

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

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

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:07 a.m. on Wednesday, March 2, 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/](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 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

**COMMITTEE MEMBERS EXCUSED:**

Assemblyman John Ocegüera

**STAFF MEMBERS PRESENT:**

Rick Combs, Assembly Fiscal Analyst  
Mike Chapman, Principal Deputy Fiscal Analyst

Julie Waller, Program Analyst  
Anne Bowen, Committee Secretary  
Cynthia Wyett, Committee Assistant

Chairwoman Smith called the meeting to order and asked the Committee to consider introduction of the following bill draft request ([Exhibit C](#)):

**BDR 34-876**—Requires an additional probationary period for certain teachers and administrators. (Later introduced as [Assembly Bill 225](#).)

ASSEMBLYWOMAN MASTROLUCA MOVED FOR COMMITTEE INTRODUCTION OF BDR 34-876.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Ocegüera was not present for the vote.)

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Vice Chair Conklin opened the hearing on Assembly Bill (A.B.) 193.

**Assembly Bill 193**: Revises provisions governing the implementation of capital improvement projects. (BDR 28-920)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, explained that A.B. 193 ([Exhibit D](#)) was a committee bill that was introduced to deal with an issue that had arisen in the Interim Finance Committee (IFC). In December there were some capital improvement projects that could no longer be funded because of lack of revenue for bonding.

According to Assemblywoman Smith there was no requirement for the State Public Works Board to appear before the IFC for approval to either cancel or change the scope of a project that had been previously approved. The concept was that the Public Works Board would have to appear before either the Legislature or IFC for approval for any changes or cancellations to projects.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), informed the Committee that as nonpartisan staff he was not allowed to testify for or against any legislative measures. Mr. Combs said he would explain what the bill did. The functional provisions of the bill began on page 3 of [Exhibit D](#). In section 1, subsection 1, paragraph (j) of A.B. 193, new language stated that the Public Works Board "shall obtain prior approval from the Legislature or the Interim Finance Committee, if the Legislature is not in session, before cancelling a project authorized by the Legislature or delaying

the commencement or completion of such a project beyond the period for which money for the project was authorized.”

Mr. Combs said that cancellation was easy to define, but a delay was more difficult. Information was provided to the Interim Finance Committee in December 2010 that the Public Works Board was delaying projects. The bill was not drafted in such a way that the Board would have to get approval every time there was a delay in a project, but only if that delay was going to cause the completion date to be pushed out past the date for which funding was approved. Mr. Combs noted that typically in a capital improvement project, funding was approved in one session and the bill contained a provision that allowed four years to complete the project. Should a longer delay occur the Board would need to appear before IFC, or the Legislature if it was in session, to request approval of that delay.

Section 1, subsection 2 on page 3 of [Exhibit D](#) contained new language which provided standards or guidelines for the Interim Finance Committee (IFC) to follow when receiving this type of request. Mr. Combs stated there were three things that A.B. 193 required the Committee to consider:

1. The reason provided by the Board for the change in scope or design or cancellation or delay of the project.
2. The current need for the project.
3. The intent of the Legislature in originally approving the project.

According to Mr. Combs, the Legal Division determined that there was already a requirement in section 1 about changes of scope. Mr. Combs directed the Committee’s attention to page 2 of A.B. 193 ([Exhibit D](#)) in what was now section 1, subsection 1, paragraph (f), lines 24 and 25 of the bill, which indicated that if the Public Works Board wanted to change the scope of a project it needed to come to IFC for approval. Mr. Combs emphasized that was current language and not something that was being added to the bill.

Mr. Combs said the standards and guidelines that were being added in section 1, subsection 2 applied to the provision on the change of scope as well as to the new provision that was being added for the delay or cancellation of a project.

Assemblywoman Smith added that A.B. 193 complemented the process that was already in place. She said that when the issue was raised in December, the

IFC had no ability to weigh-in on the decisions that were made previously, but A.B. 193 made that correction.

Assemblyman Goicoechea requested clarification regarding section 1, subsection 1, paragraph (f), which referred to 10 percent or more of the square footage or cost of the project, and in section 1, subsection 1, paragraph (g), subparagraph (2), which referred to the aggregate of 15 percent of the total awarded contract price. He wondered whether the 10 percent or the 15 percent figure triggered IFC or legislative approval.

Mr. Combs explained that paragraph (f) addressed changes in scope, which was the 10 percent requirement. The new paragraph (g) would affect change orders, which would be a 15 percent aggregate of the contract amount. Mr. Combs said there were two different things that were being required to get approval from IFC or the Legislature.

Assemblyman Goicoechea commented that having worked on a number of public works projects, typically there were a lot of change orders, and it cost money if the project slowed down. He said that before the change order could be approved there would be a wait of 30 to 60 days before IFC met. Assemblyman Goicoechea stated he was a little concerned, but 15 percent in aggregate change orders was significant.

Assemblyman Grady stated as a point of interest that there was always a CIP (Capital Improvement Program) Subcommittee meeting the day before the regular IFC meeting. Many of these matters were discussed and the results of the CIP Subcommittee were always brought to IFC for further discussion.

Vice Chair Conklin closed the hearing on A.B. 193 and turned the hearing over to Chairwoman Smith.

Chairwoman Smith opened the hearing on budget account (BA) 3920.

**COMMERCE AND INDUSTRY**  
**PUBLIC UTILITIES COMMISSION (224-3920)**  
**EXECUTIVE BUDGET PAGE PUC-1**

Crystal Jackson, Executive Director, Public Utilities Commission of Nevada (PUC), introduced Donna Skau, Commission Secretary, PUC, Alaina Burtenshaw, Chairman, and Luis Valera, Commissioner. Ms. Jackson provided a handout entitled "Public Utilities Commission, 2011-2013 Biennium Budget Request," ([Exhibit E](#)).

Ms. Jackson referred to page 2 of [Exhibit E](#), which stated the statutory authority. The Public Utilities Commission (PUC) was responsible for regulating public utilities, such as electric, natural gas, telephone, water and sewer services, gas and electric "master meter" service at mobile home parks, and some propane systems. According to Ms. Jackson, the Commission was also involved in monitoring gas pipeline and railroad safety.

Page 3 of [Exhibit E](#) stated the Public Utilities Commission's mission, vision, and philosophy. Page 4 outlined measurement indicators. Ms. Jackson said the PUC was doing well in meeting or exceeding all of the measurement indicators with the exception of number 8, because of a vacant motive power inspector position. It had taken approximately four months to hire an individual for the position and another ten months for that individual to be certified to inspect the locomotives.

Page 5 of [Exhibit E](#) referred to the organizational structure of the Public Utilities Commission. The Commission consisted of three commissioners who were appointed by the Governor to four-year, staggered terms, with one of the commissioners serving as chairman. Ms. Jackson said Assembly Bill No. 510 of the 75th Legislative Session created the position of executive director.

Ms. Jackson indicated the Public Utilities Commission (PUC) was divided into two general sections, (1) policy and administration and (2) regulatory operations. The PUC currently had 96 full-time equivalent (FTE) positions including two positions funded by the American Recovery and Reinvestment Act of 2009 (ARRA). Ms. Jackson also noted that the PUC would be celebrating its 100th anniversary on March 23, 2011.

Referring to page 6 of [Exhibit E](#), Ms. Jackson said she would briefly discuss revenue categories of the Public Utilities Commission. She emphasized that the PUC was not a General Fund agency and received no General Fund dollars whatsoever. The primary funding source for the PUC was the regulatory assessment. The regulatory assessment was set by the Commission annually and was assessed on all public utilities in the state. Those public utilities received recovery from the ratepayers for this assessment. The statutory maximum was 3.5 mills and for purposes of balancing this budget request it was set at 2 mills for both years of the biennium. Ms. Jackson said the PUC's optimum reserve balance was between \$2.2 million and \$2.7 million, which was roughly 25 percent of expenditures. This amount had been adjusted downward because of Governor Sandoval's recommended budget cuts. The normal reserve range was between \$2.4 million and \$2.8 million.

The Gas Pipeline Safety program, page 7 of [Exhibit E](#), received up to 50 percent reimbursement from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration. Ms. Jackson said the estimated expenditures for the program were approximately \$800,000, and it was anticipated the agency would be receiving half of that amount back each year.

Ms. Jackson said on page 8 of [Exhibit E](#) was information regarding the Rail Safety Inspection program. The PUC also receive some money from a program funded by the Beatty Storage Facility, which were hazardous waste disposal fees. She said making up the difference in that program was a rail assessment, which was assessed on freight and passenger interstate movement.

The Public Utilities Commission (PUC) was also responsible for administering the collection of the Universal Energy Charge. Statutory authority allowed the PUC to retain up to 3 percent of the amount collected, although it currently retained about 0.5 percent.

On page 9 of [Exhibit E](#), Ms. Jackson said three of the Commission's priorities had been listed. The first one was to retain two American Recovery and Reinvestment Act of 2009 (ARRA) funded positions, which were an electrical engineer and a policy advisor. Those two positions were due to sunset February 1, 2012. Ms. Jackson said the costs for those positions were anticipated to be approximately \$303,000 for the biennium.

Ms. Jackson requested the Committee turn to page 10 of [Exhibit E](#) where there were two tables that illustrated why the Commission was requesting retention of the two positions. In 2007 there were 28 dockets pertaining to renewable energy and energy efficiency, and in 2010 there were 83 dockets. Ms. Jackson explained the Commission was continuing to see additional dockets in this discipline.

Additionally, the bottom table on page 10 of Exhibit E showed that in 2007 there were 35 renewable generator applications and in 2010 there had been 534 applications. Ms. Jackson maintained that it was critical that the Commission had the expertise internally because, if not, the Commission would have to contract out for this expertise, which would cost much more.

Assemblyman Conklin asked what percentage of generator applicants had actually performed the construction. Ms. Jackson said she did not have those figures with her and would provide Assemblyman Conklin with the information.

Assemblyman Conklin commented that in California as part of their RPS (Renewable Portfolio Standard) which was very aggressive, a lot of applications were approved that were never used. He did not believe the PUC should be in the position of having 9,000 people with contracts and 50 actual producers.

Ms. Jackson said that on page 9 of [Exhibit E](#), the next priority was unclassified salary adjustments for eight targeted positions. The positions were not included in The Executive Budget, as they would be handled in the unclassified pay bill hearings, but Ms. Jackson said she wanted to bring it to the Committee's attention.

The Public Utilities Commission (PUC) was requesting a certified depreciation expert for regulatory operations staff. Ms. Jackson said the Commission was expecting NVEnergy to file a depreciation case on or before June 1, 2011. Those costs were estimated to be approximately \$65,000 for the biennium.

Ms. Jackson stated that none of the priorities would have any additional fiscal effect on the monthly residential ratepayer. The residential ratepayer was paying approximately 34 cents per month, including these three priorities, and the rate would remain at 34 cents per month.

Page 11 of [Exhibit E](#) illustrated the rest of the Commission's expenditure categories. Ms. Jackson noted that all of the categories were essentially at base or below. She wanted to bring decision unit Enhancement (E) 711 to the Committee's attention. In the budget was a request to replace a gas pipeline safety vehicle, which was a reimbursable expenditure of up to 50 percent under the gas pipeline federal grant. The Public Utilities Commission (PUC) had received a communication from the Budget Division that nonmanaged fleets were now going through the State Motor Pool and as a result the PUC would be submitting a budget amendment to remove the \$19,000 for the replacement vehicle. The PUC would be required to pay through the Motor Pool, and Ms. Jackson was not sure what those costs would be.

Ms. Jackson said that concluded her presentation.

Chairwoman Smith requested that Ms. Jackson clarify the Commission's full-time equivalents (FTE) for the Committee.

Ms. Jackson replied that the Commission currently had 96 FTEs, including the two American Recovery and Reinvestment Act of 2009 (ARRA) funded positions that the agency was requesting to retain.

Assemblyman Conklin questioned the fact that the ARRA funds were going away, but the PUC was proposing to keep the two ARRA-funded positions. He said he could not imagine that the mill assessment monies were increasing that much and asked whether the PUC was funding the new positions out of reserves. Assemblyman Conklin also asked what kind of workload, or what kind of demands related to renewable energy, would occur should the PUC not be funded to retain those positions.

Ms. Jackson advised that by maintaining the annual regulatory assessment at 2 mills the PUC could fund the two positions without reserve funding. Ms. Jackson pointed out that applications had skyrocketed and the two positions were responsible strictly for renewable energy filings within the Commission. The positions did not perform work on any other filing types unless they met the requirements in the grant. Currently, the grant requirements were anything related to energy efficiency, renewable energy, the smart grid, plug-in electric vehicles, demand response, coal and carbon capture, and storage, transmission, and distribution. Ms. Jackson said given those related topical areas, there was a full-time position for both the electrical engineer and the policy advisor.

Donna Skau, Commission Secretary, Public Utilities Commission, commented that had the Public Utilities Commission (PUC) not had the monies available through the federal government for the two positions it would be requesting funding for the two positions now. The PUC was asked to retain two positions for staff who had been already trained to meet the demands of renewable energy.

Assemblyman Conklin referred to the performance indicators on page 4 of [Exhibit E](#) and asked whether the Commission had considered additional performance indicators related to renewable energy.

Ms. Jackson explained that page 4 of [Exhibit E](#) listed the performance indicators the Commission was required to report in the budget. She said performance indicators specific to renewable energy would be developed should the Commission be able to retain the two positions being requested.

Assemblyman Kirner requested clarification regarding the number of renewable generator applications on page 10 of [Exhibit E](#). He said there appeared to have been a big spike in applications in 2010.

Ms. Jackson stated that the large number of applications in 2010 was due in large part to legislative changes. One of the largest increases in dockets in 2009 was from petitions for deviations from the 50 kilowatt cap for solar



generations. Absent change in the legislation, Ms. Jackson expected the number to continue to increase. Additionally, the renewable purchase power agreements and Integrated Resource Plan (IRP) amendments might decrease over time, but the renewable portfolio standard compliance dockets and the demand-side management annual reporting requirements would remain the same. Ms. Jackson offered to write a summary for Assemblyman Kirner that might better explain the increase.

Assemblyman Kirner commented that part of his question was whether the spike in 2010 was being used for justification for the two positions, but it appeared that so far in 2011 the number of applications was decreasing again. He said part of what he was trying to understand was whether the Commission really needed the two positions other than the fact that the individuals had already been trained.

Ms. Jackson responded that the regulatory operations staff was still contemplating that the number of applications would increase significantly for 2011. The year-to-date number was the number of renewable generator applications filed, which was just one component of the necessity for these positions. Ms. Jackson said dockets pertaining to renewable energy and energy efficiency would continue to increase. An engineer had to inspect facilities with renewable generators. There were also questions that staff received on a daily basis about the new systems, and it was estimated that staff was spending approximately two hours a day responding to questions from developers.

Assemblywoman Carlton asked what the mill level had been for the past few years so it could be compared with the current 2 mill level.

According to Ms. Jackson the annual regulatory assessment was currently set at 1.99 mills, a low in the past decade. She said just for balancing purposes, the assessment was set at 2 mills so that all the numbers would balance and equate to the optimum reserve level. Ms. Jackson added that 2 mills might not be what the Commission would set the rate at in June 2011.

Assemblywoman Carlton stated she was concerned about the length of the dockets and the cost, and she asked whether the two positions would help the PUC expedite the dockets. She said as she understood it the utilities actually paid for costs associated with the docket and then were allowed to pass that cost on to the ratepayer.

Ms. Jackson said that was correct. Any time the Commission received filings from utilities; the utility was required to absorb the cost for the court reporter and the hearings. Ms. Jackson referred to Assemblywoman Carlton's question

about the two positions and said the two positions were just one piece of the pie, but the ultimate goal would be faster processing of applications. The other consideration was that the commissioners relied on those areas of expertise to make their decisions. In particular, with those two individuals, the grant also covered training of existing staff, so that the PUC could ensure that it was equipped to meet the ever-changing dynamic of technology.

Assemblyman Conklin asked whether it was possible that the big spike in 2010 was the result of the demonstration program which opened in late 2010. It was closed out in approximately three days with all the demonstration programs needing to be inspected and approved. Although he was speculating, Assemblyman Conklin said that was something the Committee needed to consider. He said Public Utilities Commission (PUC) Commissioner Rebecca D. Wagner had informed him that the spike was largely due to distributed generation (DG).

Chairwoman Smith asked about the PUC's audit and the recommendations from the audit.

Ms. Jackson informed the Committee that the Commission had seven audit recommendations, and all seven had been fully implemented.

Chairwoman Smith asked whether the Commission was in a position to keep reserves at an appropriate level or to change the mill assessment if necessary and Ms. Jackson replied, yes.

Chairwoman Smith requested that someone from the Budget Division address the vehicle replacement issue.

Stephanie Day, Deputy Director, Budget Division, Department of Administration, stated there were currently four agencies requesting replacement vehicles in The Executive Budget. Those agencies were the Public Utilities Commission; Colorado River Commission of Nevada; Department of Business and Industry, Division of Industrial Relations; and Department of Motor Vehicles (DMV) Pollution Control. Ms. Day said there were budget amendments forthcoming regarding the vehicles. There was also an audit performed on the Motor Pool, which was one more step toward the recommendations of the audit.

Chairwoman Smith asked whether the amendment would be submitted soon.

Ms. Day said she was hopeful that all four amendments would be done this week.

Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada, stated he had a question concerning the regulatory authority of the Commission under the SolarGenerations program. There were some issues concerning possible violations of the statute because of the way projects were being completed. Mr. McKenzie stated what was at issue was public bodies completing solar generation projects without following the provisions of Chapter 338 of *Nevada Revised Statutes* (NRS). He further stated that when the PUC had been contacted concerning this issue, it had advised that while it was the regulatory agency, it had no enforcement authority, and Mr. McKenzie wondered who the enforcement agency was.

Chairwoman Smith requested that both Fiscal staff and the Public Utilities Commission (PUC) research what agency was the enforcement agency.

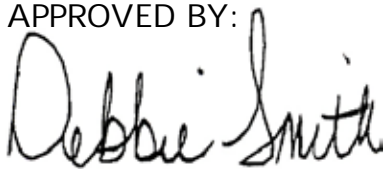
Chairwoman Smith adjourned the meeting at 8:46 a.m.

RESPECTFULLY SUBMITTED:

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Anne Bowen  
Committee Secretary

APPROVED BY:



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Assemblywoman Debbie Smith, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Ways and Means

**Date:** March 2, 2011

**Time of Meeting:** 8:07 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Guest Sign-In sheet
BDR 34- 876	C	Assemblywoman Debbie Smith	Bill Draft Request Text
A.B. 193	D	Assemblywoman Debbie Smith	A. B. 193 Text
	E	Crystal Jackson, Executive Director, Public Utilities Commission	2011-2013 Biennium Budget Request, Budget Account 3920