

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

**Seventy-Eighth Session  
March 26, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 9:04 a.m. on Thursday, March 26, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Paul Anderson, Chair  
Assemblyman Derek Armstrong  
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 John Hambrick, Vice Chair



**STAFF MEMBERS PRESENT:**

Cindy Jones, Assembly Fiscal Analyst  
Stephanie Day, Principal Deputy Fiscal Analyst  
Barbara Williams, Committee Secretary  
Cynthia Wyett, Committee Assistant

Chair Anderson asked the Committee Assistant to call roll. A quorum was present; Assemblyman Hambrick was excused.

Chair Anderson opened the meeting to public comment. Seeing none, he asked Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, to brief the Committee on the bills that were being heard.

Ms. Jones stated that there were five bills on the agenda for the meeting. She explained that all the bills were requests for funding for the current fiscal year because of shortfalls experienced within individual accounts. She explained the distinction between a one-shot appropriation, which was requested for accounts that did not receive money from the State General Fund, and a supplemental appropriation, which was requested to amend, or supplement, an appropriation from the 77th Legislative Session (2013).

**Assembly Bill 437: Makes an appropriation to restore the balance in the Reserve for Statutory Contingency Account. (BDR S-1217)**

James R. Wells, Interim Director, Budget Division, Department of Administration, explained that Assembly Bill (A.B.) 437 was a request for \$1 million to restore the balance in the Reserve for Statutory Contingency Account for fiscal year (FY) 2015. He said the Account had approximately \$475,000 brought forward from FY 2014 and had received \$1.5 million from the Interim Finance Committee (IFC) during the year. The agency was projecting that the Reserve for Statutory Contingency Account would have a \$983,000 shortfall at the end of FY 2015.

Mr. Wells said that the large expenditures from the Account had been:

- \$359,000 for printing of ballots.
- \$1,500,000 for outside legal counsel related to the lawsuit with San Francisco.
- \$450,000 for postconviction stale claims.
- \$800,000 for postconviction claims.

Mr. Wells said postconviction claims were paid out of the Reserve for Statutory Contingency Account when the Office of the State Public Defender ran out of authority to pay the claims.

Mr. Wells summarized that, currently, the Reserve for Statutory Contingency Account had a balance of about \$750,000 and was projected to have additional expenditures of about \$1.7 million.

Assemblywoman Carlton asked how much had been spent to date on the outside legal counsel and how much was projected to be spent before the case was resolved.

Mr. Wells replied that about \$750,000 had been spent in the current biennium. The agency had received bills for outside legal counsel through September 2014, leaving three more quarters of expenditures in the current fiscal year. There had not been any indication that the case was going to be settled. He could not provide the Committee with an estimate for future expenses in the case, but the Budget Division was working with the Office of the Attorney General (AG) to establish ongoing expenditure estimates.

Assemblywoman Carlton emphasized that it was important for the Committee to have the numbers before finalizing a decision.

Chair Anderson recalled that when the AG's Office had testified, there had been ongoing settlement discussions, and he asked Mr. Wells what the status was.

Mr. Wells replied that the discussions had not been productive.

Assemblyman Sprinkle asked for total amounts from all state accounts that had been expended on the San Francisco lawsuit and projections for future expenses.

Mr. Wells replied that the Reserve for Statutory Contingency Account only paid for outside legal counsel, which was being projected at about \$1.5 million through the end of FY 2015. He said he would work to get a summary of total costs to the Committee.

Assemblyman Oscarson questioned whether it would be less expensive for the state to have in-house counsel working on the case.

Mr. Wells said the question would be more appropriately asked of the Attorney General. He knew that originally the hope had been the case would be settled more quickly, but that did not appear to be likely.

Assemblyman Oscarson requested Chair Anderson's permission to ask the question of the AG.

Chair Anderson said it was his understanding that the case required attorneys licensed in California and agreed that clarification from the AG's Office was necessary.

Assemblywoman Benitez-Thompson asked what amount the Reserve for Statutory Contingency Account was projected to have at the end of FY 2015 if A.B. 437 was approved.

Mr. Wells replied that, with the current balance in the Account and the projected expenditures, if the bill passed, the Reserve for Statutory Contingency Account would be left with about \$20,000.

Chair Anderson noted that as the end of session got closer, the Committee would be looking at all the numbers and making sure the appropriate amounts were allocated.

Chair Anderson asked Mr. Wells to clarify the difference between the Reserve for Statutory Contingency Account and IFC's Contingency Account.

Mr. Wells explained that the Reserve for Statutory Contingency Account was used for terminal leave allocations, employment of outside counsel, insurance claims from insurance premiums, and postconviction claims from the Office of the Public Defender. The IFC Contingency Account was intended to make up for unexpected shortfalls when there had been insufficient appropriations made by the previous Legislature to fund the operations of the departments.

Hearing no response to his request for testimony in favor of, opposed to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 437 and opened the hearing on Assembly Bill 438.

**Assembly Bill 438: Makes an appropriation to the Division of Forestry of the State Department of Conservation and Natural Resources for certain costs related to the Intergovernmental All-Risk Fire Management Program of the Division. (BDR S-1220)**

David Prather, Deputy Administrator, Division of Forestry, State Department of Conservation and Natural Resources, explained that Assembly Bill (A.B.) 438 was a request by the Division of Forestry (NDF) for an allocation to cover the costs related to employee termination for eliminated positions within the all-risk

fire management program in accordance with the Division of Human Resource Management, Department of Administration, and Public Employees' Retirement System (PERS) guidelines. The costs were the result of the elimination of NDF providing all-risk services.

Assemblywoman Carlton asked how many employees were involved in the eliminated positions and whether the eliminated positions were because of retirements or reductions in force.

Mr. Prather responded that there were two positions, one from Elko County and the other was an anticipated terminated position from Clark County. He said when positions were eliminated because of program changes, an employee who could not be made whole was eligible for the buyout.

Assemblyman Kirner asked whether NDF's budget for the upcoming biennium included any new positions.

Mr. Prather replied that the 2015-2017 budget included new positions, but none were in the area of fire suppression.

Assemblywoman Kirkpatrick said she understood that the county commissioners would be hiring staff from the eliminated positions. She asked for the reasoning behind not keeping the positions open.

Kay A. Scherer, Deputy Director, State Department of Conservation and Natural Resources, said there had been many personnel transitions out of the program: Washoe County, Storey County, Douglas County, Elko, Eureka, and Mount Charleston were the most recent. For the first time, the Department had now found itself in a situation where the employees in terminated positions, because of their seniority and time in the position, had to first be offered the opportunity for a buyout. The determination had been made by PERS and through consultation with two different deputy attorney generals. The affected employee in Elko had taken the buyout option, and the funds had to be covered by the one-shot appropriation. The rest of the Elko firefighters were able to transition to Elko County. The Department anticipated a similar circumstance with one individual in the Clark County transition, and had included the projected buyout amount within the bill. She said the event would be happening right at the end of the current fiscal year, and if the funds were not available, the Department would not be able to follow the law should that employee chose the buyout option.

Ms. Scherer added that the Department had another bill, Senate Bill (S.B.) 486 that was a supplemental request for \$266,653 and another for \$59,634, which

would likely be withdrawn because of actions NDF had taken to cover the amounts. Within this particular budget, however, it did not have the latitude to cover the expense, and that was the reason for A.B. 438.

Assemblywoman Kirkpatrick emphasized that the budget planning was so tight that she wondered why the Department could not go before the Interim Finance Committee (IFC) later for the Clark County employee, because it was not yet known whether he or she would be taking the buyout. She also asked whether the funds not used would revert to the State General Fund.

Mr. Prather replied that earlier discussion with the Budget Division, Department of Administration, had concluded that the Reserve for Statutory Contingency Account was not available for the one-shot appropriation, and it was recommended that NDF go through the budget process for the necessary funding. Clark County had told the Department that it was its intent to maintain the staff, but it could not commit to that until it had gone through its own process.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, clarified that Fiscal staff would be working with NDF to determine the appropriate amounts that were needed. She noted that, since it was not an account in the State General Fund, the agency was not eligible to come to the IFC to receive General Funds if the action were to occur after the end of the fiscal year. Providing the funds through the supplemental appropriation request would fund the buyout, should it occur, and any unused funds would revert.

Mr. Prather added that current rules demanded this type of buyout be paid immediately, and that was the reason for asking for the appropriation in advance.

Assemblyman Oscarson stated he hoped the Department would make every effort to find positions for the Mount Charleston firefighters because he believed they were an exceptional group of individuals, and Mr. Prather said NDF was indeed making every effort to ensure the placement of the employees whose positions were being eliminated.

Hearing no response to his request for testimony in favor of, opposed to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 438 and opened the hearing on Assembly Bill 440.

**Assembly Bill 440: Makes a supplemental appropriation to the Commission on Postsecondary Education for the costs of a one-time terminal leave payment. (BDR S-1232)**

Kelly D. Wuest, Administrator, Commission on Postsecondary Education, testified from Las Vegas and read the following into the record:

Assembly Bill (A.B.) 440 makes a supplemental appropriation to the Commission on Postsecondary Education for the costs of one-time terminal leave payments.

The Commission on Postsecondary Education had two long-term employees retire this year, and because of the required payments, the Commission is requesting \$33,308 for a one-time terminal leave payment supplemental to cover the budget shortfall.

Mr. David Perlman, past Administrator for the Commission on Postsecondary Education, retired after 25 years of service. Ms. Bonnie Shanteler, Compliance/Audit Investigator, retired after 15 years of service.

I am working with the budget office [Budget Division, Department of Administration] to determine the final amount required to cover the shortfall resulting from the terminal payouts, and the final amount will be contingent on Senate Bill (S.B.) 497. The total payouts that we made were \$62,172, and we did have some cost savings from positions opened and the restructuring of a position.

Thank you for your time and consideration.

Assemblyman Kirner asked whether the employees voluntarily retired and why there was a requirement for a payout.

Ms. Wuest replied that both retirements were voluntary, and the payments were for annual leave and supplemental sick leave accrued through their years of service.

Assemblyman Kirner inquired whether the pay was considered compensation for the purposes of the Public Employees' Retirement System (PERS), and Ms. Wuest responded that it was not.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said that A.B. 440, which was funding for the current

biennium, was not contingent on S.B. 497, which was adding funds to the Reserve for Statutory Contingency Account for the upcoming biennium.

Hearing no response to his request for testimony in favor of, opposed to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 440 and opened the hearing on Assembly Bill 441.

**Assembly Bill 441: Makes a supplemental appropriation to the Office of the State Controller for the projected costs of a one-time terminal leave payment. (BDR S-1227)**

Ron Knecht, State Controller, Office of the State Controller, said the Office had requested Assembly Bill (A.B.) 441 because of the retirement of a 30-year employee whose departure would require a payout for her accrued sick and annual leave of nearly \$35,000. The request was made at the beginning of January to the Department of Administration because the trend in the agency's payroll at that time showed it would have a shortfall for fiscal year (FY) 2015 without the supplemental allocation. He said the most recent payroll projection analysis, however, indicated that it might not require any supplemental funds. If the Office did need supplemental funds, the amount needed to make up for any shortfall would likely be revised lower because of savings anticipated for open positions. The State Controller's Office wanted to keep the matter open until later in the session to ensure that current projections did not change significantly. He said there were potential savings in another budget category that the agency should be able to recognize soon, and it could possibly apply such savings to cover any shortfall, thereby withdrawing the request entirely. He stated the Office intended to have that information to the Committee before the bill needed to pass out of the Assembly.

Hearing no response to his request for testimony in favor of, opposed to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 441 and opened the hearing on Assembly Bill 442.

**Assembly Bill 442: Makes a supplemental appropriation to the Office of the Lieutenant Governor for projected payroll and other costs associated with the 2015 Legislative Session. (BDR S-1225)**

Ryan Cherry, Chief of Staff, Office of the Lieutenant Governor, said Assembly Bill (A.B.) 442 funded a supplemental appropriation for shortfalls related to the Lieutenant Governor's Senate pay, projected travel, and a payroll shortfall that included the retirement of the former administration's staff.



Assemblywoman Benitez-Thompson asked for a breakdown of the total request for \$25,887 into the categories that Mr. Cherry had mentioned.

Mr. Cherry replied that the Office was working with the Budget Division, Department of Administration, on determining the exact numbers and would have to get back to the Committee with the breakdown.

Assemblywoman Benitez-Thompson asked whether that meant the amount of the request might change.

Melanie Young, Budget Analyst, Budget Division, Department of Administration, said the estimated breakdown was about \$6,800 in payroll shortfall and about \$19,900 in travel, but the Division was revising the estimates.

Assemblywoman Benitez-Thompson asked when the additional travel expenses had accrued.

Ms. Young replied that the travel expense projection was related to the Lieutenant Governor's Senate pay because, as President of the Senate, he was eligible for the same per diem compensation as a legislator.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, agreed that the Lieutenant Governor was entitled to per diem when traveling away from his base office, which was in Las Vegas. She explained that the amounts were not built into the budget because the former Lieutenant Governor lived in northern Nevada and was not entitled to travel costs.

Assemblywoman Kirkpatrick asked for a more detailed explanation of the amount of more than \$19,000.

Ms. Jones said the amount included both per diem and flights and that the breakdown was available and would be provided to the Committee.

Assemblywoman Carlton asked whether the requested amounts included a housing allowance, and Ms. Jones replied that she would have to check and provide the details to the Committee.

Assemblywoman Carlton asked whether the position of Lieutenant Governor as President of the Senate operated under the expense cap that other legislators were subject to, and Ms. Jones responded that she would check with legal counsel and get back to the Committee.

Assemblywoman Benitez-Thompson expressed the opinion that elected constitutional officers should be based where the state does its business and that the taxpayers should not have to pay someone to locate to the state capital after his or her election.

Assemblyman Sprinkle questioned how the Lieutenant Governor was separating the travel for his duties as Lieutenant Governor from his duties as President of the Senate. He also asked what caused the payroll shortfall that required the approximate \$7,000 funding request.

Mr. Cherry said the payroll shortfall was for terminal expenses of staff that retired from former Lieutenant Governor Krolicki's administration. He clarified that Lieutenant Governor Hutchison was remaining in Carson City during the legislative session, but planned to base out of Las Vegas outside of session, and travel to Carson City for Office business had been built into The Executive Budget.

Assemblyman Hickey noted that the previous Lieutenant Governor lived in northern Nevada so travel had not been an issue for him. He reiterated that Lieutenant Governor Hutchison, as President of the Senate, was treated much as any other legislator would be and provided with travel funds.

Hearing no response to his request for testimony in favor of, opposed to, or neutral on the bill, Chair Anderson closed the hearing on A.B. 442 and asked James R. Wells, Interim Director, Budget Division, Department of Administration, to return to the table for a few more questions.

Assemblywoman Kirkpatrick expressed concern that there would be a sharp increase in state personnel retirements in the upcoming biennium and asked whether the Budget Division was planning for that eventuality.

Mr. Wells gave a brief overview of how the payouts were handled, explaining that terminal sick and annual leave payouts could be requested up to a maximum of \$12,000 from the Reserve for Statutory Contingency Account with the balance coming from an agency's budget. According to the Division of Human Resource Management, Department of Administration, about 40 percent of state personnel would be qualifying for retirement in the next five years. He said the need to fund the terminal leave payouts was part of Senate Bill (S.B.) 497 to replenish the Reserve for Statutory Contingency Account. Beyond the \$12,000 that could be paid out of the Account, it was expected that the individual agencies would compensate for the retirements within their budgets.

Assemblywoman Kirkpatrick asked what the state was doing to recruit younger personnel to offset the costs of the older, retiring employees. She expressed the opinion that recruitment was very challenging right now and worried that the state was losing its institutional knowledge.

Mr. Wells agreed with Assemblywoman Kirkpatrick and said he had met with the Administrator of the Division of Human Resource Management regarding recruitment and succession plans. He mentioned managerial training classes that were being held to teach younger individuals the managerial skills that they would need to be the next department leaders.

Assemblywoman Carlton noted that there was currently a bill that eliminated longevity payments for state personnel and wondered why a state employee would stay if his or her service was not valued and his or her expertise and institutional knowledge was not rewarded.

Hearing no response to his request for any more questions, Chair Anderson opened the floor to public comment. Hearing none, he adjourned the meeting at 9:55 a.m.

RESPECTFULLY SUBMITTED:

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Barbara Williams  
Committee Secretary

APPROVED BY:

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Assemblyman Paul Anderson, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Ways and Means

**Date:** March 26, 2015

**Time of Meeting:** 9:04 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster