

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session
April 19, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 6:48 p.m. on Friday, April 19, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 Debbie Smith, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Moises (Mo) Denis
Senator David R. Parks
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator Michael Roberson

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Leslie Sexton, Committee Secretary

OTHERS PRESENT:

Jason King, P.E., State Engineer, Division of Water Resources, Department of Conservation and Natural Resources
Mary Wherry, R.N., M.S., Community Health Nursing Manager, Health Division, Department of Health and Human Services
Bruce Breslow, Director, Department of Business and Industry
John McGlamery, Senior Deputy Attorney General, Office of the Attorney General
Dotty Merrill, Ed.D., Executive Director, Nevada Association of School Boards

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Mary Pierczynski, Nevada Association of School Superintendents
Lindsay Anderson, Washoe County School District
David F. Sarnowski, General Counsel and Executive Director, Commission on
Judicial Discipline

Chair Smith:

We will begin with a hearing on Senate Bill (S.B.) 468 regarding fees collected by the State Engineer.

SENATE BILL 468: Revises certain fees collected by the State Engineer.
(BDR 48-1155)

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

I have submitted my written statement in favor of S.B. 468 ([Exhibit C](#)).

Senator Goicoechea:

I support this bill. Industry supports the bill because the Division of Water Resources will add an adjudication staff. We face critical issues with groundwater basins that will need to be adjudicated to avoid extended court trials and lack of water.

Chair Smith:

In the 2009 Session, I remember we had to adjust a fee, which resulted in unintended consequences. Will we have similar problems with this bill?

Senator Goicoechea:

Those consequences affected large agricultural water transfers because we did not exempt them at that time. I studied S.B. 468 closely. The bill would only increase fees by 20 percent across the board. There may be some protests. Prior to 2009, fees had not increased for an extended time.

Mr. King:

We sent an email blast to about 800 water professionals. It explained the details of S.B. 468. The bill has been posted on our Website. I have received no calls in opposition to the bill.

Chair Smith:

Seeing no further comments from the Committee or the public, the hearing on S.B. 468 is closed. We will open the hearing on S.B. 484.

SENATE BILL 484: Makes an appropriation to the Mental Health Information System Account of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for new software to implement the Department's technology policies. (BDR S-1181)

Mary Wherry, R.N., M.S. (Community Health Nursing Manager, Health Division, Department of Health and Human Services):

The Department of Health and Human Services requested this bill. We were not able to include the \$204,000 appropriation mandated by this bill in our Base Budget because it exceeded our cap. The purpose of the one-shot appropriation is to make our software congruent with our technology policies regarding acceptable use for email and mobile devices. It will follow Division of Enterprise Information Technology Services guidelines. We will use standardized software to support a consolidated cyber-security infrastructure.

We have submitted a list of the purchases we need to make ([Exhibit D](#)). The Symantec PGP encryption subscription, a 2-year contract for 1,500 licenses, will put us in compliance with *Nevada Revised Statute* (NRS) 603A regarding the encryption of personal and identifiable information that is sent electronically. The Symantec Altiris Client Management subscription, a 2-year contract for 1,500 licenses, will be compatible with the Symantec suite of software approved by the Interim Finance Committee last week. The Microsoft SharePoint license will allow us to improve our intranet communication system between the Health Division, which is using a variety of freeware and the Division of Mental Health and Developmental Services, which has been using SharePoint through a federal grant.

Chair Smith:

Seeing no further comments from the Committee or from the public, the hearing on S.B. 484 is now closed. The hearing on S.B. 488 is now open.

SENATE BILL 488: Continues the transfer of the powers and duties of the Consumer Affairs Division of the Department of Business and Industry

and the Commissioner of Consumer Affairs to the Office of the Attorney General. (BDR S-1169).

Bruce Breslow (Director, Department of Business and Industry):

The bill continues the transfer of the powers and duties of the Consumer Affairs Division of the Department of Business and Industry (B&I) and the Commissioner of Consumer Affairs to the Office of the Attorney General (AG) until July 1, 2015. The transfer became effective in 2009 by legislative action.

Senator Denis:

The action in 2009 was an alternative to totally eliminating the consumer affairs functions. We were in a period of downsizing. Will we consider a plan to revitalize these functions in 2015?

Mr. Breslow:

Having a full-fledged consumer affairs section would be ideal. I was not in my current position in 2009. I understand that the Consumer Affairs Division lacked enforcement or resolution powers or the ability to conduct hearings. Any new plan must invest the Division with these capabilities.

Senator Denis:

In 2015, we should be prepared to talk about structural issues to strengthen protections for consumers, including adequate staff to do the job effectively.

John McGlamery (Senior Deputy Attorney General, Office of the Attorney General):

We are neutral on the bill because we are pragmatic about the budget constraints under which we must operate. The description of the bill is misleading. In 2009, nothing was "transferred" because there was no money and no assets. It was a meat-cleaver action to dispose of consumer affairs and eliminate consumer protection in Nevada. I am the only individual in Nevada who investigates consumer complaints. I have offered my services to Mr. Breslow to assist in efforts to continue the work after I retire, which I plan to do in 6 years.

The goal is not only to protect consumers. According to NRS 598, the purpose of the consumer protection law is to protect the honest businessperson against unfair competition from dishonest ones.

I ask that the bill description be changed to read, "Continues the extension of the suspension of Consumer Affairs Division," instead of "continues the transfer of the powers and duties of the Consumer Affairs Division." It is untrue to say that the 2009 Session transferred the duties and the powers to the Office of the Attorney General. Not one item was transferred. This language in this bill confuses citizens who expect State help with consumer affairs.

Senator Denis:

We did not transfer all of the Consumer Division to the AG. Part of that Division went to the Department of Motor Vehicles.

Mr. McGlamery:

I realize that the Division was parsed to multiple agencies. Nothing was transferred to the AG. We received nothing for travel, telemarketing or health plans. We have seen a large rise in consumer protection violations. I am working on a case involving two travel clubs who are grossly violating consumer rights. I want to stop them. I have few resources with which to work.

Senator Denis:

My concern in 2009 was that, in some cases, we were doing nothing and that the trend would continue with a fragmented system and lack of staff. The B&I's Nevada Division on Minority Affairs, Office of Ombudsman of Consumer Affairs for Minorities has been involved in consumer protection in minority communities. That is only one person.

Mr. McGlamery:

I am grateful that we have the Fight Fraud Taskforce. They have a Website resource for consumers who want to report fraud. Some of the complaints are redirected to my office. We do what we can, but our staff is limited. I will continue this work on consumer fraud cases until I retire. Failing to pass this bill will create an unfunded mandate. I want to go on the record to clear the fallacy that the AG had taken over the consumer protection functions. It is not even possible to put an administrative agency under the supervision of the AG whose major focus is felony prosecutions.

Chair Smith:

Seeing no further comments from the Committee or from the public, the hearing on S.B. 488 is now closed. I will turn the gavel over to Senator Woodhouse so that I may testify on the next agenda item.

Senator Woodhouse:

The hearing on S.B. 510 is now open.

SENATE BILL 510: Temporarily delays the statutory deadline for notifying certain school district employees of reemployment status. (BDR S-1207)

Senator Debbie Smith (Senatorial District No. 13):

This bill was introduced by this Committee. We have introduced this measure in past Legislative Sessions when budget discussions have been in flux. Local school districts must extend employment contracts to the employees by May 1 of each year. This bill extends that date to May 15 in odd-numbered years when the Legislature is unable to finalize a budget by May 1. It will give school districts and their employees some stability. I recommend that we move this bill quickly through the process to adoption by both Houses.

Senator Kieckhefer:

Can we just change the date for all years?

Senator Smith:

We can explore that idea with the involved parties.

Senator Kieckhefer:

I would not want to delay this bill in this Session. We should find out from the involved parties if it is feasible to change the date for each school year and do so in the next Session.

Senator Smith:

The problem has occurred in the last three Sessions due to the uncertainties of the State budget.

Senator Goicoechea:

If we changed the date for even-numbered years, when the Legislature does not meet, the employee would get the required notice later which might make it more difficult to find other employment if that became necessary.

Senator Smith:

I am happy to put this issue on my list of things to do before 2015.

Dotty Merrill, Ed.D. (Executive Director, Nevada Association of School Boards):

This bill would be helpful to school boards. Our Board of Directors voted unanimously to support this bill. On page 2, line 25 of the bill, the employee has an extra 10 days in which to notify the school district of his or her intentions.

Mary Pierczynski (Nevada Association of School Superintendents):

We are in full support of this bill. Sometimes, in rural areas, when an employee gets the required notice before the State budget is finalized, he or she starts looking for other jobs. When the State budget is finalized, and the rural district finds that a layoff is no longer necessary, that employee has already accepted another position.

Lindsay Anderson (Washoe County School District):

We support this bill. I have been asked by the Clark County School District to convey to you their support of this bill.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 510.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator Woodhouse:

Seeing no further comments from the Committee or from the public, the hearing on S.B. 510 is now closed. I will return the gavel to Chair Smith.

Chair Smith:

We will now go into a Work Session on S.B. 105.

SENATE BILL 105: Enacts the Uniform Electronic Legal Material Act.
(BDR 59-168)

Mark Krmpotic (Senate Fiscal Analyst):

This bill was referred to this Committee based on a fiscal note submitted by the Administrative Office of the Courts (AOC) for \$7,500 for the anticipated purchase of a file server. At the hearing on April 3, the AOC's representative, Ben Graham, indicated that the fiscal note should be removed. We received an

email from the AOC's budget analyst that indicated the file server could be purchased by their law library gift fund. Therefore, there is no fiscal impact on the State.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 105.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

We will proceed with a Work Session on S.B. 460.

SENATE BILL 460: Makes a supplemental appropriation to the Commission on Judicial Discipline for the costs of one-time leave payouts resulting from the unanticipated retirement of certain staff. (BDR S-1189)

Mr. Krmpotic:

This bill appropriates \$58,293 to the Commission on Judicial Discipline in the current fiscal year to address a shortfall. That shortfall is caused by a one-time leave payout for a retiring employee, David Sarnowski. Fiscal Staff had hoped to recommend passage of the bill today. However, late on April 18, staff received a memo from the Budget Division director requesting that the appropriation be increased by \$22,494 in the operating category. Fiscal Staff requests additional time to review the increased total request of \$80,787.

David F. Sarnowski (General Counsel and Executive Director, Commission on Judicial Discipline):

The increase of \$22,494 is not for me. We analyzed pending cases and the salary savings that we have accrued. The additional request, as recommended by the Budget Division, is to cover costs of a possible large hearing we may have before June 30. Some of the salary savings will be allocated to my retirement payout as we have previously discussed. The payout has been revised by about \$9,000, if I have a payout due in excess of the estimate. The payout will depend on how many accrued leave days I can use before my retirement date. If the upcoming hearing occurs, it will require expenditures for an outside, contracted attorney, case preparation and an investigator. A motion

for continuance beyond June 30 has been entered, based on a request by the judge in the case.

Senator Kieckhefer:

When do you expect a ruling on the motion for continuance?

Mr. Sarnowski:

We received the notice of the motion for continuance this week. We have no response from the special prosecutors on the case. I expect the panel that will hear the case to convene during the week of April 29. We hope to have a ruling within 2 weeks. The same judge has a trial pending on a criminal case in the federal courts that is scheduled for August. I have been told that the likelihood of that happening in August is not high. If that trial does not happen in August, our pending hearing could be scheduled in September.

Senator Kieckhefer:

If the Commission's pending hearing is granted a continuance beyond June 30, can we then revert to the Commission's original budget request in the bill?

Mr. Sarnowski:

That is possible, subject to any other changes that may occur before June 30. I have told our staff attorneys not to expend prehearing preparation hours until the issue is resolved. They are working on other cases that need to be handled before June 30.

Mr. Krmpotic:

The Budget Division, in transmitting their memo to Fiscal Division Staff, also suggested the following language changes to S.B. 460 as originally written.

- In section 1, line 2: change \$58,293 to \$9,130.
- Add language stating, in effect, that the supplemental appropriation will include \$71,657 for the costs of contracts resulting from anticipated hearings.

Staff has not had time to formulate exact language for an amendment. The language would be restrictive and provide that any monies not needed would be returned to the General Fund at the end of fiscal year 2012-2013.

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SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 460 AS RECOMMENDED BY FISCAL STAFF.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Smith:

We have a bill draft request (BDR) to introduce to the full Senate.

BILL DRAFT REQUEST S-1213: Makes an appropriation to Save the Children.
(Later introduced as [Senate Bill 511](#).)

SENATOR WOODHOUSE MOVED TO INTRODUCE BDR S-1213.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Smith:

There being no further business, this meeting is adjourned at 7:31 p.m.

RESPECTFULLY SUBMITTED:

Leslie Sexton,
Committee Secretary

APPROVED BY:

Senator Debbie Smith, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	3		Attendance Roster
S.B. 468	C	3	Jason King State Engineer	Statement in favor
S.B. 484	D	1	Mark Krmpotic, Senate Fiscal Analyst	Equipment Schedule