

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-Eighth Session
March 4, 2015**

The Senate Committee on Finance was called to order by Chair Ben Kieckhefer at 8:04 a.m. on Wednesday, March 4, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Ben Kieckhefer, Chair
Senator Michael Roberson, Vice Chair
Senator Pete Goicoechea
Senator Mark A. Lipparelli
Senator David R. Parks
Senator Joyce Woodhouse
Senator Aaron D. Ford

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Emily Cervi, Committee Assistant
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Jeff Fontaine, Executive Director, Nevada Association of Counties
Joni Eastley, Assistant County Manager, Nye County
Lisa Gianoli, Washoe County
Mary Walker, Carson City; Douglas, Storey and Lyon Counties
Alex Ortiz, Clark County
Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety
Robin Hager, Administrative Services Officer, Division of Parole and Probation, Department of Public Safety
Jim Wright, Director, Department of Public Safety
Patrick Conmay, Chief, Investigation Division, Department of Public Safety

Chair Kieckhefer:

I will now open the work session on Senate Bill (S.B.) 45.

SENATE BILL 45: Revises provisions governing the distribution of grants of money by the State Conservation Commission to conservation districts. (BDR 49-361)

Mark Krmpotic (Senate Fiscal Analyst):

I have provided the Committee with a bill explanation for S.B. 45 ([Exhibit C](#)).

The bill was heard in Committee on February 23. It revises provisions governing the distribution of grants of money by the State Conservation Commission to conservation districts. Specifically, the bill provides the money for grants under a competitive grant program for which the Legislature appropriated funds. The grants may be in unequal amounts provided those amounts are expressly stated in regulation.

Tim Rubald, Program Manager, Conservation Districts Program, State Department of Conservation and Natural Resources, testified in favor of S.B. 45 and indicated the conservation budget received \$40,000 per fiscal year for use as an ongoing competitive grant fund. This money was established as a competitive grant pool by the 2013 Legislature. The Executive Budget recommends an increase in the fund from \$40,000 to \$75,000 in fiscal year (FY) 2017.

Existing law requires grant funds be distributed in equal amounts. Mr. Rubald testified the bill would allow monies to be awarded based on the highest priority projects in a competitive manner.

Senate Bill 45 is not required to implement the budget, but it allows distribution of grants in unequal amounts based on the current grant pool.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 45.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Kieckhefer:

I will now close the Work Session and open the hearing on S.B. 16.

SENATE BILL 16: Revises provisions governing presentence and general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-469)

Jeff Fontaine (Executive Director, Nevada Association of Counties):

This is one of five bills submitted by the Nevada Association of Counties (NACO) for this Legislative Session.

Senate Bill 16 reduces the percentage cost, from 70 percent to 30 percent, that counties are required to pay the State for presentence investigation (PSI) reports prepared by the Division of Parole and Probation (P&P), Department of Public Safety (DPS).

Prior to 2012, the State paid 100 percent of the cost of the PSIs. However, the 2011 Executive Budget requested the counties pay 100 percent of PSI costs. That was one of many cost shifts that were given to the counties to help the State balance its budget during the Great Recession.

We were able to negotiate with the State to reduce the assessment to 70 percent. However, that reduction was not necessarily based on benefits the counties received from the PSI reports, but on the assertion by P&P that the State can produce 70 percent of the report by other established means, while the counties could produce 30 percent of the report from the information they had available.

That 70 percent county cost assessment was continued in the 2013 Legislative Session. The cost assessment is proposed again in the 2015-2017 Executive Budget. The PSI assessment is an inequitable burden to the counties based on the benefit the State receives, relative to what the counties receive, from PSI reports.

Unlike other cost assessments where the counties have the option to perform the function themselves, there is no option for PSI reports.

Nevada Revised Statute 176.145 mandates the information that must be contained in PSI reports. Examples include prior criminal records and the

financial condition of the defendant. The report also contains a recommendation for minimum and maximum terms of imprisonment.

The PSI is used once by the district court judge during sentencing, whereas the State can utilize the PSI report on a recurring basis. Once the defendant is sentenced, the defendant becomes the responsibility of the State. The P&P Web site states, "The presentence investigation report is more than a powerful tool for judges at the time of sentencing. It serves many important useful purposes. It is used by the division officer when the offender is released into probation or parole." It is used by the Nevada Department of Corrections (NDOC) and the State Board of Parole Commissioners in evaluating and granting parole for inmates; locating fugitives or absconders in the investigation of crimes; by correctional treatment agencies in rehabilitation of offenders and by other states, if the offenders are approved for transfer under the Interstate Compact for Adult Offender Supervision. These are all State services.

The counties are willing to participate in the cost of preparation of PSI reports. By cost shifting equitably, S.B. 16 would relieve some of the cost burden on counties, many of which are financially struggling.

Senator Ford:

I was a member of the policy committee that heard this bill. Has progress been made in working with the State on an agreement for the cost shift?

Mr. Fontaine:

We are open to that, but NACO is not aware that any discussions have taken place.

Chair Kieckhefer:

What is the total fiscal impact to the counties based on the current structure?

Mr. Fontaine:

I do not have the Executive Budget figures with me. For the 2013-2015 biennium, the total cost to the counties is slightly greater than \$7 million.

Chair Kieckhefer:

Is it true that the entire cost of the PSI reports was paid by the State prior to 2012?

Mr. Fontaine:
That is correct.

Senator Lipparelli:
Is there support to justify resetting the cost percentages from 70 percent to 30 percent for the counties?

Mr. Fontaine:
The NACO Board of Directors discussed requesting appropriate legislation. The counties are looking for cost relief through S.B. 16. If the Committee believes the 30 percent cost is not appropriate, we would be open to discussion.

Senator Goicoechea:
I understand the impact to the counties. I assume the DPS will also provide testimony on this legislation. Seventy percent might be high, but 30 percent may be too low.

Joni Eastley (Assistant County Manager, Nye County):
I was previously a county commissioner for 12 years. I have provided the Committee with my written testimony ([Exhibit D](#)). I am representing Nye County, or as we were identified in a January 2015 article in *USA Today*, the "poorest county in Nevada." I speak in favor of the passage of S.B. 16, which would reduce the percentage paid by counties for PSI reports.

Nye County has the highest reimbursement for PSI reports preparation of all Nevada counties. We will pay approximately \$204,000 during the 2013-2015 biennium.

I will provide some perspective by telling you a little about Nye County. These points, and others, are included in my written testimony.

- Nye County land is 98 percent owned, controlled or managed by the federal government.
- Our assessed valuation has declined nearly \$590 million since 2009.

We thought there was a bright spot when a billion-dollar solar project, called the Crescent Dunes Solar Energy Project, was built near the county seat of Tonopah. However, it has not produced the local revenues we had hoped, due

to the large tax abatements the company received from the State for building in Nevada.

The County staff was reduced by 20 percent through attrition and buyouts. However, we were hit with several unfunded State mandates, including the cost for preparation of PSI reports.

In January 2015, our unemployment rate exceeded 10 percent and nearly 19 percent of our citizens live at, or below, the poverty level.

The National Association of Counties' 2014 Economic Tracker reported ratings of zero for Nye County with regard to jobs recovered, unemployment rate, gross domestic product and home prices recovered. At the height of the Great Recession, Pahrump had an inventory of more than 4,000 empty homes.

The Nye County Commission met on March 3, 2015, to discuss how it would address the continued challenges. A few of the decisions that were made, effective immediately, include:

- If arrangements cannot be reached with the unions regarding salary reductions, some departments will be combined and management employees will be laid off.
- The elimination of the subsidy for senior nutrition affecting the senior nutrition centers in Beatty, Amargosa Valley and Tonopah.
- Animal shelters will be eliminated because communities must pay to keep the shelters open.
- The health clinics in Amargosa Valley and Beatty are being closed.
- The Office of Natural Resources is eliminated.
- The juvenile probation allocation has been reduced by \$300,000.

The juvenile probation officer in Tonopah died of cancer more than 1 year ago and the position has never been refilled. There is no juvenile probation representation in Tonopah and any areas north, west or east of town.

The most significant reduction is that the Nye County Detention Center in Tonopah, located in the geographic center of the County, is being closed. It will be converted to a holding facility. Prisoners from Gabbs, Lone, Duckwater, Round Mountain or any remote areas of the County will be transported to

Tonopah where they will be housed until a transport vehicle arrives to transport them to Pahrump for incarceration.

We are on a desperate search for funds.

Lisa Gianoli (Washoe County):

Washoe County supports S.B. 16. The impact for Washoe County is approximately \$1.4 million over the current biennium. We pay approximately 19 percent of the costs statewide. We went from paying virtually nothing to 70 percent in the 2011 Legislative Session. The cost is approximately \$680,000 annually.

A State judge sentences an individual to a State facility. There are some benefits to the police departments and district attorney's offices, but it does not equate to 70 percent.

Mary Walker (Carson City and Douglas, Storey and Lyon Counties):

Carson City and Douglas, Storey and Lyon Counties support S.B. 16. We were also involved in the cost shifts from the State to local governments in 2011 and it was difficult. We have always felt 70 percent was not equitable. We would appreciate any consideration.

Alex Ortiz (Clark County):

I echo the comments of my colleagues. The bill would provide Clark County approximately \$2.6 million in savings. We support S.B. 16 and ask that the Committee consider the 30 percent proposal or an amount less than 70 percent.

Natalie Wood (Chief, Division of Parole and Probation, Department of Public Safety):

The Department of Public Safety opposes S.B. 16.

Chair Kieckhefer:

Please describe how the Department reached the calculation of percentages and discuss the fiscal note on the bill. The fiscal note posted on the Nevada Electronic Legislative Information System indicated a fiscal impact of \$4.8 million in the upcoming biennium.

Robin Hager (Administrative Services Officer, Division of Parole and Probation, Department of Public Safety):

The fiscal note attached was drafted from the Governor's recommendations. This estimate could either increase or decrease depending on the final legislatively approved budget.

The current funding is 70 percent county and 30 percent State; therefore, I simply inverted the calculation. I know what a PSI report costs. It is based upon salaries for the individuals who generate the reports. Based on S.B. 16, the calculation produced an increase in cost for the State of \$4.8 million over the 2015-2017 biennium and an identical savings to the counties.

Chair Kieckhefer:

How are the counties billed for the PSI report services?

Ms. Hager:

The counties are billed monthly. Once the legislatively approved budget is complete, I divide the total by 12 months and use the percentages of PSI reports requested. For example, assuming nothing changes, once the budget is complete, I take the percentage and break out the actual costs until the end of the year. Some counties receive rebates at the end of the fiscal year and some counties must pay slightly more.

Chair Kieckhefer:

Is it on a county-by-county basis, even though the district courts overlap?

Ms. Hager:

It is calculated according to the county requesting the PSI report.

Senator Parks:

When the original unfunded mandate was initially proposed, I was not in favor. However, given the fiscal straits of the State at that time, I concurred. I am pleased to hear of the reconciliation functions taken by P&P. Each county is at least fairly treated.

Have all the counties complied with the invoicing? Has P&P had to make extra efforts to seek reimbursement?

Ms. Hager:

The counties have been great. Sometimes a county will fall a couple of months behind, but they catch up. If the P&P calls, the counties usually comply with grace.

The first time every county did not receive a rebate was in FY 2014. That was due to the 21 temporary staff hired by P&P. I work transparently in all processes. I specifically worked with Clark County because I knew 70 percent of the salary costs for the 21 temporary positions would be charged to that County, and they approved my calculations.

Senator Parks:

How many hours of time does it take to invoice and collect these fees? Was a calculation made in that respect?

Ms. Hager:

We have never tracked the amount of time it takes to produce a PSI report. The invoicing does not take much time; it is the reconciliation that takes some time, because I strive for equitability.

Senator Goicoechea:

It almost sounds like you calculate the number of PSI reports produced and which county made the request. Do you consider the complexity of the individual investigation? I assume some investigations are far more costly to generate than others. Do you charge a flat rate?

Ms. Hager:

We do not track how long a PSI takes because some may be lengthy depending on the crime and the number of victims. I am not sure that would be a benefit to the counties.

The PSI employees include specialists in Elko, Las Vegas and other locations. Completing those reports is their entire job description.

Senator Goicoechea:

By the time all those calculations were made to identify the specific time a PSI report requires, it would probably not be cost-effective.

Ms. Wood:

I appreciate the position of the counties and the fiscal burden it has placed on them. I will provide the Committee with additional statistics.

The sole purpose of the PSI reports is to provide the sentencing courts, public defenders and district attorneys with background information on the defendants when considering imposition of a sentence or granting probation.

The staff is employed by P&P and the Division is required by statute to produce the PSI reports. However, with a few exceptions, the entire content of PSI reports can be generated from our internal documents. The Parole Board studies the PSI reports to grant or deny parole. The NDOC also utilizes the reports to calculate classification, but not to the extent being portrayed.

The P&P can function with its own case management tools and internal database. Therefore, although I understand the burden it places on the counties, should that 70/30 split be shifted to the State? I do not think that is appropriate. The split would probably be more appropriate at 15 percent from the State and 85 percent from the counties. However, that would not be fair either. I am not sure a cost of \$4.8 million to the State is feasible at this time.

Senator Lipparelli:

Is it your position that the appropriate split would be 85 percent to the counties and 15 percent to the State?

Ms. Wood:

There are three State agencies that utilize the PSI reports, but not to the significant level or magnitude as the overall purpose of the reports. The primary purpose is as a sentencing tool for the district courts, the public defender and the district attorneys.

Senator Lipparelli:

Is that a yes to the question of the appropriate split being 85/15?

Ms. Wood:

That is correct.

Senator Lipparelli:

If you are making a qualitative judgement that 15 percent should be allocated to the State and 85 percent to the counties, how are you arriving at the percentages?

Ms. Wood:

There is no mathematical process involved. I am simply considering the agencies that utilize the PSI report documents. When Ms. Hager testified on how the calculations were made, her calculations did not include the cost of office supplies or desktop computers.

Senator Goicoechea:

I do not know how we determine the split because the judges are district judges and the counties are no longer responsible. At that point, the judge sentences the individual and the burden still falls to the State because the State will need to incarcerate the individual. I am struggling to help find an equitable solution.

Senator Ford:

The district court judges are State entities, not county employees. It should be a State allocation at that point.

Ms. Wood:

Ultimately, these offenders are in the communities. In the majority of cases, public defenders are assigned to represent the offenders and district attorneys prosecute the cases. These entities are county employees, although P&P is required to produce the reports, the primary purpose is for sentencing determinations, which is at the county level.

Senator Ford:

The sentencing is a function of a judge employed by the State.

Ms. Wood:

That is correct.

Senator Parks:

This function was formerly 100 percent State-funded. Hypothetically, if P&P were fully funded to produce the PSI reports, would it matter whether the funding was split?

Ms. Wood:

As that is a hypothetical situation, I do not have an answer at this time.

Senator Woodhouse:

If the provisions of S.B. 16 were changed to a 50/50 split, would P&P still be in opposition?

Ms. Wood:

We are in opposition to S.B. 16 and I am not in a position to negotiate percentages.

Chair Kieckhefer:

It seems like you backpedaled a little there.

Jim Wright (Director, Department of Public Safety):

This is a policy matter. The DPS has a job responsibility to produce the PSI reports and ultimately, however the function is completed, a funding source is necessary. Whatever is negotiated, the DPS is responsible for producing the reports.

Chair Kieckhefer:

I will now close the hearing on S.B. 16 and open the hearing on S.B. 42.

SENATE BILL 42: Requires the Investigation Division of the Department of Public Safety to provide investigative services to other divisions of the Department and certain other units of the Executive Department of the State Government. (BDR 43-357)

Patrick Conmay (Chief, Investigation Division, Department of Public Safety):

I have provided my written testimony for the Committee ([Exhibit E](#)). The purpose of S.B. 42 is to update the duties and responsibilities of the Investigation Division to meet the needs of the various entities, which occasionally request investigative assistance.

Historically, the Division also receives requests for assistance from entities other than those agencies specifically listed in statute. These include threats against State employees or facilities, fraudulent transactions or conflicts of interest.

A review of the past 4 years revealed the Division received and assisted with more than 50 such requests during that time. Current statutory language does not specifically enable the Director of the DPS to utilize the Investigation Division to provide other divisions with investigative assistance, when appropriate.

The proposed changes to the Division's role in providing assistance upon request as outlined in S.B. 42 would allow us to serve a variety of State agencies and entities.

These changes do not empower the Investigation Division to unilaterally undertake any actions. A request for assistance must precede any action by the Division.

Senator Lipparelli:

Section 2, subsection 1 of the bill states "Furnish services relating to the investigation of crimes" There were a couple of instances when I was Chair of the Gaming Control Board where it would have been a conflict of interest for internal resources to conduct an investigation.

It would have been helpful to request assistance from the Investigation Division, but the situations did not involve a crime. It was a personnel matter. Does the assistance have to be for a crime or could the language of S.B. 42 be changed to expand those services?

Chief Conmay:

We occasionally receive requests to assist with similar matters. Where there are no other options for the entity, the Division provides assistance. I did not propose expanding from crime to administrative actions because I did not want the intent to be viewed as a power grab. The intent is to be available, if needed, to provide assistance. It would not cause a greater demand on the Division and, if a request were received, we would likely assist.

Senator Goicoechea:

Will you be cost allocating for these types of assistance?

Chief Conmay:

We do not plan to make cost allocations to the entities. I do not anticipate this legislation will place any greater demand on the Division. In addition, we have implemented some additional efficiencies.

Senator Goicoechea:

It is simply a part of doing business.

Chair Kieckhefer:

It is one thing for the Division to be requested to assist and another when the request becomes a mandate, if the requests become more regular. Putting this in statute could potentially have an impact on staffing needs and overall costs in future biennia. Why do you think there is so much insulation in terms of your cost?

Chief Conmay:

This is based upon past practice. The changes do not involve activities other than what the Division has engaged in historically. The entities addressed in S.B. 42 do not involve large quantities of law enforcement activities. In an ideal world, they would never have a need to request assistance.

Chair Kieckhefer:

I will close the hearing on S.B. 42. I have proposed a Committee introduction of a bill draft request based on the amount of fees that can be "billable back to the Department of Health and Human Services, Division of Public and Behavioral Health, depending on the periodicity of certain inspections."

SENATOR PARKS MOVED FOR INTRODUCTION OF BILL DRAFT REQUEST 40-1132. (Later introduced as [Senate Bill 210](#).)

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

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BILL DRAFT REQUEST 40-1132: Revises provisions relating to inspections of certain medical facilities and offices. (Later introduced as S.B. 210.)

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Chair Kieckhefer:

Seeing no further public comment or business before the Committee, we are adjourned at 8:52 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Senator Ben Kieckhefer, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|-----------------|---------|---|---------------------------|-----------------------------|
| Bill | Exhibit | | Witness or Agency | Description |
| | A | 1 | | Agenda |
| | B | 5 | | Attendance Roster |
| S.B. 45 | C | 1 | Mark Krmpotic | Senate Bill 45 Work Session |
| S.B. 16 | D | 2 | Nye County | Testimony of Joni Eastley |
| S.B. 42 | E | 2 | Division of Investigation | Testimony of Patrick Conmay |