

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

**Seventy-Eighth Session
May 8, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 8:21 a.m. on Friday, May 8, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS EXCUSED:

Assemblyman Derek Armstrong



STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Adam Drost, Program Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

After call of the roll, Chair Anderson opened public comment, and there was no public comment to come before the Committee. The Chair stated the Committee would review the closing report for the State Department of Agriculture.

Adam Drost, Program Analyst, Fiscal Analyst Division, Legislative Counsel Bureau, read the closing report from the Senate Committee on Finance and the Assembly Committee on Ways and Means Subcommittees on General Government into the record for the State Department of Agriculture.

Administration (101-4554) AGRICULTURE-5: The Subcommittees recommended approval of the Governor's recommendation, with technical adjustments, to provide two new positions for the Department of Agriculture's Administration Division: a public information officer to provide videography and public outreach services and an administrative assistant to provide administrative support to the members of the Division. The Subcommittees also recommended the transfer of the marketing coordinator position from the Agriculture Registration/Enforcement budget to the Administration Division budget, as recommended by the Governor, to improve the coordination of marketing activities, and fund this position utilizing the Division's cost allocation.

The Department of Agriculture requested the Subcommittees consider authorizing cost-allocation funds of \$632,969 in fiscal year (FY) 2016 to fund renovation projects on the Metro Building in Las Vegas, which would allow the Department to move out of its existing building and occupy the Metro Building. Expressing concern with the Department of Agriculture managing the project, the Subcommittees delayed action on the renovation of the Metro Building. Following the closing of the Department's budgets by the Subcommittees, the Budget Division, Department of Administration, submitted an amendment to the Capital Improvement Program recommending the Metro Building renovation project be included in the 2015 Capital Improvement

Program. The Budget Division indicated the project would be managed by the State Public Works Division, Department of Administration, which estimated the total cost for the Metro Building remodel would be \$2 million based on a revised project scope and expanded renovation. The State Public Works Division proposed that the Department of Agriculture provide funding of \$617,969, which would be cost allocated to the department budgets that would occupy the building. The State Public Works Division indicated the remainder of the project cost would be funded with bond funds of \$1.2 million that would be reallocated from the 2013 CIP projects, State General Fund appropriations of \$135,043 previously pledged to the CIP, and \$75,000 from the Department of Administration's Division of Risk Management from a vandalism claim at the Metro Building. The building remodel would include the addition of fire sprinklers and fire alarms; renovation of the interior finishes; replacement of the heating, ventilating, and air conditioning (HVAC) equipment; installation of a new roof; addition of new metrology and fuel laboratories; building modifications to comply with the Americans with Disabilities Act; and reconfiguration of the loading docks and parking lot. That recommendation will be considered by the Subcommittees on K-12/Higher Education/CIP at the meeting on May 18, 2015. Fiscal Analysis Division staff would request authority to revise the Department of Agriculture's cost allocation for the budgets that would fund the project and eliminate the cost of private, leased warehouse space in the Commodity Food Program budget in FY 2017 that would no longer be required by the Department, contingent upon approval of the Metro Building remodel project by the Subcommittees on K-12/Higher Education/CIP.

Chair Anderson asked whether there was any discussion regarding the closing report.

Assemblyman Edwards asked whether the recommendation was to revise the State Department of Agriculture's cost allocation that would fund the project and eliminate the leased warehouse space.

Mr. Drost confirmed that approval of the closing report would close the State Department of Agriculture's budget accounts and would authorize Fiscal Analysis Division staff to revise the cost allocation for the Metro Building remodel and eliminate the leased warehouse space, contingent upon approval of the Metro Building remodel project by the Subcommittees.

ASSEMBLYWOMAN DICKMAN MOVED THAT THE COMMITTEE ACCEPT THE CLOSING REPORT FROM THE SENATE COMMITTEE ON FINANCE AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES, AND TRANSPORTATION, AS PRESENTED FOR THE ADMINISTRATION BUDGET ACCOUNT 4554 OF THE DEPARTMENT OF AGRICULTURE.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Armstrong and Hickey were not present for the vote.)

BUDGET CLOSED.

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Chair Anderson opened discussion regarding the Fund for Aviation.

Janet Murphy, Deputy Chief, Budget Division, Department of Administration, stated the Budget Division requested an appropriation of \$100,000 in each year of the 2015-2017 biennium for the Fund for Aviation created by *Nevada Revised Statutes* (NRS) 494.048. That amount was included on the State General Fund balance sheet in The Executive Budget; however, a bill was not submitted to formally request the funding. The Budget Division was requesting that amount be added to the Appropriations Act. Ms. Murphy said the appropriation would allow the state to match funding from the Federal Aviation Administration (FAA), U.S. Department of Transportation, for grants that were used for small airports.

Michael Hillerby, representing the Nevada Airports Association, explained that the aviation trust fund was created in 2001 and funded with a one-shot appropriation of \$500,000 from the 2005 Legislature. Currently, the federal program provided \$94 for a \$6 local match, and in 2005, the \$500,000 state appropriation was matched with \$1.9 million in local funds from participating airports, which brought in \$19.7 million in federal funds for construction projects, for a total budget of approximately \$21 million. Mr. Hillerby said it was not often that there was a federal match of \$94 for each \$6 of state funding.

Mr. Hillerby explained that the funding was limited to rural airports because the major commercial and/or passenger-service airports had different funding sources and different funding matches. The small rural airports provided

significant support for state firefighting and air ambulance services. The landing strip at the Eureka, Nevada airport was long enough to be a backup emergency landing strip for military planes. The rural airports also supported agricultural services and had entered into drone agreements and been designated as drone sites. Mr. Hillerby noted that Nevada was attempting to expand the drone-testing business as one of the six regional testing centers awarded by the federal government, and the rural airports would support that effort.

Bobbi Thompson, Airport Manager, Minden-Tahoe Airport, stated the funding was critically important to rural airports. As stated by Mr. Hillerby, the funding was only for rural airports and was allocated based on need. Many of the rural airports could not complete projects without the funding from the Fund for Aviation because of the funding match requirements. For example, said Ms. Thompson, four rural airports received entitlement funding of \$150,000 during the past year, and that funding had to be used within a specified period of time. The four rural airports had to return that funding because they could not provide the matching funding for much-needed projects. Ms. Thompson emphasized that the rural airport projects were critically important, and she thought of the airports as the "main street" of rural communities. When developers looked at rural areas for investments and conducting and/or establishing business enterprises, many times those developers landed on rural airport runways. Those runways brought people to the rural areas. Ms. Thompson said the unmanned aircraft systems (UAS) program was estimated to be an approximately \$60 billion business in Nevada; the UAS testing sites were located at the rural airports, which were critically important for the UAS project as it moved forward. The projects at rural airports could also be considered a "jobs bill" because jobs created by the \$19 million funding would ripple out and become multimillion-dollar projects, providing high-paying jobs throughout the construction industry for both unions and subcontractors.

Ms. Thompson stated the money from the FAA Airport Improvement Program was tax dollars. Persons who purchased airline tickets paid taxes that were used to fund the program; however, if there was no state funding match in Nevada, that money would be allocated to other states. Ms. Thompson believed that the tax dollars should be brought back to Nevada and used to turn \$6 into \$94 to create jobs and boost economic development.

Assemblywoman Titus commented that as a Senior Aviation Medical Examiner, she conducted flight physicals for airline pilots and, in fact, was a pilot herself. Assemblywoman Titus said she completed her instrument training at the Minden-Tahoe Airport, and had landed on many, if not all, of the rural airports in Nevada. She was curious about airport safety and fencing and whether the

funding would be used for safety projects. She agreed that airport construction and runway paving and/or maintenance were good for the job market.

Ms. Thompson replied that FAA Airport Improvement Program (AIP) money could be used for fencing, which was defined by the FAA for safety rather than security. At the Minden-Tahoe Airport, there were 1,000 acres and approximately 98 percent of that acreage was fenced with just three-string barbed wire, and airport workers were constantly chasing animals off the runway, which was a hazard to aviation. Ms. Thompson said everyone should remember that fencing was for safety and was very critical. She noted that the funding also helped with runway lights to assist with evening landings. There were many other projects included in the funding, and the master plan for each airport provided for proper development, including drainage patterns for the best use of the limited water resources. Ms. Thompson reiterated that multiple projects were conducted, such as environmental studies and wildlife hazard assessment, using the federal funding.

Assemblyman Sprinkle referred to *Nevada Revised Statutes* (NRS) 494.048, which stated that provisions in that chapter did not apply to airports that were owned by the Reno-Tahoe Airport Authority or any county whose population was 700,000 or more. Assemblyman Sprinkle noted that would include the Reno and Las Vegas airports, and he asked whether there were any other airports that were not eligible for funding, because there were some residential airports in outlying urban areas. He also asked about the entity that provided oversight of the federal grant funding.

Ms. Thompson said the FAA identified airports that were part of the National Plan of Integrated Airport Systems (NPIAS), and airports had to meet the NPIAS criteria to be eligible for FAA funding. Privately run airports, unless publicly used and meeting a certain threshold, were not eligible for FAA funding. Ms. Thompson said there were 37 rural airports in the state that were eligible for FAA funding. She noted that oversight of the grant funding was provided by the FAA and also through the Aviation Planning Section, Planning Division, Department of Transportation.

Assemblywoman Kirkpatrick stated she agreed with economic development and reinvesting dollars back into Nevada's communities when the state could spend dollars for matching federal funds. She noted it was frustrating for the Legislature because of the uncertainty of funding. Assemblywoman Kirkpatrick said she would support the appropriation today, but she hoped that there would be sufficient revenue to close the budgets and fund all projects. It was a matter of legislators agreeing to ensure that there was sufficient revenue for all special projects.

Ms. Thompson said that beyond economic development, it was important to remember that the rural airports were used to fight fires, and patients in remote areas could be moved more quickly to hospitals via air ambulance service. Natural disasters, such as flooding, also had to be considered, because the best way to bring food and services to a rural area was through the airports. Ms. Thompson agreed that economic development was critical to Nevada, but the airports also provided safety and assistance for Nevada citizens.

Chair Anderson said he understood Assemblywoman Kirkpatrick's concerns, because the Legislature had to provide funding for the entire state, and revenue was needed to fund the entire budget. As the Legislature appropriated funding for rural or urban projects, it had to review the overall funding picture. Chair Anderson noted that the money was included in The Executive Budget and the Appropriations Act, but the Committee needed to authorize the spending of the funding once the budget was closed.

Assemblywoman Benitez-Thompson asked whether it was a one-shot appropriation or an ongoing amount.

Ms. Murphy explained that after discussion with Fiscal Analysis Division staff, the intent was for a \$100,000 State General Fund appropriation in each year of the biennium, which could be included in the Appropriations Act for the Fund for Aviation.

Assemblywoman Carlton said it appeared a bill was not necessary for the funding, and the Committee needed to take action to place the funding in the Appropriations Act.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislation Counsel Bureau, explained that the funds would be included in the Appropriations Act because it would be a State General Fund appropriation. Because the Appropriations Act was renewed each legislative session, the funding for the 2015-2017 biennium would be one-shot funding. If the Legislature desired to allocate further funding in the 2017 Session, it would again be a one-shot appropriation.

Assemblywoman Carlton said she believed that a bill draft request (BDR) was needed to appropriate the funds, and she asked whether that was necessary for the current funding request.

Ms. Jones replied that a BDR was not necessary: the appropriation would be included in the Appropriations Act that would be approved at the end of session. The Appropriations Act contained appropriations for all state agencies,

and the appropriation could be included as a separate item within the back language.

ASSEMBLYWOMAN DICKMAN MOVED TO APPROVE THE APPROPRIATION OF \$100,000 IN FISCAL YEAR 2016 AND \$100,000 IN FISCAL YEAR 2017 FOR THE FUND FOR AVIATION.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

Assemblywoman Bustamante Adams agreed with Assemblywoman Kirkpatrick's comments about funding special projects; there were many other areas where funding was needed, and no revenue stream had yet been established to supply the funding for all the needs.

Assemblywoman Dickman stated she was from a rural area and federal match funding made a substantial difference for the rural airports. She agreed that along with economic development, the safety issues were very important to rural airports.

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

COMMERCE & INDUSTRY
PUBLIC UTILITIES COMMISSION
PUC - PUBLIC UTILITIES COMMISSION (224-3920)
BUDGET PAGE PUC-11

Stephanie Day, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the primary funding source for budget account (BA) 3920, Public Utilities Commission, was derived from a mil assessment on each dollar of gross utility operating revenue and was statutorily capped at 3.5 mils. Ms. Day further explained that one mil equaled 1/10 of 1 cent.

An additional assessment of 0.75 mils was assessed and transferred to the Office of the Attorney General's Account for the Consumer Advocate.

Ms. Day stated that the Public Utilities Commission (PUC) of Nevada had set its annual regulatory assessment at 2.58 mils for each year of the upcoming biennium. The mil assessment for fiscal year (FY) 2014 and FY 2015 was set at 2.59 mils and 2.55 mils, respectively. She noted that the reserve level at the end of the 2015-2017 biennium was recommended by the Governor

at \$2.4 million, which according to the agency, was within the optimal reserve range of between \$2.4 million and \$2.9 million.

Ms. Day stated there was one major closing issue in BA 3920, which was the request in decision unit Enhancement (E) 806 for unclassified position salary increases. The Executive Budget included federal National Gas Pipeline Safety Act grant funding of \$22,218 in FY 2017 and a reduction to reserves of \$254,852 over the biennium to support salary increases for 22 unclassified positions.

Ms. Day stated the agency indicated the salary adjustments were needed to "remedy internal inequities; align salaries with comparable classified and/or unclassified positions in other state agencies, and attract and retain a diverse, well-educated professional workforce who are technically prepared to meet the demands of the rapidly changing and increasingly complex utility industry; and capable of supporting the Commission goals."

Ms. Day indicated that the approval of decision unit E-806 would provide funding; however, the salary changes would be considered in conjunction with the Unclassified Pay Bill, which would be considered at a later date.

The decision, said Ms. Day, was whether the Committee wished to approve the Governor's recommendation in decision unit E-806 to fund increases to the salaries of 22 unclassified positions.

Chair Anderson said it appeared there were two issues: the first was the increased salary for the 22 unclassified positions, and the second issue was Senate Bill 46, which would potentially move those positions to nonclassified rather than unclassified status. That bill would not affect the Committee's decision today, and the decision was whether the Committee wished to approve the salary changes for the positions as established in the Unclassified Pay Bill.

Assemblywoman Carlton commented that she was more than happy to give raises, because state employees deserved raises after the tough times they had suffered for the past six years. However, until there was a global discussion about the action that would be taken for all state employees who had suffered through the tough times, Assemblywoman Carlton said she was very uncomfortable picking and choosing the winners and losers and determining who would receive salary increases. She understood that the global discussion about salary increases in the Unclassified Pay Bill was different; however, there needed to be a discussion about classified employees who were on the front

lines handling the work of two positions because that had been asked of them during the past six years.

Assemblywoman Kirkpatrick assured Assemblywoman Carlton that she also believed classified employee pay increases were a high priority. She indicated that there would be a discussion regarding the pay increase for all state employees, because there had been a real commitment to fund the increase to ensure that Nevada's classified state employees were rewarded for their efforts over the last several years.

Assemblyman Kirner pointed out that the legislation he had proposed regarding the Public Employees' Retirement System (PERS) would give every new state employee an 8 percent pay increase.

Assemblyman Edwards said he supported better pay and benefits for state employees; however, some of the proposed pay increases were higher than he would like to see. He noted that some unclassified positions would receive a 24 percent pay increase at a time when the Legislature was attempting to fund a 2.5 percent pay increase for classified state employees; however, he would support those increases.

Chair Anderson clarified that the unclassified positions in decision unit E-806 were not funded through the State General Fund, and the amounts for each position would be dictated within the Unclassified Pay Bill. The Committee was being asked to authorize the total amount as a reduction of reserves in budget account (BA) 3920.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE APPROVE THE GOVERNOR'S RECOMMENDATION IN DECISION UNIT E-806 TO FUND INCREASES IN THE SALARIES OF 22 UNCLASSIFIED POSITIONS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Dickman, Kirner, and Titus voted no. Assemblymen Armstrong and Oscarson were not present for the vote.)

Ms. Day stated there were four other closing items in BA 3920:

1. Decision unit E-249—reorganization of agency vehicle fleet.
2. Decision unit E-710—replacement hardware and software.

3. Decision unit E-719—replacement microwave equipment.
4. Decision unit E-811—unclassified position reclassification.

Ms. Day stated closing items 1 through 3 appeared reasonable to Fiscal Analysis Division staff. The approval of decision unit E-811 would provide funding for the reclassification; however, the salary change would be considered in conjunction with the Unclassified Pay Bill, which would be considered at a later date.

Ms. Day said Fiscal Analysis Division staff recommended closing other closing items as recommended by the Governor, with authority for Fiscal staff to make technical adjustments as necessary.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE CLOSE OTHER CLOSING ITEMS IN BUDGET ACCOUNT 3920 AS RECOMMENDED BY THE GOVERNOR, WITH AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblymen Armstrong and Oscarson were not present for the vote.)

BUDGET CLOSED.

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Stephanie Day, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, read the closing report from the Senate Committee on Finance and the Assembly Committee on Ways and Means Subcommittees on Public Safety, Natural Resources, and Transportation for the Colorado River Commission of Nevada.

COLORADO RIVER COMMISSION (296-4490) COLORADO RIVER
COMM-4: The Subcommittees recommended approving the Governor's recommendation to add three new unclassified natural resource specialist positions with associated operating and travel costs to support increased workloads related to electric resource marketing activities for water customers and an increase in the hydropower customer base pursuant to the Hoover Power Allocation Act of 2011.

With regard to the Governor's recommendation for a new unclassified deputy director position and a new natural resource specialist position with associated operating costs, including \$50,000 to produce a water conference to support increasing activity related to the water resources of the Colorado River, the Senate recommended approval of the Governor's recommendation, but the Assembly did not approve the recommendation.

Lastly, the Subcommittees recommended approval of a dedicated deputy attorney general (DAG) position to be funded by the CRC consistent with the closing actions of the money committees in closing the Attorney General's budget and recommended approving the remainder of the budget as recommended by the Governor with technical adjustments.

Assemblywoman Titus stated she would continue her opposition to the \$50,000 to produce a water conference. She stated she had met with Jayne Harkins, P.E., Executive Director, Colorado River Commission of Nevada, who stated the Colorado River Commission (CRC) had not produced a water conference in six years, and no topic had been discussed for a future conference. Assemblywoman Titus said she did not feel she could support the funding for a water conference at the present time.

Assemblywoman Titus noted that the Committee had just authorized \$100,000 to the Fund for Aviation, but that matching funding would secure additional federal funding. She stated if the \$50,000 would be used to bring in revenue, she could justify the expense, but she could see no gain from a water conference. Assemblywoman Titus noted that the plan had not been well thought out when the funding was requested.

Assemblywoman Kirkpatrick stated that her opinion had not changed. She had also spoken with representatives of the CRC and agreed to \$50,000 for the water conference. However, she would not support the request for a dedicated deputy attorney general position because the CRC currently had one dedicated deputy attorney general position.

Chair Anderson stated that the closing report from the Senate members of the Subcommittees recommended approval of the positions; however, the Assembly members did not approve the two new unclassified positions—one deputy director position and one natural resource specialist position—and did not approve the \$50,000 to produce the water conference. Chair Anderson asked whether there was further discussion.

Assemblyman Edwards asked whether the recommendation could be separated into segments that possibly could be approved.

Chair Anderson said there were two options for consideration by the Committee. The Committee could approve the two requested unclassified positions and not approve the \$50,000 to produce the water conference, or vice-versa.

Assemblyman Edwards recommended that the items be broken out; he did not support the \$50,000 for the conference or the requested deputy attorney general position, but he would support the other positions.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, clarified that the requested deputy attorney general position was already approved in the budget for the Office of the Attorney General (AG). If the position was not approved by the Committee, there would be a disconnect between the two budget accounts. The position was approved as a new position in the AG's budget with direct funding from the CRC to support the position.

Chair Anderson asked about the number of positions requested in BA 4490. He noted the deputy attorney general position was included in the AG's budget, and he wondered whether that position would be located within the AG's Office or the CRC office.

Ms. Day explained that the request was for three new unclassified natural resource specialist positions that were approved by the Subcommittees; a new unclassified deputy director position and a new natural resource specialist position, which were approved by the Senate, but not approved by the Assembly; and the deputy attorney general position that was approved in the AG's budget and recommended by the Subcommittees. Ms. Day said the two positions being considered today that had not been approved by the Assembly Subcommittee members were the unclassified deputy director position and the natural resource specialist position to support the increasing activity related to the water resources of the Colorado River relative to the drought conditions.

Chair Anderson declared the Committee in recess at 9:03 a.m. and reconvened the hearing at 9:10 a.m.

Ms. Day stated that decision unit Enhancement (E) 225 requested three new positions: one position for the energy services group and two new positions related to the Hoover Power Allocation Act. The Subcommittees recommended approval of those three positions.

Ms. Day indicated that decision unit E-226 requested two new executive group positions, a new deputy director position, and an additional natural resource specialist to support the increasing activities related to the water resources of the Colorado River. The decision unit also requested \$50,000 to produce a water conference. Ms. Day reported that decision unit E-226 was not approved by the Assembly members of the Subcommittees.

Ms. Day stated there were three other closing items in BA 4490, one of which included the request for a new dedicated deputy attorney general position, and all other closing items had been recommended for approval by the Subcommittees.

Chair Anderson stated that he was comfortable with the closing report from the Subcommittees, and he asked whether there was further discussion.

ASSEMBLYWOMAN TITUS MOVED THAT THE COMMITTEE ACCEPT THE CLOSING REPORT FROM THE SENATE COMMITTEE ON FINANCE AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES, AND TRANSPORTATION, AS PRESENTED FOR BUDGET ACCOUNT 4490, COLORADO RIVER COMMISSION.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywomen Benitez-Thompson, Bustamante Adams, Carlton, Kirkpatrick, and Swank voted no. Assemblymen Armstrong and Oscarson were not present for the vote.)

BUDGET CLOSED.

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**INFRASTRUCTURE
COLORADO RIVER COMMISSION
CRC - RESEARCH AND DEVELOPMENT (296-4497)
BUDGET PAGE COLORADO RIVER COMM-10**

Stephanie Day, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Committee had not previously reviewed budget account (BA) 4497, Research and Development, and Fiscal Analysis Division staff was responsible for developing closing recommendations for the account.

Ms. Day said the Colorado River Research and Development Account was used as a pass-through account for the costs related to the Lower Colorado River Multi-Species Conservation Program to comply with the Endangered Species Act; it was a 50-year program executed on April 4, 2005.

Ms. Day explained that there were no major closing issues or other closing items in BA 4497, and Fiscal Analysis Division staff recommended the budget be closed as recommended by the Governor, with authority for staff to make technical adjustments as necessary.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE CLOSE BUDGET ACCOUNT 4497 AS RECOMMENDED BY THE GOVERNOR, WITH AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Kirkpatrick voted no. Assemblymen Armstrong and Oscarson were not present for the vote.)

BUDGET CLOSED.

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**INFRASTRUCTURE
COLORADO RIVER COMMISSION
CRC - POWER DELIVERY SYSTEM (502-4501)
BUDGET PAGE COLORADO RIVER COMM-12**

Stephanie Day, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Committee had not previously

reviewed budget account (BA) 4501, Power Delivery System, and Fiscal Analysis Division staff was responsible for developing closing recommendations for the budget.

Ms. Day indicated that the Power Delivery System Account was for all costs associated with the Colorado River Commission (CRC) of Nevada's high-voltage power-delivery system for the Southern Nevada Water Authority's (SNWA) water-delivery system, which provided for a power-transmission system from the Lake Mead substation at Hoover Dam to the SNWA water-treatment facility. Funding was provided through monthly billings to SNWA in accordance with the approved operational budget. Ms. Day stated the base budget continued funding for the power-delivery project system and power marketing activities to support the agency's water purveyor customers' resource needs.

Ms. Day said there were no major closing issues in BA 4501. There were two other closing items in the account. Both appeared reasonable to Fiscal Analysis Division staff, and staff recommended BA 4501 be closed as recommended by the Governor, with authority for Fiscal Analysis Division staff to make technical adjustments as necessary.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE CLOSE BUDGET ACCOUNT 4501 AS RECOMMENDED BY THE GOVERNOR, WITH AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Kirkpatrick voted no. Assemblymen Armstrong and Oscarson were not present for the vote.)

BUDGET CLOSED.

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**INFRASTRUCTURE
COLORADO RIVER COMMISSION
CRC - POWER MARKETING FUND (505-4502)
BUDGET PAGE COLORADO RIVER COMM-15**

Stephanie Day, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Committee had not previously reviewed budget account (BA) 4502, Power Marketing Fund, and

Fiscal Analysis Division staff was responsible for developing closing recommendations for the account.

Ms. Day said the Power Marketing Fund account was used to record purchases and sales of power, debt service related to the Hoover upgrading bonds, and operational costs for the Basic Substation project. The fund accounted for all power-related activities, except those dedicated to the Southern Nevada Water System and its customers. All hydropower allocations to Nevada administered by the Colorado River Commission (CRC) of Nevada were recorded in BA 4502, and funding was provided through monthly billings to hydropower customers.

Ms. Day stated there were no major closing issues in the budget account; however, there was one other closing item regarding the cost allocation, which appeared reasonable to Fiscal Analysis Division staff. Staff recommended that BA 4502 be closed as recommended by the Governor, with authority for Fiscal Analysis Division staff to make technical adjustments as necessary.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE CLOSE BUDGET ACCOUNT 4502 AS RECOMMENDED BY THE GOVERNOR, WITH AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Kirkpatrick voted no. Assemblymen Armstrong and Oscarson were not present for the vote.)

BUDGET CLOSED.

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SPECIAL PURPOSE AGENCIES
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
PERS - PUBLIC EMPLOYEES' RETIREMENT SYSTEM (101-4821)
BUDGET PAGE PERS-3

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Public Employees' Retirement System (PERS) budget was heard by the Committee on February 9, 2015, and the rates were approved at the joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance on May 2, 2015, when all statewide internal service fund and fringe rates were approved.

Ms. Jones said PERS provided retirement, disability, and death benefits to long-term public employees. The PERS included employees of Nevada's counties, cities, school districts, state government, and miscellaneous public employers. Ms. Jones indicated that *Nevada Revised Statutes* (NRS) 353.246 provided that PERS was not subject to the State Budget Act; however, the budget was reviewed by Fiscal Analysis Division staff. The PERS was primarily funded through a monthly per-capita fee for each member and benefit recipient. The per-capita fees as of July 1, 2014, were \$3.36 for each regular member and benefit recipient and \$3.58 for each police/fire member and benefit recipient. Ms. Jones indicated that in 2014, per-capita fees were \$3.23 for each regular member and benefits recipient and \$3.42 for each police/fire member and benefit recipient. The PERS staff indicated per-capita fees fluctuated based on working capital and beneficiary counts and were adjusted on June 30 of each year.

Per Ms. Jones, based on the actuarial valuation of assets for fiscal year (FY) 2014, the actuarial value of assets to accrued liabilities, or funded ratio, was 70.8 percent for the regular members and 74.3 percent for police/fire members. The funded ratios increased from 68.9 percent for regular members and 71.1 percent for police/fire members, as determined by the actuarial valuation of assets on June 30, 2013.

There was one major closing issue in budget account (BA) 4821, and that was decision unit Enhancement (E) 225, which requested a new general counsel position. Ms. Jones said the PERS budget for the next biennium included funding of \$372,295 for a new general counsel position to serve as a member of the executive staff. For the purpose of comparison, the salary for the Executive Officer was \$175,086 under the employer/employee paid retirement category.

Ms. Jones said according to PERS, the general counsel position was requested because of increases in the number of documents requiring legal review, the specialized nature of pension law, and the technical nature of compliance with federal law. The general counsel would have the authority and responsibility for advising the Public Employees' Retirement System (PERS) Board and staff on pension matters that were required on a daily basis for PERS and to reduce the potential conflicts in legal representation. Ms. Jones said PERS did not currently have any attorney positions in its budget, and PERS currently used the services of the Office of the Attorney General (AG) for Open Meeting Law compliance, fulfilling public records requests, and reviewing qualified domestic relations orders. The PERS used outside counsel for litigation and tax compliance issues.

Ms. Jones said according to PERS, the general counsel would address the day-to-day legal matters and manage litigation and tax compliance issues, which were currently supported by the Executive Officer. The addition of a general counsel position would not eliminate the need for the services provided by the AG's Office. The assigned deputy attorney general would continue to assist PERS with Open Meeting Law compliance and public records requests.

Ms. Jones pointed out that Senate Bill (S.B.) 420, currently in the Senate Committee on Finance, proposed the establishment of the general counsel position in statute, similar to other executive staff positions.

Per Ms. Jones, the PERS Executive Officer indicated that approximately 95 percent of outside counsel expenses were related to litigation and 5 percent were related to general legal advice, and the general counsel position would handle much of the in-house litigation. In response to an inquiry by Fiscal Analysis Division staff regarding the possibility of reducing outside counsel expenses if the general counsel position was approved, PERS indicated that outside counsel expenses could be reduced by \$75,654 in fiscal year (FY) 2016 and \$117,239 in FY 2017. Those reductions were based on the analysis performed by the PERS Executive Officer of pending legal cases and the last 12 months of costs for outside counsel. Ms. Jones indicated the PERS Executive Officer estimated that the two cases currently on appeal would require completion by outside counsel over the biennium, but the remaining pending cases could be addressed jointly by outside counsel and the general counsel and then transitioned to the general counsel in their entirety.

The decision, said Ms. Jones, was whether the Committee wished to approve the general counsel position requested in decision unit E-225 for the Public Employees' Retirement System (PERS), contingent on the passage of S.B. 420. If approved, Fiscal Analysis Division staff recommended reducing funding for outside counsel expenses by \$75,654 in FY 2016 and \$117,239 in FY 2017.

Assemblyman Kirner said PERS currently used the services of the AG's Office, and he wondered why PERS also hired outside attorneys.

Ms. Jones said PERS currently contracted with outside local counsel to handle items that were outside the normal work performed by the deputy attorney general on its behalf. The recommended reductions were the amounts that PERS expended on outside counsel, because that work would transition from outside counsel to the requested general counsel position.

Assemblyman Kirner assumed that if PERS had its own dedicated general counsel position, there would be a greater level of expertise. The second assumption was that because of that expertise, PERS would be capable of handling cases internally rather than contracting with outside counsel.

Assemblyman Kirner said he had a number of concerns, but because of his prior experience working with the Public Employees' Benefits Program (PEBP), he opined that benefit and retirement systems were very highly specialized areas of business. Assemblyman Kirner stated he had great respect for the Office of the Attorney General, but the deputy attorneys general that had provided assistance to PEBP during his tenure were not proficient with benefit systems. Likewise, he believed that the deputy attorneys general assigned to PERS probably were not experts in retirement pension plans.

Assemblyman Kirner said that even though he had a number of concerns, the position was one more step in creating independence, and as previously mentioned, PERS was not subject to the State Budget Act, per NRS 353.246. He indicated that he would support the request.

Assemblyman Edwards stated it appeared that PERS was currently expending approximately \$600,000 a year for outside counsel, which could be reduced to approximately \$400,000 with no further hiring of additional outside counsel. He asked whether that was correct.

Ms. Jones said it was her understanding that PERS committed to transitioning the legal work to the general counsel position once the outside cases that were currently on appeal were resolved. The amount of the reductions had been supplied by the Executive Officer of PERS and applied to outside counsel funding for the 2015-2017 biennium.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE APPROVE THE GENERAL COUNSEL POSITION REQUESTED IN DECISION UNIT E-225 FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, BUDGET ACCOUNT 4821, CONTINGENT UPON PASSAGE OF SENATE BILL 420, AND REDUCE FUNDING FOR OUTSIDE COUNSEL EXPENSES BY \$75,654 IN FISCAL YEAR 2016 AND \$117,239 IN FISCAL YEAR 2017, AS RECOMMENDED BY FISCAL ANALYSIS DIVISION STAFF.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Assemblyman Kirner commented that when S.B. 420 was heard, he would like to revisit the topic as a whole, because that might change his view.

Ms. Jones requested clarification from the maker of the motion that approval of the position requested in decision unit E-225 was contingent upon approval of S.B. 420. Assemblyman Edwards agreed with that clarification.

THE MOTION CARRIED. (Assemblywoman Titus voted no. Assemblymen Armstrong and Hambrick were not present for the vote.)

Ms. Jones indicated there was one other closing item in BA 4821. Decision unit Enhancement (E) 710 included funding of \$1,377,030 in fiscal year (FY) 2016 and \$1,370,540 in FY 2017 for replacement equipment, including a software upgrade totaling \$1.3 million each year to comply with pension changes made through Senate Bill No. 427 of the 75th Session (2009). Ms. Jones said Fiscal Analysis Division staff had no concerns about the recommendation, and staff would seek authority to make technical adjustments as necessary.

Chair Anderson said it was a \$3 million decision and there were not many details other than the request to phase-in software upgrades; he asked when the software phases would be complete. Ms. Jones stated she did not have that detail available, but perhaps the PERS Executive Officer could provide that information.

Assemblyman Kirner said the software upgrades were not funded through the State General Fund, but rather were funded through the trust fund.

Ms. Jones said the funding would be from the per-member fees that supported PERS in general.

Assemblyman Kirner asked if the Committee did not approve decision unit E-710, whether that would reduce the per-member fee.

Ms. Jones indicated that because per-member fees included the state contribution, there might be a minor decrease; she deferred to the PERS Executive Officer to answer that inquiry.

Tina Leiss, Executive Officer, Public Employees' Retirement System, stated the per-capita fees were from transfers from the trust fund, which consisted of contributions and investment returns. Ms. Leiss said the cost for the software upgrade would not decrease the State General Fund, because there was

a certain amount of contribution rate that was dedicated to administrative fees, and that would not be reduced by removal of the \$3 million for software upgrades from the PERS budget.

Assemblyman Kirner said it appeared that the member contributions already being made were included in the 28 percent rate effective July 1, 2015. Ms. Leiss said *Nevada Revised Statutes* (NRS) required that PERS calculate a per-capita fee for administrative fees.

Assemblyman Kirner asked whether that was separate from the contribution rates. Ms. Leiss replied that it came from the contribution rates. She explained there was a dedicated 0.15 percent in the contribution rate that was used for administrative fees.

Assemblyman Kirner said even if the Committee did not approve decision unit E-710, it would not change anything. Ms. Leiss agreed that failure to approve the decision would not change The Executive Budget.

Assemblyman Kirner reiterated that whether the Committee did or did not approve decision unit E-710, it would change nothing.

Chair Anderson asked about the progress on the phased-in software upgrades.

Ms. Leiss stated that the request for the upcoming biennium was the final phase of the software upgrade authorized in S.B. No. 427 of the 75th Session (2009). That bill included a number of benefit changes that required extensive computer changes, and the upgrades were being done in two phases. Ms. Leiss explained that some changes were not required until the new members hired on or after January 1, 2010, were vested. Those members were now vested, and PERS needed to make the final software upgrades to accommodate the mandates of that legislation.

ASSEMBLYMAN EDWARDS MOVED THAT THE COMMITTEE APPROVE THE OTHER CLOSING ITEM IN DECISION UNIT E-710 AS RECOMMENDED BY THE GOVERNOR, WITH AUTHORITY FOR FISCAL ANALYSIS DIVISION STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Armstrong was not present for the vote.)

BUDGET CLOSED.

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Chair Anderson opened public comment.

Priscilla Maloney, representing Retire Chapter, Local 4041, American Federation of State, County and Municipal Employees (AFSCME), said she would like to share a brief explanation provided by former PERS Executive Officer Dana Bilyeu to the 2009 Legislature regarding what the PERS contribution rate encapsulated. At that time, Ms. Bilyeu stated there were three components to the PERS contribution rate: (1) the normal cost of the benefit; (2) payment on the unfunded accrued liability; and (3) a small administrative piece designed to fund the agency over time. Ms. Maloney hoped that information would be helpful for the Committee.

With no further business or public comment to come before the Committee, Chair Anderson adjourned the hearing at 9:35 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 8, 2015

Time of Meeting: 8:21 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster