

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-sixth Session
May 23, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:15 a.m. on Monday, May 23, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator John J. Lee, Chair
Senator Mark A. Manendo, Vice Chair
Senator Michael A. Schneider
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblyman Pete Goicoechea, Assembly District No. 35
Assemblyman Tick Segerblom, Assembly District No. 9

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Heidi Chlarson, Counsel
Cynthia Ross, Committee Secretary

OTHERS PRESENT:

Terry Care, Ex-Senator
Larry Matheis, Executive Director, Nevada State Medical Association
Randall Todd, Washoe County Health District
Jason King, P.E., State Engineer, Division of Water Resources, State
Department of Conservation and Natural Resources
Andy Belanger, Southern Nevada Water Authority; Las Vegas Valley
Water District
Kyle Davis, Nevada Conservation League

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CHAIR LEE:

I am opening this meeting with Assembly Bill (A.B.) 240 because a technical issue needs to be addressed. This bill was passed out of Committee on May 20 with an incorrect amendment.

ASSEMBLY BILL 240 (1st Reprint): Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)

HEIDI CHLARSON (Counsel):

It was noticed after our work session on A.B. 240 that the Legal Division of the Legislative Counsel Bureau passed out an incorrect version of the mock-up amendment. This was the Legal Division's mistake and not that of Assemblywoman Debbie Smith. As Assemblywoman Smith was testifying, she understood the Committee had the correct version. The correct version has been passed out to Committee members ([Exhibit C](#)).

There are two changes in the correct mock-up Proposed Amendment 7031 from the incorrect mock-up Proposed Amendment 6976. The first change in mock-up Proposed Amendment 7031 is on page 2, section 1, subsection 4. It addresses that the reporting requirement should be submitted at the end of each fiscal quarter. The second change is on page 3. Under section 1, there is a new subsection 8. This reads, "The provisions of chapter 333 of NRS that are not in conflict or otherwise inconsistent with this section apply to a contract entered into pursuant to this section." This subsection says that any provisions set forth in *Nevada Revised Statutes* (NRS) 333, the public purchasing chapter, apply unless the provisions conflict with the substance of this section.

SENATOR MANENDO MOVED TO RECONSIDER AND AMEND AND DO PASS AS AMENDED A.B. 240.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The next bill is Senate Bill (S.B.) 271. This bill has returned to the Committee from the Senate Committee on Finance so that we can make changes to the bill.

SENATE BILL 271: Provides for withdrawal of the State of Nevada from the Tahoe Regional Planning Compact. (BDR 22-988)

MS. CHLARSON:

Senate Bill 271 proposes that Nevada withdraw from the Tahoe Regional Planning Compact. The mock-up of the Proposed Amendment 6850 ([Exhibit D](#)) proposes changes to the original bill. My handout ([Exhibit E](#)) summarizes those changes.

The first change in the amendment, [Exhibit D](#), is the new section 1.5. This section is the existing Tahoe Regional Planning Compact. This amendment proposes several changes to the Compact that in order to become effective, would need to be accepted by the Nevada Legislature, passed by the California Legislature and ratified by the U.S. Congress.

The second change to the Compact is on page 6 of the mock-up amendment, [Exhibit D](#). It proposes to remove the supermajority requirement from members on matters considered by the Tahoe Regional Planning Authority (TRPA).

The third change to the bill is on page 9 of the amendment, [Exhibit D](#). The change requests that the regional plan of the TRPA consider the Lake Tahoe Basin's changing economic conditions so that the regional plan does not negatively affect the economy at Lake Tahoe.

The fourth change is on page 19 of the amendment, [Exhibit D](#). It provides that a person who challenges the regional plan has the burden to show that the plan violates the Compact.

The fifth change in the amendment, [Exhibit D](#), is on page 26. This change retains the existing membership of the Nevada TRPA if Nevada does withdraw from the Compact. It also removes the Lieutenant Governor and installs the Secretary of State in that membership.

The sixth area of change is found on page 33 of the amendment, [Exhibit D](#). The two modifications are section 17.3 and section 17.7. These sections

provide that the 1987 and 1997 proposed amendments to the Compact cannot become effective because they were never ratified by Congress or approved by the state of California.

The seventh change is on page 35 of the amendment, [Exhibit D](#). It adds a new section, section 19.5. This provides that if Nevada pulls out of the Compact, any approval or permit for a project issued by the TRPA remains valid. The newly created Nevada TRPA would grandfather current project approvals and permits.

The eighth change is also on page 35 of the amendment, [Exhibit D](#). It is the new section 22.5. It requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing specific issues related to impacts on the State as a result of withdrawing from the Compact.

The ninth change is on the bottom of page 36 and continues on page 37 of the amendment, [Exhibit D](#). It is the new section 23. It requires the transmittal of the Compact proposed changes to the U.S. Congress and the state of California for their approval and ratification.

The tenth change is on page 37 of the amendment, [Exhibit D](#). It is the new section 23.5. It provides that Nevada's withdrawal will take effect on October 1, 2013, unless the state of California and the U.S. Congress have ratified and approved the proposed changes to the Compact set forth in [Senate Bill 271](#). The TRPA must also update the 1987 regional plan. Section 23.5 extends the deadline until October 1, 2015, if the Governor issues a proclamation.

SENATOR HARDY:

On page 9 of the proposed amendment, [Exhibit D](#), the green language says "... shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce." This addresses increases and decreases.

MS. CHLARSON:

Yes. The planning commission is required to continuously review and maintain the regional plan. This language ensures that the regional plan reflects the

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changing economic conditions, and this would address both increases and decreases.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 271.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:
The next bill is A.B. 98.

[ASSEMBLY BILL 98 \(1st Reprint\)](#): Enacts the Uniform Emergency Volunteer Health Practitioners Act. (BDR 36-56)

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):
Assembly Bill 98 is a uniform bill dealing with medical practitioners and allowing them to come to Nevada during cases of extreme emergency.

TERRY CARE (Ex-Senator):
I am representing myself as a member of the Uniform Law Commission. It is a legislative appointment that I have held following the adjournment of the Seventieth Session in 1999.

The organization that promulgated the Uniform Law Commission is a group of about 300 active state and federal trial and appellate court judges, law school professors, representatives from various attorneys general offices, legislators, practitioners and others. An annual conference occurs every summer, and the Commission adopts uniform acts. The course of action is involved. First, a study process occurs, usually consisting of a study committee. The committee takes a couple of years to determine if the need for a uniform act exists. If the need exists, a drafting committee is established, which meets three to four times in an interim. A drafting exercise takes two to three years, and many stakeholders are brought in during the drafting process. These uniform acts are thoroughly vetted. The Commission is an organization with no political agenda. Its function is to determine the need for uniform laws among all the states without having

federal legislation for certain acts. The best known is the Uniform Commercial Code. The rules of commerce are about the same in all 50 states because of the adoption of the Uniform Commercial Code.

The Uniform Emergency Volunteer Health Practitioners Act brought forward in A.B. 98 has been adopted by 13 jurisdictions, and the Act is pending in four other legislatures, including Nevada's.

The Uniform Emergency Volunteer Health Practitioners Act stems from what happened in the summer of 2005. Hurricane Katrina in New Orleans, Louisiana, was followed by Hurricane Rita. Like Hurricane Katrina, Hurricane Rita almost hit New Orleans directly and moved east on the Gulf Coast, causing extensive damage. The problem with Hurricane Katrina was that a number of health care volunteers wanted to assist in New Orleans but were not allowed. No mechanism was in place to allow volunteers from other states to come into Louisiana on an expedited basis, and in other cases, these health care volunteers were turned away.

The purpose of the Uniform Emergency Volunteer Health Practitioners Act is to have a law that would be adopted in all 50 states to handle surges that occur during extreme emergencies. The world is not a safe place. This morning in the newspaper and on the television, we learned 89 people were killed in a tornado in Joplin, Missouri. When I testified on the Assembly side, it was right after the earthquake in Christchurch, New Zealand, that killed in excess of 300 people. Officials called for an immediate need for health care practitioners. Following that tragedy, the world saw the earthquake that caused the tsunami that led to the nuclear disaster in Japan, with a death toll in excess of 30,000 people. Emergencies happen. This Act contemplates those emergencies, many of which are unforeseen and where immediate needs for health care volunteers are critical.

All 50 states have signed the Emergency Management Assistance Compact (EMAC) that is referenced in the bill. The EMAC is in NRS 415, but the problem is that the Compact does not handle surges that occur during emergencies.

This is how the Uniform Emergency Volunteer Health Practitioners Act works. Health professionals can register in advance or during an emergency to provide volunteer services to an enacting state. The health care facilities and disaster

relief organization in the affected states can use registered, authorized professionals within the system. This allows states to know registrants are appropriately licensed and in good standing in their home states. The licenses are recognized in the affected states for the duration of the emergency declaration and subject to the restrictions imposed by the host state. If Nevada adopts the Act and never uses it, it still retains control over who gets to come in and what the volunteers get to do. The host state is mandated to report any disciplinary actions to the volunteers' home jurisdiction. For example, if a doctor runs afoul and gets disciplined, that is reported to the doctor's home state. The scope of practice is also limited to that in the home state unless the state modifies the scope of practice.

The Act has a provision on civil liability. This is a policy issue. The Uniform Law Commission came up with language similar to NRS 415. There is no liability for a health care practitioner for ordinary negligence. Liability exists for gross negligence and intentional acts. The policy issue is that if doctors and nurses are needed on an emergency basis, these health care professionals do not have the time to give each patient the attention he or she deserves under normal conditions.

Workers' compensation is also addressed in this bill. The provision states that workers' compensation goes to volunteers from other states if they are not covered in their home states in the event the volunteers are injured or killed rendering emergency services in Nevada.

A number of handouts have been provided. Committee, you can see the Act has been endorsed by the Emergency Volunteer Action Network ([Exhibit F](#)). The Network includes the American Red Cross and the American College of Emergency Physicians, as well as a host of other endorsees. I have also provided the Committee with a summary of the Act ([Exhibit G](#)) and an article from *USA Today* ([Exhibit H](#)) explaining the intent of the Act.

In the bill, sections 4 through 19 are the definitions. Section 20 gets into the guts of the Act and it goes to the applicability to volunteer health practitioners. Section 20 says this applicability pertains when an emergency declaration is in effect while practitioners are participating in required training exercises to prepare for the declaration of an emergency or when responding to an event with a reasonable expectation that the event will be declared an emergency.

Section 21 of the bill addresses the regulation of services during an emergency. This largely falls under the Division of Emergency Management. Section 22 of the bill is the volunteer health practitioner registration system; section 23 of the bill addresses the recognition of volunteer health practitioners licensed in other states. They must be licensed in other states, and if volunteers licensed in more than one state have licenses that have been suspended, revoked or subject to agency orders, they are not permitted to register.

Section 24 of the bill specifies that there is no effect on credentialing or privileging. Section 25 addresses the administrative sanctions for practitioners who exceed the permitted scope of practice. Section 28 of the bill is the limitation on civil liability, and section 29 of the bill and the few following sections address the workers' compensation provisions.

CHAIR LEE:

Where do the health care providers register, and what agency takes this information? Also, does this Act tie into homeland security?

SENATOR CARE:

This Act does not tie into homeland security but is intended to supplement what exists under EMAC. Disasters can be by natural causes or man-made. The latter disaster can invoke homeland security. I can understand an emergency implicating homeland security and the need of emergency medical care working in tandem. The Act does not contemplate this situation.

Section 22 of the bill defines the qualifications for a registration system. There is no definition of a registration system, but the intent is that the system is provided by the Division of Emergency Management.

CHAIR LEE:

Does the registration go through the State and the Governor becomes responsible for the information, or does the information get distributed county by county?

SENATOR CARE:

An emergency can be defined to a geographical area. This is contained in section 21 of the bill. For example, an emergency can occur exclusively in Clark County or a part of Clark County. Section 22 of the bill addresses the qualifications of a registration system for volunteer health practitioners.

In section 22, subsection 2 explains that the information about who is registered is available for anyone who has the need to know or is entitled to know. The Division of Emergency Management of the Department of Public Safety or a host entity can confirm whether volunteer health practitioners utilized in this State are registered with a registration system that complies with subsection 1.

CHAIR LEE:

If the Division of Emergency Management takes this information and the emergency is defined to a geographical area, how does the involved county access the information of health care volunteers?

LARRY MATHEIS (Executive Director, Nevada State Medical Association):

The Division of Emergency Management would be the host agency when an emergency is declared and have the list of approved professional health care volunteers from around the Country. The emergency will indicate the geographical area involved. The Division will act as the coordinator, assign the appropriate volunteers and ensure that information is provided to the other states. The Division will also coordinate with required local agencies, such as the Southern Nevada Health District, which licenses and certifies emergency medical technicians.

SENATOR HARDY:

My concern is when people volunteer, they are considered Good Samaritans. The new section 31.5 in the bill amends NRS 616A and says that volunteer health practitioners of this Act are to be employees of the host entity. If people are deemed employees, they should be under the qualifications of workers' compensation from the state of which they are volunteering. As a Nevada physician volunteering in another state, I would be a de facto employee of another state. If I become injured or am killed, I am under the laws of the other state. The tension this section causes is that people would rather have their private insurance pay for death or injury than workers' compensation. Is there an option in the Act allowing people to opt out of workers' compensation and to remain covered under their private insurance policies? Also, how much does the wage of \$100 per month on a workers' compensation injury pay compare to a person earning \$40,000 a year in Nevada?

SENATOR CARE:

Section 29, subsection 1 of the bill addresses injury or death while providing services, and subsection 2 addresses injury or death as the result of an occupational disease. If practitioners are not otherwise eligible for benefits for injury or death under the laws of this bill or in another state, the practitioner, and in the case of death the practitioner's representative, files a claim for compensation. It is a two-step process. First, people are not eligible in their home states, and people have to submit claims for compensation. The language came on the Assembly side from the workers' compensation lobby. I understand this makes the workers' compensation optional.

SENATOR HARDY:

The intent is to not have section 31.5 of the bill relate to section 29. The new section 31.5 of the bill protects people from the juxtaposition of section 29.

SENATOR CARE:

This is how I read the bill. I will look into it to provide clarity.

MS. CHLARSON:

I read section 29 of the bill the way Senator Care reads the bill. The practitioner would have to file a claim pursuant to workers' compensation. Page 11, section 31.5 of the bill, amends the chapter relating to workers' compensation. I read the two sections together to say that section 31.5 would not apply unless people file claims for workers' compensation.

SENATOR HARDY:

To clarify the intent, section 31.5, page 11, line 35 of the bill says "at the wage of \$100 per month" Hopefully, the host state is not going to automatically write checks to volunteers for a \$100 per month because in the acceptance of those checks, the people have agreed to the contract that they are employees. This de facto contract falls under section 29 when the people in their acceptance of money agree they are employees.

SENATOR CARE:

I understand that to be correct, but the words "not otherwise eligible" in section 29, subsection 1, paragraph (a) say there is nothing in the home state.

SENATOR HARDY:

If the host state offers individual volunteers \$100 or provides lodging at \$100 per night, the accepted payment becomes a contract. This is not the intent of the legislation. I do not want to put the health care volunteers in jeopardy for not knowing they agreed to employee contracts.

SENATOR CARE:

I do not look at this Act leading to a contractual arrangement between out-of-state volunteers and Nevada. This is something that is available—if volunteers are not otherwise eligible and decide to file workers' compensation claims resulting from injury, disease and in cases of death, filed by the involved families. This does not give rise to contracts by health care practitioners coming into Nevada and participating under the Act.

SENATOR HARDY:

We need to ensure this legislative intent is clear.

CHAIR LEE:

The checks would need to be cashed for them to be interpreted as a contract.

SENATOR HARDY:

Correct.

MR. MATHEIS:

Nevada has contributed volunteers to disasters in other states, and the recent Japanese earthquakes remind us that we are also vulnerable. There may be a time when we will need volunteers to come to Nevada. This Uniform Act as it passes in more states and states do their due diligence is a future investment on how to deal with emergencies. We cannot predict what will happen, but we suspect emergencies will happen.

RANDALL TODD (Washoe County Health District):

We support A.B. 98 as amended in the first reprint. Washoe County Health District is an organization that hosts the Medical Reserve Corps. It is a group of volunteer health care professionals. Similar units exist in other jurisdictions within the State. Washoe County has about 160 volunteers, which are not many in the case of a major disaster. This bill will help us by adding state volunteers to our local volunteers.

Section 22, subsection 1, paragraph (d) of the bill mentions a mechanism whereby volunteers can be registered in advance to enjoy the provisions of this bill. The mechanism is the Emergency System for Advance Registration of Volunteer Health Practitioners. Every state is required under the Centers of Disease Control and Prevention Public Health Emergency Preparedness Grant Program to develop a database where volunteers can register and become vetted in the ways this Act requires. If volunteers need to be deployed in other states, the credentials of the health care volunteers are vetted, and the volunteers can provide emergency services. It works the same way in reverse. The other states have similar databases of volunteers who are registered and vetted, and if we have the Uniform Act, these volunteers can come into Nevada to help in an emergency and practice within the scope of their licenses. The Uniform Emergency Volunteer Health Practitioners Act is important, so we encourage the Committee to support A.B. 98, as noted in my handout ([Exhibit I](#)).

CHAIR LEE:

The hearing on A.B. 98 is closed and I open the hearing on A.B. 419.

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

ASSEMBLYMAN PETE GOICOECHEA (Assembly District No. 35):

Assembly Bill 419 permits the State Engineer to designate a groundwater basin as a critical management area. The State has a number of groundwater basins that are overappropriated.

Assembly Bill 419 allows the State Engineer to designate a groundwater basin as a critical management area if the withdrawals consistently exceed the perennial yield of that basin. It also allows for a petition process if the majority of the water right holders in that basin petition the State Engineer to create a water management plan in the critical management area. The bill also requires the State Engineer hold a public hearing to bring forward the water management plan that has to be approved in a public hearing process. If the water management plan results are not achieved in ten years, it requires the State Engineer to start regulating that water basin by priority. We have groundwater basins that are declining.

The Legislature has established a gradient of decline and the State Engineer does not want to regulate those basins by priority. Assembly Bill 419 requires that, after a ten-year period with a water management plan in place, the State Engineer regulates by priority if water management goals are not met. Water management plans will come into place; with a water management plan, the bill allows the State Engineer to waive criteria under law, especially forfeiture laws, to bring the basins back in balance whether it be by planting alternative crops, water conservation or using different irrigation methods. Almost every basin in the State that has real development is on the verge of becoming overappropriated or is overappropriated.

Assembly Bill 419 is another tool in the toolbox for the State Engineer.

CHAIR LEE:

What is a priority right?

ASSEMBLYMAN GOICOECHEA:

Water rights in Nevada are first in time; first in right. The older the water right, the higher the priority. We would address the newest permits and work backwards to get basins back into balance. The more aggressive people might be newer water right holders.

CHAIR LEE:

The water right stays with the property, so if I buy a ranch with water rights dating back to the 1800s, I would have a high priority.

JASON KING, P.E. (State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources):

The priority stays with the right, so if you purchased ten water rights pertinent to that ranch, we would look at those rights and see they were filed in the 1800s. The priority is attached to the rights, and they would be inherited when the ranch was purchased.

CHAIR LEE:

If I bought a new ranch and bought old water rights, the water rights transfer at the date the water rights were filed.

SENATOR SETTELMAYER:

When a property was established by a settler, the State Engineer went back in time and through decrees determined when the water was proven to be put to beneficial use. My ranch has water rights dating back to the 1860s. I know of water rights predating the State in the 1840s. This includes water rights held by the Washoe Tribe. The water right is established when the water was proven for beneficial use.

My concern with the bill is section 1, subsection 2, paragraph (c) because it puts into law the relationship between surface water and groundwater in a basin. I worry this rids the concept of secondary water rights.

ASSEMBLYMAN GOICOECHEA:

That section refers to criteria the State Engineer shall consider. There is a correlation between groundwater pumping and surface water rights, and it has to be considered.

SENATOR SETTELMAYER:

I understand the correlation, but this might potentially eliminate secondary water rights. If the language is added into law and a correlation is evident, person A can go to the State Engineer and say his or her neighbor, person B, lost his or her water rights from the river and wants to use the supplemental secondary rights. Person A contends he or she has better primary rights and that person B should not have the right to pump person A's water. I do not want this to get into law because this can affect many situations.

ASSEMBLYMAN GOICOECHEA:

Are you addressing a person with a supplemental right that has a higher priority than the neighbor?

SENATOR SETTELMAYER:

That correlation derived from Native American tribes goes beyond the correlation. If a person has secondary water rights and is pumping water and the neighbor has primary rights, the water pumped is the neighbor's primary water.

ASSEMBLYMAN GOICOECHEA:

You are talking about surface water.

SENATOR SETTELMAYER:

Yes, if you are creating the correlation that the Tribes support.

ASSEMBLYMAN GOICOECHEA:

I look at the language in section 1, subsection 2, that says "... the State Engineer shall consider, without limitation: (a) The hydrology of the basin; (b) The physical characteristics of the basin; (c) The relationship between surface water and groundwater in the basin." This is the bill's intent because pumping groundwater basins impact surface water rights. It is different in a decree basin where the right has been adjudicated and a surface water connection is for the length of the basin. The legislation is focused on groundwater basins not having surface water connections between them.

SENATOR SETTELMAYER:

This bill only deals with critical management areas. This bill does not apply anywhere else other than these critical groundwater basins.

ASSEMBLYMAN GOICOECHEA:

Yes, and the way to establish critical groundwater basins is that withdrawals in the basins must consistently exceed the perennial yield, and that most likely does not occur where there are surface water connections in groundwater basins. If gradient declines in groundwater basins are established and a loss of two feet occurs each year without spikes back up, these basins become critical management areas and need to be addressed.

CHAIR LEE:

Are there many critical management areas throughout the State? If this bill passes, will it take place effectively because of pending issues?

MR. KING:

If this bill becomes law, I can foresee four to six basins where we would hold hearings to designate the basins as critical management areas to pull the basins back into balance.

Our office supports this bill as amended in the first reprint.

ANDY BELANGER (Southern Nevada Water Authority; Las Vegas Valley Water District):

I am neutral on A.B. 419. We understand the need to manage groundwater basins and to give people a soft landing to get basins back into balance. We understand and support the concept of groundwater management plans. The plan in the Las Vegas Valley has worked well. We are concerned with some language in the bill, but we are willing to work over the next two years as the bill is implemented to make sure those concerns are addressed, specifically the petition process. We understand the process is critical to giving local groundwater users say in whether basins need to be defined as critical management areas and to the development of groundwater management plans.

CHAIR LEE:

Protests are common with water rights. Is this bill another tool for protestants to slow economic development?

MR. KING:

No. There are two ways that critical management areas can move forward. One, the office can be petitioned by the majority of water right holders in a basin. In this case, there is consensus. Two, critical management areas can be established if the office sees continued declining perennial yields in basins. I do not see this legislation as an obstacle, but rather it helps move things along.

ASSEMBLYMAN GOICOECHEA:

This bill allows people in overappropriated basins ten years to implement a water management plan to get basins in balance. People with junior rights will try to figure out how to conserve enough water under these plans. Water management plans will also limit litigation that occurs before the State Engineer regulates by priority. When the State Engineer regulates by priority, it starts a water war and finger-pointing occurs. This bill gives water right owners ten years to work through those issues.

CHAIR LEE:

Is a junior water right a water right that does not have a high priority?

ASSEMBLYMAN GOICOECHEA:

A junior water right is a newer right. This is the common reference for water rights. Senator Settlemeyer has an 1860 water right and you come in with a 1960 water right. This would make you a junior water right holder.

SENATOR HARDY:

Are there situations that make junior water rights priority water rights, such as domestic use versus agricultural use?

MR. KING:

No. Water right priorities are established at the date applications are filed in our office or as Senator Settlemeyer spoke to, when the water was first put to beneficial use. Since 2007, domestic wells have priority but for a long time, they were not under State law. In 2007, the Seventy-fourth Session established that the date a domestic well was drilled is the priority of that water right. Priority has nothing to do with the highest or best use of water but the date rights are filed in our office, put to beneficial use via a vested right or decree, or in the case of domestic wells, when the wells were drilled.

SENATOR HARDY:

Do the tribes have an overarching groundwater basin priority versus surface water priority?

MR. KING:

There are two water sources: surface water sources and groundwater sources. When a reservation is established, it has a reserved right to the water that is necessary to grow that reservation and that water right has a priority. Ninety-nine percent of the time, the water right is surface water. It can be near a stream, spring or lake. In many cases, this priority is the No. 1 priority on a system. Pyramid Lake is a perfect example. Regarding groundwater, Nevada does not recognize a reserved right for a tribal reservation.

SENATOR HARDY:

Section 1, subsection 2, paragraph (c) saying "The relationship between surface water and groundwater in the basin" could open that up.

MR. KING:

No. I understand Senator Settlemeyer's concern about it spreading throughout the statute. Section 1, subsection 2, paragraph (c) is saying that when a groundwater management plan is submitted to our office for review, looking at the connection between surface water and groundwater is another criteria we use when making our decision. I do not look at this language as an opening of any door.

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SENATOR HARDY:

I see it not as opening a door but a floodgate. If the language is put into statute, it is contestable, but we are establishing legislative intent.

KYLE DAVIS (Nevada Conservation League):

We are in support of this bill. This is a good piece of legislation for dealing with the problem of overappropriated basins. When groundwater recedes, it causes environmental impacts. It is important to place into statute some way to remedy that problem. If this bill becomes law, it will accomplish our goals in dealing with overappropriated basins.

CHAIR LEE:

The hearing is closed on A.B. 419 and this meeting is adjourned at 9:10 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Ross,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 240	C	Heidi Chlarson	Proposed Amendment 7031
S.B. 271	D	Heidi Chlarson	Proposed Amendment 6850
S.B. 271	E	Heidi Chlarson	Amendment Handout
A.B. 98	F	Terry Care	Letter
A.B. 98	G	Terry Care	Summary
A.B. 98	H	Terry Care	Article from <i>USA Today</i>
A.B. 98	I	Randall Todd	Written Testimony