

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

**Seventy-Eighth Session
February 13, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:31 p.m. on Friday, February 13, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Lipparelli
Senator David R. Parks
Senator Kelvin Atkinson

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

James Smack, Assistant State Controller, Office of the State Controller
Deb Cook, CPM, Chief Deputy Controller, Office of the State Controller
Renee Olson, Administrator, Employment Security Division, Department of
Employment, Training and Rehabilitation
Vanessa Spinazola, American Civil Liberties Union of Nevada
Marlene Lockard, Nevada Women's Lobby
April Tatro-Medlin
Jennifer Chisel, Deputy Attorney General, Office of the State Controller
Rebecca Palmer, State Historic Preservation Officer, Office of Historic
Preservation, State Department of Conservation and Natural Resources
Peter Krueger, Comstock Foundation for History and Culture

Senate Committee on Government Affairs
February 13, 2015
Page 2

Chair Goicoechea:

We will open the meeting with the introduction of two Committee bill draft requests (BDR), BDR 22-706 and BDR 23-704.

BILL DRAFT REQUEST 23-704: Revises provisions relating to collective bargaining by local governments. (Later introduced as [Senate Bill 158](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 23-704.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ATKINSON WAS ABSENT FOR THE VOTE.)

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BILL DRAFT REQUEST 22-706: Enacts the State and Local Government Cooperation Act. (Later introduced as [Senate Bill 157](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 22-706.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ATKINSON WAS ABSENT FOR THE VOTE.)

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Chair Goicoechea:

I will open the hearing on Senate Bill (S.B.) 26.

SENATE BILL 26: Revises provisions governing the collection of debts by the State Controller. (BDR 31-499)

James Smack (Assistant State Controller, Office of the State Controller):

The bill defines and streamlines processes of the Debt Collection Division, Office of the State Controller (OSC) to readily process wage garnishments against a person or company that owes money to the State.

When passed, the bill will provide a consistent method for serving civil processes, which is the remedy already available to the OSC. It will allow the OSC to use the same language other State agencies have in their statutes for their garnishment processes.

We are proposing an amendment to S.B. 26 ([Exhibit C](#)), which is supported by the Department of Employment, Training and Rehabilitation (DETR), which allows the OSC to gather current employer information from DETR for an individual who owes money to the State.

These changes will give us tools compatible with our modern debt collection system, which will go online in the next couple of months. It will enable us to significantly increase the success of our collection activity on the aged debts we have in-house and will give us new opportunities to collect debts that we may have classified formerly as uncollectible.

The new system will give us the ability to automate the notices defined in this bill, monitor compliance with garnishments by employers and provide the OSC with up-to-date records of payments from employers. We will know when employees terminate and will be able to start the process of identifying the debtors' new employers.

The abilities to do garnishments and gather employer information on debtors are powerful tools that any debt collection operation should have to meet with success. It is vital to collect the maximum amount of debt possible for the State.

Chair Goicoechea:

Does S.B. 26 expand the ability of the OSC to continue to seek recovery of a debt by garnishing a person's wages?

Mr. Smack:

It streamlines our garnishment process and aligns it with what other State agencies have at their disposal. The bill will give us the opportunity to use garnishments and collect debts owed to the State, and with the new debt collection system, we will be able to maximize collection on aged debt.

Chair Goicoechea:

Who proposed the amendment?

Mr. Smack:

The amendment was proposed by the OSC, but it is supported by DETR because it involves changes in DETR processes. We communicated with DETR in advance on the amendment.

Chair Goicoechea:

Is the purpose of the amendment to allow for electronic transmittal in most cases?

Mr. Smack:

The purpose of the amendment is to allow the OSC to gather accurate information from DETR regarding employers of debtors in order to collect on the debts. It will be used only to gather that information.

Senator Parks:

Does this change anything we did in S.B. No. 21 of the 77th Session, which was an OSC bill?

Deb Cook, CPM (Chief Deputy Controller, Office of the State Controller):

No, it does not. This is a different process.

Senator Lipparelli:

Would you go through the changes in the amendment and explain what this does?

Mr. Smack:

The proposed amendment, specifically in subsection 4, allows the OSC to gather debtor employment information from DETR.

Senator Lipparelli:

Is it only from DETR or other State agencies also?

Mr. Smack:

It is specifically designed to gather information from DETR.

Chair Goicoechea:

What precludes you from going to the Department of Motor Vehicles to determine if the debtor had a motor vehicle and tracking the debtor in that manner?

Mr. Smack:

We do not have statutory authority. We do not have statutory authority to acquire information from DETR either. The amendment would provide the statutory authority.

Chair Goicoechea:

Is it only through DETR and not all State agencies?

Mr. Smack:

Yes.

Renee Olson (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):

The amendment is supported by DETR. Through the confidentiality clauses in our statute, we would be able to give the OSC the information needed to process their garnishments.

Vanessa Spinazola (American Civil Liberties Union of Nevada):

We oppose S.B. 26. Wage garnishment is, by legal definition, an extraordinary legal measure. When wage garnishment is done through the court, there is a process of issuing judgment debtor rule, a process of doing wage investigation and interrogatories. There is a thorough process under chapter 31 of the *Nevada Revised Statutes* (NRS). Our interpretation of the bill is that it would exempt the Controller from that process.

We have talked a lot about DETR. The DETR is only able to garnish in cases of insurance fraud or actual criminal activity. This bill is so broad that it includes accidental government overpayments. It could affect indigent defendants who might be required to repay their indigent defense and individuals in the Department of Corrections who could have bills issued to them.

When you go through the court process, a judge determines, based on your income, how much is acceptable to be garnished up to 25 percent. Through this bill, the employer is delegated the authority, which is typically reserved to a judge, to determine an appropriate amount to deduct. That is an extraordinary ability for an employer if he or she can garnish up to 25 percent.

This is a difficult court process. I have done civil litigation. I have had to do wage garnishments. It is an extraordinary remedy when you take away someone's income.

This could discourage people who, for example, are coming out of the Department of Corrections, from gaining lawful employment because every employer they go to could potentially garnish their wages. That might not have a good policy outcome or effect.

We are opposed to the amendment on privacy grounds as well.

Chair Goicoechea:

Section 2 of the bill says, "If an agency or the State Controller obtains a judgment" Would the judgment provide how much the employer could garnish from the wages? That is the judicial process. I cannot issue a judgment; it must come from the court.

Ms. Spinazola:

The judgment is that, for example, \$10,000 is owed to the State. A second process then determines how much is garnished from each paycheck.

Section 5, subsection 2 says that it is the employer that calculates "the amount of income to be withheld from a person's wages" That is typically what a judge does in a judgment debtor rule.

Chair Goicoechea:

I understand what you are saying. If the Controller has a \$100,000 judgment, he cannot seize someone's assets to satisfy that \$100,000. There has to be a limitation on what could be garnished and what assets could be attached. I was asking Legal Counsel if that is covered somewhere in the bill.

Heidi Chlarson (Counsel):

Section 2 of the bill mentions that the debts have already been judged to be owed to an agency. The Controller is going to notify the employer of the amount of the debt; however, section 5 provides a limitation on the amount of the garnishment to be held from each paycheck. I am not sure how the amount is calculated, but section 5, subsection 2 requires the employer to "Calculate the amount of income to be withheld from a person's wages during each pay

period in accordance with the provisions of NRS 31.295 and subject to the limitation on withholding prescribed in that section.”

The formula is prescribed in NRS 31.295, Garnishment of earnings: Limitations on amount, subsection 2, paragraphs (a) and (b):

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed:
(a) Twenty-five percent of the person’s disposable earnings for the relevant workweek; or (b) The amount by which the person’s disposable earnings for that week exceed 50 times the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §206(a)(1), in effect at the time the earnings are payable, whichever is less.

I am not able to provide a mathematical example. I would defer to DETR or to the OSC on how that would work. Section 5 of the bill limits the amount an employer would be required to garnish from a person’s paycheck.

Senator Hardy:

The Controller tells the employer what to withhold. The employer is not making that decision.

Ms. Chlarson:

I would defer to the OSC to let me know if I am not interpreting this correctly. The OSC is going to notify the employer of the total amount of the debt owed by the employee, and the maximum amount the employer could withhold would be calculated based on the formula. There may be a gap in this bill. I am not sure it specifically addresses if the Controller tells the employer the total amount the person owes and based on that, the employer must garnish a certain number of dollars per paycheck. I would need to defer to the Controller on how that is intended to work.

Senator Hardy:

The formula determines the maximum over which the employer cannot garnish; however, the Controller would be able to tell the employer how much to garnish up to the maximum.

Ms. Chlarson:

That is correct.

Ms. Spinazola:

That is also my understanding of the law. The wage calculation is typically done by a judge in a court where all parties are represented by attorneys. It is not an easy thing to figure out. The maximum is up to 25 percent.

Section 5 of the bill says that an employer is notified of the total amount and subsection 2 says the employer calculates that amount. Based on the formula in chapter 31 of NRS, an employer might go ahead and deduct 25 percent. That might not be appropriate for a low-income individual who may not be able to pay the debt in the first place.

I am concerned about delegating what is typically a court process, where people have legal representation, to an employer and the Controller. We are potentially taking a lot of due process out of the hands of low-income people.

Chair Goicoechea:

It does not matter at what income level you are at that point. I agree that the process is probably too streamlined. We need something in the middle.

Senator Lipparelli:

What is the remedy? Could an individual go through this process as contemplated in the bill and then petition the court that the garnishment is excessive?

Ms. Spinazola:

I thought about that, but because the way wage garnishment works, it is the onus of the person seeking the judgment to go to court. Putting the responsibility on the person who is getting wages garnished to hire an attorney and go to civil court where filing fees are close to \$500 would turn the whole process on its head. In civil law, if you get a judgment, you have to go after the money. I was a plaintiff's lawyer, and I won many cases for which I never received a single dime.

That is the process, and I am concerned about people being dissuaded from seeking employment because the law applies not only to current employers but also to future employers. If we permit direct access to DETR, it is going to be

difficult to find out. As a civil attorney, you have to find that lawyer. I have had to hire private detectives, but that is how our civil law operates. Turning the process on its head could affect people.

The only remedy I could think of is to take all of the protections in chapter 31 of NRS and write them into this bill. That would almost set up an alternative administrative court where there is a process for appeal. I do not know what that would look like or if that would be a cost for the Controller.

Chair Goicoechea:

Given that scenario, I have concerns with the way the bill is written. I do not have a problem with the Controller seeking the garnishment. I do not have a problem with DETR giving the OSC the information. We have to find these people. I am uncomfortable with putting the onus on the employer to make the determination to garnish someone's check at 25 percent. That employee is going to leave, and I would not blame him or her. There has to be an affordable mechanism.

Marlene Lockard (Nevada Women's Lobby):

We are opposed to the language cited by the previous testifier and have real concerns about how we would affect low-income families, women and children in this State. We echo her comments.

April Tatro-Medlin:

I am opposed to S.B. 26 because a judgment placed against the person who owes the debt must be done in court. This judgment follows the person to every subsequent job and will help make Nevada a debtor's prison.

Mr. Smack:

A judgment will be required before we can garnish wages. That is based on all of the legal recourses I have ever seen.

The second thing the Committee should consider is a bill that addresses low-income judgment percentages and lowers the percentage to 18 percent for individuals who make less than \$700 a week. I encourage this Committee to look at and pass that bill because I agree that 25 percent is a high threshold for low-income people.

Chair Goicoechea:

Is it required that you garnish 25 percent?

Mr. Smack:

No, it is not. We can garnish any percentage up to 25 percent that would be relevant in a particular case. We take the opportunity to collect the debt through every other means before we even start to obtain a judgment and a garnishment against someone.

We will give debtors every opportunity to pay the debt whether it is by sending them a letter explaining that they have the debt or setting up an in-house payment plan. The judgment is the last resort.

It is not our intent to obtain retroactive judgments on every debt we have. The intent is to give us the ability to do judgments and garnishments on the individuals who are not answering our phone calls or letters and are not setting up payment plans to take care of their State debt. It is not our intent to move forward on every debtor in the State.

Senator Hardy:

Could you give me an example of the size of the debts and the cost of going through your judgment before you garnish wages?

Mr. Smack:

Our debts are from 80 different agencies. It could be a tax debt, a motor vehicle fee or anything a State agency would have that could be a debt owed to the State. Some agencies have debts owed as little as \$200 and some agencies, such as the Department of Taxation, have several million dollars in debts owed. After these debts have gone through whatever normal debt collection channels the agencies have at their disposal, the debts are turned over to us.

Most of our aged debt has been on the books for no less than 60 days and in some cases 2 years, 5 years or 10 years. The total in-house debt at the end of fiscal year 2014 was \$93 million.

Senator Hardy:

How do you go to the judge and get permission to garnish?

Jennifer Chisel (Deputy Attorney General, Office of the State Controller):

The judgment process is separate from the garnishment process. The OSC has authority to use the civil process to obtain a judgment. The Office has authority to use a summary judgment process.

There are various ways of obtaining a judgment. Some debts that come from State agencies already have a judgment attached. The OSC has drafted this bill to make sure that the garnishment process will be available only on those debts for which there is a judgment in place. As outlined in the bill garnishment process, once there is a judgment and the OSC determines that a wage garnishment may be a viable method of collecting the debt, the OSC will send notice to the debtor and to the employer.

Senator Hardy:

Is a minimum debt level determined before you go through the judgment and garnishment process?

Mr. Smack:

We have not determined a cutoff, but it is going to be a high watermark because it is costly to obtain a judgment. We will not get judgments on people who owe \$200, \$400 or even \$1,000. It would have to be a large four-digit or higher debt before we consider taking this course.

Chair Goicoechea:

I am uncomfortable with the thought that as soon as a person is notified that his or her check is to be garnished, he or she would leave.

Mr. Smack:

Yes, there is that possibility, but there is recourse within the bill. If an individual decides to change employers, the judgment and the garnishment will follow that person. We will find that person through our new debt collection system and from the information obtained from DETR. We will then start the garnishment process with the new employer.

The 25 percent rule is in NRS 31.295. We may not garnish wages at that percentage. We may choose 15 percent, and the judge may rule that we can only go after a certain percentage.

Chair Goicoechea:

I am looking for language in the bill that says somebody has to be between you and the employer and the employer and employee to determine the amount of the percentage. There is a formula, but you are putting the onus on the employer in this bill. I would prefer it were a judge, a justice court or someone to work on the formula with you to determine the garnishment percentage.

That is good to follow the debtor to his or her next employment as long as it is in-state.

Mr. Smack:

That is true—the person could leave the State.

How it will look and what we may collect will be a judgment issued by a judge who will determine the garnishment amount.

Chair Goicoechea:

Do some of the garnishments come with the judgment attached?

Ms. Chisel:

Yes. Some of the debts have preexisting judgments when they are assigned to the OSC for collection.

Chair Goicoechea:

Under this bill, the OSC would notify the employer of a debt, a judgment for a certain amount, this formula, and the need to start garnishing someone's wages. You would not go back to court again.

Ms. Chisel:

Not necessarily, no.

Chair Goicoechea:

What do we do in those cases?

Mr. Smack:

The debtor also has recourse through the court. If the debtor thinks the garnishment amount is too high or the garnishment percentage is too rigid, that person can go back to court and ask for a reduction.

The debtor can also contact our Office to set up a payment plan or set something up outside the garnishment process. As a collection agency for all State agencies, this bill would give us every tool that any collection company has. Other collection companies can get judgments, but they are not going to have much compassion about what happens. The OSC will have that compassion. Just because we have the hammer does not mean we cannot use other tools in the toolbox.

I would rather work with a debtor and get our money than to hammer them with a 25 percent judgment. I would rather set up a payment plan with the debtor. That gets the debt paid. The debtor does not have to worry about anything going on his or her credit record or any kind of legal judgment that would follow him or her forever. That is how we intend to handle our debt collection process.

We want to collect the debt by other means before we obtain a judgment. On the larger debts, S.B. 26 will enable us to place a judgment and have a judge order a garnishment.

Senator Hardy:

Is the debtor represented at the judgment when it is determined that wages can be garnished?

Mr. Smack:

The debtor is notified when a hearing for a judgment is ordered, if the debtor can be found. The sheriff's office serves the subpoena at the debtor's last known address. If we cannot notify the debtor, it is not incumbent upon us to continue to try to notify him or her.

Senator Hardy:

When you subpoena someone, do you not try to locate him or her?

Mr. Smack:

We will use a process like LexisNexis to get updated addresses for debtors, so we can ensure they are notified of judgment hearings. A judgment hearing is important. Someone should know that a judgment is coming his or her way. The person should have the opportunity to defend himself or herself in a court of law. We would try to get the most up-to-date information possible to notify that debtor of a judgment against him or her.

Chair Goicoechea:

I do not like where we are right now. I would like to see some legal process language in this bill.

Once a judgment is issued, you locate the debtor and notify his or her employer that this person has a debt and that the employer must start garnishing the wages. The debtor will get less on his or her paycheck without any notice.

The only legal action that occurs is in section 8 of the bill, which allows the OSC to take the employer to court for failing to garnish the check. The employee might not know about the judgment, and you are taking the employer to court for not garnishing the wages.

I would like to see some language that allows for a legal process so everyone has a chance at the table. You would have to go to a district court to get a fresh judgment if there is an old judgment attached to the debt.

Mr. Smack:

If a debt comes to our Office with a judgment attached, we put it through our regular debt collection process first before we exercise that judgment. We send the debtor a letter and give him or her an opportunity to set up a payment plan. The judgment is still the last line of defense that we use in order to collect that debt. We are not going to take every debt that comes to us and go after a judgment. It would not be prudent, especially with the smaller dollar amounts.

Senator Hardy:

If we refresh the judgment before garnishment of salary and we know where the debtor is because we know where the employer is, the debtor can be advised to attend the hearing. That way the person has the opportunity to have his or her day in court.

Chair Goicoechea:

That is exactly what I mean. We need some language in the bill that says after the OSC has exhausted all of its remedies, has located and notified the debtor who is not paying, then the OSC will secure a new judgment and the debtor's wages will be garnished. I do not know how you fold that in. We need language in the bill that at some point someone calculates the garnishment percentage using the formula toward the fresh judgment, and the debtor knows it is coming.

Once you locate the debtor and advise him or her of the unpaid debt, there should be a new judgment. It is not right for someone recovering financially to suddenly find an outstanding debt from 10 years ago. That might cause the person to run because he or she cannot pay the 20 percent or even the 18 percent garnishment.

I am asking you to review that and put some language in the bill that makes it more palatable to me. We would like a few safeguards in there. Right now, it appears that on an old judgment, the OSC can go to the employer and take 25 percent, and the debtor may not know it is coming.

Senator Parks:

It has been 30 years since I ran a business and had to garnish wages and send the wages off. It is a straightforward process, but the employee often is not aware. He or she may know that it might be coming, but when it arrives, he or she did not have advance notice. If you are an employer, as long as that person works for you, the wages must be withheld and submitted.

Mr. Smack:

I see where the language could be changed, but I will meet with my Deputy Attorney General before making any changes. Just taking about four words out of this would provide the security that the Committee seeks. I will be happy to get something to you, and we can look at that as an amendment during the work session.

We are not collecting debt owed to the OSC. This is debt owed to 80 different agencies throughout Nevada that have already made their own attempts to collect, have not been able to do so and have turned the debt over to the OSC. The State Gaming Control Board collects 99 percent of its own debt. The 1 percent that comes to us is the worst of the worst. These debts have been through every collection process of the State Gaming Control Board. Much of it is aged debt.

I share your concern about someone who is getting back on his or her feet after 10 years and suddenly has a judgment dropped on him or her. We want to work with those people first. We want to use every other tool in our arsenal to collect the debt. The bottom line is we aim to collect money owed to the State.

Chair Goicoechea:

We understand that, but we want to make it clean so that 20 years from now when this is in statute, it will not be misinterpreted.

We will close the hearing on S.B. 26 and open the hearing on S.B. 27.

SENATE BILL 27: Revises the amount of money that the Commission for Cultural Affairs may use each fiscal year from the Fund for the Preservation and Promotion of Cultural Resources. (BDR 18-321)

Rebecca Palmer (State Historic Preservation Officer, Office of Historic Preservation, State Department of Conservation and Natural Resources):

I have submitted written testimony describing the intent of S.B. 27 ([Exhibit D](#)).

Senator Lipparelli:

How long do you anticipate needing this 5 percent capability? Is it your testimony that you need time to use this 5 percent to get the grants rehabilitated? Is that what I heard you say?

Ms. Palmer:

This would be a permanent change to statute.

Senator Lipparelli:

I know that is what you are asking. I am asking how long you need to get to that rehabilitated state. I am probably the least informed about this, but if we are allowing you to take money out of the Fund for the Preservation and Promotion of Cultural Resources, you run the risk of exhausting the Fund.

Ms. Palmer:

We have no interest left in the account, and we have administrative costs of about \$45,000. Your question is how long it will take to be whole; my answer is it will not be whole. We have a cap of 5 percent that can be taken in any one bond sale.

Senator Lipparelli:

I understand that the bill allows you to use interest derived from the investment Fund. Is that correct?

Ms. Palmer:

That is correct.

Senator Lipparelli:

If we allow you to go beyond interest and take from the core of the Fund, that will be a drain over time and go to zero if not refunded. Is that correct?

Ms. Palmer:

It is 5 percent of any one bond sale. That is the maximum.

Senator Parks:

Will those provisions be written into the covenants of the bond issue?

Ms. Palmer:

No. This is for administration of the bond funds. It will not be reflected in any funding agreement documents provided to the grant applicants.

Senator Hardy:

From where does the money in the Fund come?

Ms. Palmer:

The money in the Fund comes from general obligation bond sales.

Senator Hardy:

The 5 percent comes out of the bond sales.

Ms. Palmer:

Yes.

Senator Hardy:

Does the bond sale application say that up to 5 percent will be used for administration of the bond?

Ms. Palmer:

Under existing IRS and United States Department of the Treasury rules, there is a *de minimis* 5 percent exception for the noncapital funds to support working capital investments.

Senator Hardy:

The bond has an implicit understanding that every bond has a 5 percent ability to be used for administration of the grant that you receive.

Ms. Palmer:

Yes.

Senator Hardy:

Your administration, depending on the number of bonds, may wax and wane.

Ms. Palmer:

Yes, but it will never exceed the 5 percent.

Senator Hardy:

Is there legislative oversight on how many people are included in that 5 percent? What happens if you get many bonds? Do you receive a larger salary or are you able to hire more people?

Ms. Palmer:

This will not support additional staff. It is to support existing operations.

Senator Hardy:

Are existing operations under State level salaries?

Ms. Palmer:

Yes. We use existing staff.

Senator Hardy:

If you have existing staff under a set ladder of seniority, what happens to the other money that does not go toward salaries?

Ms. Palmer:

It goes to support other administrative requirements of the Commission, such as mailings, legal notices and document preparation.

Senator Hardy:

Are you able to use all of the 5 percent separate and distinct from the other purpose given the bond?

Ms. Palmer:

Yes.

Senator Hardy:

Was the interest that you were receiving and not using put into an account and earning interest?

Ms. Palmer:

Yes.

Senator Lipparelli:

I am assuming that this is a block of money in such low-yielding investments that you are not generating the fees you need. For example, if we said we want to sunset this term in 7 years, because we do not know interest rate outcomes, 3 years from now you might find yourself in a different interest rate environment where your core money can now start developing enough cash to avoid eroding the 5 percent. Would it be reasonable to put a sunset on this? If we did not, then you would have good interest yield and 5 percent of the core to play with.

Ms. Palmer:

Strict criteria must be met to use that administrative fund. For example, if interest earned was sufficient to support administrative costs, we would not need the 5 percent taken from principal, and it would revert to worthwhile grants.

Chair Goicoechea:

I want to determine what changed in this. We have existing statute and then section 1, subsection 5 of the bill states, "Each fiscal year, the Commission" However, in the past it must have said " ... the Commission may use the money derived from interest" Is that all you could use before?

Ms. Palmer:

Yes.

Chair Goicoechea:

Do you want 5 percent above the interest? In a way, it is a reflex reaction to the fact that there is no interest rate.

Ms. Palmer:

Yes.

Chair Goicoechea:

I understand what Senator Lipparelli meant because the bill says 5 percent of the money in the Fund rather than 5 percent of the bond. It then talks about the Fund and the interest. Am I splitting hairs? The bill states, "the Commission may use not more than 5 percent of the money in the Fund for the Preservation and Promotion of Cultural Resources ... , including any money derived from interest earned on the money in the fund"

Would it be better if it related to the bond rather than the Fund?

Ms. Palmer:

We certainly can work on the language to be consistent with IRS and the United States Department of the Treasury regulations.

Chair Goicoechea:

Whatever it takes to be correct. We understand your needs. We know it is a response to the fact that you have a Commission to run. With these existing interest rates, it is difficult, and it must be hard to sell bonds or have the ability to sell them.

I would just ask for clarification on whatever is legal, and whether we should be talking about the Fund or about the bond sale.

Senator Parks:

I agree with you. When selling bonds in the past, you had to identify how and where you were to spend those funds down to the last penny. If you wanted 5 percent for administrative uses, it has to be in the bond covenants.

Peter Krueger (Comstock Foundation for History and Culture):

The Comstock Foundation does work on and in the Virginia City National Historic Landmark District. The most recent restoration completed by the Comstock Foundation was the Yellow Jacket Mine head frame.

We support anything that furthers and allows grants, not only to the Comstock Foundation but also to others that qualify. We hope that the language can be worked out and this bill be processed to allow that.

Chair Goicoechea:

I will close the hearing on S.B. 27 and move into the work session starting with S.B. 12.

SENATE BILL 12: Revises provisions governing certain personnel of the Public Employees' Retirement System. (BDR 23-385)

Jennifer Ruedy (Policy Analyst):

I will present S.B. 12 as documented in the work session document ([Exhibit E](#)).

SENATOR PARKS MOVED TO DO PASS S. B. 12.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Goicoechea:

The next bill in the work session is S.B. 30.

SENATE BILL 30: Authorizes a board of county commissioners to withhold longevity pay for certain elected county officers under certain circumstances. (BDR 20-468)

Ms. Ruedy:

I will summarize S.B. 30 as documented in the work session document ([Exhibit F](#)).

There are two proposed amendments to S.B. 30. The first from the Nevada Association of Counties (NACO) is Proposed Amendment 9619, [Exhibit F](#), pages 2 to 4. It streamlines the bill by removing all of section 1 which provides for the resolution and instead substitutes language in section 2, subsection 3 wherein "any elected county officer who is entitled to additional salary pursuant to subsection 1 may elect not to receive the additional salary or any part of the additional salary." It would be at the discretion of the individual elected county officer.

Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7, from Clark County Commissioner Tom Collins would add in section 1, subsection 1, "A member of a board of county commissioners who is elected to the board for the first time on or after January 1, 2016, is not eligible for any additional salary" That is the 2 percent longevity.

Senator Atkinson:

Do we need that? If this bill is approved as presented, could the county commission vote as a board to do away with longevity themselves without the amendment? Was the answer to that yes?

Chair Goicoechea:

Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7, makes it optional. Did the bill, as presented, take longevity away from all elected officials?

Ms. Charlson:

The Committee would be considering the bill as introduced with Proposed Amendment 9619 by NACO, [Exhibit F](#), pages 2 to 4, and the Proposed Amendment 9620 by Commissioner Tom Collins, [Exhibit F](#), pages 5 to 7.

The bill as introduced without any amendment would authorize each board of county commissioners to decide to suspend longevity pay for all elected officials within the county. The Commissioners would have to adopt a resolution by a two-thirds majority, which would apply to all elected officials. However, when NACO, the proponent of the bill, came to present the bill, instead of the bill as introduced, NACO wanted an amendment to be considered. The amendment NACO presented, Proposed Amendment 9619, [Exhibit F](#), pages 2 to 4, would take out any requirement that the board of county commissioners adopt a resolution. Instead, NACO is proposing that each individual elected county officer who is entitled to longevity pay would have the authority to elect not to receive any or all of their longevity pay.

In Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7, Commissioner Collins recommends that the bill prohibit a county commissioner, who is elected for the first time on or after January 1, 2016, from being eligible to receive any longevity pay.

Senator Lipparelli:

Proposed Amendment 9619, [Exhibit F](#), in the work session document could be read in harmony with Tom Collins' suggestion. It is essentially a chalk line that says anyone who is seated now could opt out of taking longevity pay and if we subsequently adopt the Collins' Proposed Amendment 9620, any official elected after 2016 would not get longevity pay, period. Is that correct?

Ms. Chlarson:

There is just one correction to that. The amendments could be adopted together. If that occurred, the result would be that all individual elected officials, except for members of the county commission, may give up their pay voluntarily. If the amendments were adopted together, a member of a board elected for the first time to the board on or after January 1, 2016, would be prohibited from getting longevity pay at all.

Chair Goicoechea:

The driving force for this bill was that Clark County had suspended longevity pay to some but not all of their employees.

This is a NACO bill, and NACO submitted Proposed Amendment 9619, [Exhibit F](#), pages 2 to 4.

Senator Atkinson:

The problem is that we have a proposed amendment from NACO giving counties the option to do it and another proposed amendment from Commissioner Collins where it is not an option. It says "... who is elected to the board for the first time on or after January 1, 2016, is not eligible for any additional salary pursuant to NRS 254.044." The first proposed amendment is an option left up to the board to do, and then the second proposed amendment is binding and only for commissioners.

Chair Goicoechea:

It is only for commissioners, but it is statewide, not just for Clark County. We are going from one that says county commissioners with a two-thirds majority vote can reduce the longevity pay. I understand the original bill wherein if there was a financial hardship and commissioners could not balance their budgets, they could suspend longevity pay for elected officials. Then NACO came back with the proposed amendment wanting to give elected officials the option of

saying yes or no on the longevity. Then Mr. Collins' proposed amendment would take it away from all new county commissioners from 2016 forward.

Senator Atkinson:

What about county recorders and others?

Chair Goicoechea:

Those officers are optional unless we go back to the original language in the bill that says county commissioners can suspend the pay. I am going to have a hard time processing that because NACO amended its own bill almost immediately, saying it did not want to do this.

Senator Atkinson:

I am not comfortable with this.

Senator Hardy:

I do not read NACO's Proposed Amendment 9619 to mean all officials have to do that if they vote two-thirds. I read that an individual officer entitled to longevity may elect not to receive it. If the commissioners vote, I do not read that as everybody would be out. Anybody can say I do not want part of it. Do I understand that correctly?

Ms. Charlson:

That is correct. The vote by two-thirds of the board of county commissioners was only part of the bill as introduced. However, NACO asked that the Committee not consider that and consider the amendment instead. The NACO does not want a decision made by the board for all elected officials; NACO wants each individual elected official of the county to make his or her own decision as to whether he or she wants any or all longevity pay suspended.

Senator Hardy:

If I were to make a motion, it would be to accept the NACO Proposed Amendment 9619 and then, if we wanted to handle it separately, I would look at the person who was elected for the first time on or after January 1, 2016, that he or she would not be eligible for the longevity pay. If we divide it up, it may be clearer.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 30 WITH PROPOSED AMENDMENT 9619.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senator Hardy:

Now do you want to consider the other Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7?

Chair Goicoechea:

The motion was to amend and do pass with Proposed Amendment 9619.

Senator Hardy:

What I said is that we handle these separately.

Chair Goicoechea:

We can bring the bill back for discussion on Proposed Amendment 9620. The motion in the record is amend and do pass with the NACO Proposed Amendment 9619. If you are uncomfortable with that, let us discuss the second Proposed Amendment 9620.

Senator Hardy:

Knowing where we were with Proposed Amendment 9619 clarifies what we are doing now with Proposed Amendment 9620. We voted in a majority for Proposed Amendment 9619. How does the Committee want to go on Proposed Amendment 9620? I would only look at lines 21 and 22 on page 6 of [Exhibit F](#) for intent as to the stopping of longevity pay forever on somebody who is elected after January 1, 2016. That is what is before us now. Do we want put that in discussion?

Chair Goicoechea:

Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7, only allows for county commissioners, not all elected county officials. I would have to disclose, "I have a son who is a county commissioner." It would not affect him any differently than anyone else, and it would not affect me at all.

We started with a bill that would take longevity away from elected officials in a hardship situation, and we have now rolled it around to say that those who are at the governing level are now to be without longevity. However, the county commissioners who actually set the salaries and budgets for the rest of their elected officials will not be entitled to longevity, but everyone else will.

Senator Atkinson:

In other words, the county commissioners are out with this language.

Chair Goicoechea:

They are if newly elected after January 1, 2016.

Senator Atkinson:

My only problem with this is that we had only one person presenting Proposed Amendment 9620, [Exhibit F](#), pages 5 to 7, and we have not heard from anyone else. We have not even heard from the county to see if this is the direction they were going. It just makes me uncomfortable. I understand Senator Hardy's intent, and I appreciate it.

Senator Hardy:

I am just asking you if that is a motion you could second.

Chair Goicoechea:

We might not need to go anywhere. We were fine where we were before.

Senator Lipparelli:

I tend to agree with Commissioner Collins' concept, but this language does not fully address what he suggested. I agree with him to the extent that the county takes away longevity pay from the employees. I would be amenable to this language. It is not fair to take longevity away from employees and maintain it for the elected officials. However, that is speculative because that has not yet happened.

I am not comfortable yet. I like the idea only if it is taken away from the employees at a future date. If it were taken away from the employees, I would support taking it away from the commissioners. However, I am not prepared to support it as written.

Senator Atkinson:

It is not a matter of taking it away from anyone. With this language and the county proposal, county employees would not be eligible to receive longevity. Mr. Collins is trying to do the same thing for county commissioners. They want to set a date by which county employees hired after January 1, 2016, cannot receive longevity.

It is not taking away; it is making sure people in the future do not receive it. That is why I am uncomfortable. We should hear more from the county and maybe some of the others.

Chair Goicoechea:

I agree with you if we had heard from a majority of the Clark County Board of Commissioners and any other board of county commissioners, but that was not brought forward to us. We were talking about suspending elected county officials' longevity as an emergency measure in severe economic hardship and suddenly we have rolled this around so not everyone receives it any more. That was not the intent of the bill.

Do we have to go back and do a little housekeeping for Legal Counsel? Do we need to vote on a motion to reconsider S.B. 30, or do you think we are fine?

Ms. Chlarson:

It is up to you. You did not vote on the motion to reconsider, so if everyone is comfortable, you can let the motion to amend and do pass with that vote stand.

Chair Goicoechea:

Is everyone comfortable with amend and do pass on S.B. 30 with the NACO Proposed Amendment 9619, [Exhibit F](#), pages 2 to 4?

Ms. Chlarson:

Is Senator Atkinson changing his vote because he voted no?

Senator Atkinson:

I am changing it because I was not clear on the amendments.

Chair Goicoechea:

Senate Bill 30 passes unanimously with amend and do pass with the NACO Proposed Amendment 9619.

Senate Committee on Government Affairs
February 13, 2015
Page 28

Chair Goicoechea:

We will move on to S.B. 64.

SENATE BILL 64: Revises the qualifications for the Chief Financial Officer of the Housing Division of the Department of Business and Industry. (BDR 18-372)

Ms. Ruedy:

I will summarize S.B. 64 as documented in the work session document ([Exhibit G](#)).

SENATOR PARKS MOVED TO DO PASS S.B. 64.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Government Affairs
February 13, 2015
Page 29

Chair Goicoechea:

Having no further business, the Senate Committee on Government Affairs is adjourned at 3:01 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Pete Goicoechea, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 26	C	5	Office of the State Controller	Proposed Amendment
S.B. 27	D	1	Rebecca Palmer	Testimony
S.B. 12	E	1	Jennifer Ruedy	Work Session Document
S.B. 30	F	7	Jennifer Ruedy	Work Session Document
S.B. 64	G	1	Jennifer Ruedy	Work Session Document