

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Sixth Session
May 11, 2011**

The Committee on Ways and Means was called to order by Vice Chair Marcus Conklin at 4:48 p.m. on Wednesday, May 11, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

GUEST LEGISLATORS PRESENT:

Assemblyman Lynn Stewart, Clark County Assembly District No. 22

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst

Minutes ID: 1190

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Connie Davis, Committee Secretary
Janice Wright, Committee Assistant

Vice Chair Conklin opened the hearing on A. B. 259 (1st Reprint).

Assembly Bill 259 (1st Reprint): Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)

Barbara Buckley, former Speaker of the Nevada State Assembly, appeared before the Committee, in her capacity as Executive Director, Legal Aid Center of Southern Nevada, to testify in support of A.B. 259 (R1), an act that required a portion of certain existing fees to be used for certain programs for legal services. [The Legal Aid Center of Southern Nevada, a nonprofit organization, served indigent persons with legal problems].

Ms. Buckley advised that A.B. 259 (R1) was heard first in the Assembly Committee on Judiciary and was rereferred to the Assembly Committee on Ways and Means to consider the portion of the bill related to the Account for Foreclosure Mediation.

Ms. Buckley testified that A.B. 259 (R1) redirected \$20 from the district courts in Clark County and Washoe County for the provision of legal aid services to indigent persons including abused and neglected children, victims of domestic violence, and victims of fraud. Ms. Buckley mentioned that the Legal Aid Center of Southern Nevada did not provide criminal law services because those services were provided by the Public Defender's Office. Unlike criminal law, in which everyone accused of a crime was entitled to an attorney, Ms. Buckley said abused children, victims of domestic violence, and victims of fraud were only entitled to legal aid paid for through fees and philanthropy.

Ms. Buckley explained that the provision that diverted \$20 from Washoe County and Clark County district courts to legal aid was included in a bill in 2009 as part of the court's business plan. However, the 2009 bill was amended, and the money, although assessed, was not allocated for legal aid services. Ms. Buckley explained that the \$20 that A.B. 259 (R1) redirected to legal aid service organizations in Clark County and Washoe County was from existing fees and not new fees.

Additionally, Ms. Buckley explained that the assessment was not redirected in rural communities specifically for legal aid services. Rather, A.B. 259 (R1) allowed the rural courts to use the money for options based on the courts' needs. Those options included maintaining facilities, as provided in section 1, subsection 2, paragraphs (a) and (b), or to support court appointed special

advocate (CASA) programs in section 1, subsection 2, paragraph (c) subparagraph (7), or to support legal services for the indigent in section 1, subsection 2, paragraph (c), subparagraph (8). Ms. Buckley reiterated that the fees were existing fees with no fiscal impact on the state.

Continuing, Ms. Buckley advised that the second portion of the bill redirected Notice of Default (NOD) fees that were locally generated in each county to the Account for Foreclosure Mediation. Assembly Bill 259 (R1) and the proposed amendment ([Exhibit C](#)), which had been distributed and placed on the Nevada Electronic Legislative Information System (NELIS), redirected \$5 of the \$50 NOD fee to provide legal services to help individuals with foreclosure problems. The bill in its original form redirected \$10 of the \$50 NOD fee for legal services.

Ms. Buckley reported that the Nevada Foreclosure Mediation Program provided the opportunity for individuals to sit across the table from their lender to work out an alternative to foreclosure. She pointed out that because the courts could not dispense legal advice, many individuals in need of services were contacting legal aid organizations for assistance. Ms. Buckley said the courts were currently providing legal aid organizations a small grant that allowed, for example, the Legal Aid Center of Southern Nevada to add a staff person to the organization's self-help center to answer questions. Additionally, the organization added the "Ask a Lawyer Program" that allowed anyone to contact a pro bono lawyer for assistance in a foreclosure mediation case. Ms. Buckley pointed out that rather than the court being besieged with questions, the legal aid organizations were attempting to make the Nevada Foreclosure Mediation Program work.

Ms. Buckley advised that the next project for the Legal Aid Center of Southern Nevada would be to create a video for YouTube that would be linked to legal aid organization websites and Foreclosure Mediation websites. The video, she said, would provide information on commonly asked questions, such as how to prepare a proposal to the bank and how to represent oneself in foreclosure mediation. Ms. Buckley said the Legal Aid Center of Southern Nevada would eventually expand their services to include lawyers who would represent litigants in foreclosure mediation.

Ms. Buckley advised that she would be happy to respond to questions and that Justice James Hardesty was also available to respond to questions regarding the fiscal impact on court budgets.

Vice Chair Conklin indicated that from his perspective, the most important thing about the bill was that it had no General Fund impact.

Ms. Buckley advised that there was no disbursement of General Fund monies to legal aid organizations in Nevada and explained that although some states appropriated funds to legal aid organizations, Nevada did not.

Assemblyman Kirner, as a freshman legislator, said he was unaware of what transpired in 2009 concerning the \$20 proposed to be redirected for legal aid services and asked for some background information.

Ms. Buckley deferred to Justice Hardesty who she said worked with members of the Judiciary throughout the state to develop a business plan related to court financing.

James Hardesty, Associate Justice, Nevada Supreme Court, advised that in 2009, on behalf of the Supreme Court, he presented Assembly Bill (A.B.) No. 64 of the 75th Session and Assembly Bill (A.B.) No. 65 of the 75th Session. The bills, he said, incorporated a business plan that proposed to increase civil filing fees and to use the revenue from that increase to pay for additional judicial officers who would focus their attention on civil cases. Additionally, the revenue from the increase in the fees would be used to expand financing capabilities for court needs in all of the counties and districts throughout the state.

Justice Hardesty reported that the business plan raised civil filing fees that had not been raised in 25 years, which he said continued, even after the increase, to remain below filing fees courts currently charged in the western states. Justice Hardesty reported that the revenue from the increase was used to fund the infrastructure for new judges in Clark County and Washoe County and for building facilities in the rural counties. He said, for example, Elko County constructed a new jury room and Carson City constructed a third courtroom.

The business plan, Justice Hardesty said, also provided that \$20 would be directed to legal aid organizations in Clark County and Washoe County that supported civil litigation in the court system through the organizations' self-help centers. Justice Hardesty explained that probably 65 percent of the cases in family court were "pro se" litigants [a Latin phrase "for oneself," a designation for persons who represented themselves in court]. Justice Hardesty said, however, that there were objections to the plan lodged by the previous Governor.

Justice Hardesty pointed out that the legal aid organizations' self-help centers were critical to assisting litigants make their way through the court system. He said that without that kind of assistance in many other similar programs, the courts would be clogged and decisions would be delayed. Thus,

Justice Hardesty said he proposed to Ms. Buckley that redirecting the \$20 be revisited in the 2011 session because it had been a part of the original plan, and the courts continued to need the support and endorsement of legal aid organizations.

Additionally, Justice Hardesty advised that the diversion of \$5 of the \$50 NOD fee could be managed by the courts even though the courts had been affected by budget reductions and revised revenue projections, the most dramatic of which was the Economic Forum's projection of NOD fees that was lower than the court's estimate. Justice Hardesty pointed out that the Economic Forum's projection of NOD fees affected the court's reserves, which also affected the amount that could be diverted to legal aid organizations. He said, however, there were many individuals in the Foreclosure Mediation Program who needed the assistance of legal aid organization lawyers for information and representation. After reaching out to legal aid organizations over the past 18 months to ask them to help promote and, at the same time, educate those who participated in the program, the court issued special grants to individuals to identify how they would use the funding. He said, however, that a funding mechanism was needed to help sustain the program.

In response to questions Assemblyman Grady asked concerning the funding approved in 2009, Justice Hardesty advised that A.B. No. 65 of the 75th Session, approved in 2009, provided for \$95 in fee increases. The courts were to have retained \$75 and \$20 was to have been directed to legal aid organizations that served the indigent. Although the full fee increase was assessed, none of it was allocated to legal aid organizations.

Vice Chair Conklin commented that there were two proposed amendments, the amendment Ms. Buckley testified to ([Exhibit C](#)) and a second amendment from the court ([Exhibit D](#)).

Justice Hardesty advised that although the second amendment was tendered, it was not necessary because the language contained in the existing statute provided rural judges, in districts with populations of 100,000 or less, the discretion to redirect the funds under their control to special needs as they determined were appropriate.

In response to Assemblyman Hambrick's questions concerning the distinction between the urban and rural counties, Vice Chair Conklin advised that A.B. 259 (R1) provided rural counties with one additional option but otherwise did not change the options they had.

Ms. Buckley advised that the amendment provided the judges in the rural districts the discretion to use the funds as they deemed appropriate whether it was for construction needs, CASA, legal aid, or any combination thereof.

Jon Sasser, Esq., representing Washoe Legal Services, spoke in support of A.B. 259 (R1) and advised the Committee members that copies of written testimony ([Exhibit E](#)) from Paul Elcano, Executive Director, Washoe Legal Services, had been provided to them. Mr. Sasser advised that Washoe Legal Services would be a beneficiary of the diversion of district court filing fees and NOD fees in Washoe County.

Mr. Sasser advised that Mr. Elcano's written testimony explained the services Washoe County Legal Services offered, the funding shortfalls currently being experienced, and how the new funding would help cover funding shortfalls.

Hearing no response to his request for additional testimony either in support of, in opposition to, or from a neutral position, Vice Chair Conklin closed the hearing on A.B. 259 (R1).

After testifying in another committee, Chairwoman Smith assumed the duties of the Chair and opened the hearing on A.B. 245 (1st Reprint).

Assembly Bill 245 (1st Reprint): Revises provisions governing eligibility for certain tax exemptions. (BDR 32-348)

Assemblyman Lynn Stewart, representing Clark County Assembly District No. 22, presented A.B. 245 (R1), an act authorizing a veteran to transfer to his or her spouse the exemption from the Governmental Services Tax to which the veteran would otherwise be entitled.

Assemblyman Stewart advised that veterans were entitled to certain tax exemptions for their vehicles and/or home and noted that section 2, subsection 2 of the bill stated that in lieu of claiming the exemption from taxation, a veteran could choose to transfer the exemption to his or her current spouse. The transfer process required a veteran to file an affidavit of transfer, made before a county assessor or a notary public, with the Department of Motor Vehicles in the county where the exemption would have been claimed. The transfer expired upon the death of the veteran or the revocation of the transfer by the veteran.

Assemblyman Stewart advised that a Department of Motor Vehicles' staff member was present and would testify that A.B. 245 (R1) was not a new tax or exemption but rather a transfer of a current exemption.

Mark Froese, Administrator, Management Services and Programs Division, Department of Motor Vehicles (DMV) advised that the DMV submitted a fiscal note that had a zero fiscal impact. The fiscal note, he said, included assumptions that no new exemptions would be created by the passage of A.B. 245 (R1), the affidavit of transfer and eligibility would be the responsibility of the county assessors, and the person presenting the exemption must be one of the registered owners of the vehicle.

Chairwoman Smith asked whether the exemption could be transferred by a veteran who did not currently own a vehicle to a spouse who owned a vehicle that had not previously been registered to the veteran.

Assemblyman Stewart indicated it was his understanding that a transfer of exemption would include a vehicle currently registered by a veteran or a replacement vehicle for one previously registered to a veteran.

Chairwoman Smith asked whether the bill should be amended to make the intent clear that the veteran would currently have to own a registered vehicle to transfer the exemption.

Assemblyman Stewart theorized that an occasion might arise in which a veteran who did not have a registered vehicle was called to active duty and the spouse purchased a vehicle while the veteran was away.

Chairwoman Smith recalled a discussion, in a previous Committee meeting, about the need to make the largest fiscal assumptions possible concerning bills, which appeared had not been made for A.B. 245 (R1).

Mr. Froese responded that DMV's assumption for A.B. 245 (R1) was for a family unit that included a veteran who could not use the exemption but who wanted to transfer it to a spouse.

Chairwoman Smith discussed the fiscal impact that could result from a possible loss of revenue by not using an exemption and indicated again that, in her opinion, the bill needed some clarification.

Assemblyman Stewart responded that the numerous benefits veterans received were available to them to use or not to use.

Assemblyman Kirner asked whether the same rules would apply to a veteran whose vehicle was owned by a family trust.

Mr. Froese indicated that the same rules would apply to a vehicle owned by a family trust.

Chairwoman Smith asked whether the bill specified to whom the vehicle was registered.

Assemblyman Stewart advised that page 2, line 38 of the bill indicated that the veteran was not entitled to exemption for the duration of a transfer and, therefore, was entitled to only one exemption.

Chairwoman Smith indicated that the question Assemblyman Kirner asked referred to whom the vehicle was registered.

Assemblyman Kirner, using himself as an example, explained that his family trust owned the vehicle for which he received an exemption, and he wanted to ensure that his spouse would not be excluded if he died.

Assemblyman Stewart pointed out that a spouse was no longer entitled to the exemption once the veteran was dead.

Chairwoman Smith indicated the question was about registration and asked Mr. Froese whether a vehicle could be registered in a family trust and whether the spouse was entitled to the exemption.

In response to Chairwoman Smith, Mr. Froese advised that he did not know the answer to the question.

Chairwoman Smith advised that family trusts were becoming very commonplace, and she wanted to ensure that question could be answered.

Assemblyman Kirner expressed his support for A.B. 245 (R1) but also wanted some clarification concerning the ability to transfer an exemption for a vehicle owned by a family trust.

Hearing no response to her request for additional testimony either in support of, in opposition to, or from a neutral position, Chairwoman Smith closed the hearing on A.B. 245 (R1) and opened the hearing on A.B. 419 (R1).

Assembly Bill 419 (1st Reprint): Revises provisions relating to groundwater basins. (BDR 48-299)

Assemblyman Pete Goicoechea, representing Assembly District No. 35, presented A.B. 419 (R1), an act relating to water; the bill required the State

Engineer to designate certain groundwater basins as critical management areas in certain circumstances.

Assemblyman Goicoechea advised that the bill pertained to overappropriated water basins throughout the state and provided for a new water basin designation, which, depending on the level of decline, could ultimately be declared a critical-management area.

Assemblyman Goicoechea advised that the fiscal note reflected a fiscal impact of \$22,100 in each year of the 2011-2013 biennium. He pointed out, however, that there was no impact to the General Fund because the funding would be derived from basin-fee assessments. Additionally, A.B. 419 (R1) provided that the State Engineer's duties for a designated basin would include monitoring basins at a level above normal survey monitoring, and a basin designated as a critical-management area would require extensive monitoring.

Assemblyman Goicoechea indicated that under the provisions of A.B. 419 (R1), the State Engineer would regulate the basins by priority, which required public hearings, travel to the basin locations, and the suspension of "junior" permits. Assemblyman Goicoechea explained that "junior" permits would be the first to be suspended because in Nevada water law, the principle of "first in time, first in right" applied. A groundwater basin deemed a critical-management area would require additional monitoring by the Division of Water Resources and would require the operators of those basins to conduct a ten-year conservation plan to bring the basins into balance.

Jason King, State Engineer, Division of Water Resources, Nevada Department of Conservation and Natural Resources, advised that A.B. 419 (R1) provided the Division of Water Resources an additional process to take action with respect to overappropriated groundwater basins.

Mr. King used the analogy that a designated basin could be compared with a yellow alert and a critical-management area with a red alert. He said that A.B. 419 (R1) would require the Division of Water Resources to monitor the basins to bring them back into balance, which, as Assemblyman Goicoechea mentioned, necessitated holding public hearings in each basin to determine whether the basin should be designated a critical-management area. Mr. King said that the fiscal note, submitted by the Division of Water Resources, budgeted \$2,100 for staff and a court reporter to travel to each basin and conduct a hearing to hear testimony. The \$20,000 balance of the fiscal note was estimated to pay staff in the field to collect depth-to-water measurements, perform crop and pumpage inventories, and produce an annual report. The total

of \$22,100 per fiscal year would be covered by the fees assessed to water-right holders.

In response to Chairwoman Smith's question concerning the fiscal note, Mr. King reiterated that the \$2,100 per fiscal year related to meeting expenses, and \$20,000 in each fiscal year would pay for staff that the Division already employed.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, asked for clarification concerning whether the staff members performing the field work were in the agency's budget or outside of The Executive Budget.

Mr. King advised that the staff were paid through basin-fee assessments outside of The Executive Budget.

Hearing no response to her request for additional testimony either in support of, in opposition to, or from a neutral position, Chairwoman Smith closed the hearing on A.B. 419 (R1) and opened the hearing on A.B. 466 (R1).

Assembly Bill 466 (1st Reprint): Requires the State Engineer to define, by regulation, the term "environmentally sound" for the purpose of making certain determinations relating to interbasin transfers of groundwater. (BDR 48-1120)

Jason King, State Engineer, Division of Water Resources, Nevada Department of Conservation and Natural Resources, presented A.B. 466 (R1), an act related to groundwater that required the State Engineer to define, by regulation, the term "environmentally sound" for the purpose of making certain determinations related to interbasin transfers of groundwater.

Mr. King testified that the Division of Water Resources' decision-making process for interbasin transfers of water [water pumped out of one basin to another] was guided by criteria in *Nevada Revised Statutes* (NRS). Mr. King explained that NRS provided that the Division of Water Resources establish whether the transfer of water from basin to basin was "environmentally sound." Assembly Bill 466 (R1), he said, proposed that the State Engineer define the term "environmentally sound" by regulation. The bill proposed that the State Engineer on or before December 31, 2011, begin the regulatory process to adopt regulations and on or before December 31, 2012, adopt regulations. If the regulations were not adopted before December 31, 2012, the Division would submit a report to the 77th Session of the Nevada Legislature concerning the progress made toward adoption of the regulations.

Mr. King reported that the Division of Water Resources submitted a fiscal note totaling \$32,000 for fiscal year 2011-2012 for costs related to a review of regulations by the Legislative Counsel Bureau, use of a court reporter, air travel, and per diem. Mr. King explained that the costs all related to traveling throughout the state to conduct six workshops to hear testimony and to draft and submit the regulations to the Legislative Counsel Bureau until a codified set of regulations could be adopted.

In response to Chairwoman Smith who asked whether the Division could absorb the costs related to the regulation process, Mr. King advised that costs could not be absorbed through basin-fee assessments and would be a General Fund cost.

Susan Lynn, Coordinator, Great Basin Water Network, a nonprofit organization that organized to inform rural communities about water transfers and capacity building within the community, testified in support of A.B. 466 (R1). Ms. Lynn stated that Great Basin Water Network "strongly" encouraged the State Engineer to begin rulemaking on defining environmental standards for the purpose of hearings on future applications realizing that the legislation would be too late for the several applications coming up in 2011.

Chairwoman Smith noted that it had come as a surprise to many during the legislative session that a fiscal note was attached to bills that required the development of regulations.

In response to Assemblyman Grady who asked why the cost was not included in the Governor's recommended budget, Mr. King advised that the cost was unanticipated and was not built into the agency's budget.

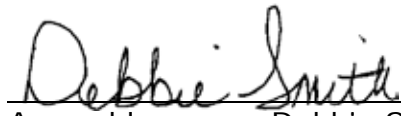
Hearing no response to her request for additional testimony in support of, in opposition to, or from a neutral position, Chairwoman Smith closed the hearing on A.B. 466 (R1).

Chairwoman Smith asked for public comment and hearing none adjourned the meeting at 5:33 p.m.

RESPECTFULLY SUBMITTED:

Connie Davis
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 11, 2011

Time of Meeting: 4:48 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest List
A.B. 259	C	Barbara Buckley	Proposed Amendment to A.B. 259
A.B. 259	D	John McCormick	Proposed Amendment to A.B. 259
A.B. 259	E	Jon Sasser	Paul D. Elcano, Jr. Testimony