

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session
May 28, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 9:03 a.m. on Thursday, May 28, 2015, in Room 4100 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ellison, Chairman
Assemblyman John Moore, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Shelly M. Shelton
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Heidi Chlarson, Committee Counsel
Lori McCleary, Committee Secretary
Erin Barlow, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Deonne E. Contine, Executive Director, Department of Taxation
Terry E. Rubald, Deputy Executive Director, Local Government Services,
Department of Taxation
Jeff Fontaine, Executive Director, Nevada Association of Counties
Carole Vilardo, President, Nevada Taxpayers Association
Joshua J. Hicks, representing National Public Finance Guarantee
Corporation
Yolanda King, Chief Financial Officer, Department of Finance,
Clark County
Rusty McAllister, President, Professional Fire Fighters of Nevada
Patrick T. Sanderson, representing Nevada Alliance for Retired Americans

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Senate Bill 475 (1st Reprint).

Senate Bill 475 (1st Reprint): Authorizes a county or city to file a petition in bankruptcy under certain circumstances. (BDR 31-1021)

Deonne E. Contine, Executive Director, Department of Taxation:

The Department is here to present Senate Bill 475 (1st Reprint), which makes changes to *Nevada Revised Statutes* (NRS) Chapter 354. I will make a few introductory comments and then I will turn it over to Ms. Rubald.

This is the final piece of the puzzle. As many of you know, we worked very hard on Assembly Bill 54 this session, which has already been signed by the Governor. This is the final piece in the process. If the fiscal watch in the severe financial emergency does not help and the local government is not going to cease being in severe financial emergency, this will provide the option for municipal bankruptcy.

**Terry E. Rubald, Deputy Executive Director, Local Government Services,
Department of Taxation:**

This bill provides that a county or a city may file for bankruptcy under certain restrictive and limiting conditions. School districts, general improvement districts, and separate operating agencies of the counties and cities would not have the option to seek bankruptcy at all.

One of the limiting conditions is that a city or county could not file for bankruptcy unless and until the Nevada Tax Commission has declared a condition of severe financial emergency exists in the local government. A second limitation is that the Nevada Tax Commission would have to make a finding that a condition of severe financial emergency is unlikely to cease within three years. If the Tax Commission did make such a finding, then the third limiting condition is that the Governor would have to approve allowing the city or county permission to petition the bankruptcy court.

The idea is to provide an alternative to the current remedy of dissolution of a city provided in NRS 354.723, or abolishment of a county in NRS Chapter 243, and yet at the same time, make access to protection under Chapter 9 of the United States Bankruptcy Code very difficult because of the potential for negative effects on bond ratings.

Before I discuss Chapter 9 bankruptcy, I would like to provide a little background to the current process, which we call Severe Financial Emergency. I know you are very familiar with that because of A.B. 54. I would like you to turn to the exhibit I have provided ([Exhibit C](#)), which is a decision tree for severe financial emergency management. Page 1 talks about the events leading up to a decision of whether a condition of severe financial emergency exists. I would like to direct your attention to page 2 of the exhibit, which are the decisions made after the Department has taken over the financial management of a local government declared to be in severe financial emergency. Once the Tax Commission has declared a severe financial emergency and ordered the Department to take over the management of the local government, the Department prepares a plan for expense mitigation and revenue enhancement. It manages the finances, negotiates contracts and collective bargaining agreements, works with creditors to formulate a debt liquidation program, and basically tries to rightsize the budget matching expenditures with revenues to the degree it can.

If the Department is successful and the financial conditions improve, the Tax Commission will terminate the management of the local government by the Department. If the Department determines there is insufficient revenue to provide for debt services and operating expenses, it can make recommendations

to increase taxes. If the Committee on Local Government Finance (CLGF) agrees with that plan, then those recommendations are made to a joint committee of CLGF and the Tax Commission at public hearings. If the joint committee agrees, then the Tax Commission can adopt a plan to increase taxes, which may be collected for up to five years.

If after implementation of the expense mitigation and revenue enhancement plan by the Department it becomes apparent that the budget still cannot be balanced, the CLGF reports the tax revenue plan has failed and asks the county to consider absorption of the services provided by the local government. In the case of a county, CLGF reports failure of the tax revenue plan to correct the situation to the Legislature. At the same time, the Tax Commission holds hearings to consider whether the severe financial emergency is unlikely to cease within three years. If they determine it is unlikely to cease, then a question is placed before the voters as to whether the local government should be disincorporated or dissolved. If the voters approve dissolution, the entity that created the local government dissolves it. If the voters do not approve dissolution, the Tax Commission would have to raise the property taxes potentially to the maximum rate of \$5 per \$100, plus raise the other applicable taxes again and downsize services until the budget is balanced.

You can see this bill provides a third option so a county or city can petition for bankruptcy only after the Department, CLGF, and the Tax Commission have done everything in their power to correct the situation, and the only alternatives left are either to dissolve the government or raise the taxes to an onerous maximum, as well as lower services until the budget is balanced. Indeed, before a municipality's petition can even be accepted by the bankruptcy court, it must show it has attempted substantial negotiations with creditors. Of course, the current severe financial emergency laws would fulfill that requirement.

Bankruptcy provides one additional alternative to dissolution. In the interest of time, I refer you to the second exhibit I submitted ([Exhibit D](#)). I will highlight some of the items. The exhibit generally compares the current powers of the Department under severe financial emergency laws to the powers of the bankruptcy court. One of the powers of the federal judge is known as the "cram down" power, which is on line 12 of the exhibit. If the bankruptcy judge finds a settlement to be reasonable, the judge can impose a settlement against a creditor's will. However, at least one class of impaired creditors must vote to accept the plan. The judge cannot "cram down" a reasonable plan unless at least one class of creditors agrees to the plan. Under current severe financial emergency laws, the state has no "cram down" power.

Other items discussed in ([Exhibit D](#)) include the fact that the bankruptcy court does not interfere with the running of a local government, which is on line 3 of the exhibit. There is no power to appoint a trustee to run the city or municipal governments, and unlike Chapter 11 corporate bankruptcies, in Chapter 9 the judge cannot force a city to sell assets, which is on line 4 of the exhibit.

The judge cannot restrict the hiring of professionals, such as accountants, lawyers, or auditors, which is on lines 5 and 6 of the exhibit. The judge cannot limit the city's ability to go out in the market and try to issue more unsecured debt, although the judge must approve any issuance of secured debt.

Under Chapter 9 bankruptcy, the plan to solve the municipality's debt problems can only come from the municipality. Creditors cannot submit their own plans, which is on line 12 of the exhibit. When a Chapter 9 bankruptcy is filed, the municipality does not have to pay its debt obligations at the beginning. It also stops all lawsuits. Municipal contracts, including union contracts, can be rejected or changed, which is also a power the state does not have under the current severe financial emergency laws, although under [A.B. 54](#) we can now at least work with the unions to see if anything can be resolved.

Currently, 23 states do not allow municipal bankruptcy at all, 15 states allow municipal bankruptcies with conditions, and 12 states allow municipal bankruptcies without conditions. This bill would place Nevada in the group of 15 that allow municipal bankruptcies with conditions. This bill is modeled in part after Connecticut and Louisiana, which also require express written permission of the governor. Michigan and Pennsylvania also allow for a state reorganization plan, much like Nevada's severe financial emergency laws, but require their state agency and/or the governor to sign off on a bankruptcy petition. I would be happy to answer your questions.

Assemblywoman Neal:

I am wondering how all of this works together. I may not be remembering the hearing on [A.B. 54](#) correctly. When the City of North Las Vegas wanted the ability to file Chapter 9 bankruptcy, I thought I heard you say that was not the direction the Department wanted to go, and now we have a bill. Either I am confused or I am recalling the hearing incorrectly.

Terry Rubald:

For [A.B. 54](#), we wanted to clean up the very severe financial emergency laws to make them stronger. That is why this bankruptcy bill is separate, to see if we can provide an option to dissolution, which is the primary idea.

Assemblywoman Neal:

You mentioned Chapter 9 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 903 and 904, but you mentioned it in a way that I do not believe the Committee fully understands as to how the court's powers work under those two provisions. The court cannot exercise control over the debtor's property or revenue. There is a state power reservation piece. I am wondering how it works.

Assembly Bill 54 is supposedly the state's version of walking ourselves through the process of all the potential possibilities that we can fix at our level. Now Senate Bill 475 (1st Reprint) is before this Committee. However, some of the things that are in A.B. 54 as your corrective abilities, which include the ability to go after some of the revenue and the ability to go after some of the property, are limitations in Chapter 9. I thought I brought that up in the last hearing. I need you to help me understand how those two things work.

Terry Rubald:

Under A.B. 54 and the severe financial emergency statutes, the state is basically acting as a receiver. We are trying to manage and improve the finances so the municipality can stand on its own feet once again without having to go any further. Bankruptcy only comes in after we have given it our all and there is nothing left that we could possibly do to fix it. We would have already raised revenues and cut expenses. We would have done everything we could do within the powers that have now been amended in A.B. 54. After doing all we could do, the municipality could either dissolve or have a property tax rate increase to \$5 per \$100, which is the maximum. That can go on forever, but we would still have to reduce the expenses, which would mean less services. The idea is to get to a balanced budget. If the voters chose not to dissolve, then the tax could be raised. The idea of bankruptcy is one more alternative because bankruptcy, as I mentioned, has the "cram down" power where the federal judge can break contracts.

Assemblywoman Neal:

I have heard everything you said. Do we want this bill in order to break contracts or do we want it for other reasons? If a city or county goes through Chapter 9 bankruptcy, they have no control over the only assets left, which are the revenues and the city or county property. Why is this a good idea if that is the limitation? That is what is not registering for me. If a city or county has gone through everything possible, and the Department has done everything they can possibly do but none of it has worked, the only thing left are their assets, which happen to be locally-owned or municipality-owned or property revenue. The court cannot get those assets, so how is it helpful to have this process unless it is only to break contracts. Breaking contracts means the city or county removes themselves from the liability being paid out. However, they

have already been given that ability or some level of negotiation in A.B. 54. That was a specific amendment for all the "holders" to come to the table to discuss what can be done. The collective bargaining piece in A.B. 54 basically put the contracts on the table. Help me understand why this is a needed final piece when the last assets the court could go after, they cannot touch.

Terry Rubald:

In A.B. 54, we strengthened the ability of the Department to negotiate current union contracts. Before, we could only negotiate future contracts. We are now allowed to negotiate in good faith with the unions on existing contracts, and we are allowed to work with bondholders and others in good faith. That does not mean we can break contracts or change the terms; it means with their consent, we would be able to change terms. It is definitely a collective arrangement. We cannot dictate; we can only negotiate in good faith. In bankruptcy, the judge can dictate the terms.

Chairman Ellison:

One thing that can tear a county apart during these times is bond ratings and Insurance Service Office (ISO) ratings, which can destroy a county faster than some of the financing. Could you touch on that? My biggest fear with this bill is what could happen with those ratings.

Terry Rubald:

There is a possibility that new issuances of bonds and the costs associated with that could go up for the local governments in the area. You have to weigh that against the cost to the state to administer the entity that cannot seem to solve its financial problems. Which is the less bitter pill?

Assemblywoman Spiegel:

My understanding is municipal insurers that have general obligation bonds in states that permit bankruptcy pay higher interest costs and up to 7 basis points higher interest on average just because of the risk of bankruptcy. We have weathered the worst economic downturn possible, hopefully. Given the increase in cost for future bond obligations, how would this be fiscally responsible for us as a state to take on all of that extra cost when we have been through the worst and have not needed it, coupling that with the other legislation that has already passed that allows the municipalities to go back and renegotiate their contracts affirmatively?

Terry Rubald:

I believe other states, particularly California, have experienced front-end increases in costs for the issuance of bonds. Again, as I mentioned before, it is a weighing of which is worse; the cost to the state for having to administer an

entity that is not able to fix its own financial house compared to the cost of the interest. It is a policy decision.

[Assemblyman Moore assumed the Chair.]

Assemblywoman Joiner:

I would like some clarification on page 2 of your exhibit ([Exhibit C](#)). There is a box that states if the Nevada Tax Commission adopts the Committee on Local Government Finance (CLGF) recommendation that the severe financial emergency is unlikely to cease within three years, there is a question that goes to the voters. This is misleading to me compared to the language in the bill, and I am wondering which is true. To me, the language in the bill looks like nothing goes to the voters. It seems to circumvent the voters having a say at all. In current law, they can vote to dissolve. If they do not vote to dissolve, the tax rates could be increased. This particular box seems to lead to a vote of the people and then to a box that says, "City or County files for bankruptcy if approved by the Governor and AG." Does this bankruptcy process happen after a vote of the people, because the language in the bill seems to circumvent the voters? I am curious as to the sequence of events for clarification.

[Assemblyman Ellison reassumed the Chair.]

Terry Rubald:

The voters have a chance to approve a dissolution. In terms of when a request for a petition for bankruptcy would occur, it could occur before a vote to dissolve, yes.

Assemblywoman Joiner:

The chart is not correct then. The chart says it goes to the voters and then a result of that could be bankruptcy. I want to make sure we are on the same page and this does not require a vote of the people. This could completely circumvent or occur before the voters have any say. Is that correct?

Terry Rubald:

Yes.

Assemblywoman Joiner:

That leads into my next question. I am putting myself in the shoes of a person who lives in a county or city that would use this provision. It says the county or city may file a petition, which to me says that a vote of the county commission or city council would then move this process forward. Is that correct? What is the procedure there?

Terry Rubald:

The city council or the county commission could not even begin to start that process unless they had already been declared to be in severe financial emergency by the Tax Commission and the Department has had a chance to correct things but had not been able to do so. The Tax Commission would also adopt a ruling that there is no possibility that the situation can be corrected within three years. Those two things have to happen first before the city or county could even consider filing a petition.

Assemblywoman Joiner:

I see that, but I am wondering about the procedure. Is it a vote of the council or commission that would initiate that procedure to the Tax Commission, which is everything in section 1 on page 2?

Terry Rubald:

No. On the first page of the exhibit ([Exhibit C](#)) you can see all the steps that lead to severe financial emergency, beginning with the Department identifying one or more of the 27 financial conditions that indicate a severe financial emergency. There are then a number of hearings that take place, both at the CLGF level and ultimately at the Tax Commission level, to decide whether that entity should be considered in a severe financial emergency.

Assemblywoman Joiner:

Is it the state that initiates it?

Terry Rubald:

Yes, although there is one exception that the entity could request consideration if there is a pending litigation that might result in a severe financial emergency. However, once again, because of A.B. 54, instead of automatically going into severe financial emergency at the request of the local government, there would still be hearings at which the CLGF and Tax Commission would have to concur.

Assemblywoman Joiner:

I am trying to figure out why we need this option. Are there currently entities in the state that would need this option, where the dissolution vote of the people is not appropriate? To me, it seems logical that as a citizen of a county or city, I should have some say in what happens to my city or county, but this process seems to circumvent that. I am wondering why we would take it out of the hands of the voters as to whether or not their entity even exists anymore. At the end of the day, in bankruptcy, if the entity were breaking the contracts, that implies the entity would also be breaking service contracts. As a resident of that city or county, I may no longer have services available to me and I had no say in it because a bankruptcy proceeding and a judge decided what would

and would not stay in my city or county. I have real concerns that the voters have no role in this process at all. I do not know if you have any way to alleviate that concern, but it is a huge concern for me.

Terry Rubald:

If I were a resident of White Pine County, which is where we last had a severe financial emergency, and the choices were to raise my tax rate to \$5 per \$100, which is quite a raise, or dissolve White Pine County, a third option to rightsize the budget by renegotiating the various contracts to save the existence of the county could be another option. Otherwise it could come to the Legislature, who would still be faced with allowing them to have another revenue source or combining them with Elko County. They are all very difficult choices.

Assemblywoman Joiner:

I think we will have to agree to disagree. As a voter, I might actually choose to pay higher taxes if it meant the services would stay at the same level. At the end of bankruptcy, you would likely have something that barely resembles a public entity that helps its citizens.

Assemblyman Carrillo:

I guess my first question is, why now? Why do we feel the need to bring this forward? Everything I have read on this particular subject points to one of the unintended consequences of making it easier for a local government to declare bankruptcy negatively impacts bond ratings. Having said that, earlier this session we did pass A.B. 54 which, in a nutshell, gives authority to the state to place a local government on fiscal watch, monitor the local governments, and require remedial actions to take place in a local government if they are in severe financial emergency. I am just trying to wrap my head around why we would need to go one step further in statute to facilitate the potential demise of a local government. Can you give me some indication about why giving local governments an avenue to pull themselves out of severe financial emergency is not enough?

Terry Rubald:

If the Department is in a community and has been following its plan for expense mitigation and revenue enhancement as far as it can under the limitations of A.B. 54, which did give us a stronger position to rightsize budgets, we might not be able to fix it to the degree it needs to be fixed. There is a perception under bankruptcy that there is going to be a dissolution. There is not going to be a dissolution. The courts cannot dissolve the municipality under Chapter 9. Chapter 9 bankruptcy is a unique animal because it is the city or the county that comes forward with the plan. They are trying to save themselves and keep that

community intact, but they need the powers of the court to help them work with all of their creditors. The judge cannot dissolve that community.

The bill is coming forward now because it is the last piece of the puzzle. It is one last chance to allow that community to survive intact. If we cannot do it under the existing severe financial emergency laws, this is one more way to allow them to remain intact. The alternative, as mentioned before, is to raise the taxes to a very high degree with no guarantee that the services would remain at the same level.

Deonne Contine:

In terms of timing and how the bills came out, we did not have a lot to do with that. I think we did a lot of great work on A.B. 54. It is just providing multiple options. If there is not going to be dissolution and the local government is not going to cease being in severe financial emergency, this is another option short of dissolution if dissolution is not what is desired. It is merely the third tool to use.

Assemblywoman Neal:

I would like to follow up on the conversation you were having with Assemblywoman Joiner. I am confused about what the local government can request. I was reading A.B. 54, section 7, subsection 1, and the only thing I saw was a local government could request one or more hearings to determine whether a severe financial emergency exists in local government. In section 7, subsection 3, it states, "If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, a severe financial emergency will exist in the local government, the governing body may submit a request to the Committee to conduct a hearing to determine whether a severe financial emergency exists in the local government." I thought I heard you say the loophole or the impending situation of litigation or threatened litigation that could cause a severe financial emergency leads to a request for Chapter 9 bankruptcy. Walk me through how that works. Are we using NRS 354.685 or NRS 354.723?

Terry Rubald:

Before A.B. 54 was passed, a local government that had threatened litigation or existing litigation that they thought would throw them into a severe financial emergency could petition the Nevada Tax Commission to declare them to be in severe financial emergency. In the law before A.B. 54, the Tax Commission "shall" declare it. There were no ifs, ands, or buts, no discussion, and no extenuating circumstances to review. What A.B. 54 did was introduce a process that the local government could request severe financial emergency,

but it was not going to be an automatic concurrence by the Tax Commission. It introduces the idea that we can have hearings and allow a lot of people to have their say about whether they should be in severe financial emergency. That is under NRS 354.685. However, bankruptcy only comes after severe financial emergency has been declared by the Tax Commission and we have thrown in the towel. We can then ask the Tax Commission to declare that the situation cannot be fixed within three years. That is in NRS 354.723 and starts the severe financial emergency process. Bankruptcy comes after the Department has managed the local government and tried to rightsize the budget with no success.

Assemblywoman Neal:

When you were talking to Assemblywoman Joiner and mentioned there is an exception, is that what you meant?

Terry Rubald:

I think I was trying to explain the only way a local government can be in severe financial emergency is if the Department finds one or more of 27 conditions, with the exception that the local government could ask for it under threatened litigation.

Assemblywoman Joiner:

Your exhibit ([Exhibit C](#)) mentions approval by the Governor and the Attorney General. I am having trouble finding that in the bill.

Terry Rubald:

Forgive me. This exhibit was first produced for the Senate, and the original bill had called for approval by both the Governor and the Attorney General. That was amended, and only the Governor will give approval. I failed to update the exhibit.

Assemblywoman Joiner:

That leads to another question, which is the Legislature's role. Have any of our localities used Chapter 9 bankruptcy, and under what conditions can they use Chapter 9? Would they need legislative approval or even under those conditions could we still not authorize Chapter 9?

Terry Rubald:

The bankruptcy court will not accept jurisdiction unless there is something in state law that allows the local government to go forward and petition. Senate Bill 475 (1st Reprint) provides the structure to allow the local government to go forward with the petition, otherwise the bankruptcy court will not even talk to them.

Assemblywoman Joiner:

Do you know of any localities that would use this currently if it were to pass?
Are there local governments who currently need to use this?

Terry Rubald:

There is no local government that is currently in severe financial emergency or expected to be.

Assemblywoman Joiner:

Why do we need this bill?

Terry Rubald:

Anticipating. This is from our experience in the past. There has certainly been concern over one of our larger cities in the state.

Chairman Ellison:

Is there anyone wishing to testify in favor of the bill? [There was no one.]
Is there anyone wishing to testify in opposition?

Mr. Fontaine, I would like you to discuss the Nevada Association of Counties' comments based on the bill.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

We are opposed to S.B. 475 (1st Reprint). I would like to say our boards of county commissioners and supervisors certainly take their fiduciary responsibilities seriously and will do their best to avoid getting into a severe financial hardship. We would certainly not want to get to the point where bankruptcy is the only option. I am not aware of any county in the United States that has filed for Chapter 9 bankruptcy, even during the recession. As Assemblywoman Spiegel noted, we did not have a county that was in severe financial hardship during the recession. White Pine County was the most recent county that was in severe financial hardship, but that was prerecession. Under the guidance and management of the Department of Taxation, they were able to get back on their feet.

I would like to add one more thing to Ms. Rubald's discussion about the options for counties that may find themselves in fiscal difficulty. She indicated the options may be to raise taxes, dissolve the county, and cut expenditures. I would suggest that there is a third option. As you are aware, counties have responsibilities to pay the state for various cost assessments for services and to carry out various other mandated services. Perhaps an option for a county that finds itself in severe financial hardship and not wanting to declare bankruptcy would be to seek some temporary relief from the Legislature for some of the

cost assessments. In fact, I would submit to you that if that county were able to file for bankruptcy, those cost assessments that are paid to the state would be in jeopardy and possibly be negotiated as part of some kind of settlement.

We do not believe this bill is necessary. We believe the negative impacts of the ratings on bonds for counties certainly outweigh any real or perceived benefit from this bill.

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking in opposition to this bill for a couple of reasons. The first reason is a concern I have for debt. I know there was original support by one of the larger cities in this area. Put that in Clark County or a large city in Washoe County and look at what the potential impacts are to the bonds. If you look at Detroit after a major bankruptcy, they literally have junk bonds. This Legislature has spent a lot of time trying to figure out how to maximize the bonding available for Clark County and Washoe County school districts. You are looking at jeopardizing it by passing this bill at this point in time.

The question was asked, why this bill at this time, particularly if no local government is in severe financial emergency. I submit to you that if after this session a local government goes into severe financial emergency and the process is started, the Legislature will be back in roughly 18 months. If the Legislature sees there is a major problem, there would be more than enough time to put forth this bill for Chapter 9 bankruptcy if it should prove to be necessary.

I can tell you, we were involved with the very first financial emergency. Every other session or so the language from the original bill, and if memory serves that was in 1995, has evolved to make a more systematic process to provide additional information and tools, such as you did earlier this year, in handling a severe financial emergency. I urge you not to pass this legislation. If it should prove to be necessary, this body has the ability to do that next session. That is how this has evolved. We have a technical assistance provision that did not exist until there was a modification because some entities did not need that full-blown severe financial emergency. What they needed was some initial help with problems. The Legislature has added additional tools to the toolbox this year already based on what were shortcomings. Please do not pass this bill. Wait and see. If there is a problem, you can pass the bill next session.

Joshua J. Hicks, representing National Public Finance Guarantee Corporation:

The National Public Finance Guarantee Corporation has submitted a letter in opposition to S.B. 475 (R1) ([Exhibit E](#)). National is a company that provides bond insurance in Nevada to over 20 different entities, from state, county, city,

and below. There are over \$2.3 billion worth of bonds they are involved with. They are very heavily invested and involved with Nevada.

We are a company that has been opposed to this bill every step of the way. On the other hand, we have been very supportive of A.B. 54. I appreciate all the work from the Department of Taxation to work with stakeholders to get that process put in place, which significantly expands the ability of the Department to deal with these kinds of financially distressed entities.

Senate Bill 475 (1st Reprint) is one of three bills this session that deal with financial distress. I do want to point out that A.B. 54, which this Committee heard, was signed into law three days ago. We have heard that S.B. 475 (R1) is an idea of last resort if the process set forth in A.B. 54 does not work. We are talking about a process that is only three days old and has not been used. Ms. Vilardo said it very well; we need to see how it works. If it does not, we have future sessions. The process will not be over by the time we are in the next session. We can always come back and look at this legislation if we need to. Bankruptcy truly should be a last resort. We have put in place another process, and we need to let that work and make sure it works before going further.

There is another bill, Senate Bill 168, which also deals with financial emergencies and is referenced in our letter ([Exhibit E](#)). That bill has to do with reopening collective bargaining agreements in certain conditions. That is another tool in the toolbox to deal with financial issues. There are other alternatives we need to allow to work on this issue. Bankruptcy has its problems. Ms. Vilardo referenced the Detroit bankruptcy. That was 18 months and \$180 million. Bankruptcies are not cheap and they are not short. They take a long time and a lot of taxpayer dollars.

One of the other side effects of a bill like this, which is mentioned in our letter ([Exhibit E](#)) and which Assemblywoman Spiegel mentioned specifically, is that studies have shown that if there is a bankruptcy authorization bill on the books, there will be higher interest rates. Interest rates are a function of risk. The more risky a loan is—just like a car loan or anything else—the higher the interest rate will be. If you have a way out through bankruptcy, interest rates will go up. We took a typical \$200 million, 25-year, fully amortizing bond from a city in Nevada and asked what would happen if it was 7 basis points higher, which is one of the ranges you will see in the studies. That equates to \$1.5 million more in interest that would be paid on that bond. That is \$1.5 million of taxpayer dollars.

It is important to note, we are talking about this bill in terms of a specific jurisdiction. However, if this law is on the books, it applies to counties and cities everywhere. The bond rating interest rate will change for all entities. I will use North Las Vegas as an example because they are the only entity I have seen testify in support of this concept. If North Las Vegas wants this, every other entity in the state will have higher interest rates and will be impacted because the risk level is different. You will see the interest rates go up, and we do not think that is a good idea.

We believe A.B. 54 and the concepts that have been worked on so hard by everyone should be given a chance to work before we pass S.B. 475 (R1).

Yolanda King, Chief Financial Officer, Department of Finance, Clark County:

I would like to echo the comments made by Mr. Hicks. The bond rates will immediately affect all local governments, as well as the state, simply because of the risk that would be involved with investors when they invest in these bonds.

To give you an idea of the magnitude, Clark County does not just issue bonds for Clark County. We issue billions and billions of dollars-worth of bonds for various entities, specifically for the Regional Transportation Commission. As you know, we now have the fuel taxes that were approved by this Legislature last session. There are hundreds of millions of dollars in bonds that have been issued and are yet to be issued. In addition to that, we have the global district through the Las Vegas Convention and Visitors Authority for which they are anticipating issuing bonds. There are hundreds of millions of dollars of infrastructure related to the Clark County Water Reclamation District, as well as the Clark County Department of Aviation. We are concerned because we know that immediately bond rates will go up as we issue bonds not just for Clark County, but also these other various entities.

It is not just going to be for Clark County or the local governments, it will be for the Clark County School District or any bonds issued by the state. Every local government and the state associated governments will be impacted as a result of issuing bonds because the rates will increase.

We heavily supported A.B. 54 because of the additional processes and restrictions that were needed by the Department of Taxation. I would also like to echo the comments of Mr. Fontaine and Ms. Vilardo.

Assemblyman Flores:

I have several questions. Have any of you had an opportunity to sit down with the bill sponsor to see if there is any type of middle ground? Did you all have an opportunity to share your concerns during the Senate hearing and what was

the response there? As the bill was introduced and with the amended language, does that make a huge difference?

Carole Vilardo:

No, I did not testify in the Senate hearing because I was out sick for quite some time. I did make my concerns known to Director Contine just last week when I realized what this bill was doing.

Assemblyman Flores:

Just to be clear, all of you, at some point, have had an opportunity to have some type of dialogue with the bill sponsor, and the concerns raised have no middle ground. I am asking this because I saw the votes from the Senate, which were mostly along party lines. We are asking difficult, complex questions. I am concerned because this is a complex issue. We have all devoted numerous hours trying to understand the bill.

Jeff Fontaine:

I did not testify in the Senate, and quite frankly, we have not had significant discussions with the bill sponsor. For the Nevada Association of Counties, it is not about strategy, it is about not really understanding the impact of this bill. Now, having the time to listen to the testimony, analyze the information, and read the letters regarding how this would affect the bond ratings, all those things have compelled us to take a position, which is in opposition.

Carole Vilardo:

I want you to know I sat on the North Las Vegas Shared Services Committee. At the second meeting, we had a bankruptcy presentation. At that point, I opposed using it. While I did not testify before the Legislature when the bill was presented, I made no bones with the chief of staff or in that committee meeting about my concerns with bankruptcy.

Joshua Hicks:

I believe Assemblyman Flores was asking all of us to chime in, so I will do that quickly. For National Public Finance Guarantee Corporation, we have been opposed to this bill every step of the way. We have testified at every opportunity in opposition and have been consistent in our position. With respect to whether there is any kind of common ground, it is a little difficult because you either have authorization or you do not. I will say there was one aspect of the original bill that required approval and permission of both the Governor and the Attorney General. We thought if this bill had to go forward, that was at least a positive. The more checks and balances, the better. The bill has gotten worse because the approval of the Attorney General has been removed.

Yolanda King:

I did testify in the Senate on this bill. At the time, I had testified in a neutral position. The reason for that was because I understand the pros and cons of bankruptcy, and I understand why the Department of Taxation is asking for that ability as an option; however, the other side for Clark County is simply the increase in costs that local governments and the state will incur.

If you notice the dates of the hearings in the Senate, this bill actually sat for a few weeks after the hearing. I believe it was brought up for a vote on the day of the deadline. My assumption was A.B. 54 was moving forward and would be approved. I thought that with A.B. 54 strengthening the laws, it would no longer be necessary for S.B. 475 (R1) to come forward. However, it came forward, and I did not anticipate that happening. My concerns have always been on the record. I also followed up with the committee chair a couple of times to further express my concerns.

Assemblyman Flores:

I appreciate everyone's feedback. This bill is coming in so late in the game, and it is such a complex question, I do not understand and do not see how our Committee can answer this philosophical question on the eve of trying to go home.

Assemblyman Wheeler:

Mr. Hicks, you were talking about the interest rates of the bonds going up. I am literally trying to wrap my head around that. What you are saying is the ability to file bankruptcy will affect a bond rating and bond interest. In the private sector, where they can all file bankruptcy, the bond rating and the bond interest is based solely on the ability to repay and the strength of that particular entity to which the bond is being issued. How does the ability to file bankruptcy, which every private business has, affect the bond rating? The interest is based solely on the ability to repay and income.

Joshua Hicks:

Those comments were based on studies. You have heard testimony that about half of the states in the country have a bankruptcy authorization and half do not. The rates, on average, are between 4 to 7 basis points higher in states that authorize bankruptcy than those that do not. There are some articles I was going to drop off for Committee members. I could not put them on the Nevada Electronic Legislative Information System (NELIS) because they were kicked back due to a copyright issue. I will drop them off to you. They are recent studies and they are pretty well thought out. That is the issue. It comes down to the risk factor. If there is a way out of the debt, the interest rates reflect that.

Assemblyman Carrillo:

First of all, I would like to thank Ms. King for sending the article regarding bankruptcies and bankruptcy protections. That was very helpful. I have always compared it to the credit rating of an individual. If an individual decides to file bankruptcy, obviously his credit rating will be affected, and he will be paying a higher interest rate. As Ms. King stated, it impacts all entities throughout the state. It is not only going to affect that one entity for their bond rating if they want to borrow in the future; you are saying it will impact every entity.

Yolanda King:

If this law is approved, the interest rates will increase. Entities will pay a higher interest rate than they would have if this law had not been in place. If you look at your personal finances, obviously if you have a good credit score, you will pay a lesser interest rate if you apply for a mortgage loan or a car loan. However, if you have a low credit score, there is a risk involved for the investor. If you have not had a history of paying on time, obviously your credit scores are going to be lower. There is a risk for the investor to give you money for the loan you are requesting. They will charge a higher interest rate simply because of the risk that you may be late with your payments or you may not make the monthly payments at all. If the bankruptcy law were in place, there is a risk for these investors. Over a 20- or 30-year period of time, not knowing if the local government or the state is going to file for bankruptcy, the investors will charge more because of the risk of the bankruptcy law.

Assemblyman Carrillo:

By putting this in statute, would that actually change our bond rating as a whole?

Yolanda King:

The interest rates would definitely go up. That is what the article I provided is alluding to. From the studies Mr. Hicks referred to in the articles he will provide, we know the interest rates will go up immediately. There may be an effect on some of the bond ratings, but I personally have not seen that. We have seen studies and articles, and we have been advised by our bond council that this has, in fact, occurred in other states where a bankruptcy law exists. They go up because of the risk for the bondholders in the future.

Assemblyman Carrillo:

Basically, we would be increasing everyone's fees or taxes as a whole just by implementing this. Is that correct?

Yolanda King:

I would not necessarily say that fees or taxes would be increased, only the amount of money local governments or the state pays. As Mr. Hicks noted, for a \$200 million bond issuance, we would end up paying \$1.5 million extra on the bonds through the interest rates.

Assemblyman Carrillo:

That money comes from the taxpayers.

Carole Vilardo:

The difference with private sector and local government is the private sector would file under Chapter 7 or Chapter 9. Very frequently, with a local government, the bankruptcy cannot be paid at all. In the private sector, the judge will order the sale of the assets. That is not available with governments because how does one sell a sewer system or a road? That is another element that is taken into consideration by the bond rating companies. The government may have some assets, and they are the ones that usually have huge price tags, that cannot be accessed for sale, unlike the private sector bankruptcies.

Assemblyman Stewart:

Looking over you four testifiers, I do not think I have ever seen a more distinguished panel. However, one of you stands out in my opinion. That would be Ms. Vilardo. There is a rumor going around that this may be your last session. I could not resist the temptation to ask you a question. In summarizing your opposition, I have written down four points: 1) There is no crisis and there is no crisis on the horizon; 2) If we pass this bill, the interest on the bonds will be higher; 3) Assembly Bill 54 appears to be able to cover most of this, as Mr. Hicks has pointed out. The bill was just signed by the Governor and we need some time to see if it does work; 4) If there is a need for bankruptcy, we still have time to address the issue in a future session. Would those points be correct, Ms. Vilardo?

Carole Vilardo:

For the record, succinctly put, yes.

Assemblyman Stewart:

Ms. Vilardo, you look more splendid than I have ever seen you in that white outfit today. I was wondering, if you do retire, could you donate one of your hats to the Assembly Committee on Taxation and one to the Senate Committee on Revenue and Economic Development. I think that would be most appropriate so we can look at that hat and bring back the great wisdom you have shared with us over the years.

Carole Vilardo:

I would be happy to.

Assemblywoman Neal:

I know Assemblyman Stewart in his eloquence summarized everything, but I want you to delineate for the record. Special revenue bonds and general obligation bonds are treated differently under Chapter 9. Special revenue bonds are secured. General obligation bonds are not secured. However, they do say in terms of preference of payment, there is not necessarily that worry when the special revenue and general obligation bonds are together. For our understanding when you talk about interest rates, the ability to restructure under a general obligation bond, how does that play into the rate? I am assuming the only way the rate can increase is because it can be restructured.

Joshua Hicks:

It is true that restructuring is part of it. However, typically those restructurings would be in a less favorable way than they were originally, which is why the rate is different. I will also say that although some of the bondholders may have some priority treatment in the bankruptcy, going through a bankruptcy is not an easy or cheap proposition for anyone, local governments or creditors. It is expensive, time consuming, and a big deal for everyone involved.

Assemblywoman Neal:

At the end of the day, a creditor is going to be affected under A.B. 54 and through a Chapter 9 filing.

Carole Vilardo:

I think the other issue you have Assemblywoman Neal is when you talked about restructuring an existing bond. I sit on the Clark County Regional Debt Management Commission. On June 4, 2015, we will have a meeting because the Clark County School District wants to issue \$200 million worth of bonds. There will be another meeting on the first Thursday in August 2015 for another approval for \$300 million worth of bonds. The financial advisors will have already identified, if this bill should pass and be signed into law, that there are going to be higher interest rates. Remember, just as you can discharge contracts, you can discharge the debt. Under A.B. 54 and the way severe financial emergency operates, the governments meet with the bondholders. You can talk to Mr. Klinger from the City of Reno about how they worked with the banks to restructure their debt under the existing law. That is the concern with interest rates. If I am getting ready to go out with an issuance, and maybe they like me because I have reserved funds and I am not a bankrupt entity like the school district, I am still probably going to get a 2, 3, or 4 basis points

increase in the interest. It is not that it increases the tax rate, it reduces the amount of money to spend to build the facilities.

Chairman Ellison:

Is there any further testimony in opposition to the bill?

Rusty McAllister, President, Professional Fire Fighters of Nevada:

We are in opposition to this bill, mostly because during the course of this legislative session, we have worked with various parties, including the Department of Taxation, to come up with bills that will help them in their mission. This body passed Senate Bill 168 out of the house the other night, which allows for and creates a definition for a financial emergency. If a local government has a 5 percent drop in the general fund revenues or they have a budgeted 4 percent ending fund balance from their actual expenditures from the previous year, they will submit an application to the Committee on Local Government Finance for approval. If it were approved that there is a financial emergency, within 21 days contracts would be reopened and renegotiated. On top of that, as you have discussed here today, Assembly Bill 54, which we worked with the Department of Taxation on, creates a severe financial emergency where the Department actually has to step in and take over. Again, they could and would reopen contracts. The Department would serve as an intermediary between the local government and the employee organizations in renegotiating contracts. We feel there are many tools that can be used in the event that there is a financial situation with a local government.

Patrick T. Sanderson, representing Nevada Alliance for Retired Americans:

Every Legislature passes bills with unintended consequences. I think this is one of the largest ones you will ever see. We passed A.B. 54 and that is a good thing. Because they saw they could pass A.B. 54, they went for this bill. It is just not worth it. I hope all of you have heard what has been said by the prior speakers and you vote this down.

Chairman Ellison:

Is there any further testimony in support? [There was none.] Is there anyone wishing to testify as neutral? [There was no one.] Are there any closing comments from the bill sponsor?

Deonne Contine:

I will sum up by saying this was the third step in the process we thought would complete the toolbox for the local governments and the state when local governments are in severe financial distress. During the testimony provided by the Department, there are obviously costs to bankruptcy and there are pros and cons. I believe a lot of that has been discussed today. There are costs

regardless if a state has bankruptcy. If a local government has to dissolve, the state feels those costs as well.

Terry Rubald:

I would like to echo Ms. Contine's remarks. The whole situation is very difficult for all involved. Are we weighing the cost of bond interest to the cost of absorption to the local communities? If a major city in Clark County failed and we could not rightsize the budget and the voters voted to dissolve it, who picks up those services? The surrounding communities. There are costs of absorption there.

With regard to the studies, I am not certain, but those studies in other states that show the increase in interest rates, I wonder if those studies included states that had the intermediate step of a severe financial emergency and if the increase in interest rates was as great for those states which could go directly to bankruptcy without having the severe financial emergency laws. I did want to point that out to you. I thank you for your consideration.

Chairman Ellison:

I will close the hearing on Senate Bill 475 (1st Reprint). I will remind everyone we may be having a work session on two bills tomorrow. Is there anyone here for public comment? [There was no one.]

This meeting is adjourned [at 10:27 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: May 28, 2015

Time of Meeting: 9:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 475 (R1)	C	Terry E. Rubald, Department of Taxation	Severe Financial Emergency Decision Tree
S.B. 475 (R1)	D	Terry E. Rubald, Department of Taxation	Comparison of Severe Financial Emergency Department of Taxation Powers
S.B. 475 (R1)	E	Joshua J. Hicks, National Public Finance Guarantee Corporation	Letter in opposition from Barbara Flickinger, National Public Finance Guarantee Corporation