going to go through this and it appears that we have about 30 minutes, we have to be real honest about some of the discussion, because this bill to me—and I do not know when it was written—seems that it was written shortly after A.B. 122 and it did everything that we asked A.B. 122 to do.

Assemblyman Ohrenschall, I am sure that you would not do that, but it is ironic to me that it does everything the opposite of what we discussed with several Carson City residents.

**Assemblyman Ohrenschall:**

Madam Chair, this bill actually originated about a year ago with the windmill in Henderson that was being proposed and then was not allowed to be built. We have a witness in Las Vegas who will be able to testify to that.

I was contacted before session regarding the nuisance section by an attorney in Reno, who had many clients building windmills that conformed with the Washoe County Code completely, but they were being tied up in litigation and basically projects were not allowed to go forward. It seemed that a lot of people were using the nuisance laws as a way to ban

windmills, even though the windmill was approved, and conformed to the Washoe County Code for windmills.

In statute, we do declare certain things as not a nuisance, per se, like shooting ranges, and that is a judgment call for this Legislature in terms of renewable energy versus the ability to sue as a nuisance.

We are going to have some witnesses who will testify on that later on, but I hope that answers your question.

**Chair Kirkpatrick:**

I will say one thing for the Committee. Ms. Scholley and I have created a book with all the ordinances across the state, as well as five other states on how they handle this particular issue. It is available in my office, if you would like to see what others do.

**Assemblyman Goedhart:**

It seems kind of strange to me that I am getting more calls about the viewscape concerns of a couple of windmills around the state than I am about the hundreds of different cell towers all over the place. There are many more cell towers, but yet I am not getting phone calls about them. I kind of think that maybe it is psychological because everyone uses a cell phone; they look at the cell tower and they say, "Hey, that is going to help me out." Meanwhile, a person down the street from a windmill says, "I wish I had a windmill, but I do not have enough money or the gumption to do it. Now he is not going to have to pay for power and I am. How do I go ahead and get back at him? I am going to lodge a nuisance complaint." I am of the opinion if we are going to go ahead and want to make an omelet then we are going to have to break a few eggs, and that means allowing people the right to use their property to come up with a renewable energy generation system. So, I tend to be more sympathetic to your side of the issue than one of my own colleagues here.

I have a 2,500-acre piece of property. I want to put up a windmill so I can be energy neutral on my operation. My power bill is substantial every year, but now the person who is in charge of putting it up says even though it is 20 miles from the Nevada Test Site that the U.S. Air Force is probably going to lodge a complaint. If we are actually going to get to the next level and become energy independent, we have to empower those who would want to invest their own money to create and generate renewable energy. So, I appreciate and applaud the efforts and the thinking behind this bill.

**Luke Busby:**

Thank you, and we greatly appreciate those remarks. We would like to respond to a few of the issues that have been raised in this hearing. One is the nuisance issue. That provision was inserted to protect consumers who make substantial investments in these projects legally. They get the building permit, and they put up their wind tower according to existing law. We believe they should be protected from such suits under those circumstances. If their local governing body says this kind of windmill is okay, we do not think someone should be able to come in at the back end and sue them under a nuisance claim. It is either legal for the local jurisdiction or it is not. That is our position.

As far as setbacks go, there is actually a provision in *Nevada Revised Statutes* (NRS) 278.580, subsection 4(b), which essentially states that you have to treat solar and wind like any other structure in your jurisdiction. There are existing building code protections for these projects as if you were putting up a flagpole or any other structure. The Washoe County Code reflects that provision.

**Chair Kirkpatrick:**

Let me ask. I get that there are setbacks, but for a flag pole there is not necessarily a setback within the building and planning codes. I support renewable energy. I have spent a lot of time doing it, but I was also a planning commissioner and so I understand both sides.

When you talk about setbacks, really you have a 5-foot setback from your retaining wall that says you cannot have any building or anything there but where would this setback be? Are you saying you could have several setbacks, you could have several windmills, and you could have several solar pieces? Within that statute I do not think it is specific to this; it is specific to building codes and if we do not like the ordinance and we are mandating the ordinance then we have initially changed the setback. I am no attorney; I am just speaking from real life experience.

**Luke Busby:**

Under the existing reasonable restriction rule, there is no provision on the number of windmills you can put up. As a practical matter, the limitation is implemented by the structural restrictions that are part of the building code and the net metering statute. I do not think it is efficient under any circumstances for someone to put up five windmills when he can put up one that would provide adequately for his power needs.

The net metering law states that you cannot put up a system that exceeds 150 percent of your peak capacity. If you do that, you do not qualify for the net metering, which is an essential component of making any windmill project economical if you are a utility customer.

**Chair Kirkpatrick:**

You know I do a lot of energy things. I am playing the devil's advocate for the constituent. What happens if we say when times were good and things were booming we went away from the half-acre lots and we went all the way down to zero setback lots. We went down to 1,600-square-foot lots and 4,500-square-foot lots. What happens within a subdivision? And now think about it because five or six houses would occupy an acre. What if every single one of them put up a windmill? How is the local entity supposed to address that issue?

I am asking because this is pretty broad, and I think that is the way I prefer the ordinance way because it gives local government a little more jurisdiction. I will give you an example. I have learned from my legislative career that northern Nevada is pretty much anti-billboards. Now in southern Nevada, we have them every 5 feet, so rather than put something in statute we allow the local governments to address an ordinance that benefits their community.

Where within this bill do we benefit the community?

**Assemblyman Ohrenschall:**

I think we benefit the community through a uniform policy statewide that produces renewable energy. Even though I do not have a renewable energy project at my house, but someone else does down the street that reduces the dependence on fossil fuel for everyone. In terms of the viewshed, there are people down in Clark County, and I grew up next to a residential house that had a very, very tall ham radio antenna. You see them all over the state. In terms of the sound, I think that Mr. Busby pointed out the decibel rating is comparable I think with someone's air conditioner. Down in Las Vegas we endure the sound of air conditioners all the time and they are not producing energy; they are consuming energy. That would be my response to that.

**Luke Busby:**

I can address the issue of differences between jurisdictions; we believe that the existing law essentially requires local governments to allow consumers to build these systems if they are reasonable. The difficulty that we are having is that some local governments have passed provisions which make it essentially impossible for us to build these systems. That is the problem.



We believe that there can be variability among jurisdictions. This just sets minimum standards beyond which local government cannot prohibit a system. The difficulty arises in the case of a person in Carson City who wants to put up a wind turbine and cannot meet the 25-decibel limit. Under those circumstances, he has to apply for a special use permit, and just to apply for a special use permit in Carson City costs \$2,200 minimum. If we do not have these minimum standards beyond which the local government cannot regulate, it sets almost an impassible barrier to implementation in some areas.

**Chair Kirkpatrick:**

I have someone in Las Vegas who would like to testify and has been waiting and sat through most of our meeting.

**Kermitt Waters, Private Citizen, Henderson, Nevada:**

Let me tell you a story, because I think it might help those of you that do not live in southern Nevada. I am not selling wind generators, and I am not in the market for them. My house is not particularly suited for solar because of the irregular shape of the roof. Everyone is talking about wanting to be green, but no one wants to do anything, so I found a vertical wind generator. It does not look like a windmill; it looks like an inverted squirrel cage-type apparatus. It has magnetic-levitation bearings in it so you do not hear it. It makes no noise. Five or six feet away from it you cannot hear it. I chose a small one because I wanted to see if the neighbors would complain or see if there was any problem with it. This cost me \$4,000, and before I was through, the City of Henderson cost me \$55,000 in all kinds of engineering studies, all kinds of noise studies, all kinds of computer-generated studies, and continual excuses of one thing after another.

If we are ever going to have renewable energy, we need a reasonable plan statewide that will work. We need to prevent the sites from blocking them because every time a handful of not-in-my-backyards come up, we all suffer. If we can all do some renewable energy, NV Energy and the power companies will not have to keep building the rate base. As you probably know, the rate base is how they set their rates and the bigger the rate base the more money they make. So if we can all do that, we will be independent.

When is the last time you saw a wind generator pollute the Gulf of Mexico? When is the last time you saw a wind generator essentially give off cadmium mercury like coal fire generators do? I went to the trouble of getting a structural engineer that designed this for 220-mile-per-hour winds; if they get a 220-mile-per-hour wind there will be no houses left in Henderson, Nevada. It will be the only thing standing, but all I can hear is, "It might fall." Never mind that it is too tall; the one I applied for was 45 feet, the exact height of the

chimneys in my area. Never mind the street lights that are 60 or 70 feet tall; never mind the palm trees. Everything the city did was to prevent me from building this, including immediately amending the ordinance to require a special use permit.

If we are going to do this and we are going to have renewable energy we need a policy that works. This bill will help, and I was hoping that the Legislature would turn it all over to the Public Service Commission and let it handle it, and take the politics out of it.

I emailed the pictures to Assemblyman Ohrenschall, if you would like to see pictures of it. It was one thing after another and the cost of all the studies got out of control. It will never pay its way out if you have to spend the money you need to get this on.

[Chair Kirkpatrick left to attend another meeting for a bill. Vice Chair Bustamante Adams assumed the Chair.]

**Vice Chair Bustamante Adams:**  
Are there any questions?

**Assemblyman Goedhart:**  
I heard that in Las Vegas they love big billboards and they are pretty high up. Maybe we can find a way to put wind generators and turbines on the top of billboards.

**Kermitt Walters:**  
I have one and I would like to do it, but you know it would probably wind up costing me a billion dollars the way it is set up down here because they will fight it tooth and toenail.

**Vice Chair Bustamante Adams:**  
Are there any other questions for Mr. Waters? Thank you so much for your testimony.

**Assemblyman Livermore:**  
Mr. Busby, were you the attorney that appealed the special use decision of the planning commission to the Board of Supervisors in the last month?

**Luke Busby:**  
I was the attorney of record, but respectfully I will decline to comment in any way on that, because of my existing attorney/client relationship.

**Assemblyman Livermore:**

I was just going to ask if you thought you had a fair hearing.

**Luke Busby:**

Mr. Livermore, respectfully I will decline to comment on any way on that hearing due to my attorney/client relationship.

**Assemblyman Livermore:**

Thank you so much.

**Vice Chair Bustamante Adams:**

At this time, we are going to allow other people to testify on this bill.

**Richard Hamilton:**

I have one parting remark if possible. I own the Clean Energy Center in Reno, Nevada, and we are a technology-agnostic renewable energy company. We are here talking about wind primarily, but we are talking about renewable energy. We employ 12 people and we started two years ago with only 2 employees. Within my company we have seven mortgages, six children, one on the way, and one solar water heater, one solar photovoltaic system, and another hot water heater, another photovoltaic, and a wind generator on the way among the staff themselves installing systems.

I want to just briefly describe the saying I would like people to have is "mining megawatts." Mr. Waters mentioned leaking oil in the Gulf. The words I have been told not to use are *climate change*. How about this; this is a business climate change. Right now we have been leaking oil into the Gulf, we have Mideastern turmoil, and we have a half dozen nuclear reactors in Japan that are in serious condition.

What this is going to do is change the energy business environment. Right now in Nevada we have an opportunity to be a leader in that, and what we are trying to do is have a stable environment for us in which to work. It does not mean we are right with everything, but what it does mean is we really need people to be able to come into the state and develop renewable energy projects. With the majority of land in Nevada being federally owned, it is more expensive and more time consuming for us to develop projects. So if we can have a level sort of certainty with how we develop a project, if we have to do NEPA or UEPA permitting, we do not want to have multiple layers of uncertainty and cost associated with developing a wind project.

Additionally, Nevada is one of only two states west of the Mississippi without a utility-scale wind energy project, and we are sitting next to one of the largest markets in the nation. This is opportunity, and this is employment of people.

For small-scale projects, I understand what the community issue is, but it is a matter of baseline things that help us have certainty in a market. It is a reasonable sound standard, as well as a reasonable height standard that puts the turbine in the wind so that the client gets the best bang for his buck.

These numbers come from the National Renewable Energy Lab. They have a program called Jobs Economic Development Impacts (JEDI). If we built a thousand megawatts of wind, they would have 2,600 construction jobs, 400 long-term jobs; that would equal \$1.1 billion of economic impact to the State of Nevada. If we had 20 percent of our energy in Nevada produced by wind, which is very possible, we would have 3,000 long-term jobs, 20,000 construction jobs, and \$8.5 billion of economic benefit to the State of Nevada. The big trick is that we want to be able to have a business environment that allows us to flourish. Wind is a new energy to this state, and it holds great promise.

**Vice Chair Bustamante Adams:**

Thank you. Those of you who are in support of the bill, please come forward to testify.

**Kyle Davis, Political and Policy Director, Nevada Conservation League and Education Fund:**

We are in support of this piece of legislation. I was part of putting the language in this statute in past sessions, and I think it has been well-documented that the need is there to provide for consistency. And that is consistency, obviously, across the localities so that customers and developers and everyone else knows what they are getting into at each locality. The need for consistency is also there across similar structures; similar things produce the same problems, and when we talk about building requirements, we should not put different requirements on a wind generator than we put on other structures that are built on the same piece of property. It is the same with the noise issue, where we provide that consistency in this bill so that we are doing something that is basically about the same level of noise as an air conditioner. We are not talking about declaring air conditioners nuisances or worrying about the noise that comes from them. I think we need to be consistent across all different technologies as well, but in closing, yes, we think it is a good bill and it is going to advance the installation of renewable energy. Assemblyman Goedhart made some good points about this. If we are going to do something and make this happen, then we are going to have to make some proactive steps, and it may

change the way that people think about things, but that is part of the process to build a new industry, build new technologies, and get us off of fossil-based fuel.

**John C. Sagebiel, Private Citizen, Reno, Nevada:**

I am a homeowner in Nevada and I was one of the early customers on the Solar Generations program. I have in my own home both a solar hot water system and a solar photovoltaic system. I do live in a very windy area up in the Galena area on Mount Rose Highway, and I have never considered putting in a wind generator partially because of my concern over issues such as this. I strongly support this legislation, and I actually think that we need to even consider expanding what was discussed in here to cover other renewable energy systems like solar systems.

One of my neighbors actually decided to plant a couple of trees so he would not have to look at my solar panels. I am very pleased that they decided to do that and not file a nuisance complaint against me for a solar panel which is a very dark blue color that I find rather attractive, being an employee of the University of Nevada, Reno (UNR).

Again, as has been said, the need is for consistency, the need is to establish something that says it is structurally sound. A structural engineer had to certify my solar panel installation and make sure that it met all those code requirements before it could be approved. We really ought to consider that to be an acceptable thing. Something again that has been said, is that a private individual like myself is willing to invest money to benefit the state and all of us for a number of reasons. You cannot outsource jobs installing solar panels or wind turbines for matter.

**Patrick R. Millsap, Attorney, Reno, Nevada:**

I am here in support of A.B. 386. If I may, there were some concerns raised earlier regarding the provisions of the bill that address nuisance. When addressing nuisance it is not essentially saying that you can never bring a nuisance claim in regard to a wind turbine or renewable project. What the bill is attempting to do is limit nuisance claims when the turbine is in compliance with local ordinances and statutes.

Washoe County, for example, has what it calls the Washoe County Development Code, Article 326 that addresses all the standards that a wind turbine must meet. If a turbine is in compliance with the Washoe County Development Code, if it is in compliance with any local ordinances that Reno has regarding turbines and any statutes applicable to the subject, then essentially there is no need to bring a nuisance complaint, it should be deemed reasonable and Washoe County has already thought out what is a reasonable

turbine to construct. If it is permissible under Washoe County, then it presumably is not a nuisance and this is not uncommon.

As the Committee can see on page 10, lines 27 to 35, NRS 40.140 has done a similar thing with shooting ranges. Section 10, subsection 4 of this statute seeks to mirror the language of the gun ranges in that, if it is in compliance with local codes, it is not a nuisance. If it does not comply with local codes, you still have the ability to bring a nuisance complaint.

**Vice Chair Bustamante Adams:**

Thank you for your testimony.

**Assemblyman Goedhart:**

The intent of this bill has some parallels in my own mind to the right-to-farm bills that we see in a lot of different states. It states that if you are a farmer and you are following best management practices, you are going to be basically protected from spurious and random nuisance complaints. I look at this as, instead of farming the soil, we are farming renewable energy. Maybe there is a way for people to look into the future and put this under the right-to-farm act. It has been put forth in a lot of states to protect these people from being able to develop their natural resources for key inputs that fundamentally underlie our lifestyle and our key inputs to power our economy. Thank you.

**Kyle Davis:**

I will be brief, Assemblyman Goedhart. I would like to point you to page 13 of the bill. This is existing statute, but subsection 5 down at the bottom is exactly what you are talking about, and we already protect agriculture activity in the statute as well.

**Vice Chair Bustamante Adams:**

Are there any others that would like to testify in support of A.B. 386? [There was no one.] We will now move to those in opposition of the bill.

**Renny Ashleman, representing the City of Henderson:**

The City of Henderson is currently in litigation with Mr. Waters, so I will not get into any details regarding that matter since this is not the appropriate forum. But I will say that the City of Henderson is very pro-renewable energy. We have sponsored legislation for two sessions to enable us to put together financing mechanisms for them. We have searched for ways to amend the statutes to make it easier to do that. We have endeavored to work with Mr. Waters and other people to put together some kind of a wind farm on our own property to be an alternative to certain situations that we deemed to be problems. So, any imputation that we are trying to fight is misplaced.

Mr. Waters may not have a commercial interest in this, but he does in fact own a patent on his device. I think he has more than a residence interest; perhaps he is just an extreme hobbyist.

Our concern with the bill is on page 3, lines 8 through 10: "75 feet tall if the system is on a parcel that is less than 5 acres." What this does not spell out, but of course what it means is it could be less than 1/6 of an acre. It could be any size at all. We are concerned about these on small lots. That was Mr. Waters' principal problem; his neighbors went "nuts" because he is on a very small lot. We are interested in controlling these on smaller lots. We do not think that is unreasonable on our part.

If you go down to section 4, lines 31 through 33, it talks about a person who owns or leases the property. We are concerned with this language because if you lease residential property, the owner of that property may not be interested in having a windmill or solar installation on the property. This bill seems to be carte blanche. The usual thing is to make the owner apply for any variances and zoning problems so that he is aware of this kind of situation. It is not that a lessee could not do it, but he would have to do it in cooperation with the owner, and we think that is appropriate.

I want to bring your attention to pages 10 and 11. If they are in compliance with the height, appearance, and noise of a system, one of the other criterions is safety. If you are going to have this bill, you are going to have to put safety in there because if it is not safe, that is a classical definition of a nuisance.

Finally, I should have mentioned this earlier, but the proponents talk about our ability to do setbacks, and you can certainly consult with your legal counsel, but in our legal view the 75-foot tall, the 100-foot tall, and so on would, in fact, completely eliminate our ability to use setbacks if they comply with those particular items.

We proposed for A.B. 122 an amendment that we think would allow the reasonable regulation of these entities as the height, setback, noise, or safety, and we would like to see you process A.B. 122 with those amendments.

**Vice Chair Bustamante Adams:**

Did you provide that amendment to the Committee?

**Renny Ashleman:**

Yes, we did during a previous hearing.

**Vice Chair Bustamante Adams:**

Just for my clarification, have you spoken with the bill sponsor regarding your concerns with the bill?

**Renny Ashleman:**

I was not able to get with the Assemblyman, although others in the same position as we are did try, but I did speak with the individuals that were individually presenting to you today about this and shared my concerns.

**Vice Chair Bustamante Adams:**

Are there any questions?

**Jeff Fontaine, representing the Nevada Association of Counties:**

We are in opposition to A.B. 386. The counties and the Nevada Association of Counties (NACO) support renewable energy development, but this bill would preempt the authority of county elected officials to enact ordinances. As the government closest to the people we believe that county governments have a responsibility to protect the health, safety, and welfare of their constituents.

Basically this would put the decision making for the citing of utility-scale renewable energy projects in the hands of federal bureaucrats through the NEPA process and through the State Public Utilities Commission (PUC). I understand that NEPA and the PUC reviews are public processes, but they are not really processes that are readily accessible to the average citizen, let alone the local governments.

Once those decisions are made, if you get a record of decision on a NEPA review or approval by the PUC then the question becomes, what happens if there is a problem? It is the local governments, the county governments that will get the complaints and their hands will be tied as far as being able to follow up on any of these issues or complaints.

Assembly Bill 386 really puts renewable energy facilities in a special class. Again, we support the development of renewable energy, but we do not put things like landfills, wastewater treatment facilities, and other environmental types of public works projects in this type of category. Specifically, with respect to section 3 and the standards that were developed, a number of witnesses have talked about putting these windmills on lots as small as 6,000 square feet. So imagine if you have a subdivision with 6,000-square-foot lots all with 74-foot-high windmills, what would the cumulative impact be?



The other concern we have is once these standards are put into place in statute it is going to take two years to change them if there are any concerns. We think that in this case a nuisance is in the eye of the beholder, but we really think this is a matter that is something that local governments need to be developing ordinances for and enforcing. They have the ability to enforce their own ordinances, and it is going to be very difficult for them to enforce ordinances that are imposed by statute. Again, we support renewable energy development, but we think this is something that should be done at the local level. Thank you.

**Vice Chair Bustamante Adams:**

I would ask you a similar question that I asked Mr. Ashleman, and that was were you able to get together with the sponsor of the bill regarding your concerns?

**Jeff Fontaine:**

I apologize. We did not and we would be happy to do that after this hearing.

**Vice Chair Bustamante Adams:**

Thank you.

**Assemblyman Goedhart:**

I have heard from testimony that it was your opinion that under the NEPA process an individual did not have much of a say in the process. I have been in Amargosa Valley where there have been a couple of projects that have gone through the NEPA process and I think they do an exceedingly good job reaching out and encouraging participation, whether it is a well-connected person in the community or a person who might have only been there for a week, or even a person who is thinking of moving there. They have a very well-defined input process which I believe gives more than adequate input from each and every person, even on the NEPA scale. I would like to make that point on the record. It seems like you drew a correlation between if it was not going to go through county level versus a NEPA level that a person's ability to weigh in on that project would be diminished. I have not seen that from my personal experience.

As a businessperson in Amargosa Valley, with the right-to-farm act I would rather deal with a state or federal agency than believe it or not, the local county commission depending on who that person is and who the neighbor is that is filing a complaint. I think that it is much easier to influence variables and increase the amount of uncertainty for these projects that we are talking about. So, I believe if we can come up with some sort of a statewide renewable energy

producer bill of rights, it will do a lot to help spur this industry, create economic opportunity, and also protect the environment and increase national security.  
[Chair Kirkpatrick came back and reassumed the Chair.]

**Assemblyman Livermore:**

In response to my colleague, Assemblyman Goedhart, let me just say that local government—and I appreciate Mr. Fontaine's testimony today talking about the responsibility in the duties of local government—it is the government closest to the people; it is who people contact. It is who people rely on to protect their interests and address the diversity of issues that exist within the community. Like it or not, local government is the process by which people are heard, and they rely on those local elected officials to make common sense judgments for the betterment of our community.

**Chair Kirkpatrick:**

I have one last person to testify in opposition.

**Karl Hall, Private Citizen, Reno, Nevada:**

You may recall my wife testified in support of A.B. 122. I would like to mention I am in agreement with the comments made by Mr. Fontaine, and I believe that local government is more appropriate for deciding these types of issues.

With respect to nuisance, I disagree with the proposed legislation. For example, this bill is a knee-jerk reaction to my case in Washoe County. The judge went out and saw the proposed windmill, the 75-foot pole and the blades that are on top of that. Actually you are looking at a structure that is close to 100-feet high.

**Chair Kirkpatrick:**

I am sorry; has that case already been determined? If it has not, then I do not want to hear it.

**Karl Hall:**

It has been determined.

**Chair Kirkpatrick:**

Perfect, then please continue.

**Karl Hall:**

As a matter of fact, there were comments made by the proponents of this bill that they had a permit from Washoe County. They did not have a permit; it exceeded the height limitation, and that is why the project was red-tagged to begin with. The judge went out and looked at the wind turbine, then went out

to the site, evaluated the site and made a determination as to whether or not it was a nuisance. He made that determination. I think that is the appropriate way to address this type of issue.

With respect to Assemblyman Goedhart's comments about whether or not I should be able to do something with my property, I bought a 2 1/2 acre parcel, built on the property, and there were conditions, covenants and restrictions (CC&Rs) in place that protected my environment: my peace, quietude, and enjoyment of that property. Everyone in the neighborhood was on the same page. Now someone wants to put a 75-foot tower right outside my front door. That is devaluing my property. It is going to harm my sleep. I do not want to hear the noise, and I do not want to look at it. I am all for green energy also.

When I built the house, I made it out of ARXX Insulated Concrete Forms. I plumbed it for solar hot water and I think there are alternatives in our neighborhood. Solar, for example would be a reasonable alternative, going down to 45 feet would have been a reasonable alternative. We were ready, willing, and able to negotiate, but there was no negotiation in this particular case, and what this says is, "Hey, there is no negotiation. There is no working this out." This is "smashmouth legislation" to stick it to whomever has the money to put up a windmill.

Then you have the people who stand to gain by putting up this green power. They are the ones behind it and they want to shove it down everyone's throat no matter what impact it has.

I have a meter too, and if you want to listen to it, it sounds like this. [Turned meter on and noise was heard.] I do not want to listen to this in the middle of the night. For example, Ontario has a 40-decibel limit, and that is much less than the 55-decibel limit. I know the one in Washoe County is further away from that person's house than my house. It had only been in operation for a month and he could hear it inside his house with the windows closed at least eight times. So, it is a nuisance and it does impede my enjoyment of my property that I paid, worked, and expected to gain by building that house on that property.

One of the other things I would like to point out in this legislation is when it talks about the system in section 15, subsection 7, "A system for obtaining wind energy does not constitute a nuisance with respect to the height or appearance of the system or any noise attributable to the system, if on the date a permit or other authorization is issued . . . ." So, you do not even know what it is going to sound like or look like once it is installed. For example, the one in Washoe County was rated at 55 decibels, but when you got out there it

made a horrendous mechanical noise. Of course, the proponent said, "Oh, the one that we are going to put up is not going to make that mechanical noise."

There are two types of noises that are emitted by these types of machines. The other thing I wanted to point out to the Committee is zoning regulations in section 5, subsection 3, and in section 10: "The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county, or region." If that is the goal of zoning, to maintain property values and the character of the neighborhood, well then this just flies in the face of it. The bill on its face is inconsistent.

I would like to mention 55 decibels is a moving target. According to Washoe County Code, 75 feet is just the height of the pole, not the height of the whole structure itself, and 25 kilowatts is the limit for kilowatts. A normal home through a year uses approximately 10,000 kilowatt-hours. This breaks down to 830 kilowatt-hours per month, which means that you only need a 5- to 15- kilowatt machine, and you do not need a 75-foot pole and a 25-foot kilowatt system right outside my door. So the judge said, "Hey, that is a nuisance putting that right outside that guy's door in a neighborhood that buries the power lines, and restrict heights."

When I built my house, they had restrictions on height. They told me where I could build it, setbacks, and everything else, but no, now you can just put a wind turbine wherever you want no matter what impact it may have on other people. In conclusion, this bill is wrong and should not pass out of Committee.

**Chair Kirkpatrick:**

Thank you. Are there any questions? I will caution people that we are already late to floor and we need to get there.

**P. Michael Murphy, representing Clark County:**

We give a "me too" to NACO and tell you that we did forward our comments in written format to the creator of the bill in reference to our opposition to the bill.

**Lisa Foster, representing the Nevada League of Cities and Municipalities:**

I will be very brief. On behalf of Boulder City, it has been the leader in the state as far as renewable energy goes. They have a very tight restriction of 25 feet, and they are opposed to this bill when it comes to the heart of their community. They have looked at possibly putting large utility-scale windmills on hillsides outside the center of town, but they would like to be able to craft ordinances that fit their community in a unique way, just as other cities would like to do.

**Chair Kirkpatrick:**

Does anyone have any questions? [There was no one.] Mr. Ohrenschall, do you have any closing remarks?

**Assemblyman Ohrenschall:**

There are a few technical concerns I think that Mr. Busby might be able to address.

**Luke Busby:**

Essentially I would like to clarify the issue here. There is already a law that says that consumers should be able to build these things; that was passed last session. The issue is, are local governments creating restrictions that violate that law? We believe that is the case. Then the question becomes, how do you fix it? We believe the answer is, you set minimum standards. That is the clearest way that I have come up with to describe the issue.

**Chair Kirkpatrick:**

Assemblymen Bustamante Adams, Ellison, Goedhart, and I sit on the energy subcommittee hearing so I am sure that this will not be the last of it. I am sure there will be more discussions.

**Assemblyman Ohrenschall:**

When you stepped out of the room, one of the witnesses did testify regarding the nuisance issue. This bill does not take away the right of neighbors to sue for nuisance; it simply limits lawsuits if the wind turbine conforms to the ordinance. It does wipe that right out. I believe that Nevada has the chance to become a real leader in wind energy, and I think if the Legislature establishes minimum standards, that will help.

**Chair Kirkpatrick:**

Please keep me in the loop as you address the concerns of the others, knowing that April 11, 2011 is my drop-dead time. At this time, we are going to close the hearing on A.B. 386. Is there any public comment? [There was none.]

For those of you Committee members that have not been here before, there is a deadline for Committee introductions; we will recess until the call of the Chair knowing that Wednesday we will be meeting at 7:30 a.m. Please do not be late. We have a full schedule. When we get to the floor, and if there are more bills or if there is a second floor, we may call a behind the bar to discuss introduction of the rest of the bills, and I can tell you that the Taxation Committee is going to a behind the bar in a few minutes.

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With that the meeting is in recess [at 11:05 a.m.].

The meeting adjourned after a behind the bar meeting at 11:52 a.m.

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** March 28, 2011

**Time of Meeting:** 8:01 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 97	C	Kathy Clewett	Prepared Text
A.B. 168	D	Jennifer Lazovich	Prepared Text
A.B. 360	E	Cadence Matijevich	PowerPoint presentation
A.B. 400	F	Assemblyman Hardy	Prepared Text
A.B. 114	G	Susan Scholley	Work Session Document
A.B. 130	H	Susan Scholley	Work Session Document
A.B. 130	I	Susan Scholley	Mock-Up Amendment
A.B. 146	J	Susan Scholley	Work Session Document
A.B. 174	K	Susan Scholley	Work Session Document
A.B. 182	L	Susan Scholley	Work Session Document
A.B. 182	M	Susan Scholley	Mock-up Amendment
A.B. 201	N	Susan Scholley	Work Session Document
A.B. 386	O	Assemblyman Ohrenschall	Prepared Text