

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

**Seventy-sixth Session
April 20, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:06 a.m. on Wednesday, April 20, 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 Joseph (Joe) P. Hardy

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider (Excused)
Senator James A. Settelmeyer (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Assembly District No. 42
Assemblywoman Marilyn Dondero Loop, Assembly District No. 5
Assemblyman Tom Grady, Assembly District No. 38
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Heidi Chlarson, Counsel
Lorne J. Malkiewich, Director, Legislative Counsel Bureau
Martha Barnes, Committee Secretary

OTHERS PRESENT:

Kathy Clewett, Government Affairs Coordinator, City of Sparks
William Brainard, Vice Chair, Charter Committee, City of Sparks
Carole Vilardo, Nevada Taxpayers Association
Jennifer Lazovich, Pardee Homes
Holli Kiechler, Administrative Officer, Storey County
Pat Whitten, County Manager, Storey County

CHAIR LEE:

I will open the meeting with Assembly Bill (A.B.) 97.

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

KATHY CLEWETT (Government Affairs Coordinator, City of Sparks):

We will be sharing with you the deliberations the Sparks Charter Committee (SCC) went through in order to get to the language for the City of Sparks charter bill. The City of Sparks is the only chartered city in Nevada that has an all-volunteer, appointed Charter Committee. Each member of the Sparks City Council, the Mayor and each legislative representative has 1 appointee on the SCC, which totals 11 members. Each member serves coterminus with his or her elected appointer and the SCC votes on the chair and cochair. The SCC meets every two years in the even year, and members have their own ratified rules and procedures. They begin deliberating in February and complete their deliberations in June. The SCC presents their bill draft requests (BDR) to the City Council as an informational item in August. They locate a bill sponsor, and then the BDR is submitted to the Legislative Counsel Bureau by September 1.

A few of our Sparks Legislators have had their start in our SCC, namely ex-Assemblyman Bernie Anderson and Assemblyman Richard (Skip) Daly. During the SCC meetings, topics may come from many sources. The appointers, a city department head, the City Manager, citizens of Sparks and the SCC members may request topics. I will turn the presentation over to Bill Brainard, Vice Chair of the Charter Committee.

WILLIAM BRAINARD (Vice Chair, Charter Committee, City of Sparks):

There is no fiscal effect from this bill. We met to determine how we would select an assistant mayor and included some information regarding

discrimination to give the City Manager power over appointments. The bill exists to clear up some of the ambiguities in our charter.

CHAIR LEE:

At this time, the City Council appoints a member to represent the Mayor if he is out of town. Why should the Mayor nominate a member of the City Council?

MR. BRAINARD:

The old language stated the City Council shall elect one of its members.

CHAIR LEE:

What prompted this change?

MR. BRAINARD:

It was to provide a procedure instead of a popularity contest before a vote. The Mayor could appoint someone to fill in for him or her. If the City Council members do not approve of the appointment, they can vote against it.

MS. CLEWETT:

This change came about because we had a City Mayor who passed away while in office. It was not clear how the Mayor pro tempore was to be appointed, so there was confusion. Assembly Bill 97 establishes a procedure that it must be a majority vote.

SENATOR HARDY:

This also protects some of the Open Meeting Law issues. This is a good cleanup to determine who is going to do what without violating the Open Meeting Law.

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

When we have an issue like this in Sparks, we have the Charter Committee to make decisions and make recommendations for legislation. I served on the Charter Committee and appreciate how it gets things accomplished.

CHAIR LEE:

The City of Sparks and Carson City are the only cities with a Charter Committee, so you work with your Legislators. This is a great example for other communities in Nevada to see the effectiveness of what can be achieved. Since we have two Committee members absent today, we will bring the bill back

during a work session. I will close the hearing on A.B. 97 and open the hearing on A.B. 166.

ASSEMBLY BILL 166: Makes changes relating to the authority of municipalities to hold special elections for certain purposes. (BDR 30-769)

ASSEMBLYWOMAN IRENE BUSTAMANTE ADAMS (Assembly District No. 42):
Assembly Bill 166 is created to clarify the provisions relating to special elections on general obligation bonds. Municipalities may hold special elections on general obligation bonds at any time if the governing body unanimously determines an emergency exists. Otherwise, an election to approve a general obligation bond or any tax question must coincide with the general election or be held on a certain day in June in odd numbered years. Assembly Bill 166 will prohibit holding an emergency special election if the question presented to the voters is to refund the bonds.

In 1993, then Assemblyman William A. Petrak brought forward a bill to create circumstances limiting special elections. Over a ten-year period, Nevada had spent over \$1 million in special elections—a cost to the taxpayers. In this discussion was the word "emergency." He described an emergency as natural disasters or riots.

Recently, a local government declared an emergency and held a special election for the purposes of refunding a bond. That was never the intent of the legislation, so this is a clean-up bill to clarify that a special election is not used for that purpose. The bill is presented to reflect the intent of the hearing in 1993 and becomes effective upon passage and approval.

CHAIR LEE:

I have never heard of a refund of bonds. Does this happen regularly, or was there a particular incident and no vehicle to process it?

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

The way I understand the refunding of bonds, because of the fluctuation of the economic impact in our Country, the interest rate drops. Say you purchased the general obligation bond at a certain percentage rate, and then the interest rates go lower. That is what constitutes the refunding of the bond process we are attempting to fix. The frequency is not information I have. I know this incident occurred in a certain municipality, and some of the members interpreted the law

one way and the rest differently. This bill is to clarify the language to say any refunding on bonds does not constitute an emergency.

CHAIR LEE:

On this proposal to refund obligation bonds, I understand fluctuations, but are there not built-in procedures that adjust when there are calculated adjustments of interest rates? You would have to go back to the elector to say, instead of this bond where we were paying 6 percent we now are paying 4 percent.

CAROLE VILARDO (Nevada Taxpayers Association):

I am speaking in support of the bill. One entity, because of its charter, must go to the voters according to bond counsel because it states voters will approve the issues. Some of the members interpreted refunding bonds as an emergency. I worked with Assemblyman William Petrak in 1993 on his bill, and one of the concerns was that special elections were being used very frequently, and the voter turnout is usually low for a special election.

Historically, voter turnout tends to be low for a primary election and even a general election. Senator Manendo, you were here with Assemblyman Petrak as his administrative aide. The original bill banned all special elections except for recalls. In the testimony, there was discussion that a possible emergency, as identified by Assemblywoman Irene Bustamante Adams, is generally a natural disaster. You would need an infusion of money quickly because you would not have a cash flow. The bill was amended to provide for those emergencies. A refunding is not considered an emergency. Because of the attempt to use it for that purpose, Assemblywoman Bustamante Adams brought this bill forward to clarify the language saying you can hold a special election, but it must be for a true emergency. This clarification on the language would only impact one entity.

CHAIR LEE:

Why are we putting this in State law if it only affects one entity?

MS. VILARDO:

There is always a chance this could be expanded, and it is better to clarify the issue before others make the same errors. We attempted to make the change in 1993 because we wanted the maximum number of people to input on tax questions—bond issues normally become a tax question. We want to ensure the interpretation of an emergency is clear to avoid errors in the future.

SENATOR HARDY:

What became of the refund? Did it help the entity recoup costs, get a better rate or save money?

MS. VILARDO:

There was not an election because the remaining council members did not agree that the issue constituted an emergency. Generally, when an entity looks at refunding bonds, it will speak with its financial advisors to determine the market. If the financial advisor sees the entity can save money, the advisor will recommend a refunding. In most circumstances, the entity would do the refunding.

SENATOR HARDY:

Would this only affect those entities that must obtain a vote of the people?

MS. VILARDO:

That is correct.

SENATOR HARDY:

The vote of the people could be up to a year or year and a half away from the next general election. It could be either a June election if in the city, or a November election if it is a State election.

MS. VILARDO:

That is correct. Because this entity we are discussing was a municipality, it had the primary and general elections coming up and did not need to hold a special election. This issue could have been placed on the regular election ballot.

SENATOR HARDY:

Are you saying the municipality in question should consider doing away with the vote of the people to process a refund if it is needed prior to a general election?

MS. VILARDO:

That would be my suggestion. The problem is the manner in which the charter was changed as well as the wording of the ballot question. Having spoken to the bond counsel regarding this issue, I learned the ballot question was not worded properly to allow the entity to do a refund. The municipality did not speak to the bond counsel prior to placing the question on the ballot.

Senate Committee on Government Affairs
April 20, 2011
Page 7

SENATOR HARDY:

The municipality could revisit that issue and still conduct business irrespective of what we do with this bill?

MS. VILARDO:

Yes.

CHAIR LEE:

I will close the hearing on A.B. 166 and open the hearing on A.B. 168.

[ASSEMBLY BILL 168](#): Revises provisions governing the formation of general improvement districts. (BDR 25-846)

ASSEMBLYWOMAN MARILYN DONDERO LOOP (Assembly District No. 5):

Assembly Bill 168 pertains to the general improvement districts being formed within seven miles from the boundary of an unincorporated town with a town advisory board or citizen advisory council. *Nevada Revised Statute* (NRS) 318.055 does not currently address town advisory boards or citizen advisory councils. Jennifer Lazovich will explain the amendment that was attached to the bill in the Assembly.

JENNIFER LAZOVICH (Pardee Homes):

Pardee Homes is the master developer of Coyote Springs, which is about 45 minutes outside of Las Vegas. In order to provide certain services to its residents, the formation of a general improvement district (GID) is required. As Assemblywoman Dondero Loop indicated, the current statutory construction of NRS 318.055 is silent with respect to the formation of a general improvement district that is within seven miles of an unincorporated town with a town advisory board or citizens' advisory council. The intent of A.B. 168 would allow a GID to be formed by a majority vote of the county commissioners if the GID is within seven miles of an unincorporated town with a town advisory board or citizens' advisory council. It is a straightforward bill that does not remove any provisions already allowed in the GID statutes. It simply allows for the creation of a GID when it meets the requirements.

CHAIR LEE:

There is no effective date on the bill.

MS. LAZOVICH:

When the effective date was mentioned in prior testimony, I realized there was no effective date on this bill. We would ask that it be upon passage and approval, as there is no reason for it to be delayed. We would like to begin forming these GIDs for the service of certain residents as soon as possible.

CHAIR LEE:

Since this is basically covering a southern Nevada issue, how will it affect northern Nevada? Is this something we should do in counties with a population over 400,000? Would this be good for other areas also?

MS. LAZOVICH:

In the Assembly hearing, we spoke to committee members who were from the rural areas where GIDs are present in northern Nevada. We explained this merely adds to the creation of GIDs, it does not take away anything. The bill addresses an issue that has arisen in Clark County; however, it would be fair to allow the bill to take effect throughout the State. If you have the same scenario, it allows for the GID to be formed when you are located near a town with a town advisory board or a citizens' advisory council.

CHAIR LEE:

Have you discussed this with Senator Settlemeyer, since he is not here today?

MS. LAZOVICH:

I had the same conversation with Senator Settlemeyer as I had with Assemblyman Pete Goicoechea. I wanted to ensure I spoke to those members who represent rural counties that predominantly have the GIDs. Assemblyman Goicoechea expressed no concerns.

SENATOR HARDY:

Did we address recognizing Pardee Homes is going across a county line with the GID? Coyote Springs straddles Lincoln County and Clark County, which then gets into our issue whether we make it a population over 400,000. Could you address that issue?

MS. LAZOVICH:

Right now the plans are to develop in Clark County first. The development of Lincoln County is fairly far out into the future. Any GIDs formed in Lincoln County may be outside of the seven-mile distance to the jurisdiction of

the Moapa Town Advisory Board, but to be on the safe side, we should probably not add a population cap. I believe there is a provision in the GID statutes that addresses when GIDs straddle county lines, and it is acceptable.

CHAIR LEE:

I will close the hearing on A.B. 168 and open the hearing on A.B. 201.

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

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

The Legislative Commission is responsible for reviewing all proposed permanent regulations. A permanent regulation cannot take effect unless it is approved by the Legislative Commission's Subcommittee to Review Regulations. The *Constitution of the State of Nevada* was amended several years ago to give the Legislature this power. Any regulations adopted that exceed legislative authority are usurping legislative power as an Executive Branch agency since regulations have the effect of law. The Legislature has the authority to review these regulations.

One of the things that has grown up around the regulation process is this concept of an informational statement. When the Legislative Commission reviews regulations to understand the regulation hearing process, an informational statement is required to be submitted with the regulations. Over the years, more information has been added to that informational statement. During a couple of Legislative Commission meetings during the last interim, ex-Senator Randolph J. Townsend mentioned that if someone testified at one of these public hearings on a regulation and a Legislator reviewing the regulation wanted to contact the person, there was no way to do so. Senator Townsend suggested we amend the statutes concerning informational statements to say if the agency has the contact information from someone who has testified at the hearing, we should provide it in the informational statement. Senator Townsend also suggested a bill to require that be accomplished. At the May 2010 meeting of the Legislative Commission, the Commission proposed A.B. 201.

This bill is very simple because it only adds that one provision to the requirement of the informational statement to say that the contact information on anyone who testified at one of the agency hearings is to be included if it was

provided. You are not required to provide the information if someone shows up at a regulation hearing and does not provide contact information to the agency.

CHAIR LEE:

Section 1, subsection 1, paragraph (c) states "the name, profession or trade" Is it really relevant to include the profession or trade of the person?

MR. MALKIEWICH:

The idea is if the information is provided on a sign-in sheet and someone indicates testifying on behalf of XYZ Realty, you would have that information included. I do not know if the specifics are necessary to the bill, but the idea is whatever was provided would be passed along.

CHAIR LEE:

As for including the home address and telephone number, I do not think people would want to include their home addresses if they sign on my attendance roster. I question whether or not you really need that information. If there is a way to contact the person, you can ask for an address if you need to send a letter, but asking for the home address up front seems more than Senator Townsend would have considered.

MR. MALKIEWICH:

This issue was discussed briefly in the Assembly; there were also a couple of members uncomfortable with this. The chair of the Assembly Committee on Government Affairs was reassured by the last clause of the new language: "if such information is provided to the agency conducting the hearing." If people sign in and do not provide the information, it does not get forwarded. If they do provide the information, it is already public record because they have signed in and put it on a sign-in sheet for the agency hearing and is forwarded to the Commission. If they do provide the information, the Commission will be able to see if the person also happens to be a constituent. The intent of the bill would still work if you wanted to limit the content of the sign-in sheet. The intent was to receive whatever information the agency received. Most agencies would comply with this requirement just by including the sign-in sheets from the regulation hearings.

SENATOR HARDY:

I have the same concerns about including the home address. We see people coming in who have not attended a meeting before and do not know the

process. They think they have to complete each blank on the sign-in sheet. I have not seen a notice that says you do not need to include your address or your phone number if a sign-in sheet asks for it. Some people may feel intimidated about providing information they may later regret having provided. Has this been looked at in any other states? Is there a form that says this is your contact information that will become public record, so just fill out the part you feel comfortable filling out?

MR. MALKIEWICH:

I do not believe we have checked with other states on this issue. I do not want to urge or oppose or make the policy decision as a member of the Legislative Counsel Bureau. I must remain neutral. This bill could certainly be amended to say regardless of what was provided at the hearing, just forward contact information such as phone number and e-mail address. You can amend the bill to whatever provides comfort to the Committee if you feel including the address would have a chilling effect.

SENATOR HARDY:

It is the same thing with people who sign a petition. People can sign their names, and we receive a 12-foot petition presented to us at the hearing. Then all of a sudden people realize when that comes into the hearing, it becomes part of the record and their name and contact information is public record. Then we hear, "I did not realize that" from people. Is that addressed somewhere?

MR. MALKIEWICH:

One of the concerns is the prospect of possible retaliation when someone from work sees a name on a petition that has become public. The type of petition you have referenced is not formally in statute. We do have statutory requirements for qualifying a measure for the ballot that require the address be included, otherwise you cannot confirm the person is a registered voter and within the appropriate district for signing the petition. For those that require this information, there is a reason for it. Other petitions are informal and are put together to address grievances. People sign them, though there is no formal requirement in statute or in the State Constitution.

CHAIR LEE:

I noticed on the sign-in sheets for this Committee we have "representing" listed, and it makes me wonder if I would have to write John Lee, Plumber. How

impressive would that be to anyone who was trying to figure out who I was?
Let us work on this.

MR. MALKIEWICH:

Changing the language of "profession or trade" to "representing" would probably work for this bill. You are referencing agency hearings on regulations. I used real estate as my example: you have a hearing by the Real Estate Division on a proposed regulation; the people who sign in will be representing this realty office, this agency or themselves. Something along those lines might correspond well to the agency sign-in sheets.

CHAIR LEE:

I will close the hearing on A.B. 201 and open the hearing on A.B. 262.

ASSEMBLY BILL 262: Revises provisions relating to public administrators.
(BDR 20-1039)

ASSEMBLYMAN TOM GRADY (Assembly District No. 38):

Assembly Bill 262 corrects an error that was made during the last Session where some of the smaller counties were allowed to appoint or work with their district attorneys as a public administrator rather than having the position be an elected position. When we presented this bill the last time, Carson City, Humboldt, Lander, Lincoln and White Pine Counties were all included in this category, but we left out Storey County. The bill now lists Storey County.

CHAIR LEE:

Is there a reason Storey County was left out in the first place?

ASSEMBLYMAN GRADY:

It was an oversight.

HOLLI KIECHLER (Administrative Officer, Storey County):

This bill corrects an oversight when Storey County was left out of the language. Our caseload does not warrant having an election every four years for a public administrator since we have had fewer than five cases in the last 15 years. Having our district attorney take over this responsibility is the most efficient approach.

Senate Committee on Government Affairs
April 20, 2011
Page 13

PAT WHITTEN (County Manager, Storey County):

Our district attorney is well known; he was District Judge Bill Maddox, so we have a man who can handle these cases competently rather than taking our chances through the electorate. We remain critically concerned with this function because, as an example, Lyon County has had some fiscal difficulties and investigations arising out of this function.

CHAIR LEE:

Is this something that has been brought to your city council?

MR. WHITTEN:

We did take this to the Storey County Commission, and they confirmed and supported my request to submit this bill.

ASSEMBLYMAN GRADY:

The bill passed the Assembly 42 to 0.

Senate Committee on Government Affairs
April 20, 2011
Page 14

CHAIR LEE:

I will close the hearing on A.B. 262 and adjourn the Committee on Senate Government Affairs at 8:48 a.m.

RESPECTFULLY SUBMITTED:

Martha Barnes,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster