

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

**Seventy-sixth Session
April 15, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:20 a.m. on Friday, April 15, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, 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:

Senator David R. Parks (Clark Senatorial District No. 7):

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Warren B. Hardy II, Ex-Senator; Las Vegas Ski and Snowboard Resort
Tom Thomas, Las Vegas Ski and Snowboard Resort
Stephanie Myers
Andrew Clinger, Director, Department of Administration
Ted Olivas, City of Las Vegas
Jason King, P.E., State Engineer, Division of Water Resources, State
Department of Conservation and Natural Resources

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Steve Hartman, Vidler Water Company, Inc.; Nevada Land and Resource Company, LLC
Andy Belanger, Southern Nevada Water Authority; Las Vegas Valley Water District
David Fraser, Executive Director, Nevada League of Cities and Municipalities
Wes Henderson, Deputy Director, Nevada Association of Counties
Keith Lee, State Contractors' Board

CHAIR LEE:

There are 12 bills in the work session. We will begin with Senate Bill (S.B.) 232.

SENATE BILL 232: Removes certain tracts of local governmental and private land from the state definition of the Spring Mountains National Recreation Area. (BDR S-181)

MICHAEL STEWART (Policy Analyst):

Senate Bill 232 removes four tracts of nonfederal land from the defined boundaries of the Spring Mountains National Recreation Area to allow development and zoning of those tracts in accordance with State and local law. Testimony indicated that these tracts would be set aside for the creation of an outdoor recreation area (Exhibit C). There are amendments.

The mock-up and conceptual amendment is attached, Exhibit C. It explains the development prohibitions to include: a hotel, inn, motel, motor court, boardinghouse or lodging house, gas station retailer and a store principally devoted to the sale of consumable products or food for human consumption off the premises of the land—excepting the operation of a snack bar. Prohibitions also include a restaurant franchise and any residential development having more than one home per two acres. The amendment also provides that, notwithstanding any provision of law to the contrary, the Nevada Gaming Commission shall not issue a license for any land described in this bill, and that lands described in this bill must only be used for facilities and operations related to outdoor recreational activities.

CHAIR LEE:

This bill had problems regarding what was to be expected on the mountain. Ex-Senator Warren B. Hardy was charged to work with the groups to solve the problems.

WARREN B. HARDY II (Ex-Senator; Las Vegas Ski and Snowboard Resort):

Kevin Stickelman, the president of the Las Vegas Ski and Snowboard Resort (LVSSR), held a meeting yesterday with interested residents who forwarded me an amendment that has been added to the mock amendment, [Exhibit C](#). The language is not exactly what the residents requested. I was told by Committee counsel that this is due to a bill drafting restriction. The amendment is crafted to meet the requirements of statutory construction and to address the concerns of the residents.

CHAIR LEE:

Ms. Chlarson, were you involved with the amendment?

HEIDI CHLARSON (Counsel):

Yes. I spoke with Senator W. Hardy and worked with him on the language. There are a few major changes between the language he gave me and the amendment as drafted. The first change related to a request to change language in lines 1 and 2 of the mock-up amendment, [Exhibit C](#). It is standard language we use in every bill we draft. I cannot change the language, but the way the amendment is worded satisfies the intent. Another change we requested prohibits R-2 development, which is not a term used in statute. Page 6 of the mock-up has green language in section 2, subsection 1, paragraph (e). I added the prohibition of any residential development of more than one home per 2 acres. This is the definition of R-2 zoning. The final change addressed the request that the land only be used for winter snow play activities. Snow play is not a term used in statute. I am unsure how to define it without inadvertently changing the intent of the bill and the amendment. I can work to define the term but need guidance as to how the Committee would like the term interpreted. Every other requested change is included in the mock-up amendment.

TOM THOMAS (Las Vegas Ski and Snowboard Resort):

A meeting with Kevin Stickelman and the residents of Mount Charleston occurred yesterday. I did not attend the meeting but understand the information conveyed has been included in the amendments. It signifies an understanding amongst the parties. This legislation is a first step in creating a snow park that will be acceptable to the residents. Numerous meetings with the residents over the period of design and engineering could not be included in this bill, and we make that commitment. We also recognize the difficulty of defining snow play at the State level, but our intent is to present a snow park project regardless of

what the bill states. A snow park is our intent; we plan to move forward and build it.

CHAIR LEE:
Are the residents satisfied?

MR. THOMAS:
Yes. A number of residents support the snow park. I am sure there are those who do not consent, but we have reached a point where we can move forward.

STEPHANIE MYERS:
Kevin Stickelman met with the Mount Charleston community members. He listened to our concerns and understands our vision of the mountain. The residents of Mount Charleston and our annual 2 million visitors desire both the tranquility the mountain provides and recreational opportunities. The partnership of LVSSR and the community with an open and free exchange of ideas will benefit us all and help alleviate major problems we have experienced on the mountain for several winters.

Any plans of a governmental or commercial enterprise will be transparent to the community at large with an exchange of dialogue in the process. We have a lot to accomplish on the Clark County level, and we want to protect the mountain for future generations. We want LVSSR to pursue a parking solution below the ski line to prevent people without all-terrain vehicles from driving in the snow. They can park and take shuttles up the mountain. We desire that the County's five acres be purchased with Southern Nevada Public Lands Management Act funds and given to the U.S. Forest Service. We know that no entity works with snow better than LVSSR. We look forward to the time when LVSSR will have the winter leases on all campgrounds and picnic areas in Lee Canyon. We support S.B. 232.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 232, INCLUDING THE MOCK-UP AMENDMENT AND THE CONCEPTUAL AMENDMENT.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The second work session bill is S.B. 233.

[SENATE BILL 233](#): Establishes the Office of Grant Procurement, Coordination and Management in the Office of the Governor. (BDR 18-1058)

MR. STEWART:

Senate Bill 233 creates the Office of Grant Procurement, Coordination and Management in the Office of the Governor and authorizes the Governor to appoint the Director of the Office. The bill requires all State and local agencies to notify the Office of Grant Procurement, Coordination and Management of any grants for which they apply and any grants which they receive. The bill also prohibits State and local agencies from establishing any program which provides essential services with funds from a grant from the federal government if the grant is not continuous or reasonably certain to be renewed. Senate Bill 233 also requires the Director to develop suggestions and proposals for an incentive program to encourage businesses to apply for grants for the development of projects in Nevada and to submit a report regarding those suggestions with any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. There are several amendments ([Exhibit D](#)).

The first amendment provides that the Office of Grant Procurement, Coordination and Management be established within the Department of Administration rather than the Office of the Governor, [Exhibit D](#).

The second amendment expands the duties of the Director of the Office of Grant Procurement, Coordination and Management to coordinate efforts with Nevada's Congressional Delegation relating to the availability and management of federal grants and related programs.

The third amendment removes local government agencies from the provisions of section 4, subsection 2. This would retain local government's discretion to decide whether to accept grants. A copy of the amendment is within [Exhibit D](#).

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We also have a proposed mock-up amendment from Senator David R. Parks. It shifts the Office of Grant Procurement, Coordination and Management to the Department of Administration, changes the title of Director to Chief and adds duties as it relates to research and identification of federal grants available to State agencies and local nonprofit agencies.

SENATOR DAVID R. PARKS (Clark Senatorial District No. 7):

The mock-up amendment is an effort to make the proposed changes. I met with the Department of Administration and received their comments and recommendations.

There is a small error in the amendment, [Exhibit D](#). Page 9, lines 13 through 15 should have read, "The Chief of the Office of Grant Procurement, Coordination and Management is in the unclassified service of the State and serves at the pleasure of the Director."

ANDREW CLINGER (Director, Department of Administration):

We support the bill with the mock-up amendment and the language reflects our efforts.

TED OLIVAS (City of Las Vegas):

Senator Parks asked that I review the amendment. On page 6 of the amendment in [Exhibit D](#) lines 5 through 8 talk about the duties of the Chief. It says the Chief shall research and identify grants and shall write grants for federal funds for State government, local governments and others. Paragraph (c) found on page 6, line 9 says, "If requested by a state or local agency," research will be done on our behalf. One can conclude under section 3, subsection 1, paragraph (b), lines 7 through 8 that the State is responsible for writing our federal grants. A clarification can be made by adding the language "If requested" to the beginning of line 7 to have lines 7 and 8 read, "If requested, write grants for federal funds for state agencies, local governments and local nonprofit organizations." The City of Las Vegas appreciates that the Office of Grant Procurement, Coordination and Management wants to work with the locals, but we want to make clear that in the case of local governments, it is upon request.

CHAIR LEE:

Can we add the language to line 9?

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MS. CHLARSON:

The paragraph with concern is in S.B. 233, page 6, line 7 or section 3, subsection 1, paragraph (b).

MR. CLINGER:

It is a good amendment. The State does not want to be required to write grants for all the local governments.

SENATOR PARKS:

I concur, and this was always the intent. An advantage State and local agencies can gain is better cooperation. Last year, a grant came forward that was almost a total giveaway. Very few agencies pursued the funding out of the \$780 million stimulus grant from the American Recovery and Reinvestment Act. The agencies had misconceptions about what the grant would have entailed to receive monies.

SENATOR HARDY:

I read that the Chief shall write grants for local nonprofit organizations. Local nonprofit organizations have their own grant writers. I want them included with local governments to be able to write their own grants.

SENATOR PARKS:

I concur and want the amendment to read in effect that the Chief shall help write grants if requested.

CHAIR LEE:

We will include nonprofit organizations.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 233 WITH ALL AMENDMENTS, AMENDING THE MOCK-UP AMENDMENT ON PAGE 6, LINE 7, PARAGRAPH (B) BY ADDING "IF REQUESTED" PRIOR TO "WRITING GRANTS FOR ... "

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR LEE:

The third bill in work session is S.B. 260.

SENATE BILL 260: Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)

MR. STEWART:

Senate Bill 260 was brought forth by Senator Hardy. It sets forth an alternative procedure for the creation of a local improvement district (LID) that includes a renewable energy project. Senate Bill 260 authorizes a governing body to adopt an ordinance creating an improvement district and ordering a renewable energy project to be acquired or improved. The governing body can contract with a person to construct or improve a renewable energy project, issue bonds or otherwise finance the cost of the renewable energy project and levy assessments on assessable property. The local government is exempt from the provisions in State law setting forth a hearing procedure on the creation of LIDs—if the governing body issues a provisional order from an LID for a renewable energy project and the governing body receives written agreement from the owners of assessable property in the proposed LID. There is a mock-up amendment ([Exhibit E](#)).

Senator Hardy worked on the mock-up amendment in [Exhibit E](#). It addresses energy efficiency projects in the bill and the distribution of assessments relating to this form of LID. The mock-up amendment adds the term "or an energy efficiency improvement project" throughout the bill. It also removes provisions in section 2 of the bill that would allow the governing body to amend the ordinance creating the LID to provide for the redistribution of assessments of the LID. This will help alleviate concerns about different properties going in and out of an LID. The standing definition of energy efficiency improvement project is included, [Exhibit E](#), as set forth in *Nevada Revised Statutes* (NRS) 271.

SENATOR HARDY:

Manny Gomez's amendment in [Exhibit E](#) improves the bill by adding an energy efficiency improvement project. I spoke with Judy Stokey representing NV Energy and she is okay with the amendment.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 260.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The fourth work session bill is S.B. 261.

[SENATE BILL 261](#): Makes various changes relating to the reorganization of certain fire protection districts. (BDR 42-836)

MR. STEWART:

Senate Bill 261 was also brought to us by Senator Hardy. It provides that in any reorganization of a fire protection district, the board of county commissioners shall hold an appropriately noticed public hearing on the reorganization. After the hearing, the board can adopt such an ordinance reorganizing the district. If the board of county commissioners does not adopt such an ordinance reorganizing the fire protection district, S.B. 261 requires the board to submit the issue of reorganization to the electors of the fire protection district at the next primary or general election. The board must adopt an ordinance reorganizing the district if the majority of the voters approve the reorganization. There is a mock-up amendment ([Exhibit F](#)).

The mock-up amendment deletes new language in section 1, subsections 3 through 7 and provides that the language in NRS 474.535 regarding the reorganization of a fire district apply to counties whose population is 100,000 or less. It adds new language to NRS 474 to provide that—in a county whose population is 100,000 or more—a fire protection district that has been in existence for at least two years can be reorganized. It also provides that two or more fire protection districts that have been in existence for two or more years can be combined and reorganized into one fire protection district. The proposal also declares that any such reorganization can be initiated by petition of at least a majority of the property owners in the district or by a resolution of the board of county commissioners. This mirrors NRS 474.535.

The amendment also sets forth public notice procedures for the county commissioner's hearing on the issue of the reorganization and provides that after the hearing, the board can adopt an ordinance reorganizing the district.

The amendment also specifies that if the board of county commissioners does not adopt such an ordinance to reorganize the fire protection district, it must submit the issue of reorganization to the electors of the fire protection district at the next primary or general election. It provides that the board must adopt an ordinance reorganizing the district if the majority of the voters approve the reorganization. Finally, it specifies that the board of county commissioners must make an order dividing the reorganized district into election precincts or providing for the election of the district directors at large. The board must also appoint the initial members of the board of directors of the district.

Behind the mock-up, [Exhibit F](#), is an amendment received from Washoe County, providing that new provisions set forth in the bill as well as in the mock-up be applicable only to Clark County. Testimony indicated that such a change would lessen the impacts on efforts to study options for the regionalization of certain fire services in Washoe County.

SENATOR HARDY:

Washoe County approached me with what I view as a friendly amendment. I cannot speak for other counties. The amendment limits the mock-up to only apply to Clark County.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 261 WITH THE MOCK-UP AMENDMENT AND THE AMENDMENT FROM WASHOE COUNTY.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The fifth bill in the work session is S.B. 325.

[SENATE BILL 325](#): Creates the Office of Inspector General in the Department of Administration. (BDR 18-1062)

MR. STEWART:

Senate Bill 325 creates the Office of Inspector General in the Department of Administration. The Governor must appoint the Inspector General, who is directly responsible to the Governor. The bill requires the Inspector General to investigate, audit, and review the operation and management of each State agency to determine whether any act or omission amounting to fraud, waste, abuse or corruption has occurred or might occur with that State agency.

Senate Bill 325 also authorizes a law enforcement agency in this State, upon request of the Inspector General to the extent that money is available, to provide officers, staff and other assistance to the Inspector General. The bill also includes the operating budget of the Office of Inspector General within certain provisions governing the Department of Administration's Operating Fund for Administrative Services. There is a conceptual amendment ([Exhibit G](#)).

The amendment proposed by Chair Lee would shift the Division of Internal Audits from the Department of Administration to the Office of the State Controller. The mock-up deletes sections 1 through 7 of the bill, amends section 8 by deleting the reference to the Office of Inspector General in the original bill and removes the Division of Internal Audits as an entity of the Department of Administration from NRS 232.213. It also amends provisions in NRS 353A, placing the Division under the Office of the State Controller.

CHAIR LEE:

In the bill's beginning, there was angst about the direction we were going with an Inspector General. I put together an amendment, [Exhibit G](#). Several arguments can be made in support of this amendment ([Exhibit H](#)). The Governor has been in office for four months. This legislation is not directed at him. We need to do a better job in the Audit Division. The amendment is to start the process without hiring new people and allay this problem. I have neither heard from the Governor's staff nor had a meeting with Senator Greg Brower, who is the bill's sponsor. I have no problem with Senator Brower removing his name from the bill if he so chooses.

SENATOR SETTELMAYER:

I understand your testimony and the lack of involvement from the individual whose name is on the bill, but this is an individual's bill. I do not support bringing this bill to a vote.

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CHAIR LEE:

I talked to the bill sponsor when the bill came out, he said it was not his bill, but he was carrying it for the Governor's staff. I would have expected more participation from the Governor's staff with this legislation.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 325 WITH THE CONCEPTUAL AMENDMENT.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR HARDY:

I do not know how the bill fits with the amendment. I will not support the amendment so I will vote against the bill.

CHAIR LEE:

In Senator Brower's defense, I will add my name to the bill.

THE MOTION CARRIED. (SENATORS HARDY AND SETTELMAYER VOTED NO.)

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CHAIR LEE:

The sixth bill in work session is S. B. 360. If we pass this bill, it will be for processing the bill for rereferral to the Senate Committee on Finance.

SENATE BILL 360: Revises provisions governing redevelopment agencies.
(BDR 22-937)

MR. STEWART:

Senate Bill 360 sets forth various incentives for a developer who performs a public work in a redevelopment area. Senate Bill 360 requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless several factors apply: one, that 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; two, that 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; three, the developer or build-to-suit owner or lessee complies with the requirements in the employment plan submitted by

the developer; and four, the developer satisfies certain reporting requirements relating to the project as set forth in the bill.

The bill allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply with the reporting requirements. Senate Bill 360 also requires that the employment plan filed along with proposals for certain redevelopment projects, to include information regarding the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment. There are amendments ([Exhibit I](#)).

A mock-up amendment proposed by Senator Steven A. Horsford does three things: one, it adds a new section to the measure providing that the measure does not apply to a developer for a redevelopment project unless a portion of the redevelopment project is within the Southern Nevada Enterprise Community; two, it amends the contents of the report required to be filed by a developer who receives incentives under the bill to delete reporting regarding bonding and lines of credit and instead reporting on the training conducted for persons hired by the developer, contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; three, it also provides an appropriation of \$50,000 from the State General Fund to the Interim Finance Committee for the contractual services of a consultant to study the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community. A map showing the boundaries of the Southern Nevada Enterprise Community is in [Exhibit I](#).

SENATOR HARDY:

I see this bill as a job creation bill—but more important—in a blighted area. This can give people incentive to stay and encourage people to move into the area. This is for personal redevelopment as opposed to urban renewal. This legislation will give opportunities to people and can give hope to people who need it.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 360, INCLUDING THE MOCK-UP AMENDMENT, AND REREFER S.B. 360 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR SCHNEIDER SECONDED THE MOTION.

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SENATOR SETTELMAYER:

I support the bill's intent of creating jobs, but it is wrong to create a class situation where if a person lives on one side of the street, he or she gets a benefit. I will not be supporting S.B. 360.

THE MOTION CARRIED. (SENATOR SETTELMAYER VOTED NO.)

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CHAIR LEE:

The next work session bill is S.B. 362.

[SENATE BILL 362](#): Revises provisions concerning groundwater basins. (BDR 48-926)

MR. STEWART:

Senate Bill 362 was brought forth by Senator Schneider. It requires the State Engineer to designate any basin in which the withdrawals of the groundwater consistently exceed the perennial yield of the basin as a critical management area. The bill requires the State Engineer to extend the time necessary to work a forfeiture in a basin which is designated as a critical management area if the holder of the water right pays a fee that is deposited in an account in the General Fund. The money can only be used to pay the costs of retiring water rights in the particular designated basin where the water right is located. The bill also requires the State Engineer to adopt a sliding scale for such a fee, based on the priority of the right. There are amendments ([Exhibit J](#)).

We received testimony by Randy Weaver. He noted that the bill could also include language that would set a ten-year limit on the total length of the water right extensions with the annual fee increase beginning on the fifth year of the extension through the tenth year of the extension. After the tenth year, the extension would expire.

Language could also be included to provide that these extensions could be utilized for water in basins that are not designated as critical management areas, [Exhibit J](#).

During the bill's hearing, there was discussion of the Assembly considering a similar measure, Assembly Bill (A.B.) 419. It was passed by the Assembly

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Committee on Government Affairs as amended. A copy of A.B. 419 and the proposed amendment is attached, Exhibit J.

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

CHAIR LEE:

Water issues are difficult. I support S.B. 362 in the conservation effort. I understand a person has to prove beneficial use. I have seen trees watered in the middle of the desert. I understand seepage back into the aquifer, but Senator Schneider said we must do something to prevent people from wasting water.

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

I understand your concern and Senator Schneider's intent to give us more tools to deal with overappropriated basins. The premise of Nevada water law is to put water to beneficial use. If water is not put to beneficial use, there is the ability to sell the water. There is also a mechanism in water law to cancel the rights or forfeit them. The water law was not set up to allow people to hold water rights in perpetuity if they are not put to beneficial use. This bill flies in the face of the use-it-or-lose-it concept. Mechanisms exist for people to file time extensions if they cannot put their water to beneficial use. If they meet a set criteria, we approve extensions many times. At some point if the water is not put to beneficial use, that water needs to go to someone else.

CHAIR LEE:

Is there any way that somebody with a plan to use his water could park the water with someone else who needs water? We want to stop the waste. Senator Schneider's goal is to not see people go 100 years without using their water rights.

MR. KING:

I agree, but people do it every day. I have talked with a number of farmers in Pahrump and Amargosa Valley who are farming other people's water rights because the water right holders are not able to put their water to beneficial use. This happens on a frequent basis.

SENATOR SCHNEIDER:

I do not know a lot about water law. Two people from Las Vegas approached me about their water rights.

STEVE HARTMAN (Vidler Water Company, Inc.; Nevada Land and Resource Company, LLC):

This is a difficult issue for the State Engineer, but he has been diligent in trying to solve water waste. There are ways in which we can deal with parking water. People do go on people's land to farm it, using the owner's water rights. Broader issues need to be dealt with to solve the immediacy issue. The people in Clark County live in a different basin and the issue is further complicated. In rural Nevada, neighbors solve their water right use in many ways and the State Engineer's Office has been good about allowing for time extensions when appropriate. Water law is "use-it-or-lose-it." It is difficult, especially in tough economic times, but the State Engineer's Office has been good about understanding the tough economic times and allowing leniency. I would hesitate to do much more than allow the State Engineer to use his discretion regarding water extensions.

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

We have faced these issues in Clark County. We came to the Legislature in 1997 to create the groundwater management program which was designed to address the issues of overappropriation of the Las Vegas Basin. The Legislature gave us tools we could use to address these issues. We have the ability to impose a fee to all groundwater users in the Basin. The generated funds are used to pay people to get off their wells in areas where they are required by the State Engineer to abandon their wells or for people who choose to get off their wells and connect to a public water system. This process has been in place for the last 14 years and works well.

This bill's intent is to address basins that have similar issues including overappropriation, addressing people who have water for future use but are not putting it to beneficial use and finding a mechanism for people to retain water rights without going to the State Engineer's Office to file extensions.

Assembly Bill 419 has been processed by the Assembly Committee on Government Affairs. Assuming it gets processed on the Assembly Floor, it will

come forward to this Committee and provide another vehicle to address the issues raised by this bill.

SENATOR SETTELMAYER:

My concern with Senate Bill 362 is the concept of changing two fundamental tenets in Nevada water law. Testimony indicated that Amargosa Valley individuals rent out water. They turn to another person to put their water to beneficial use. The water grows crops. If the water was not put to beneficial use, the land would be blighted. The county would lose economic revenue because the land would not be taxed. If the crops were not grown, there would be no crops to sell, causing a loss of economy to ranchers, farmers and to the area. Nevada wildlife congregates around water; if the water is not used, the surrounding animals are also hurt. If the water is not used for growing, there is a loss of jobs. I do not want water wasted and run into the desert, but this bill is not the answer. Most often, people find a way to put water to beneficial use. If a person turns on a spigot and runs the water across the desert, that would not be beneficial use.

MR. KING:

Correct. Running water across the desert is a waste of water and a violation of Nevada water law.

SENATOR HARDY:

Is the scenario legal in which a farmer cannot use his water and allows the farmer next door to use it?

MR. KING:

Yes. The farmer holding the water right can file a change application and move the water to the neighbor's property for beneficial use.

SENATOR HARDY:

A farmer can lease their land and water and this is considered beneficial use?

MR. KING:

Yes.

SENATOR HARDY:

Does the person who leases the land and water need a permit?

MR. KING:

If the land is the same place of use as the water right, no permit is required. A permit is needed if change occurs with the point of diversion, a well or the land to irrigate.

SENATOR HARDY:

A change application to the water right would be needed if the water is used on different land such as in the case of the neighbor using the water?

MR. KING:

Yes. A change application to the water right must be filed.

SENATOR HARDY:

Is the process easy?

MR. KING:

Yes, it can be, but it depends on the land. It can be protested.

CHAIR LEE:

Clark County is different than the rural counties. Our cash crop is homes. If there was a cap on this bill, counties over 400,000, would that relieve any pressure for the State Engineer's Office?

MR. KING:

No.

CHAIR LEE:

A person in Clark County does not have a farm next door to help put one's water to beneficial use.

MR. KING:

Yes, but there are provisions in law where people can file time extensions. One of the criteria we look at when approving extensions is the economic climate. We get between 300 to 400 extension of time applications per month. We get extensions saying they need them because the economic downturn prohibits them from putting the water to beneficial use. We approve these extensions year after year. We do get repeated extensions where people want time extensions year after year for 12 years. In these cases, it is evident they are holding their water rights with no intent to use them for beneficial use.

SENATOR SCHNEIDER:

Mr. Belanger understands the issues and mentioned that Assembly Bill 419, which will be coming to the Committee, also addresses these water concerns. I recommend we process this bill to allow another vehicle in which to work out the water issues.

SENATOR HARDY:

I am not comfortable with this bill because it changes water laws. Does an amendment make this bill more palatable?

SENATOR SCHNEIDER:

I like Chair Lee's recommendation to add counties over 400,000. This will exclude the rest of the State, and Clark County can work out the issues.

SENATOR HARDY:

There are rural areas in Clark County.

SENATOR SCHNEIDER:

Yes, you represent them, so I encourage your participation.

SENATOR HARDY:

I would amend the bill the other way. I would add everyone except counties over 400,000.

SENATOR SETTELMAYER:

I recommend an amendment stating that private property water rights will follow the same rules as municipalities, using the five-year time frame instead of one year. It keeps the bill alive. The other issue concerns the rules for transferring water. Those rules do not apply to primary water. If I want to move primary water, I can sell it. I do not need approval.

MR. KING:

Yes. If a person does not want to use primary water and does not have the ability to use it, a person can sell it. The buyer can move the water rights to wherever they want to use it.

SENATOR SETTELMAYER:

Does an individual with primary water rights have the ability to turn on the well, pump it down the ditch and sell it to the neighbor or does it have to be used on his land only?

MR. KING:

A place of use is attached to the water right. If the water is taken off the place of use, then it is an illegal use. A permit will be required.

SENATOR HARDY:

What is your idea on the cap of counties over 400,000? This will resolve some of my concerns.

MR. BELANGER:

I am not sure a population cap would help. The fundamental question pertains to how to treat water right holders who have not put their water to beneficial use. We prefer that whatever the rules, those rules be applied consistently throughout the State. I am working on the issues and can prepare a floor amendment that will make this legislation more palatable if this bill is processed. I want the State Engineer to have tools to allow people—who have not put their water rights to beneficial use—to enter into agreements with the State to keep those water rights active and valid. We support Senator Schneider's desire to get the bill processed to allow the bill to develop, and it is better to have two vehicles in which to get the legislation passed.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 362 WITH THE 400,000 POPULATION CAP AMENDMENT.

SENATOR HARDY:

I want a conceptual amendment added to a motion so I can support the bill.

MR. BELANGER:

I will provide a conceptual amendment. The amendment would allow the State Engineer to have a groundwater management plan for overappropriated basins and for those where a plan would be valuable. The groundwater management plan would include a number of provisions. It would allow property owners to voluntarily relinquish water rights, reduce groundwater pumping, pay a water right owner to relinquish a water right or connect to a public water

system, enter into an agreement with other basin water right owners to regulate water use by a different method and enter into an agreement with the State Engineer to participate in lieu of recharge. Rather than pump water, the water would be left in the basin to protect the basin. A water right holder would enter into an agreement with the State Engineer to temporarily cease pumping for a period of longer than five years without being subject to forfeiture. The State Engineer would have the necessary tools and, with well owners in concert, voluntarily establish those plans and get the basins into balance.

SENATOR SCHNEIDER:

I withdraw my motion and I will provide another motion.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 362 WITH ALL AMENDMENTS, INCLUDING THE 400,000 POPULATION CAP AMENDMENT AND THE CONCEPTUAL AMENDMENT PROPOSED BY MR. BELANGER.

CHAIR LEE:

There is work to be done on this bill, but we want to process it.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SETTELMAYER VOTED NO.)

* * * * *

CHAIR LEE:

The next work session bill is S.B. 377.

[SENATE BILL 377](#): Establishes provisions authorizing public-private partnerships for certain projects. (BDR 22-297)

MR. STEWART:

Senate Bill 377 is also brought forth by Senator Hardy. It provides an alternative to current standards and requirements relating to the public procurement of goods and services and public works projects by authorizing the State and certain local governments to enter into public-private partnerships. The bill provides that a public-private partnership is a contract entered into by a private partner and the State or a local government under which the private partner

assumes responsibility for several things. This includes the planning, designing, financing, constructing, equipping, improving, maintaining, operating or acquiring rights-of-way for a project, or any portion thereof, but where the State or local government retains ownership of the project. It also provides services that a public agency is authorized to provide. The bill sets forth the various requirements for entering into a public-private partnership. There is a mock-up amendment ([Exhibit K](#)).

The mock-up amendment limits the projects authorized under this bill to museums and specifies that the State or local government shall consider any unsolicited proposal for the public-private partnership that it receives during the period that the State or local government is receiving requests for qualifications relating to these projects.

SENATOR HARDY:

People in Overton and Logandale approached me and asked if the Lost City Museum closed, could they have the opportunity to keep the museum open? I offered them the prospect of finding out.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 377 WITH THE MOCK-UP AMENDMENT.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR LEE:

The next bill in the work session is S.B. 385.

SENATE BILL 385: Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (BDR 20-170)

MR. STEWART:

Senate Bill 385 provides that a county commission or city council can exercise any power it has to the extent that power is not expressly denied by the Nevada Constitution, the United States Constitution, the laws of Nevada or granted to another entity. It clarifies that if a constitutional or statutory provision requires a

specific manner for exercising a power, the local governing body must adhere to that provision. Also, if a local governing body wants to exercise a particular power not addressed in law, it must adopt an ordinance setting forth the manner for exercising that power.

Portions of the bill were discussed that limit the extent of these powers. In particular, a commission or city council cannot do the following: limit a local government's civil liability, set laws governing civil actions between persons, impose duties on other political subdivisions, impose taxes or certain license fees or service charges, regulate conduct that is regulated by a State agency, invest money, or order or conduct an election. An amendment ([Exhibit L](#)) was proposed jointly by the Nevada Association of Counties and the Nevada League of Cities and Municipalities.

The amendment in [Exhibit L](#) proposes to address specific exceptions set forth in section 7, section 13 and section 20 of the bill to clarify exceptions relating to civil liability and the imposition of duties on another political subdivision to provide that legally executed contracts, such as interlocal agreements, relating to these exceptions would not be impacted.

CHAIR LEE:

Cities and counties have questions about what they are permitted to do; they will refer questions to their attorneys. For example, a city will ask if it can close parks on Sunday. The city attorney will look at the NRS, see it does not say you can close parks and interpret that to mean a city cannot close parks. Another city in the same circumstance refers to their city attorney who sees NRS not saying you cannot close parks and interprets that to mean the city can close parks.

When questioned, attorneys often say no because of ambiguity, but this bill allows cities and counties to exercise any power if it is not spelled out that they cannot. This legislation expands home rule and serves as a test to see if cities and counties responsibly handle this extended power.

DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities): There are four elements of home rule. One is structural, the second is physical, the third is personnel and the fourth is functional. Senate Bill 385 only addresses the element of functional home rule. It does not impact structural home rule which affects voting in wards, districts or at large, and it does not

address physical home rule, so it will not grant additional powers to raise taxes. It also does not address personnel home rule, so it will not impact collective bargaining. These elements would continue to be described in statute. Anything prescribed in statute remains. The Legislature will continue to have the ability to prescribe how things will be done, even in the area of functional home rule. The Legislature can prescribe how something will be done, coming in after the fact to tell cities and municipalities that what has occurred is not what they want.

We encourage an affirmative vote on S.B. 385. The legislation will give us an opportunity for dealing with day-to-day operations with more clarity, and it will increase efficiency.

WES HENDERSON (Deputy Director, Nevada Association of Counties):

I echo the comments made by Mr. Fraser. The duties and responsibilities of cities and counties are spelled out in statute. This bill will not allow a city or a county to do something against a statute. Assembly Bill 545 adjusts population caps and has 21 pages of statutes that govern the operations of cities and counties. Senate Bill 385 does not include statutes that apply to all cities and counties. This is not full-blown home rule but a baby step to grant cities and counties authority over functional home rule on day-to-day operations. The legislation will stop cities and counties from having to come to the Legislature every two years over minor changes.

[ASSEMBLY BILL 545](#): Makes changes to the population basis for the exercise of certain powers by local governments.(BDR 20-548)

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 385.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SETTELMAYER VOTED NO).

* * * * *

CHAIR LEE:

The next bill is S.B. 398.

SENATE BILL 398: Authorizes certain persons to request that personal information contained in certain public records be kept confidential. (BDR 20-1149)

MR. STEWART:

Senate Bill 398 authorizes code enforcement officers to request that their personal information contained in the records of a county assessor's office be kept confidential ([Exhibit M](#)). There are no amendments.

I included information in the work session document, [Exhibit M](#), that addresses issues brought forth in the bill's hearing. The second bullet point addresses a concern raised by the Carson City Assessor. *Nevada Revised Statute* 250.130 provides that any person who wishes to have personal information kept confidential must obtain an order of a court that requires the county assessor to maintain the information in a confidential manner. Since S.B. 398 amends code enforcement officers into NRS 250.140, the same procedure would apply.

It was also noted during testimony that NRS 250.160 authorizes the county assessor to provide such confidential information to certain persons or entities under certain circumstances, including any government entity, law enforcement or the courts, in carrying out their duties, or a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station. These provisions may respond to concerns raised by the Nevada Press Association.

CHAIR LEE:

I am concerned about starting a new class of people who can hide personal information. I am not convinced there is a need to have personal information contained in public records be kept confidential in statute, but I will take a motion as this is new ground. There is no motion on this amendment. We will watch this bill and see if the issue develops.

SENATOR MANENDO:

I know code enforcement officers in Clark County who have families. Some of those issues become sensitive. There is fear of retaliation. These officers are in the public. I have a friend who has been a corrections officer for almost 30 years. Prisoners get released, and he gets recognized on the street. In some cases, these men have tried to follow him home. Code enforcement officers get confronted and verbally and physically assaulted. I have been in the home of a

code enforcement officer who has kids. It is scary when they get a knock on the door at 3 a.m. or a rock through their window because they issued a citation to a person who had an immobile car for two years. These issues are sensitive, and I am torn because I understand both sides. These people are doing their jobs and fear for their life. It is wrong. People will track them down and they do. It is easy to do with the Internet.

CHAIR LEE:

Senator Manendo, your point is well-taken. People who work in other positions are also disrespected and threatened by people. I am at the will of the Committee. There is no motion.

The next work session bill is S.B. 400.

SENATE BILL 400: Establishes a process by which a state agency may obtain certain information in county records at no charge for the purpose of assisting the economic development and population research of this State. (BDR 20-1143)

MR. STEWART:

Senate Bill 400 established a process by which a State agency engaged in activities related to economic development and population research may obtain, at no charge, the digital parcel base of a county and electronic county assessor files. The bill requires a county assessor to provide each year to the State Demographer the electronic datasets of the county assessor files at no charge. It also requires a county that maintains or possesses a digital parcel base of the county to provide the digital parcel base to the State Demographer annually at no charge. Not more than once each year, the State Demographer must provide the digital parcel base and the assessor's electronic files at no charge to a State agency engaged in economic development and population research if it is requested. The State agency receiving the digital parcel base and the assessor's electronic files must provide a summary of the research produced from the information to the county that originally provided the information and to the Commission on Economic Development at no charge. The bill also sets forth civil and criminal penalties relating to the unlawful use and release of confidential data in a county assessor's files applicable to an employee or agent of a State agency obtaining confidential information from the State Demographer. There is a mock-up amendment ([Exhibit N](#)).

The mock-up amendment in [Exhibit N](#) makes clarifying changes. The amendment includes the date the assessor or the county must provide the assessor data and parcel datasets to the State Demographer. This was changed from "on or before January 1" to "no later than September 1 of each year." The mock-up amendment also adds language in section 1, subsection 6 and to section 5, subsection 6 stating that the State Demographer shall not knowingly redistribute the electronic assessor files to any person or agency that does not comply with the requirements of the agency's written request for the electronic datasets and digital parcel bases. It also clarifies that a State agency includes "faculty belonging to the Nevada System of Higher Education."

CHAIR LEE:

I want to add an amendment ensuring that the counties do not have to supply the information in a specific format to prevent an expense to the counties.

SENATOR HARDY:

Do all counties maintain electronic datasets of assessor files?

CHAIR LEE:

I understand Mineral County is the last county to get online.

MR. HENDERSON:

My understanding is all counties have electronic assessor files, but I do not know how they are formatted. All counties do not have digital parcel bases. Section 5, subsection 1 says each county which possesses or maintains a digital parcel base for the county shall provide the digital parcel base to the State Demographer. All counties have a functional Website except for Mineral County, and Mineral County is getting its site up and running.

SENATOR HARDY:

The implementation date can work?

MR. HENDERSON:

Yes, with the clarification amendment made by Chair Lee that says electronic assessor files be provided to the State Demographer in the format in use by the counties.

SENATOR SETTELMAYER:

Douglas County already provides the information to the State Demographer. Carson City and Lyon County say there is no impact. Churchill County says there will be a \$200 impact. There is a concern that a person misuses the information.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 400 WITH THE MOCK-UP AMENDMENT AND THE ELECTRONIC ASSESSOR FILE-FORMATTING AMENDMENT.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR LEE:

The last work session bill is Senate Bill 487.

[SENATE BILL 487](#): Revises provisions relating to the award of a contract for a public work to a specialty contractor. (BDR 28-394)

MR. STEWART:

Senate Bill 487 prescribes the circumstances under which a public body can award a contract to a specialty contractor that involves the performance of work outside the scope of the specialty contractor's license. The bill also provides for the certification of specialty contractors by the State Contractors' Board with respect to such contracts. There is one amendment ([Exhibit O](#)).

The State Contractors' Board and the Subcontractor Legislative Coalition submitted the amendment in [Exhibit O](#). The amendment identifies the circumstances in which a specialty contractor can contract for a public work project with a price of \$250,000 or more that is outside the scope of the contractor's specialty license.

The amendment also provides that a public body or local government can award a contract for such a public work to a specialty contractor if the project is not part of a larger public work project and the majority of the work to be performed on the project consists of specialty contracting for which the contractor is

licensed. The amendment also provides that a public body or a local government can award a contract for a public works project over \$250,000 to a specialty contractor for work outside the scope of his or her license if such work is incidental and supplemental to the project, and the specialty contractor has received a certification from the State Contractors' Board allowing such work or he or she is also licensed as a general building contractor.

KEITH LEE (State Contractors' Board):

We are not addressing large public work projects but the repair and renovation of public work projects such as replacing a boiler at the University of Nevada, Las Vegas. The concern shared was we were cutting out the small guy by disadvantaging the specialty contractor who has been doing this work. We carved out two exceptions to help the specialty contractor. If a public works repair renovation has a value of less than \$250,000, business will continue as usual. If the work is over the \$250,000 amount, specialty contractors can get certification if they have undertaken a State public works project prior to the project or if they hold a Class B general contractor's license.

CHAIR LEE:

My concern was not the small guy but the small job. Small jobs do not require a general contractor.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 487.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR LEE:

We are finished with the work session, but we have one bill that needs to be rereferred to the Senate Committee on Finance. It is S.B. 494. The bill does not need to be processed.

SENATE BILL 494: Repeals provisions relating to certain fire districts and establishes wildfire protection programs. (BDR 42-1220)

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SENATOR MANENDO MOVED WITHOUT RECOMMENDATION TO
REREFER S.B. 494 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

Having no further business, this Senate Committee on Government Affairs is
adjourned at 9:57 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
S.B. 232	C	Michael Stewart	Work Session Document
S.B. 233	D	Michael Stewart	Work Session Document
S.B. 260	E	Michael Stewart	Work Session Document
S.B. 261	F	Michael Stewart	Work Session Document
S.B. 325	G	Michael Stewart	Work Session Document
S.B. 325	H	Senator John J. Lee	Testimony
S.B. 360	I	Michael Stewart	Work Session Document
S.B. 362	J	Michael Stewart	Work Session Document
S.B. 377	K	Michael Stewart	Work Session Document
S.B. 385	L	Michael Stewart	Work Session Document
S.B. 398	M	Michael Stewart	Work Session Document
S.B. 400	N	Michael Stewart	Work Session Document
S.B. 487	O	Michael Stewart	Work Session Document