

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

**Seventy-Seventh Session
April 3, 2013**

The Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:12 a.m. on Wednesday, April 3, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman Paul Aizley
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

COMMITTEE MEMBERS EXCUSED:

Assemblyman William C. Horne, Vice Chair
Assemblyman Crescent Hardy
Assemblyman Pat Hickey

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst

Minutes ID: 721



Kristen Kolbe, Program Analyst
Teri Sulli, Program Analyst
Eileen O'Grady, Committee Counsel
Brenda Erdoes, Legislative Counsel
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton called the meeting to order at 8:12 a.m. and asked the Committee Assistant to call roll. A quorum was present; Assemblymen Horne, Hardy, and Hickey were excused.

Assembly Bill 463: Revises provisions relating to stale claims and statutory contingency claims. (BDR 31-1123)

Chair Carlton opened the hearing on Assembly Bill (A.B.) 463. She said some members of the Ways and Means Committee had indicated that they were confused by the contingency accounts and their purpose. She asked Stephanie Day, Deputy Budget Director, to provide an explanation of the Stale Claims Account and Reserve for Statutory Contingency Account.

Stephanie Day, Deputy Budget Director, Budget Division, Department of Administration, said she would provide an overview of the Stale Claims Account and the Statutory Contingency Account before presenting A.B. 463.

Ms. Day explained the Stale Claims Account was a General Fund account administered by the Department of Administration from which expenditures from a prior fiscal year [stale claims] could be paid. State agencies submitted their stale claims to the Budget and Planning Division, Department of Administration, for approval and processing. Ms. Day stated the agency must have reverted sufficient funds from the specific fiscal year in which the obligation represented by the stale claim was incurred for the claim to be paid from the Stale Claims Account.

The Reserve for Statutory Contingency Account, Ms. Day explained, was also an account administered by the Department of Administration. Both the Stale Claims Account and the Reserve for Statutory Contingency Account were funded with General Fund appropriations, and their balances were balanced forward from biennium to biennium.

Ms. Day stated there were very specific statutes related to the Reserve for Statutory Contingency Account. Claims that were not allowable outside of those statutes could not be paid. She cited the following examples of the types of payments that could be made:

- If an agency had a terminal leave payment for an employee that left, up to \$12,000 could be paid from the Reserve for Statutory Contingency Account to cover the terminal leave costs and allow the position to be filled.
- If a dam became dangerous to the safety of life or property, the Division of Water Resources could request remedial funds from the Account.

Ms. Day explained that the Reserve for Statutory Contingency Account provided a way for General Fund agencies to access needed funds without requesting an allocation from the Interim Finance Committee (IFC) Contingency Account.

In response to a question from Assemblyman Eisen, Ms. Day explained that *Nevada Revised Statutes* (NRS) 353.097 had been amended by the 2011 Legislature by adding subsection 6 as follows:

6. A state agency may pay from the appropriate budget account in the current fiscal year an obligation of the state agency which:

(a) Is:

- (1) Less than \$100; or
- (2) For medical expenses pursuant to a claim from a third-party administrator; and

(b) Was incurred in the previous fiscal year but was not submitted for payment until after the date on which it is provided by law that money appropriated to that state agency for the previous fiscal year reverts to the fund from which appropriated.

Ms. Day said the intent was to allow agencies to pay out of their current year budgets any claim that was less than \$100 or for medical expenses from a third-party administrator. Subsection 1 and subsection 6, paragraph (a), were being amended in Assembly Bill 463 to allow agencies to also pay claims for payroll expenses from their current budgets. She explained that some agencies had insufficient reversions to pay stale claims for payroll costs and had to wait until a legislative session to request a supplemental appropriation, causing the employees to wait for funds that were legally due to them. Ms. Day said she would work with the Committee's Fiscal Analysis Division [Legislative Counsel Bureau] staff to clarify the wording in the bill.

Ms. Day explained that subsection 4 of NRS 353.097 currently provided that the Clerk of the State Board of Examiners, which was the Director of the Department of Administration, could approve stale claims. Assembly Bill 463 would amend the statute to add “. . . or a person designated by the Clerk.” She explained that when the Director was out of town and during legislative sessions, another person was needed to approve stale claims from the Stale Claims Account and Reserve for Statutory Contingency Account.

Assemblywoman Flores asked for clarification of what claims could be paid. Ms. Day said subsection 1 and subsection 6 of NRS 353.097 stated that an agency may pay any claim that is \$100 or less from its current year budget or from the Stale Claims Account, depending on the situation and the size of the agency.

Assemblywoman Flores asked for examples of payroll expenses that would need to be reimbursed from the Stale Claims Account. Ms. Day explained there were instances when an employee would be due back pay for overtime that was not paid correctly or a special pay item, such as shift differential, was due an employee from a prior year.

Assemblyman Hambrick asked whether the employee would have a cause of action if the stale claim was not paid. Ms. Day replied she did not know if the [U.S. Department of Labor] Fair Labor Standards Act related to the stale claims, but that problem was being addressed. The goal was to ensure that employees were paid as quickly as possible.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 463 and opened the hearing on Assembly Bill 481.

Assembly Bill 481: Authorizes the Division of State Library and Archives of the Department of Administration to retain money received for providing certain services to local governments. (BDR 19-1134)

Daphne DeLeon, Administrator, Division of State Library and Archives, Department of Administration, explained that Assembly Bill (A.B.) 481 would accomplish two things for the Imaging and Preservation Services program of the Division of State Library and Archives.

- Subsections 1 through 6 of section 1 would allow and clarify the language that the Division's program would be able to, in addition to providing microfilming services, provide digital imaging services for local governments if requested.
- Subsection 7 of section 1 would allow the program to use the revenue generated from local government projects to purchase or repair microfilming or digital imaging equipment and to build a reserve to offset future significant equipment purchases.

Chair Carlton asked Ms. DeLeon to clarify whether funds received for outside services currently reverted to the General Fund. Ms. DeLeon replied that currently, funds generated by local government projects reverted to the General Fund. If A.B. 481 were to pass, the Division would be allowed to use those funds to build up a reserve fund for the purchase of equipment.

Chair Carlton asked how much the Division reverted to the General Fund in Fiscal Year (FY) 2012. Ms. DeLeon replied the reversion in FY 2012 from local government projects was approximately \$32,000.

Assemblyman Sprinkle asked whether the Division had an estimate of the costs of future equipment and maintenance. Ms. DeLeon replied that the Division's budget request included \$31,944 for equipment purchases and maintenance in FY 2014 and approximately \$27,800 in FY 2015.

Assemblyman Kirner noted that there were other state agencies that would like to retain funds received for services rather than revert them to the General Fund, and he was concerned about setting a precedent.

Ms. DeLeon replied that the Imaging and Preservation Services program was required by statute to provide microfilming to local governments, and digital services if the bill passed, and the fees would allow the Division to purchase equipment and offset future General Fund requests for purchase of equipment.

Assemblyman Eisen asked what types of expenditures the Division had in the past and what was projected for purchase of new digital-imaging equipment. Ms. DeLeon clarified that prior to the current biennium, the Imaging and Preservation Services program was an enterprise fund. All of the funds used for equipment purchases were generated specifically by the projects. Upon the merger into the Department of Administration, the Imaging and Preservation Services program became part of the cost allocation program for state agencies. Moving forward, if A.B. 481 did not pass and the program needed to update its equipment, the Division would need to request General Funds.

Assemblyman Hambrick asked how high the amount of the reserve could go and suggested that a capped amount should be established. Ms. DeLeon explained that when developing the biennial budget request, the Division had considered moving \$5,000 annually into reserve, and in ten years, the average lifetime of a significant piece of equipment, \$50,000 would be available for equipment purchases. She pointed out that the larger, more specialized pieces of equipment, if refurbished, cost about \$50,000. Ms. DeLeon noted the Division currently had a piece of equipment that was purchased seven years ago for \$100,000. She said that knowing that refurbished equipment could be purchased to provide the services needed by state and local government agencies, approximately \$50,000 would be available in ten years to replace a significant piece of equipment.

Assemblyman Aizley asked how long reverted funds would be available to the agency. Ms. DeLeon asked that a representative of the Budget Division respond to the question.

Stephanie Day, Deputy Budget Director, Budget Division, Department of Administration, replied that reversions to the General Fund that occurred per budget account were not available to the specific agencies in the subsequent fiscal year. The reversions were used to build the Governor's Executive Budget and the legislatively approved budget. She noted that many of the one-shot appropriations during the legislative session were made from reversions from prior fiscal years.

Assemblyman Aizley asked whether reverted funds could be requested through the Interim Finance Committee (IFC). Ms. Day replied that the IFC Contingency Account was established in *Nevada Revised Statutes* (NRS) 353.266 and consisted of a General Fund appropriation for IFC's use to grant funds to state agencies for emergency uses on an as-needed basis.

Assemblyman Sprinkle recalled that Ms. DeLeon had stated that the projected cost of equipment replacement and maintenance for FY 2014 was about \$31,900, but she later said \$50,000 would be needed for a specialized piece of equipment. He asked Ms. DeLeon for further clarification.

Ms. DeLeon explained that with passage of A.B. 481, the Division would be able to purchase smaller pieces of equipment from the \$31,900 allocated in the budget, and \$5,000 of the \$31,900 would be put in reserve for the purchase of a \$50,000 piece of equipment in ten years. She said the projections for FY 2014 and FY 2015 were based on pieces of equipment costing \$5,000 to \$10,000 each. Part of the \$31,900 would also be used for maintenance agreements.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 481.

Chair Carlton announced that the Committee would move to budget closings.

ELECTED OFFICIALS

GOVERNOR'S OFFICE—NUCLEAR PROJECTS OFFICE

HIGH LEVEL NUCLEAR WASTE (101-1005)

BUDGET PAGE ELECTED-44

Teri Sulli, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated there were no major issues in budget account 1005, High Level Nuclear Waste. She noted the following closing items:

- A General Fund appropriation of \$396 was included in both years of the biennium for the Department of Administration's administrative services cost allocation.
- The Governor recommended appropriations of \$352 in Fiscal Year (FY) 2014 and \$363 in FY 2015 to fund the centralized personnel services cost allocation.
- The Governor recommended General Fund appropriations of \$16,263 in FY 2014 and \$15,599 in FY 2015 for replacement equipment for the Agency for Nuclear Projects.

Ms. Sulli said the recommendations appeared reasonable to Fiscal staff.

For the Committee's information, Ms. Sulli noted that the Office of the Attorney General had not yet received an order from the U.S. Court of Appeals addressing whether licensing proceedings for Yucca Mountain should be restarted.

Ms. Sulli stated that Fiscal staff recommended the budget account be closed as recommended by the Governor, including authority for Fiscal staff to make technical adjustments.

Chair Carlton asked for questions from Committee members; hearing none, she called for public testimony. There being no public testimony, she called for a motion to close the budget account.

ASSEMBLYMAN HAMBRICK MOVED TO CLOSE THE HIGH LEVEL NUCLEAR WASTE BUDGET ACCOUNT 101-1005 AS RECOMMENDED BY THE GOVERNOR AND AUTHORIZE THE FISCAL ANALYSIS DIVISION TO MAKE NECESSARY TECHNICAL ADJUSTMENTS.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Hardy, Hickey, and Horne were not present for the vote.)

BUDGET CLOSED.

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LEGISLATIVE—JUDICIAL
JUDICIAL BRANCH—COMMISSION ON JUDICIAL DISCIPLINE
JUDICIAL DISCIPLINE (101-1497)
BUDGET PAGE JUDICIAL-57

Kristen Kolbe, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated there were no major closing issues in the Judicial Discipline budget account 1497.

Ms. Kolbe noted that The Executive Budget recommended an increase in General Funds of \$74,269 over the 2013-2015 biennium to correct a budgetary miscoding in the Personnel Services category. The recommendation appeared reasonable to Fiscal staff.

Ms. Kolbe reviewed two informational items for the Committee:

- Assembly Bill (A.B.) 237 adjusted compensation for board members of the Commission on Judicial Discipline from \$80 to \$150.
- The Executive Budget recommended a General Fund supplemental appropriation of \$58,293 in Fiscal Year (FY) 2013 to pay for one-time terminal leave payout costs for the expected retirement of the Commission's General Counsel/Executive Director by June 30, 2013.

Ms. Kolbe stated that Fiscal staff recommended that the Judicial Discipline budget account be closed as recommended by the Governor, including authority for Fiscal staff to make technical adjustments.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted that the Committee would not be taking action on the General Fund appropriation for terminal leave; that item would be a supplemental appropriation in a separate bill.

Ms. Jones explained that A.B. 237 would affect boards and commissions statewide, and several budget adjustments would be required. If the bill passed out of the policy committee, it would be referred to the Assembly Committee on Ways and Means for consideration.

Chair Carlton asked for questions from Committee members; hearing none, she called for public testimony. There being no public testimony, she called for a motion to close the budget account.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPROVE THE JUDICIAL DISCIPLINE BUDGET ACCOUNT 101-1497 AS RECOMMENDED BY THE GOVERNOR AND AUTHORIZE THE FISCAL ANALYSIS DIVISION TO MAKE NECESSARY TECHNICAL ADJUSTMENTS.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Hardy, Hickey, and Horne were not present for the vote.)

BUDGET CLOSED.

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Assemblywoman Kirkpatrick complimented Chair Carlton on the efficient manner in which she was managing the Committee and thanked the Fiscal Analysis Division [Legislative Counsel Bureau] staff members for their outstanding work.

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There being no further business to come before the Committee, Chair Carlton adjourned the meeting at 8:48 a.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 3, 2013

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster