

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session
May 20, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:39 p.m. on Wednesday, May 20, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pete Goicoechea, Chair
Senator Joe P. Hardy, Vice Chair
Senator Mark A. Lipparelli
Senator David R. Parks
Senator Kelvin Atkinson

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Nate Hauger, Committee Secretary

OTHERS PRESENT:

Deonne Contine, Director, Department of Taxation

Chair Goicoechea:

Today, we will hear Senate Bill (S.B.) 475.

SENATE BILL 475: Authorizes a county or city to file a petition in bankruptcy under certain circumstances. (BDR 31-1021)

Jennifer Ruedy (Policy Analyst):

Details for this bill and Proposed Amendment 7499 are in the work session document ([Exhibit C](#)).

Chair Goicoechea:

I would prefer to keep the language from the original bill that says the county or city before filing a petition submits the proposed petition to the Governor. The Office of the Attorney General would not have any role in this process; bankruptcy would go before a federal bankruptcy court. I would prefer that at a minimum, the Governor sign off on the petition. Otherwise, it comes from the Committee on Local Government Finance. The Department of Taxation says the city or county can file bankruptcy if it cannot get out of this in 3 years.

Senator Hardy:

I agree. In [Exhibit C](#) from the deletion in Proposed Amendment 7499 on page 1, we could include the portion from line 13 through the word "Governor" on line 15 and put a bracket after "Governor."

Chair Goicoechea:

We should require the petition to go to the Governor for review and require the city or county to wait for written approval from the Governor.

Heidi Chlarson (Counsel):

In [Exhibit C](#), all the bracketed language from page 1, line 14 of Proposed Amendment 7499 through page 2, line 3 would not be bracketed in the amendment. The only change would be to take out references to the Office of the Attorney General.

Senator Lipparelli:

The Nevada Tax Commission would conduct its hearings, make its findings and communicate those findings to the Governor. The Governor would be able to see from those findings whether a severe financial emergency is unlikely to cease within 3 years.

Chair Goicoechea:

That is correct. If the findings are that the severe financial emergency will last at least 3 years, the county or city must submit the proposed petition before filing, then the county or city shall include the petition as a copy of the approvals received pursuant to ...

Ms. Chlarson:

The Tax Commission would hold hearings first. I will make it clear in the amendment that the Nevada Tax Commission would make its findings, and those findings would be sent to the Governor.

Senator Lipparelli:

That would be my preference.

Senator Atkinson:

We already have a proposed amendment, do you want to change it? Do you want to keep the Governor's portion in the amendment and take the Attorney General out?

Chair Goicoechea:

Yes, I want to keep the Governor in the amendment. Somebody has to sign off on this other than the Committee on Local Government Finance. After the Department of Taxation finds that a local government is in financial trouble, I do not want that local government to be able to file bankruptcy without having the Governor review it.

Senator Atkinson:

Assembly Bill 54 is similar to this bill but seems more reasonable than S.B. 475. Are we processing both bills?

ASSEMBLY BILL 54 (1st Reprint): Revises provisions relating to local governments existing in a severe financial emergency. (BDR 31-308)

Chair Goicoechea:

Assembly Bill 54 gives the total procedure we are outlining for the Tax Commission through the Committee on Local Government Finance. This bill would be scary if A.B. 54 did not also exist.

Ms. Chlarson:

Assembly Bill 54 has gone to the Governor to be signed. It makes various changes to provisions relating to severe financial emergencies. Assembly Bill 54 does not affect the authority of a city or county to file for municipal bankruptcy. However, if you read both bills together, the provisions of A.B. 54 authorize the Department of Taxation to provide more assistance and oversight to local governments that are in severe financial emergency. Assembly Bill 54 authorizes

the Department of Taxation to put the cities and counties on fiscal watch and to provide technical financial assistance. Senate Bill 475 only relates to providing authority for the cities and counties to file for municipal bankruptcy after the provisions in A.B. 54 have kicked in.

Senator Parks:

I oppose S.B. 475. The capital markets react negatively to legislation like this. It will make it more costly for all local governments by causing higher interest rates. Access to Chapter 9 bankruptcy can be a costly aspect in seeking bond financing.

Senator Hardy:

Using the word “bankruptcy” raises red flags. If we said a county or city with a financial emergency may submit to the Tax Commission after a hearing pursuant ... and the Tax Commission finds that the local government has a severe financial emergency unlikely to cease within 3 years, then the county or city may petition for bankruptcy. Does using the word “bankruptcy” create the problem Senator Parks mentioned by raising interest rates?

Ms. Chlarson:

The Legislature would be granting authority for a city or county to file a petition for bankruptcy. Without this specific authority in statute, a city or county is not able to file a petition for bankruptcy. The issue is whether a city or county can file for bankruptcy under any circumstances. Rewording the section would not address Senator Parks’ concerns.

Senator Lipparelli:

Any time you price a security, risk exists. When you mentioned having one more step with the Governor, I liked that. The Governor may have ideas for alternatives to bankruptcy. We should not let the risk of a lawsuit or bankruptcy scare us away from supporting this legislation because lawsuits and bankruptcies are common.

Senator Atkinson:

I like the idea of leaving the Governor in, but why are we taking the Attorney General out of the bill?

Chair Goicoechea:

The Attorney General was in the original bill, then it was proposed to delete both offices from the bill. I was not comfortable removing the Governor's Office. The Attorney General would usually not defend a bankruptcy action. There are other venues. If a city goes bankrupt, the first action would be for it to be disincorporated and absorbed by the county. If that did not work, the State would be responsible. Assembly Bill 54 will allow for a better process.

Senator Hardy:

We usually file petitions with somebody other than the Governor, such as the Secretary of State. The Governor, Treasurer and Controller have joint responsibility over collecting and dispersing money. Does that include the Secretary of State and the two others, or just the three of them?

Ms. Chlarson:

I will have to do research.

Senator Hardy:

If we do not pass this bill and a city or county cannot file bankruptcy, the risk is placed on the investors or bondholders. Is the State then on the hook when the city or county runs out of money?

Ms. Chlarson:

Under statute, there are many ways for local governments in severe financial emergencies to raise revenue. Provisions in statute also provide for what would happen if a local government is dissolved or disincorporated. I do not know the details of those provisions now.

Senator Hardy:

Somebody will be on the hook for that money.

Chair Goicoechea:

I want to put the federal bankruptcy court on the hook.

Deonne Contine (Director, Department of Taxation):

There are provisions under *Nevada Revised Statutes* (NRS) 354. We reviewed many of them in A.B. 54; we enhanced them, did a fiscal watch and changed provisions relating to severe financial emergencies. Municipalities have the ability to disincorporate under NRS 354 if it is determined that would cease the

severe financial emergency. This happened with the City of Gabbs, which came to the Legislature and was disincorporated. It is easier for a county to absorb small towns. The ability to declare bankruptcy would be a final place for the local government when it clearly could not get out of the fiscal emergency through another means. Bankruptcy is the last resort after fiscal watch and severe financial emergency. The bankruptcy could not happen unless the municipality went through the severe financial emergency process in NRS 354.

Senator Hardy:

Would anything preclude a county or the State from stepping in and rescuing a city, or that would preclude the State from rescuing a county that was in financial trouble before the entity went into bankruptcy?

Ms. Contine:

Under NRS 354, the State provides assistance, and this bill would not preclude the State from helping a local government.

Senator Hardy:

Is the State Board of Examiners precluded from doing anything? Is the Board able to receive a petition along with the Governor?

Ms. Chlarson:

The Board of Examiners is made up of the Governor, Attorney General and the Secretary of State. If this bill passes with the amendment, the Board of Examiners would not have a role in the approval process. If this Committee wants to add the State Board of Examiners, that is possible.

Chair Goicoechea:

Ms. Contine, why did you want to exempt the Governor and not add the Board of Examiners?

Ms. Contine:

That language was not provided by the Governor's Office or my office. The intent was to have the county or city go through fiscal watch and financial emergency. If the Nevada Tax Commission has found that severe financial emergency is unlikely to cease to exist, the local government would have the opportunity to file for bankruptcy.

Chair Goicoechea:

The Tax Commission determines whether a severe financial emergency is likely to cease within 3 years. There are mechanisms for increasing revenue, such as imposing a \$5 per \$100 assessed valuation property tax. After putting those mechanisms in place, it should be possible for the city or county to dig itself out of a bankruptcy. A city could be disincorporated and the county would be on the hook. If the county was in trouble, or could not pick up the slack of a disincorporated city, the State would have to step in. We should include at least one more elected official. We want to exhaust all options before rolling over on debtors.

Senator Hardy:

To rescue a city or county, the Governor would have to call a Special Session, then the Legislature could help. Only the Governor has the power to call a Special Session, so it makes sense to include him or her in this bill.

Senator Parks:

I do not know what A.B. 54 lacks that makes this bill necessary.

Chair Goicoechea:

I agree, A.B. 54 is a good bill.

SENATOR LIPPARELLI MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 475.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ATKINSON AND PARKS VOTED
NO.)

* * * * *

Chair Goicoechea:

I will entertain a concurrence on S.B. 268.

[SENATE BILL 268 \(2nd Reprint\)](#): Temporarily provides certain services for veterans. (BDR 37-1042)

Senate Committee on Government Affairs
May 20, 2015
Page 8

Senator Atkinson:

Senator Woodhouse sponsored this bill; is she still in favor of it?

Chair Goicoechea:

I do not know.

Senator Parks:

She does support it.

Chair Goicoechea:

I got a note from her saying she does support it. Action is not required to concur.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Government Affairs
May 20, 2015
Page 9

Chair Goicoechea:

This meeting is adjourned at 2:12 p.m.

RESPECTFULLY SUBMITTED:

Nate Hauger,
Committee Secretary

APPROVED BY:

Senator Pete Goicoechea, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 475	C	3	Jennifer Ruedy	Work Session Document